



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 28.06.2021

PRONOUNCED ON : 20.09.2021

CORAM

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.R.C.(MD) Nos.455, 456 and 457 of 2017

and

Crl.M.P.(MD) Nos.4912 to 4917 of 2017

CRL.R.C.(MD) No.455 of 2017

Duraisamynaidu Muthusamy,
S/o.Duraisamy Naidu,
Director,
M/s.Servalakshmi Paper Limited,
Residing at Muthialapuram,
Ethilode, Nilakottai Taluk,
Dindigul - 624 219.

: Petitioner/Petitioner/Respondent

Vs.

P.Vijayakumar,
Managing Director,
M/s.Quantum Coal Energy (P) Ltd.,
No.141-A, 142, Second Floor,
Alagarkoil Main Road,
Tallakulam,
Madurai - 2.

Through his power agent
Mr.T.R.Sivaramkumar

: Respondent/Respondent/Petitioner

PRAYER: Criminal Revision Petition filed under Section 397 Cr.P.C. r/w. Section 401 of Criminal Procedure Code, to call for the records relating to the order passed by the Judicial Magistrate No.I, Fast Track Court at Magistrate Level, Madurai in Crl.M.P.No.2001/2017 in S.T.C.No.862/2016, dated 25.05.2017 set aside the same and allow this Revision Petition.

CRL.R.C.(MD) No.456 of 2017

V.S.Pattabiraman,
S/o.Subramaniam,
Director,
M/s.Servalakshmi Paper Limited,
Residing at 2-A, Jeypore Palace,
12, Padmavathiar Road,
Gopalapuram,
Chennai - 600 086.

: Petitioner/Petitioner/A4



Vs.

P.Vijayakumar,
Managing Director,
M/s.Quantum Coal Energy (P) Ltd.,
No.141-A, 142, Second Floor,
Alagarkoil Main Road,
Tallakulam,
Madurai - 2.
Through his power agent
Mr.T.R.Sivaramkumar

: Respondent/Respondent/Petitioner

PRAYER: Criminal Revision Petition filed under Section 397 Cr.P.C. r/w. Section 401 of Criminal Procedure Code, to call for the records relating to the order passed by the Judicial Magistrate No.I, Fast Track Court at Magistrate Level, Madurai in Crl.M.P.No.2002/2017 in S.T.C.No.862/2016, dated 25.05.2017 set aside the same and allow this Revision Petition.

CRL.R.C.(MD) No.457 of 2017

M.Yaragada Shivaramprasad,
S/o.Mallikarujunaprasad,
Managing Director,
M/s.Servalakshmi Paper Limited,
No.44, West Club Road,
Central Coimbatore - 641 018.

: Petitioner/Petitioner/A2

Vs.

P.Vijayakumar,
Managing Director,
M/s.Quantum Coal Energy (P) Ltd.,
No.141-A, 142, Second Floor,
Alagarkoil Main Road,
Tallakulam,
Madurai - 2.
Through his power agent
Mr.T.R.Sivaramkumar

: Respondent/Respondent/Petitioner

PRAYER: Criminal Revision Petition filed under Section 397 Cr.P.C. r/w. Section 401 of Criminal Procedure Code, to call for the records relating to the order passed by the Judicial Magistrate No.I, Fast Track Court at Magistrate Level, Madurai in Crl.M.P.No.2003/2017 in S.T.C.No.862/2016, dated 25.05.2017 set aside the same and allow this Revision Petition.

For Petitioner	: Mr.V.Kannan
in all cases	Legal Aid Counsel
For Respondent	: No appearance
in all cases	



COMMON ORDER

These Criminal Revision Petitions are directed against the order passed by the learned Judicial Magistrate No.I, Fast Track Court at Magistrate Level, Madurai in CrI.M.P.Nos.2001 to 2003 of 2017 in S.T.C.No.862/2016, dated 25.05.2017.

2.Heard Mr.V.Kannan, learned Legal Aid Counsel appearing for the Revision Petitioners. No representation for the respondent.

