

O/o the Chief Judicial Magistrate
Kadapa, dated: 25.11.2024.

Sri S.Praveen Kumar,
Chief Judicial Magistrate,
KADAPA.

C I R C U L A R

- Ref : (1) Directions of the Hon'ble Supreme Court in the case of State of Karnataka by Nonavinakere Police Vs Shivanna @ Tarkari Shivanna, 2014 (8) SCC 913,**
- (2) Notification No.10/SO/2024 of the Hon'ble High Court of Andhra Pradesh in ROC.No.668/SO/2022 dt:12.09.2024,**
- (3) Rule 35-E (i) to (v) of the Criminal Rules of Practice and Circular Orders, 1990.**

It is brought to the notice of the Chief Judicial Magistrate, Kadapa by several Police Officers in the Judicial Unit of Kadapa that most of the Lady Judicial Magistrates are not entertaining the requisitions to record the statements of Victim girl/Woman under Section 183 of the B.N.S.S, 2023 (Section 164 Cr.P.C) and giving oral instructions not to place the requisitions before them or to obtain proceedings / instructions from the Chief Judicial Magistrate, Kadapa for nomination of the Judicial Officer to record the statement of victim girl / woman.

As per reference cited **directions of the Hon'ble Supreme Court, Notification of the Hon'ble High Court of A.P and Rule 35-E (i) to (v) of the Criminal Rules of Practice and Circular Orders**, there is an obligation on the part of Investigating Officer to make immediate steps to take the victim to any **nearest Lady Judicial Magistrate** upon receipt of **information relating to commission**

of offence of rape within 24 hours to record her statement under Section 183 of BNSS, 2023 (164 Cr.P.C) and **also an obligation on the nearest Lady Judicial Magistrate irrespective of Jurisdiction to record such statement of rape victim, without delay.**

Thus, the Chief Judicial Magistrate, Kadapa placed the matter before the Hon'ble Principal District and Sessions Judge, Kadapa soliciting necessary instructions. Upon the instructions of the Hon'ble Principal District and Sessions Judge, Kadapa and in exercise of the powers conferred upon the Chief Judicial Magistrate under Section 13 (2) of the BNSS 2023, the Chief Judicial Magistrate, Kadapa is hereby issued the following instructions.

Recording of Statement of Victim/Witness u/Sec.183 BNSS, 2023:

- i) A statement of a witness / victim can be recorded under Section 183 of BNSS, 2023 (164 of Cr.P.C) only at the instance of the Investigating Officer of the case.
- ii) It is not necessary for the Investigating Officer to approach the Chief Metropolitan Magistrate / Chief Judicial Magistrate with an application for nominating a Judicial Magistrate to record the statement of a witness / victim under Section 183 of BNSS, 2023.
- iii) **A Judicial Magistrate, whether he/she has got jurisdiction or not, to inquire into or try the case, can record the statement of a witness / victim under Section 183 of BNSS, 2023 (164 of Cr.P.C.) on the request of the Investigating officer of the case.**

- iv) The Presiding Officer of a Special Court which has been empowered to take cognizance of an offence without there being a need for committal, may also record the statement of a witness/victim under Section 183 of BNSS, 2023 on the request of the Investigating Officer.**
- v) After recording the statement of a witness/victim under Section 183 of BNSS, 2023, the Judicial Magistrate shall arrange to take two photocopies of such statement, under his/her direct supervision and certify the same as true copies.**
- vi) The Judicial Magistrate shall furnish one such certified photocopy of the statement to the Investigating Officer on free of cost, immediately, with a specific direction to use it only for the purpose of investigation and not to make its contents public till the investigation is completed and final report is filed.**
- vii) The other certified photocopy of such statement shall be kept in a sealed cover in the safe custody of the Judicial Magistrate.**
- Viii) If the Judicial Magistrate who had recorded the statement under Section 183 of BNSS, 2023 is not the jurisdictional Magistrate, he/she shall send the original statement to the jurisdictional court, either through a special messenger or by Registered Post with Acknowledgment Due.**

- ix)** If the Judicial Magistrate who had recorded the statement under Section 183 of BNSS, 2023 is himself/herself the jurisdictional Magistrate, he/she shall keep the original of the statement in the case records.
- x)** The Judicial Magistrate may also take the services of a Translator, if circumstances so require.
- xi) The Nearest Lady Judicial Magistrate shall not return / refuse / reject the application/requisition filed by the Investigating Officer under any circumstances.**
- Xii)** The Lady Judicial Magistrate shall record the statement of victim girl/ Woman forthwith on production of victim by the Investigating Officer.
- xiii)** No adjournment shall be given for causing summon / notice to the victim girl / woman.

Any deviation or causing inconvenience in recording the statement of Victim girl/woman under Section 183 of BNSS, 2023 (164 of Cr.P.C) will be viewed seriously and the matter will be reported to the Hon'ble High Court through the Hon'ble Principal District Judge, Kadapa.


**CHIEF JUDICIAL MAGISTRATE,
KADAPA.**

Copy submitted to:

The Hon'ble Principal District and Sessions Judge, Kadapa

Copy to:

The All Judicial Magistrates of 1st Class, Kadapa Unit.

D/S no 773
dt. 26/11/2024