

KAHS010024052023



**BEFORE THE III ADDL. DISTRICT & SESSIONS COURT AT
HASSAN**

**PRESENT: Sri. Ananda, B.A.L., LL.B., LL.M.
III Additional District and Sessions
Judge, Hassan.**

Dated this 3rd day of November, 2025

Spl. Case No.244/2023

Complainant : State by
Hassan Women Police Station
(By Public Prosecutor)

V/s

Accused : Shivananda Y.S. and others.

Applicant : Sheela **(Accused No.4)**
(By Sri. A.H.B., Advocate)

**:ORDER ON APPLICATION FILED UNDER SEC.205 OF CR.P.C.
BY THE ACCUSED No.4:**

The present application has been filed by Accused No.4 seeking exemption from her personal appearance before this Hon'ble Court on every hearing date until further orders.

2. It is averred in the application that the complainant police, has submitted a charge sheet against accused Nos. 1 to 4 alleging offences punishable under Sections 498-A, 323, 324, 354, 307, 109, 504, 114, and 506 read with Section 34 of the Indian Penal Code and under Sections 3 and 4 of the Dowry Prohibition Act, 1961, as well as Section 92(B) of the Rights of Persons with Disabilities Act, 2016. The case is posted for recording of the evidence of C.W-1. The accused No. 4 is presently residing at Flat No. E/502, Suraj Cooperative Housing Society, Building No. 2, Manjarli Road, Badlapur (West), Sarvodaya Nagar, Badlapur, District Thane, Maharashtra – 421503, along with her husband and children. The accused No. 4 is a permanent resident of Badlapur, Thane district, in the State of Maharashtra, which is approximately 865 kilometers away from Hassan. Due to the long distance and travelling inconvenience, she faces considerable hardship and difficulty in attending each and every hearing before this Hon'ble Court. Hence, this application is being filed. It is further submitted that her identity will not be disputed during the course of trial. Copies of documents pertaining to her permanent residence and her children's school details are produced herewith for the kind perusal of this Hon'ble Court. If this Hon'ble Court is

pleased to grant permanent exemption to accused No. 4 from personal appearance during the evidence, no hardship or injustice would be caused to any of the parties. The absence of accused No. 4 will not hamper the progress of the trial, nor will it cause any prejudice to the fair conduct of the proceedings in the above case. Therefore, it is most humbly prayed that this Hon'ble Court be pleased to allow the application and exempt her from personal appearance on every hearing date, in the interest of justice.

3. The learned Public Prosecutor has filed objections to the application and stated that the Hon'ble Hassan Women Police have registered a case against the accused persons for the offences punishable under Sections 498(A), 323, 324, 354, 307, 109, 504, 506, and 114 read with Section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act, 1961 and have thereafter completed the investigation and filed the final charge sheet before this Hon'ble Court. Since the said case is now posted for evidence, the presence of the accused persons before the Court is essential for the purpose of identification. Therefore, the application filed by the accused No.4 seeking exemption from personal appearance under Section 205 of Cr.P.C. is not maintainable and is liable to be rejected. It is further submitted

that, if the accused remain absent, there is every possibility that the early disposal of the case may be delayed. Hence, the prosecution humbly prays that the application filed by the accused be dismissed. Moreover, the accused have not produced any supporting documents or material evidence in support of the grounds mentioned in their application. Hence, the said application deserves to be rejected. Wherefore, the prosecution prays that this Hon'ble Court be pleased to dismiss the application filed by Accused Nos. 4, in the interest of justice.

4. Heard arguments of both sides. Perused the materials placed on record.

5. Following points that arise of my consideration are:

1. *Whether the accused Nos. 4 has made out sufficient grounds to allow the application?*
2. *What order?*

6. My answer to the above points is:

Point No.1 : in the affirmative,

Point No.2 : as per final order, for the following;

::REASONS::

7. **Point No.1:** The case on hand arises out of Crime No. 97/2017 registered by the Women Police Station, Hassan, against

the accused persons, for the offence punishable under Sections 498(A), 323, 324, 354, 307, 109, 504, 506, 114 read with Section 34 of the Indian Penal Code, 1860. After completion of the investigation, the respondent police have filed the charge sheet against accused persons. The case is now at the stage of recording prosecution evidence.

8. It is stated in the application that Accused No. 4 is a permanent resident of Badlapur, District Thane, Maharashtra, which is situated about 865 kilometers away from Hassan. She is residing there along with her husband and children. Because of the long distance, she finds it difficult to travel to Hassan on every hearing date, which causes considerable hardship and inconvenience. She has also produced documents showing her residence and the school details of her children. It is further submitted that her identity is not in dispute and that her absence would not cause any prejudice to the fair conduct of the trial. On the other hand, the learned Public Prosecutor has objected to the application mainly on the ground that the presence of the accused persons is necessary for identification during the evidence and to ensure the smooth progress of the trial.

9. Having considered the submissions of both sides, the accused is a woman residing far away in another State and the hardship involved in attending each and every date of hearing is understandable. The Hon'ble Supreme Court and the Hon'ble High Court have, in several decisions, held that when the personal attendance of an accused causes undue hardship, the Court may, in its discretion, dispense with such attendance under Section 205 of Cr.P.C., provided that the accused is represented by a counsel and undertakes to appear as and when required by the Court. In the present case, no prejudice would be caused to the prosecution if the personal attendance of Accused No. 4 is exempted, as her identity is not disputed and she has undertaken to appear whenever directed by this Court. Her counsel has also assured representation on every date of hearing. Accordingly, this Court is of the opinion that the application deserves to be allowed, subject to certain conditions to ensure her participation in the trial proceedings

10. **Point No.2:-** For the reasons stated above, I proceed to pass the following:

::O R D E R::

The application filed by Accused No. 4 under Section 205 of Cr.P.C. is hereby allowed, subject to the following conditions:

- 1. Accused No. 4 is exempted from her personal appearance before this Court on all routine hearing dates.*
- 2. Her counsel shall represent her on every date of hearing and shall not seek adjournment on the ground of her absence.*
- 3. Accused No. 4 shall appear in person whenever directed by this Court, including at the time of identification, recording of her statement under Section 313 Cr.P.C., or at any other stage where her presence is specifically required.*
- 4. Failure to comply with any of the above conditions will entail cancellation of the exemption granted.*

*(Dictated to Stenographer, directly on computer typed by him taken out print, corrected by me and then pronounced in the Open-Court on **03rd day of November, 2025**)*

[Sri. Ananda]

*III Additional District & Sessions
Judge, Hassan.*

