Form NO.14.(Civil)
Order Sheet
P.155 181(B)

ORDER SHEET

IN THE COURT OF THE CIVIL JUDGE (JR. DN.) & JMFC, RAMANAGARA

P.C.R. (183) /2010 ಲ 599/11

COMPLAINANTS/S		ACCUSED/S
Ranjitha	-Vs-	Nitya Dharmananda (alias) K. Lenin

Date	Proceedings of the Presiding Office with signature
31-12-10	This Complainant filed U/sec 200 CRPC by C.V. N Advocate for the Complainant on 31-12-2010 The Complainant above named humbly prays that this Hon'ble Court be pleased to register the above complaint against the accused named above for having committed the offences of attempt to rape, extortion, acts intended to insult the modesty of women etc., which are made penal under the sections 354, 376, 384, 506, 509, 511 read with sec 120B and 34 of the Indian Penal Code and secure and punish them in accordance with law, in the ends of justice. P.F. paid is sufficient. Vakalath filed For Sworn Statement by 29/1/11 Sd/- Prl., Civil Judge (Jr.Dn.)& JMFC, Ramanagara

Principal Civil Judge (Jr. Dn) & JMFC
Ramanagara

PCR 183

29.1.11:- Compl by CVN

1 sl st

Complainant present and her statement has been recorded in full. Call on for evidence of other witness if any by

19/2/11

29/1/11

19.2.11 Compl by CNV

1 wit d witness

Complainant absent. E.P. filed. 2 witnesses examined as CW2,3. Call on for further statement by

26/3/11

D. 26:3:2011

compl - CNV

further statement

19/2/11

Compl absent. Issue CNV fresh time. Call on -

10/5/11

26/3/11

Principal Civil Judge (Jr. Dn) & JMFC

IN THE COURT OF THE PRL.CIVIL JUDGE & JMFC, RAMANAGARA

PCR.183/2010

(Witness duly sworn oath on 23.4.2011)

Name	:	Nithya Prananda
Father's Name	:	V.S.Palani Swamy
Age	:	31 yrs
Profession	:	Dentist
Address	:	Nithyananda Dyanapeetam, Bidadi

Sworn statement by the Court:

I know complainant Ranjitha and accused 1 to 3. On 16.2.2010 accused No.3 who claimed to be an advocate and close associate with accused No.1 and 2 met me at Coibatoore during meditation workshop. He claimed that he is having some photographs which shows Swamy Nithyananda being in intimate position with actress Ranjitha. Further he demanded Rs.20 crores for restraining them from releasing the photographs to the media. He asked me to convey the same to Swamy Nithyananda and Ranjitha. I send him away as I did not believed his claim. He followed me to Salem and expressed the same demand again. I told him not to disturb me and thereafter I went back to Bidadi Ashram. On 20.2.2010 he came to Bidadi Ashram and he showed some photographs of a person depicting Swamy Nithyananda said

Sri Nithyananda

23/4/11

to be in intimate position with a lady who looked like actress Ranjitha and in turn he demanded Rs.20 crores to restrain him from releasing the same to media. He further pressurized me to call Ranjitha over phone and convey the message to her. Accordingly I called Ranjitha over phone. While I was speaking to Ranjitha over phone, accused No.3 took over the phone and he demanded Rs.20 crores from Ranjitha to restrain him and other accused from releasing the photographs to media. Further he threatened her that if he do not pay the money he will release the photographs to media and destroy her. He also warned that he has got some more material and asked Ranjitha to be present at Chennai for further negotiations on 23.2.2010. Further he demanded from Ranjitha token advance of Rs.25 lakhs. On 24.2.2010 Ranjitha gave me her gold jewelry to pledge the same and to pay the money to accused No.3 as per his demand. Thereafter I requested Shivavallabha Neni to keep the jeweleries with him as security and pay the money. Shivavallabha Neni gave me Rs.5 lakhs towards the pledging of jewelries with him as security and I paid the same to accused No.3 on 28.2.2010 as requested by Ranjitha.

Principal Civil Judge (Jr. Dn) & JMFC
Ramanagara

Prl.C.J. & JMFC.
Ramanagara
23/4/11

PCR 183/10

23/11/11 ; ಈ ಪ್ರಕರಣದಲ್ಲಿ ಆರೋಪಿಯ ವಿರುದ್ಧ ಸೆಕ್ಷನ್ 309 of Cr.P.C ರಡಿಯಲ್ಲಿ ಆರೋಪಣೆ ಹೊರಿಸಿದೆ. ಆರೋಪಿ ಪರ ವಕೀಲರು

one more witness CW4 examined. Call on Hg dt

23/11/11

10.5.11 Compl by CNV

Heard Smt. CNV. Call on for orders.

