

(2018) 01 DEL CK 0179

In the Delhi High Court

Case No : Criminal Miscellaneous Case No. 4520 Of 2017, Criminal
Miscellaneous Application No. 18054 Of 2017

Manoj Kumar Gupta

APPELLANT

Vs

State Govt Of Nct Of Delhi

RESPONDENT

Date of Decision : 04-01-2018

Acts Referred:

Code of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 174A

Citation : (2018) 01 DEL CK 0179

Hon'ble Judges : Sangita Dhingra Sehgal, J

Bench : Single Bench

Advocate : S. B. Tripathi, Arun Kr. Sharma

Final Decision : Dismissed

Judgement

Sangita Dhingra Sehgal, J

1. The present petition has been filed under Section 482 CrPC assailing the order dated 31.10.2017 passed by the Metropolitan Magistrate-04, South East District, Saket Courts, New Delhi wherein the application of the petitioner seeking exemption from personal appearance was dismissed and non-bailable warrants were issued against him.

2. The brief facts of the case are that vide order dated 01.05.2014, the petitioner was declared Proclaimed Offender in complaint case No. 1666/14 titled as "M/s. B. C. C. Cement Pvt. Ltd. Vs. Mukesh Gupta"; that the petitioner was arrested on 22.05.2014 and produced before the concerned Trial Court where he was admitted to bail; that on the direction of the Metropolitan Magistrate, Saket Courts, an FIR No. No. 195/2014 under Section 174A IPC was registered at Police Station - Greater Kailash; that the petitioner was admitted to anticipatory bail on 23.08.2014 by the Court of Sessions and the Chargesheet in the said case was filed on 16.12.2014.; that on 13.09.2017, the petitioner moved an application seeking exemption from personal appearance which was allowed

subject to cost of Rs.3000/- and the matter was adjourned for 13.10.2017; that on 13.10.2017, the matter was adjourned for 31.10.2017 as lawyers were abstaining from the work; that on 31.10.2017 the petitioner moved an application seeking an exemption from personal appearance which was dismissed and NBWs were directed to be issued against the present petitioner. Hence, the present petition.

3. Learned counsel for the petitioner contended that the impugned order had been passed mechanically without considering the averments made in the application; that non appearance of the petitioner on 31.10.2017 was neither deliberate nor intentional but for the reason that his younger brother was critically ill due to failure of his kidneys and the presence of the petitioner was required in the hospital to attend to his ailing brother.

4. I have heard the learned counsel for the parties and perused the material available on record.

5. Admittedly, FIR in the instant case had been registered against the petitioner on the direction of the Trial Court on his arrest, who was declared proclaimed offender in complaint case No. 1666/14 titled as "M/s. B. C. C. Cement Pvt. Ltd. Vs. Mukesh Gupta". Earlier also exemption from personal appearance was sought by the petitioner on 13.09.2017 which was allowed subject to cost of Rs.3,000/-. On 31.10.2017, the petitioner again remained absent and moved another application seeking exemption from personal appearance on the ground to attend his ailing brother. He also failed to deposit the cost of Rs.3,000/- in compliance of order dated 13.09.2017. The petitioner failed to abide by the order passed by the Trial Court despite having been declared a proclaimed offender.

6. In the above background, the order under challenge does not call for any interference.

7. Accordingly, the present petition along with pending application is dismissed.