3.The respondent in these Revision Petitions is the complainant before the learned Judicial Magistrate No.I, Madurai. He had filed a complaint under Section 138 r/w 141 of Negotiable Instruments Act. In a private complaint under Section 200 of Cr.P.C. against one M/s.Servalakshmi Paper Mills Ltd., and its Directors, the Court had issued summons to the accused, who are the Directors. They had filed petition under Section 205 of Cr.P.C. seeking exemption on the ground that the Directors are aged and living in far away places and they are unable to attend each and every hearing before the Court of the learned Judicial Magistrate No.I at Madurai. The learned Judicial Magistrate No.I, Madurai had fairly considered their difficulties but insisted their appearance at the stage of furnishing copies, questioning on receipt of copies and at the stage of examining under Section 313 Cr.P.C. and at the stage of delivering judgment. Aggrieved by the same, the accused 2 to 4 had filed these Civil Revision Petitions seeking total exemption as per the reported rulings of the Hon'ble Supreme Court in the cases of (i) **Bhaskar Industries Ltd., -vs- Bhiwani Denim and Apparels Ltd.**, reported in (2001) 7 SCC 401, (ii) **S.V.Muzumdar -vs- Gujarat State Fertilizer Co. Ltd.**, reported in (2005) 4 SCC 173 and (iii) **TGN Kumar -vs- State of Kerala** reported in CDJ 2011 SC 059 which were ignored by the learned Judicial Magistrate No.I, Madurai.

4.Point for consideration:

Whether the accused are entitled to exemption from personal appearance right from the stage one till the stage of pronouncing judgment?

5.Perused the orders of the learned Judicial Magistrate No.I, Fast Track Court at Magistrial level, Madurai, regarding dispensing with personal appearance of the accused in CrI.M.P.Nos.2001, 2002, 2003 of 2017 in S.T.C.No.862 of 2016. The learned Judicial Magistrate No.I, Madeurai, had insisted for appearance of the accused at the stage of receiving copies, questioning of the accused after receipt of copies and questioning the accused after completion of evidence and at the stage of judgment.



6.The petition filed under Section 205 of Cr.P.C. on behalf of the accused was allowed with conditions. These Civil Revision Petitions are filed against the conditions imposed by the learned Judicial Magistrate No.I, Madurai. The rulings cited by the learned Counsel for the revision petitioners states that in summon cases, the Magistrate has the power to exempt the accused from personal appearance in all the stages viz., receiving copies, questioning after receipt of copies, questioning after completion of evidence at the stage of 313 Cr.P.C. and even at the stage of pronouncing judgment.

7.In all the Criminal Revision Petitions it is stated that the accused shall cooperate with the trial till the completion of the trial. If at any stage, the learned Judicial Magistrate comes to the conclusion that the conduct of the accused hampers the smooth trial, then the learned Magistrate can pass appropriate orders cancelling the order exempting personal appearance and can insist for the appearance of the accused in the next date of hearing and if on the next date of hearing the accused fails to appear, then the learned Magistrate can issue bailable warrant under Section 88 of the Code of Criminal Procedure. Therefore, the point for consideration is answered in favour of the revision petitioners.

In the result, the Criminal Revision Petitions are allowed and the conditions imposed in Crl.M.P.Nos.2001, 2002, 2003 of 2017 in S.T.C.No.862 of 2016, dated 25.05.2017, by the learned Judicial Magistrate No.I, Madurai, in is set aside. The revision petitioners are exempted from the personal appearance and attendance at the stage of furnishing copies, at the stage of questioning after receipt of copies, at the stage of proceedings under Section 313 of Cr.P.C. and at the stage of pronouncing judgement, subject to the condition that the learned Counsel who is appearing for the accused concerned had already filed vakalat and he undertakes to appear on behalf of the accused during the trial proceedings commencing from furnishing of copies till the completion of trial and at the stage of pronouncing judgment. Also the learned Judicial Magistrate No.I, Madurai, shall insist all the accused at the stage of questioning under Section 313 Cr.P.C. to offer their reply statement through their counsel which shall be recorded by the learned Judicial Magistrate No.I, Madurai. If the accused fails to cooperate with the trial in the absence of the Counsel who had offered to appear on behalf of the accused, then, the learned Judicial Magistrate No.I, Madurai shall have the discretion to recall the exemption or cancel the exemption granted and insist for the personal appearance of the accused on the next date of hearing and on the next date of hearing, if the accused fails to appear, then, bailable warrant may be issued. It is made clear that the learned Judicial Magistrate No.I, Madurai, has the discretion to insist the appearance of the accused if the accused by their conduct hampers the smooth conduct of the



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CRL.R.C.(MD) Nos.455, 456 and 457 of 2017

trial. Consequently, the connected Criminal Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

The Judicial Magistrate No.I,
Fast Track Court at Magistrate Level,
Madurai.

CRL.R.C. (MD) Nos.455, 456 and 457 of 2017
20.09.2021

PS (CO)

KB(06.10.2021) 5P 2C