4/6/11

10/5/11

Principal Civil Judge (Jr. Dn.) Ramanagara

ORDERS

The complainant Smt.Ranjitha filed this private complaint against accused No.1 to 3 alleging the offence U/s.354, 376, 384, 506, 509 and 511, 120(B) r/w.sec.34 of I.P.C. This court took cognizance of the complaint on 30.12.2010 and posted the matter to record sworn statement of complainant and witnesses. Accordingly, sworn statements of complainant and 3 witnesses were recorded by this court as Cws.1 to 4.

I have perused the sworn statements of CWs.1 to 4. On perusal of the same, complainant has alleged that accused has committed an offence U/s. 354, 376, 384, 506, 509 and 511, 120(B) r/w.sec.34 of I.P.C. But the sworn statements of CWs.1 to 4 does not disclose the commission of offences U/s.376, 120(B) of I.P.C. In my opinion there are prima-facie materials to register a case against accused No.1 to 3 U/s.354, 506, 384, 509 of I.P.C. and there is no material regarding commission of offence U/s.376, 511 and sec.120(B) of I.P.C. Hence, office is hereby directed to register a Criminal Case against accused No.1 to 3 only for the offence U/s. 354, 506, 384, 509 of I.P.C. and issue summons

Principal Civil Judge (Jr. Dn) & JMFC

4/6/11

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1.8.14 Complt by - CNV

SS to A1to3 ✓

P.O is on C.L Hence case adjn to 2/8/14

ಕಿರಿಯ ಸಿವಿಲ್ ನ್ಯಾಯಾಧೀಶರು
(ಪ್ರ.ವ.) ಮತ್ತು ಜೆ. ಎಂ.ಎಫ್.ಸಿ., ರಾಮನಗರ

2.8.14 Complt by - CNV

ORDERS ON APPLICATION FILED BY THE ACCUSED NO.1 U/s.205 Cr.P.C.

Accused No.1 in his application has contended that since he is not keeping well, he is unable to attend this court today, hence his appearance may be exempted under the provisions of Sec.205 Cr.P.C.

The counsel for complainant filed his objections denying the averments of application inter alia submitted that, application filed by accused No.1 is premature and same not maintainable as accused No.1 has not appeared before this court today though summons served on him.

Principal Civil Judge (Jr. Dn.) & JMFC, Ramanagara

2/8/11

Hence, he sought for dismissal of the application.

Heard both sides.

The point arise for my consideration

"Whether accused No.1 has made out reasonable grounds to allow this application"?

REASONS

This is a private compliant filed by Smt.Ranjitha against Accused No.1 to 3 alleging offence U/s.354, 376, 384, 506, 509, 511, 120(B) r/w.sec.34 I.P.C. This court after recording the sworn statement of complainant and other witnesses, took cognizance against accused No.1 to 3 only for the offence U/s.354, 506, 384, 509 of I.P.C. and thereby proceeded further and issued summons to accused No.1 to 3. The matter was posted to 1.8.2011. Since, P.O. was on leave, same was posted to today i.e. on 2.8.2011. At this juncture Sri.M.G.M. counsel for accused filed vakalath, application U/s.205 Cr.P.C. seeking exemption of appearance of accused No.1 for today. In this regard, the learned counsel for plaintiff argued that, since accused No.1 not feeling well, his appearance has to be exempted for a day. He supported his arguments with 3 decisions. According to

Principal Civil Judge (Jr. Dn) & JMFC Ramanagara

2/8/11

him, the present case since a private complaint and summary procedure has to be dealt with and hence application U/s.205 is maintainable even though accused No.1 not appeared before this court.

On the other hand, the learned counsel for complainant Sri.M.M. argued that, the decisions relied by the counsel for accused No.1 are not applicable to the case in hand as the facts and circumstances in these cases are totally different from the facts and circumstances of the present case. According to him, the present application shall be rejected in total as the offence alleged are non bailable in nature.

Sec.205 Cr.P.C. reads as follows:

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 of 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 necessary, enforce such attendance in the manner hereinbefore provided.

