

**ORDER ON APPLICATION U/Sec 205 OF CR. P. C. Filed by the
Accused No.4**

The accused No.4 has filed above application to dispense with her personal appearance before the court.

2. In the said application accused No.4 stated that police have registered a case against the accused No.4 for the offence punishable under sec. 323, 324, 341 R/w Sec. 34 of IPC. It is further stated that the accused No.4 has not committed any offence and not pleaded guilty. Accused No.4 is owing to personal inconvenience and her ill-health she could not appear before the court. She authorized her advocate to appear on her behalf and to conduct the defence on her behalf. Hence, this application.

3. Learned APP has not filed objection to the said application.

4. Heard and perused the materials on record. The following points arise for my consideration.

1) Whether the application filed by the accused No.4 u/Sec. 205 of Cr.P.C deserves to be allowed?

2) What Order?

5. My findings on the point No.1 is partly in the Affirmative and on Point No.2 as per the following reasons.

6. The accused No.4 herein has been charged for the offences punishable u/Sec.323, 324, 341 R/w Sec. 34 of IPC. The counsel for accused No.4 has filed this application to dispense with the personal appearance of the accused No.4 on the ground of her ill-health.

7. At this stage it pertinent to refer to the provision u/Sec. 205 of Cr.P.C which read as follows:

“205. Magistrate may dispense with personal attendance of accused.

1) Whenever a magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance with the accused and permit him to appear by his pleader.

2) But the magistrate inquiring into or trying the case may, in his discretion at any stage of the proceedings, direct the personal attendance of the accused, and if any necessary, enforce such attendance in the manner herein before provided.”

8. A perusal of above provision makes it clear that, the magistrate may dispense with the personal attendance of the accused and permit her to appear through his pleader if she sees that there are reasons so to do.

9. In view of the fact and in the backdrop of the medical condition of the accused No.4 substantiated and proved while discharge summary produced supra, this court is of the opinion that, the personal attendance of the accused No.4 at this stage of the proceedings, can be exempted. However, since the presence of the accused No.4 is necessary at the time of framing of charge and at the time of recording of 313 statement of the accused.

10. the application filed by the accused No.4 along with medical documents. On perusal of medical documents it is clear that accused No.4 is suffering from pain in the left hip and she was diagnosed with left neck fracture and with various diseases and she is aged about 68 years due to her ill-health and age factor she is not in position to appear before the Court. Therefore considering the her ill-health and age factor, at this stage application filed by the accused No.4 is partly allowed. Accordingly I answer point No.1 partly in the Affirmative.

11. In view of above discussion I pass the following:

ORDER:

The application filed by the Accused No.4 U/Sec. 205 of Cr.P.C is hereby partly allowed.

Accordingly the personal attendance of Accused No.4 is exempted and accused No.4 is permitted to

appear through her counsel. Accused No.4 is further directed to appear at the time framing of charge and further at the time of recording of 313 statement.

Re-issue NBW to accused No.3 and 5 by
19.12.2023.

-Sd-
**Addl. Civil Judge & JMFC,
Doddaballapura**