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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P. (CRL) 1792/2022**

BSES YAMUNA POWER LTD.

..... Petitioner

Through: Mr Mohit Mathur, Sr. Advocate with
Mr Anupam Varma, Mr Nikhil
Sharma and Ms Manu Tiwari,
Advocates

versus

STATE OF NCT OF DELHI & ANR.

..... Respondents

Through: Mr Anand V. Khatri, ASC (Crl.) for
the State.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

% 05.08.2022

CRL.M.A. 15464/2022(exemption)

1. Allowed subject to all just exceptions.
2. The application stands disposed of.

CRL.M.A. 15463/2022

3. This is an application filed seeking exemption from filing of impugned orders dated 01.08.2022 and 03.08.2022.
4. Since the matter was taken up for hearing today i.e. 05.08.2022 and the true copy of the orders dated 01.08.2022 and 03.08.2022 was not available and since urgent ex parte orders are prayed for, the application is allowed subject to applicants filing the copy of the order within a period of one week from today.



5. The application is disposed of.

W.P.(CRL) 1792/2022

6. This is a petition filed seeking setting aside of the orders dated 01.08.2011, 03.08.2022 and 04.08.2022 passed by the learned ASJ (Special Judge Court No.-02 Electricity), Central, Tis Hazari Courts in Crl. Complaint No. 322/2021 titled as “BYPL vs. Bhasin” directing the personal presence of the Chief Executive Officer (CEO) of the petitioner on the next date of hearing.

7. It is stated by Mr. Mathur, learned senior counsel for the petitioner that there was no reason for the personal presence of the CEO as the petitioner company was duly represented by an Advocate as well as the authorised representative of the petitioner company.

8. He further states that the Advocate as well as the authorised representative of the petitioner company were fully aware of the factual matrix of the case and competent to answer each and every query raised by the learned Sessions Court.

9. Mr. Mathur, learned senior counsel has further stated that in another matter bearing W.P. (CRL.) 1720/2022, the learned Sessions Judge had called the CEO of the petitioner company to be personally present. This order was stayed by this Court on 01.08.2022.

10. The order dated 01.08.2022 passed in W.P. (CRL.) 1720/2022 was duly brought to the notice of the learned Sessions Judge, but he overlooked the same.

11. Mr. Mathur, learned senior counsel further states that there is no provision in the Cr.PC or the Indian Evidence Act which requires the presence of the CEO of the petitioner company, specially, where the counsel



of the petitioner as well as the duly authorised representative are present in Court and competent to answer each and every query raised by the Sessions Court.

12. He further states that it is a case of theft of electricity, where the petitioner company is the complainant and not the accused. Issue notice to the respondents. Learned ASC accepts notice for the respondent No.1. Let notice be issued to the respondent No.2 through all permissible modes including electronic, returnable on 02.09.2022.

CRL.M.A. 15462/2022-STAY

13. Notice. Learned APP accepts notice on behalf of State.

14. Issue notice to respondent no. 2 through all permissible modes.

15. This is an application filed seeking ex parte ad interim stay of the impugned orders dated 01.08.2011, 03.08.2022 and 04.08.2022 passed by the learned ASJ (Special Judge Court No.-02 Electricity), Central, Tis Hazari Courts in Crl. Complaint No. 322/2021 titled as “*BYPL vs. Bhasin*” directing physical presence of the petitioner.

16. The summoning of the CEO were already stayed by this Court, *vide* orders dated 01.07.2022, 01.08.2022 and 04.08.2022.

17. For the reasons stated above, the CEO is exempted from personal appearance before the learned Trial Court on the next date of hearing. Further orders regarding personal appearance of the CEO shall remain stayed till next date of hearing before this Court. The learned Trial Court will however proceed with trial of the case.



18. However, the counsel of the petitioner along with the duly authorised representative of the petitioner company shall appear on 06.08.2022 and any subsequent date thereafter, if fixed before next date of hearing before this Court.

19. List on 02.09.2022.

SWARANA KANTA SHARMA, J

AUGUST 5, 2022/zp