

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

CRIMINAL WRIT PETITION NO.63 OF 2016

Vinod s/o Ashokkumar Gaud,
Age 26 years, Occu. Student,
R/o Badi Sadak, Aditya Complex,
Jalna

..Petitioner

Versus

State of Maharashtra

..Respondent

Mr S.G. Ladda, Advocate for petitioner
Mr A.R. Kale, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 8th March 2016

PER COURT

1. The accused-petitioner has sought conversion of prosecution against him from summons to warrant case, pursuant to provisions of Section 259 of Cr.P.C., which request was turned down by learned Judicial Magistrate, First Class, Jalna vide order dated 8th November 2013 and confirmed in a revision, by the Additional Sessions Judge, Jalna vide order dated 29th December 2015, as such present petition.

2. Mr Ladda, learned Counsel for the petitioner would urge that the application moved under Section 259 of Cr.P.C. for conversion being Exh.19 ought to have been granted by learned Magistrate and the reasons furnished therein are tune with the scheme of Section 259 of Cr.P.C. He would then submit that there is strong case in favour of present petitioner who was a pillion rider in relation to the claim for discharge and in a summary case, the remedy is not available to him,

as such the Court in the interest of justice should grant the application.

3. Learned A.P.P. opposed the application on the ground that the language of Section 259 of Cr.P.C. speaks of the procedure to be adopted by the Magistrate in case he is satisfied if the case is made out for such conversion from summons to warrant case. He would then urge that the observations made by learned Magistrate rather have taken care of the interest of petitioner and has relied upon the observations made in paragraph 6 of the order impugned.

4. Having bestowed my thoughts to the submissions made, it is required to be noted that the plea of the accused was already recorded by the learned Magistrate under Section 259 of Cr.P.C. and it is at that point of time, application came to be moved for conversion under Section 259 of Cr.P.C. While dealing with such prayer, learned Magistrate was aware about the rights of the petitioner to claim such conversion and rather made certain observations to that effect. The language employed in paragraph 6 of the order passed by learned Magistrate may not be convenient to the petitioner, however, learned Magistrate has already visited his thoughts to the said issue.

5. Learned revisional Court within the scope of revisional jurisdiction has appreciated the requirement of Section 259 of Cr.P.C. and endorsed the views expressed by learned Magistrate.

6. In my opinion, as the learned Magistrate has already being aware about the right of the present petitioner qua Section 259 of Cr.P.C., which could be looked into at appropriate stage, no interference is called for. As such, Criminal Writ Petition fails, stands rejected.

(N.W. SAMBRE, J.)

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