

CS – 70471 of 2022

Order Dated : 23.08.2024

Today is fixed for hearing of substitution petition dated 23.07.2024 / hearing of petition u/s 305 of Cr.P.C on behalf of accused no.1 dated 23.07.2024 and hearing of petition u/s 205 of Cr.P.C. on behalf of accused nos.2 to 5 dated 30.01.2023.

Ld. Advocate for both the sides are present.

The record is taken up for hearing of substitution petition dated 23.07.2024.

No objection is being raised by the other side.

Heard. Considered. Perused.

The substitution petition filed on behalf of representative is hereby allowed.

Accordingly, **Shri Sohan Kumar Jha** is permitted to proceed with the matter in place of erstwhile representative **Soumyajit Ghosh** on behalf of the complainant company.

Now the record is taken up for hearing of petition u/s 305 of Cr.P.C.

No objection is being raised by the other side.

Heard. Considered. Perused.

Hence, the petition u/s.305, Cr.P.C. is hereby allowed for end of justice and accordingly, **Mr. Chandra Shekhar Singh, Manager (P&A) of the Simplex Infrastructures Ltd.** is hereby permitted to represent accused no.1 (the said accused company).

Now the record is taken up for hearing of petition u/s 205 of Cr.P.C on behalf of accused no.2 to 5 dated 30.01.2023 is taken up for hearing.

Heard both sides in length.

Ld. Advocate for the accused nos.2 to 5 submits that these accused persons are working for gain at Simplex House, 27 Shakespeare Sarani under PS – Shakespeare Sarani, Kolkata – 17. It has further submitted that numerous cases has been filed against the company and its Directors (hereinafter accused nos.2 to 5) which are pending for trial in this very Court and other Courts and hence it would be much hardship for them to attend the Ld. Court on each and every occasion in connection with each and every cases which are subjudiced. It has also submitted that the personal appearance of these accused persons on each and every date will prejudice them and will hamper their work. As such, the Ld. Advocate for the accused nos.2 to 5 has filed this instant petition u/s 205 of Cr.P.C with an intention to speedify the trial.

Ld. Advocate for the complainant has raised formal objection orally at the time of hearing and left the issue on the wisdom of the Court.

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Considered.

Perused the record as well as the petitions as filed herein.

Considering the fact, that the instant case is filed u/s 138/141 of Negotiable Instrument Act, 1881 which is summon procedure in nature and more so it is apparent that the personal appearance of the accused nos.2 to 5 on each and every date will cause hardship and hamper their work. Moreso, even the Ld. Advocate for the complainant has no objection regarding their absence on regular dates. Further relying upon the case laws as cited above along with reliance is also given upon the case law being Arvind Kejriwal vs. State of UP (2015) by this Court, the petition u/s 205 of Cr.P.C. is allowed on contest subject to certain conditions.

Ld. Advocate **Mr. Avijit Baran Das** is hereby permitted to represent the accused nos.2 to 5 namely Pratap Kumar Chakravarty, Indira Biswas, Sheo Kishan Damani and Dipak Narayan Basu u/s 205 of Cr.P.C, subject to following conditions : -

- (i) that the accused nos.2 to 5 will not raise any objection in taking evidence in their absence;
- (ii) that the counsel as named above on their behalf will be present on all posting dates;
- (iii) that the accused nos.2 to 5 would make themselves available on any date when their presence is needed in this case;
- (iv) that the accused nos.2 to 5 namely Pratap Kumar Chakravarty, Indira Biswas, Sheo Kishan Damani and Dipak Narayan Basu are also directed to execute a bond of Rs.5000/- each with one solvent surety (cash surety).

Accused persons are directed to comply the condition imposed in its letter and spirit i/d necessary order.

To **17.12.2024** for appearance i/d necessary order.

D/C

J.M., 3rd Court, Calcutta.
(J.O Code :WB01261)