

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 803 OF 2015

Shivdas s/o Madhavrao Barse,
R/o. Barasgaon, Tq. Ardhapur,
Dist. Nanded.

...Petitioner

versus

The State of Maharashtra
through police station, Basamba,
Tq. & Dist. Hingoli & ors

...Respondents

.....
Mr. G.N. Chincholkar, Advocate for petitioner
Mr. S.R. Palnitkar, A.P.P. for respondent/State
.....

CORAM : N.W. SAMBRE, J.

DATE : 24th AUGUST, 2015

ORAL ORDER :

The order passed by learned Sessions Judge, Parbhani on 10/06/2015 below Exhibit-215 an application filed by prosecution for framing charge under Section 316 of the Indian Penal Code against the accused persons is questioned herein. The said application for framing of the charge though under Section 316 of the Indian Penal Code is allowed to the extent of accused No.1, however rejected against rest of the accused i.e. accused Nos. 2,3 and 5.

2. Mr. Chincholkar, learned Counsel for the petitioner would urge that learned Court below has committed an error in not framing

the charge for an offence punishable under Section 316 of the Indian Penal Code against accused Nos. 2, 3 and 5. He would further urge that even in absence of charge under Section 302 of the Indian Penal Code, independently charge under Section 316 of the Indian Penal Code is very much sustainable.

3. It is required to be noted here that so far as accused Nos. 2,3 and 5 are concerned, no charge is framed for the offence punishable under Section 302 of the Indian Penal Code against these accused persons and they are charged only for offence under Section 498A of the Indian Penal Code.

4. An earlier attempt on the part of present petitioner making prayer for framing charge under Section 302 of the Indian Penal Code was rejected and confirmed upto this Court.

5. Perusal of the requisite of Section 316 of the Indian Penal Code, in my opinion, are not satisfied in the present case, as is sought to be canvassed by learned Counsel for the petitioner.

6. The rejection of the application for framing the charge under Section 316 of the Indian Penal Code, in my opinion, is based on cogent evidence. In the above referred back ground, no case for

interference is made out. Criminal Writ Petition, as such, fails, stands dismissed.

[N.W. SAMBRE, J.]