The learned counsel for accused No.1 has relied on 3 decisions

2/8/11

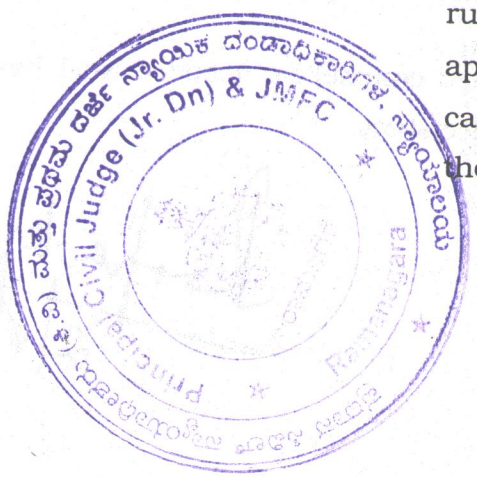
(1) (2001) 7 SCC.401 Baskar Industries Ltd –Vs- Biwani Denim and Apparels Ltd.,

I have gone through this decision, wherein the offence alleged id U/s.138 of Negotiable Instruments Act, wherein the Hon'ble Appex Court has held that, Judicial Discretion has to be exercised in rare cases due to distance or any physical disability or other good reason, appearance of accused can be dispensed with.

(2) 2007 Crl.L.J.1358 (Patna High Court) Manish Gai –Vs- State of Bihar

In this decision, the Hon'ble appellate court differentiated as to when Sec.205 and sec.317 Cr.P.C. has to be exercised. In that case prosecution was instituted against the accused under the provisions of Prevention of Food and Adulteration Act.

It is true that, the above section is not confined only to summons cases. The Magistrate may direct the personal appearance of the accused at any stage. It is also well settled that the personal appearance of the accused is the general rule and exemption from personal appearance may be granted in suitable cases. On perusal of the offence alleged in the present case, Sec.354, 384, 506 are



heinous in nature and the arguments advanced by the counsel for accused that summary procedure has to be dealt with in the present case cannot be accepted. No doubt it is true that summons have been issued against accused No.1 to 3 in the present case, but that cannot be a ground for seeking exemption from appearance U/s.205 Cr.P.C. The learned counsel for accused himself has produced another decision reported in:

2004 Crl.L.J.1457(Jarkand High Court) Firoza Katoon –Vs- State of Jarkand,

Wherein the offence alleged against the accused was U/s.498(A) IPC and Sec.4 of Dowry Prohibition Act, wherein the Hon'ble appellate court has made it clear that Sec.205 can be invoked only in case of trivial in nature or petty offence and shall not be invoked in serious cases involving major offences like Mortal turpitude of offence punishable with sentence of long imprisonment. The decision relied by the counsel for accused No.1 itself makes clear that, the provisions of Sec.205 cannot be invoked for case in hand. In my opinion, a prayer for exemption from personal appearance can only be made after the 1st appearance of the accused. Coming to the question of



contents of the application, the reason given by accused No.1 for his non appearance is "accused No.1 is not keeping well". The contents of the application goes to show that the grounds urged are not satisfactory to exempt the personal appearance of accused No.1. The contents of application are not supported with any documentary proof and they are too simple in nature. On the basis of above said discussions, I am of the opinion that, accused No.1 has not made out any reasonable grounds to support the contents of application. Further, the application itself is not maintainable, as it is premature in nature. Accused No.1 should have appeared before this court today and filed bail application on his behalf, which has not been done. Hence, I hold the that, the application itself is not maintainable. Accordingly, I proceed to pass the following:

ORDER

Application filed by accused No.1 U/s.205 Cr.P.C. is hereby rejected.

Prl.C.J. & JMFC,
Ramanagara.

In view of the order dt: 21.7.2011, all pending P.C.R's except P.C.R's filed U/s. N.I. Act, has been transferred to Addl. Civil Judge (Jr. Dn) & J.M.F.C., Court, Ramanagara. Hence this case to be called before Addl. C.J (Jr. Dn.) & JMFC., Ramanagara on 29-10-2011.

Prl.C.J. & JMFC, 2/8/11
Ramanagara.

Issue N.B.W. to accused No.1 and summons to accused No.2 and 3, returnable by: 29.10.2011.

2/8/11.

29/8/11

ದಿ. 29: 10: 2011

compl by – MM

NBW to A1 &
SS to A2 & 3 comp

Recd memo for want of time

Recd memo – 3-11

P.O. IS ON C.L.E.V.
Hence case adj. to

ದಿ. 29.10.11
ಅಪರ ಸಿವಿಲ್ ನ್ಯಾಯಾಧೀಶರು
(ಕಿ.ವಿ.) ಮತ್ತು ಜೆ. ಎಂ.ಎಫ್.ಸಿ., ರಾಮನಗರ 29/10

5/11/11

6/12/11

22/11/11

22/11/11

22/11/11

Principal Civil Judge (Jr. Dn) & JMFC
Ramanagara

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