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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3822 OF 2014

Shri Alitkumar Gadhodar SwainPetitioner
versus
The State of Maharashtra and ors.Respondents

Mr. P. G. Pandey, advocate for the petitioner.
Mrs. S.V. Sonavane, APP for the State.

**CORAM : RANJIT MORE &
V. L. ACHLIYA, JJ.**

DATED : 19th AUGUST, 2015.

P.C.:

The petitioner has filed the petition for following reliefs:

- “a) That this Hon'ble Court may be pleased transfer the investigation of CR No.121/2014 of Navghar Police Station to State CID or any other appropriate independent agency as this Hon'ble Court may deem fit and proper in the circumstances of the case.
- b) That this Hon'ble Court may be pleased to alter the section of CR No.121/2014 of Navghar Police Station from Section 304(A) R/w Section 34 to Section 304 R/w.34 of IPC.”

2. Mrs. Sonavane, learned APP having taken instructions, makes a statement that after completion of investigation into the CR No.121/2014 by Navghar Police Station, the charge-sheet is already filed against one Deepak Khavnekar and Vijay Panchal under Section 304A of Indian Penal Code, 1860. In that view of the matter, prayer for transfer of the investigation is not maintainable.

3. Learned counsel for the petitioner makes a grievance that investigation reveals commission of an offence under Section 304. However, charge-sheet is filed under Section 304A of the Indian Penal Code, 1860. In this regard, we find that under the provisions of Section 216 of the Code of Criminal Procedure, 1973, the Magistrate is always at liberty to alter or add any charge on the basis of material before him. The learned Magistrate is seized of the proceedings and, therefore, we are not inclined to entertain this petition. The same is, accordingly, dismissed.

(V. L. ACHLIYA, J.)

(RANJIT MORE, J.)