

C. case no. 674/19

Date of order : 07.02.2024

Today is fixed for compliance report and hearing of the petition us. 205 CrPC.

Complainant files hazira. Accused is absent by petition.

By filing an advocate letter ld. Advocate for the accused submits that present accused preferred an application before the Hon'ble High Court at Calcutta for quashing of instant proceeding by CRR No. 518/2024.

On my query ld. Advocate for the accused submits that there is not stay on the instant proceeding.

Accordingly in absence of any stay there is not impediment to proceed with the instant case.

The record is taken up for hearing of the said petition us. 205 CrPC on consent of both the side.

Heard both the sides.

From the record it appears that the petitioner Gargi Mazumder, the accused of this case filed a petition u/s. 205 CrPC praying for exemption in day to day proceeding of this case due to the reasons mentioned in the petition and also acknowledging that Advocate Ambar Chowdhury will represent her during the entire case and also undertake that she will not dispute her identity and will not challenge any evidence taken during the trial in his absence.

During hearing, Ld. Advocate for the accused person stated that accused is Regional Manager(East) of Max Life Insurance Company and due to the purpose of her work she has to out of the State most of the time for which it is difficult and hardship for her to appear before this court each and every date of hearing of this instant case.

During hearing ld. Advocate for the complainant raised no objection for allowing the petition us. 205 CrPC on behalf of the accused.

From record it appears that it is the case u/s. 138 N.I.Act which is purely document based case and moreover, the accused person has admitted in her petition that she will not challenge her identity during the trial and also not make any controversy about the evidence taken in his absence.

In the case of Gajanand Vs. Asiya Begam (2005) 12 SCC 331 Hon'ble Apex Court has stated that u/s. 205 CrPC, the Magistrate is competent to dispense with the personal attendance of the accused and while using this discretion in this regard, the Magistrate may take into consideration the nature of the controversy and also whether any useful purpose

would be served by requiring the personal attendance of the accused person and also whether the progress of the trial is likely to be hampered on account of her absence.

Keeping in view of the Hon'ble Apex Court in mind, I found that as it is the case u/s. 138 NI Act which is purely document based case and moreover, the accused person has admitted in her petition that she will not challenge her identity during the trial and also not make any controversy about the evidence taken in his absence, she may be allowed to be represented by her Ld. Advocate Ambar Chowdhury with a direction to appear before the court personally as and when directed.

At this juncture by filing a petition ld. Advocate for the complainant prays to take necessary steps against the accused for non-compliance of the order dtd. 20.07.2023 passed us. 143A of NI Act directing the accused person to deposit the 20% of the cheque amount. Copy served.

Accused prays for time for hearing of the said petition.

To 14.03.2024 for hearing of the petition dtd. 06.02.2024 filed on behalf of the complainant.

D/C by me;

J.M., Bidhannagar

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