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CRL.O.P.No.23933 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.10.2024

CORAM : MR. JUSTICE N.SESHASAYEE

CRL.O.P.No.23933 of 2024

Jacob

... Petitioner

Vs.

State Represented by
The Inspector of Police
ACB / CBI, Chennai

... Respondent

PRAYER: Criminal Original Petition filed under Section 528 of BNSS Act, 2023, to direct the XI Additional Special Judge for CBI Cases, Chennai, for conducting the proceedings by Video Conference and not to insist the physical presence of the accused and also to accept the appearance through Video Conference as per Section 355 of BNSS, Act.

For Petitioner : Mr.C.S.S.Pillai

For Respondent : Mr.B.Mohan
Special Public Prosecutor (C.B.I)

ORDER

The petitioner is an octogenarian and according to him he has multiple ailments associated with his age. However, at this ripe age, he is facing the possibility of being charged by the Special Court.



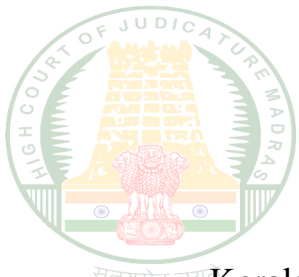
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2.He now approaches the Court that given the list of illness of which he is suffering from which includes Parkinson disease, he merely seeks the leave of the Court to frame charges, if at all there is any, through video conferencing through the video link disclosed in the petition.

3.Explaining the back drop of the case, Mr.C.S.S.Pillai, the learned counsel submitted that sometime in 2007 C.B.I. registered a case against five accused persons, and laid a charge sheet sometime in 2016. Now, based on certain statement, the trial Court *suo motu* included the present petitioner U/s.319 Cr.P.C. at the time when not even charges have been framed. Be that as it may, yet another accused person who was identically placed as that of the petitioner had filed a petition challenging his inclusion U/s.319 Cr.P.C. before this Court and was unsuccessful here. He, therefore, took the matter to the Hon'ble Supreme Court, but *pendente lite* he passed away. It is in these circumstances the charges in the 17 year old case are yet to be framed.

4.Mr.B.Mohan, the learned Special Public Prosecutor (C.B.I.) submitted that the witness has been shuttling between Bangalore in Karnataka and Aluva in



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Kerala, but he is only hesitant to come to Court.
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5. Framing charges is the responsibility of the Court, and here is a litigant who is willing to submit to it. It is imperative, life is made least inconvenient to litigants, and merely because some one faces criminal accusation and is required to defend the charge, does not necessarily imply he has to surrender all his comforts and convenience to participate in trial. Once the investigation is over and the final report is taken on record by the Court concerned, then it becomes the responsibility of the Court to frame charges. Therefore, wherever possible the Court may have to resort to technology to make life less cumbersome and most convenient for all concerned. The learned counsel for the petitioner brought to the notice of the Court the Explanation to Section 355 of BNSS, 2023, and the purpose it contemplates will be defeated if the Courts were to insist on archaic methods that it has been adopting thus far. After all, framing of charges is part of procedure and procedure surely is a hand maid of justice. Even where trial Court has taken cognizance prior to the advent of BNSS, 2023, inasmuch as Explanation to Section 355 BNSS Act, 2023, only shows the need to incorporate and integrate technology into procedure, this Court, considers it appropriate to



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resort to the same.

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6.This Petition stands allowed accordingly. The trial Court is required to act on the official web copy of this order, if in case the certified copy of the order is not issued to any of the parties before the next posting date before the trial Court.

04.10.2024

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Index : Yes / No
Neutral Citation

To

1.The Inspector of Police
ACB / CBI, Chennai

2.The XI Additional Special Judge
for CBI Cases
Chennai

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