

**02.01.2024**  
**Item No.19**  
**BR**

**CRR 479 of 2017**

**In the matter of: Dr. Chainroop Bhansali**  
**alias Dr. C.R. Bhansali & anr.**

**Mr.N.P.Agarwal**  
**Mr.Pratick Bose**

**.... for the State**

Nobody appears on behalf of the petitioners on call. Even on earlier occasions no one represented for the petitioners.

This case is pertaining to year 2017, the nature of prayer and to avoid further delay, record is taken up for disposal on merit.

Application under Article 227 of the Constitution of India has been filed by the petitioners seeking quashing / setting aside the order (s) dated 9.1.2017 passed by the learned Chief Judge, City Sessions Court, Calcutta in criminal revision No. 147 of 2016 thereby the learned Chief Judge affirmed the order dated 21.6.2016 passed by learned Metropolitan Magistrate, 15<sup>th</sup> Court, Calcutta in complaint case No. 1303 of 1997.

The brief facts are relevant for the purpose for disposal as follows.

The opposite party No. 1 had filed a complaint case being case No. 1303 of 1997 against the petitioner's company CRB Capital Markets Limited and others under Section 138/141 of the Negotiable Instruments Act before the learned Chief Metropolitan Magistrate at Calcutta. In the said case the learned Magistrate has taken cognizance and transferred the said complaint case before the learned Metropolitan Magistrate, 15<sup>th</sup> Court, Calcutta for its disposal.

During pendency of the said case, the petitioners had filed an application under Section 205 of the Code of Criminal Procedure, 1973 praying for exemption from personal appearance before the learned Magistrate from day-to-day hearing. The said application was allowed by the learned Magistrate subject to condition that the petitioners/accused must appear before the learned Court personally whenever called for. Accused persons did not appear in spite of specific direction to appear on the date of plea.

Petitioners filed another application under Section 205 of the Criminal Procedure Code praying for exemption from the personal appearance on the date of plea and to represent them by the learned advocate on the date of plea before the learned Magistrate. But the said application was rejected by the learned Magistrate with a direction that the accused persons must present before the learned Court on the date of plea positively.

Learned Magistrate has rejected the same on the ground that the application filed under Section 205 of the CrPC without supporting documents though they are claimed that that they are old aged and are residing in Mumbai. Due to non-satisfaction of the grounds of the petitioners, the learned Magistrate has rejected their petition with a direction to appear personally on the date of plea positively.

Being aggrieved and dissatisfied with the said rejection order the petitioners had filed revisional application before the Chief Judge, City Sessions Court at Calcutta. The said order was affirmed by the Chief Judge on the same line.

Upon perusal of the record as well as judgment, this court finds no infirmity or illegality or perversity in findings of both learned court below. Initially, the learned Magistrate allowed the application under Section 205 of the Cr P C in his judicial discretion subject to conditions that the accused persons shall appear before the learned Magistrate whenever called for. In spite of such directions the petitioners did not appear rather they filed another application under Section 205 of the CrPC with a prayer for exemption of their personal appearance on the date of plea though there was a specific direction and it is the discretion of the Magistrate. Furthermore, they did not satisfy the Magistrate for their prayer for exemption of their personal appearance on the date of plea. No documentary evidence appended with the application to support their claim.

Accordingly, I do not find any infirmity or perversity in rejecting such prayer for exemption of their personal appearance before the learned Magistrate.

Accordingly, **CRR 479 of 2017** stands dismissed.

Let a copy of this order be communicated to the learned Court below for information.

Urgent xerox certified copy of this order, if applied for, be given to the learned advocate for the parties on usual undertakings.

**(Ajay Kumar Gupta, J.)**