

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1483 OF 2016
(SEEKING CONDONATION OF DELAY)
IN AND WITH
CRIMINAL REVISION APPLICATION (ST.) NO. 67 OF 2016

Sharad S/o Bhujang Late and others .. Applicants

Vs.

The State of Maharashtra .. Respondent

Mr. S.J. Salunke, Advocate for the applicants
Mr. S.J. Salgare, A.P.P. for the respondent/State

CORAM : N.W. SAMBRE, J.

DATE : 22/06/2016

ORAL ORDER :

In Sessions Case No. 6 of 2013, the learned Sessions Court framed charge for the offences punishable under section 307, 147, 148, 149, 447, 324, 325, 323, 504, 506 vide order dated July 15, 2014.

2. The application Exhibit 37/D styling to be under section 216 of the Code of Criminal Procedure for alteration of charge came to be moved stating that if the cumulative effect of the overall allegations as

against the applicant is taken, the offence will be punishable under section 326 of the Indian Penal Code and not under section 307 of the Indian Penal Code. For the said purpose, reliance is placed on the injury certificate which is part and parcel of the investigation papers. Said application Exhibit 37/D came to be rejected by the learned Additional Sessions Judge vide its order dated February 3, 2016. As such, the present application.

. It is claimed that the present revision application is beyond limitation and, therefore, application for condonation of delay is also moved.

3. Heard learned counsel for the applicants and learned A.P.P.

4. For the reasons stated in Criminal Application No. 1483 of 2016, delay caused in preferring the Revision Application is condoned. Criminal Application No.1483 of 2016 stands disposed of accordingly.

5. Contention of the applicants, as is stated hereinabove and particularly application at Exhibit 37/D as regards the injury certificate, suffered by the victim if taken to be correct, still, in my opinion, the order of framing of charge under section 307 of the Indian Penal Code would be sustainable, particularly having regard to the contents of the FIR, the injury certificate depicting grievous injury suffered by the victim Ishwar Bade.

6. No case for alteration of charge from section 307 of the Indian Penal Code to under section 326 of the Indian Penal Code is made out before me, particularly in the light of the ingredients required under the said section.

7. No interference as such is called for in the order of framing of charge under section 307 of the Indian Penal Code. Criminal Revision Application (St.) No. 67 of 2016, fails and is rejected.

8. The above referred observations are based on the material as are placed before this Court, however,

this will not preclude the Court below from altering the charge under section 216 of the Code of Criminal Procedure, if the Court so desires, based on the evidence brought before it.

9. With the above observations, the Criminal Revision Application stands disposed of.

[N.W. SAMBRE]
JUDGE

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