

09.01.2023

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CRR 1645 of 2011

In the matter of : Nirupama Chakraborty.
.... petitioner.

Mr. Narayan Prasad Agarwala
Mr. Pratick Bose

.... for the State

The instant criminal revisional application is pending since 2011 and as such, required to be disposed of.

The learned advocate for the petitioner is not represented.

The learned advocate for the State is present.

The instant criminal revisional application has been filed for setting aside of order dated 28.03.2011 passed by the learned Judicial Magistrate, 5th Court, Alipore, South 24 Parganas in connection with Case No. C-1276 of 2009 under Sections 448/323/380/504/506/427/34 of the Indian Penal Code.

Perused the contentions of the petition as well as the impugned order. The learned Judicial Magistrate, 5th Court, Alipore rejected the application filed under Section 205 of the Code of Criminal Procedure and being aggrieved by such rejection the instant revisional application has been filed.

The learned Judicial Magistrate, Alipore observed in absence of the medical documents, the personal appearance of

the accused under Section 205 of the Code of Criminal Procedure could not be dispensed with.

Section 205 of the Code of Criminal Procedure 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.”

In view of the provisions under Section 205 the application Section 205 of the Code of Criminal Procedure could be allowed irrespective of production of medical documents. If the petitioner deliberately avoided appearance before the Court repeatedly after an exemption granted in his favour from appearing before the Court on occasions specifically directed by the Court to appear before it, the Court can enforce his appearance.

The personal appearance of the petitioner is dispensed with in terms of the application filed under Section 205 of the Code of Criminal Procedure. However, the petitioner shall be present before the Court on the date directed by the Court for his personal appearance before the same. In case the petitioner tries to violate the direction of the Court as aforesaid strict

measures to ensure his personal appearance before the Court shall be adopted by the learned trial court.

Accordingly, the instant revisional application being CRR 1645 of 2011 is allowed.

Copy of the order be sent to the Department as well as trial court for due compliance.

(Ananya Bandyopadhyay, J.)