

22.9.2023
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CRR 66 of 2023

Sanjay Khemani
Vs.
Securities and Exchange Board of India.

Mr. Sourav Chatterjee
Mr. Debangshu Dinda
Mr. Soumya Nag

...For the Petitioner.

Mr. Sudip Kr. Dutta
Ms. Sritama Dutta

...For SEBI.

It is the grievance of the petitioner that though an application under Section 205 of Code of Criminal Procedure, 1973 had been allowed by this Court on November 08, 2004, an warrant of arrest has been issued against him by the learned Judge, 5th Special Court, Bichar Bhavan, Kolkata.

Learned advocate representing Securities and Exchange Board of India submits that despite the fact that warrant of arrest was issued long ago, the petitioner intentionally avoided the proceeding.

It appears that a complaint was lodged against the petitioner under Sections 23 (1) and 24 of the Securities Contract (Regulation) Act, 1956 before the Chief Judicial Magistrate, Kolkata.

The petitioner, thereafter, filed an application under Section 205 of Code of Criminal Procedure, 1973 for dispensation of his personal appearance.

The said prayer was turned down by the learned Magistrate.

The petitioner challenged the said order before this Court and such prayer was allowed by this Court on November 08, 2004.

Thereafter, the proceeding was transferred to the Court of learned Judge 5th Special Court, Bichar Bhavan, Kolkata.

Mr. Sourav Chatterjee, learned advocate appearing for the petitioner submits that such transfer was made without the petitioner being informed and as such, the petitioner was not aware of the pending proceeding before the learned Special Judge.

I am of the view that since the prayer of the petitioner for dispensation of his personal appearance had already been allowed by this Court, there cannot be any justification to insist on the personal appearance of the petitioner before the learned Judge 5th Special Court, Bichar Bhavan, Kolkata.

Accordingly, the warrant of arrest issued by the learned Judge 5th Special Court on November 28, 2019 is recalled subject to condition that the petitioner will be allowed to be represented by his Advocate before the learned Judge 5th Special Court upon furnishing the required undertakings subject to satisfaction of the learned Special Judge.

If the learned advocate of the petitioner does not appear before the learned Judge 5th Special Court without any justifiable reason, the learned Judge will be at liberty to revive the warrant of arrest against the petitioner.

It is made clear that this Court has not considered the prayer for quashing of the proceeding. The petitioner will be at liberty to agitate all the points available to him before learned Judge 5th Special Court Bichar Bhavan, Kolkata at the appropriate Stage.

Accordingly, **CRR 66 of 2023** is disposed of.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)