



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14/12/2022

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CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.RC(MD)Nos.562 to 564 of 2022

and

Crl.MP(MD)Nos.6978, 6979, 6981, 6982, 6984 and 6985 of 2022

Crl.RC(MD)No.562 of 2021:-

V.Siddharthan : Petitioner/Petitioner/A5

Vs.

The State through
Inspector of Police,
Othakadi P.S.
Madurai District.
(Crime No.411 of 2012)

: Respondent/Respondent/
Complainant

Prayer: Criminal Revision is filed under Sections 397 and 401 of the Criminal Procedure Code, to call for the records pertaining to the Crl.MP No.1907 of 2021 in Spl.SC No.57 of 2021 on the file of the Special Judge (Mines and Minerals (D & R) Act, Madurai, dated 09/05/2022 and set aside the same.

(2).Crl.RC(MD)No.563 of 2021:-

V.Siddharthan : Petitioner/Petitioner/A3

Vs.

The District Collector,
Madurai District,
Madurai.

: Respondent/Respondent/
Complainant



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Prayer: Criminal Revision is filed under Sections 397 and 401 of the Criminal Procedure Code, to call for the records pertaining to the CrI.MP No.1905 of 2021 in Spl.SC No.80 of 2021 on the file of the Special Judge (Mines and Minerals (D & R) Act, Madurai, dated 09/05/2022 and set aside the same.

(3).CrI.RC(MD)No.564 of 2021:-

V.Siddharthan : Petitioner/Petitioner/A3

Vs.

The District Collector,
Madurai District,
Madurai.

: Respondent/Respondent/
Complainant

Prayer: Criminal Revision is filed under Sections 397 and 401 of the Criminal Procedure Code, to call for the records pertaining to the CrI.MP No.1976 of 2021 in Spl.SC No.140 of 2021 on the file of the Special Judge (Mines and Minerals (D & R) Act, Madurai, dated 09/05/2022 and set aside the same.

For Petitioner : Mr.M.Ajmal Khan
(in all cases) Senior counsel
for Mr.K.K.Senthil

For Respondent : Mr.A.Thiruvadi Kumar
(in all cases) Additional Public Prosecutor



COMMON ORDER

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These revisions have been filed against the common order passed by the trial court dismissing the petitions filed under section 205 Crl.P.C.

2.The facts in brief:-

The petitioner is facing the charges for the offences punishable under sections 447, 201, 379, 420, 430, 434, 465, 467, 468, 471, 304(ii) IPC r/w 511, 109, 114 IPC and 3(i),3(ii), 4 of TNPPDL Act, 1992 and 6 r/w 3(a), 4(a) of Explosives Substance Act, 1908 r/w 120(B) IPC. The complaint was filed in 2015 by the District Collector, Madurai under section 200 Cr.P.C and 22 of the Mines and Minerals (Development and Regulation) Act, 1987 before the trial court for punishing the petitioner for the offence under section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1987. Now it has been urged due to various reasons. The petitioner filed petitions before the trial court under section 205 Crl.P.C seeking to dispense with his personal appearance. That was dismissed by the trial court, Challenging the above said, all the revisions have been preferred.

3.Heard both sides.



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4.The learned Senior counsel appearing for the petitioner would submit that no progress has been made by the trial court in spite of the fact that the occurrence said to have been taken place in 2020-2021 and because of the pendency of the various proceedings, it has been simply adjourned without any progress and the petitioner is the permanent residence of Chennai. He has to attend the court regularly simply for the purpose of adjournment. So according to him, by exercising the power conferred under section 205 Cr.P.C, the trial court ought to have allowed the petition. The power under section 205 Cr.P.C has been made more elaborately and detailed guidelines have been given by the Hon'ble Supreme court in the decision in the case of ***Bhaskar Industries Limited Vs. Bhiwani Denim & Apparels Limited and another [(2001) 7 SCC 401]***.

5.Per contra, the learned Additional Public Prosecutor would submit there is no undertaking by the petitioner that he will not make any dispute with regard to the identification of the accused and in the absence of any such undertaking, the order that has been passed trial court is valid.

6.The Hon'ble Supreme Court in the judgment reported in the case of Bhaskar Industries Limited Vs.



Bhiwani Denim and Apparels Limited and another (2001) 7 SCC 401 has given detailed guidelines for exercising the power, which reads as follows:-

"19.The position, therefore, bogs down to this: It is within the powers of a magistrate and in his judicial discretion to dispense with the personal appearance of an accused either throughout or at any particular stage of such proceedings in a summons case, if the magistrate finds that insistence of his personal presence would itself inflict enormous suffering or tribulations to him, and the comparative advantage would be less. Such discretion need be exercised only in rare instances where due to the far distance at which the accused resides or carries on business or on account of any physical or other good reasons the magistrate feels that dispensing with the personal attendance of the accused would only be in the interests of justice. However, the magistrate who grants such benefit to the accused must take the precautions enumerated above, as a matter of course. We may reiterate that when an accused makes an application to a magistrate through his duly authorised counsel praying for affording the benefit of his personal presence being dispensed with the magistrate can consider all aspects and pass appropriate orders thereon before proceeding further."



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7. Reading of the common order, that has been passed by the trial court shows that no proper reason has been assigned for rejecting the contention of the petitioner.

8. As rightly pointed out by the learned Senior counsel appearing for the petitioner, attending the criminal court simply for the purpose of adjournment will be nothing, but a mere formality.

9. Here, absolutely there is no issue with regard to the identity of the accused and this petitioner is stated to be the son of A1, who alleged to have submitted the document for renewal of the quarry licence. In such an event, there is no identity issue also.

10. Considering the fact that the petitioner is a permanent resident in Chennai and by following the guideline, that has been followed by the Hon'ble Supreme Court in **Bhaskar Industries'** case, I am of the considered view that the common order passed by the trial court is liable to be set aside and accordingly, set aside.

11. In the result, these criminal revisions are **allowed** on condition that within 15 days from the date of receipt of this order copy, the petitioner must appear



before the trial court and file an undertaking affidavit that he will appear as and when required by the trial court, the attested photograph must be attached in the affidavit and he must also give an undertaking affidavit stating that he will not disputed the identity during the course of the trial. Consequently, connected Miscellaneous Petitions are closed.

14/12/2022

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Judge,
Special Court for MMDR Act Cases,
Madurai.
- 2.The District Collector,
Madurai.
- 3.The Inspector of Police,
Othakadi P.S.
Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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