

Order Below Exh. 27 in R.C.C. No. 161 of 2020
(State Vs. Basavraj Ghataavane & others)
(Passed on 19th April 2023)

1. This is an application filed on behalf of the accused No.1 under section 205 of the Criminal Procedure Code (for short Cr.P.C.) for his permanent exemption.

2. Through this application the learned advocate submitted that, the accused No.1 is serving in Indian Army and his posting is at Uttarakhand State. So, he could attend the dates fixed by the Court. Therefore, he prayed for permanent exemption of accused No.1 till recording his statement under section 313 of the Cr.P.C. Further, he stated that, during evidence he will not challenge his identity. Hence, he prayed for allowing the application.

3. In pursuance to the said application say of the learned APP was called. Accordingly, he has filed say and strongly opposed the present application. It is submitted by the learned APP that, the application is not tenable and if the application allowed then question of identification would arise. Further, the offence is serious in nature and grounds mentioned in the application are not sufficient to allow the present application. Hence, he prayed for rejection of the application.

4. Perused the application, say and record. Heard the learned advocate for the accused Shri. V.S.Jadhav and learned APP for the state Shri. G.B. Sarwade at length. The learned advocate for the accused argued that, the accused No.1 is serving in Indian Army at Uttarakhand State, so he is unable to attend the dates fixed by the Court. Therefore, he seeks permanent exemption till recording

his statement under section 313 of the Cr.P.C and he will not raise any objection about his identification. On the contrary, the learned APP Shri. Sarwade argued that, the offence is serious and the application is not tenable as well as the question of identification will arise. Hence, he prayed for rejection of the application.

5. Perusal of the record shows that, the present matter is filed under section 324, 323, 504 and 506 r/w. 34 of the Indian Penal Code. Through the present application the accused submitted that, the accused No.1 is serving in Indian Army at Uttarakhand State. Further, in support of application he has filed his affidavit as well as Serving Certificate of Indian Army. The learned APP submitted that, the question of identification will arise during the evidence. But, the accused submitted that, he will not raise objection of his identification. Further, the grounds mentioned in the present application are justifiable. Therefore, I am of the view that, no prejudice will be caused to the prosecution if the present application is allowed. Hence, I pass the following order.

ORDER

1. The application (Exh.27) is hereby allowed.
2. The exemption of accused No.1 is allowed till recording of his statement under section 313 of the Cr.P.C.

Date:- 19.04.2023.

(R. M. Shaikh)
Judicial Magistrate First Class,
Akkalkot, Dist. Solapur.

Certificate

I affirm that, the contents of this PDF file Order/Judgment are same word to word, as per original Order/Judgment.

Name of Stenographer	:-	D.S.Landage (Grade-III)
Court	:-	J.M.F.C.& Jt. Civil Court,J.D.,Akkalkot.
Date	:-	19.04.2023.
Judgment/Order signed by the Presiding Officer	:-	19.04.2023.
Judgment/Order uploaded on	:-	19.04.2023.