

20.02.2024
Item No.27
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IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side

CRR 650 of 2018
In the matter of : C & E Ltd.

Mr. Anirban Dutta,
Ms. Shristi Sharma
... for the O.P. No. 2

Nobody appears on behalf of the petitioner on call. Even on earlier occasion no one represented the petitioner. No accommodation sought for.

This case pertains to year 2018.

It is submitted by the learned counsel appearing on behalf of the opposite party no. 2 to 4 that this application has been filed by the petitioner praying for setting aside the impugned order dated 19th February, 2018 passed by the learned Metropolitan Magistrate, 11th Court, Calcutta in connection with C/11609 of 2012 under Sections 420/406/408 read with Section 120B of the Indian Penal Code, 1860 thereby the learned Metropolitan Magistrate allowed the application filed by the opposite party nos. 2 to 4 under Section 205 of the Criminal Procedure Code in a proceeding being registered as C/11609 of 2012 under Sections 420/406/408 read with Section 120B of the Indian Penal Code, 1860.

While allowing such prayer the learned Court below imposed condition that the accused persons shall remain present personally as and when directed by the said Court.

Xerox copies of the order sheets of the proceeding filed by the opposite party is taken on record.

Heard and upon perusal of the record and impugned order it appears that several litigations were pending between the petitioner and the opposite parties before the Hon'ble High Court in respect of the company disputes. At the same time a complaint was lodged by the complainant against the present petitioner on the selfsame cause of action. In such proceeding, an application for exemption from personal appearance on each and every date has been prayed for. Application was allowed by the learned Court below subject to certain conditions is the subject matter of challenge.

Before deciding this case I would like to refer Section 205 of the Criminal Procedure Code. Section 205 says as under :

“ 205. Magistrate may dispense with personal attendance of accused.- (1) Whenever a Magistrate issues a summons , he may. If he sees reason so to do, dispense with the personal attendance of the accused and permit him to appear by his pleader.

(2) But the Magistrate inquiring into or trying the case may, in his discretion, at any

stage of the proceedings direct the personal attendance of the accused, and, if necessary, enforce such attendance in the manner hereinbefore provided.”

Provision contemplate in Section 205 that a Magistrate has the power to dispense with the personal appearance of the accused person. Furthermore condition may imposed upon the accused person in his discretion to remain present personally as and when directed by the Court.

It further appears from the order sheets of Court below that the accused persons are representing through their learned counsel regularly. But the petitioner has failed to adduce evidence till date. Offences as alleged are triable by Magistrate.

Under such circumstances, this Court does not find any infirmity or illegality or jurisdictional error in law.

Accordingly, the instant revisional application being CRR 650 of 2018 is, thus, dismissed. However, without any costs.

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.)