

30-03-2023
Subha
Item no.32

Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 1164 of 2021
With
CRAN 1 of 2021

Mr. Dindayal Nathulal Agarwal & Anr.
-versus-
M/s. Crompton Greaves Consumere Electricals Ltd.

Mr. Mrityunjoy Chatterjee
Mr. Debapriya Majumder
..for the petitioners.

The revisional application has been preferred challenging the proceedings being Complaint Case No. 438 of 2020 pending before the learned Metropolitan Magistrate, 11th Court, Calcutta under Sections 138/141 of the N. I. Act.

Mr. Chatterjee, learned advocate appearing on behalf of the petitioners submits that so far as the petitioner no. 2 namely, Ms. Sugandhita Sharma is concerned, warrant of arrest has been issued against her.

In view of the nature of the proceedings under Sections 138/141 of the negotiable Instruments Act, I direct that in case an application under Section 205 of the Code of Criminal Procedure is filed by a learned advocate representing the petitioner before the jurisdictional court complying with the necessary undertakings and formalities along with the affidavit so required, the learned Magistrate will not insist on the personal appearance of the petitioner and allow her to be represented through her learned advocate in view of the

decision of the Supreme Court in the case of Puneet Dalmia – Vs. – Central Bureau of Investigation, Hyderabad reported in (2020) 12 SCC 695. The relevant paragraph is set out as follows:

“5. this Court has observed that if a court is satisfied that in the interest of justice the personal attendance of an accused before it need not be insisted on, then the court has the power to dispense with the attendance of the accused. It is further observed by this Court in the aforesaid decision that if a court feels that insisting on the personal attendance of an accused in a peculiar case would be too harsh on account of a variety of reasons, the court can grant relief to such an accused in the matter of facing the prosecution proceedings. It is observed and held by this Court in the aforesaid decision that the normal rule is that the evidence shall be taken in the presence of the accused. However, even in the absence of the accused, such evidence can be taken but then his counsel must be present in the court, provided he has been granted exemption from attending the court.”

The application under Section 205 of the Code of Criminal Procedure should be filed before the learned Magistrate by 12th April, 2023. Till then, the warrant of arrest so issued should be kept in abeyance. Learned Magistrate would recall the warrant of arrest earlier issued once the application under Section 205 of Cr.P.C. is disposed of.

So far as the petitioner no. 1 is concerned and the other issues which have been canvassed, petitioners would be at liberty to take up such points in course of trial of the case.

With the aforesaid observations, the revisional application being CRR 1164 of 2021 is disposed of.

Pending applications, if any, are consequently disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]