

IN THE HIGH COURT OF SINDH, KARACHI
CR.SPL. Misc. APPLICATION No.12 of 2015

Applicant : Mir Irfan Salhuddin,
through Mr. Khursheed Jawed, Advocate.

The State, through Mr. Muhammad Jawed K.K. Standing Counsel.

Date of hearing : 11th November 2015

Date of order: 11th November 2015

ORDER

SALAHUDDIN PANHWAR, J:- Through instant Special Criminal Misc. Application, applicant has assailed order dated 28.7.2015 passed by Special Judge (Customs & Taxation) in Case No. 81 of 2013 [Re- State vs. Mir Irfan Salahuddin] in Crime No. MCC/Misc/320/2012-R&D, under Section 156(1)(14) of the Customs Act, 1969 whereby the application, under section 205 read with Section 540-A Cr. P.C. filed by the applicant for seeking exemption of personal appearance was dismissed.

2. Learned counsel for the applicant, inter alia, has contended that impugned order is against the settled norms of the criminal administration of Justice. Applicant seeks dispensation of attendance due to his professional engagements; prosecution has filed false case, hence trial against him is abuse of the process of law.

3. Learned Standing Counsel strongly opposed the exemption of the applicant on the ground that the exemption cannot be allowed as applicant is only accused in this case, hence, section 540-A & 205 Cr.P.C. are not helpful for applicant.

4. Heard learned counsel and perused the record. For the sake of brevity relevant section of Cr.P.C. is reproduced as under:

Section 540-A. Cr.P.C.

- (1) “At any stage of any inquiry or trial under this Code, where two or more accused are before the Court, if the Judge or Magistrate is satisfied for reason to be recorded, that any one or more of such accused is or incapable of remaining before the Court, he may, if such accused is represented by a pleader, dispense with his attendance and proceed with such inquiry of trial in his absence, and may, at any subsequent stage of the proceedings, direct the personal attendance of such accused.”

Perusal of above coupled with grounds agitated, it appears that applicant is only one accused before the trial Court, whereas scheme of law enshrined in above section provides that Court can exempt attendance of any accused, if accused are two or more. Here applicant has failed to justify his case within the purview of aforesaid sections. It is pertinent to mention here that attendance of accused cannot be dispensed with on the ground that no iota of evidence is available against the accused person. In that eventuality law provides the filing of application under Section 265-K Cr.P.C. Accordingly, learned counsel for the applicant has failed to point out any irregularity or illegality in impugned order which is based on cogent grounds, hence this application was declined by short order dated 11.1.2015. These are the detailed reasons.

J U D G E

