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

CRIMINAL WRIT PETITION NO.923 OF 2016

Pandit Bansi Ovhal,
Age : 33 yrs Occ: Agri,
R/o. Talkhed Tq. Majalgaon,
Dist. Beed. ..Petitioner

VERSUS

The State of Maharashtra
..Respondent

Mr V.V. Bhavthankar, Advocate for Petitioner.
Mr N.T. Bhagat, A.P.P. for respondent/State.

CORAM : N.W. SAMBRE, J.

DATE : 18th August, 2016

ORDER :

In Sessions Case No.8 of 2015 pending on the file of learned Additional Sessions Judge, Majalgaon, an application Exhibit-50 came to be moved by the accused persons alleging that the charge be altered pursuant to the provisions of Sections 216 of the Code of Criminal Procedure on the ground that the ingredients of Section 307 of the Indian Penal Code are not attracted.

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2. The said application came to be rejected on 27th April, 2016. As such, the present proceedings.

3. Mr. Bhavtankar, learned counsel for the petitioner would strenuously urged that if the contents of First Information Report, corresponding injuries suffered by the victim and object used in causing injuries if are considered, it could be easily informed that the offence under Section 307 of the Indian Penal Code is not attracted. According to him, having regard to the fact that the injury suffered is simple one, at the most, offence is punishable under Section 323 or 324 of the Indian Penal Code.

4. Learned A.P.P. opposed the petition on the ground that the injury certificate speaks of causing the injury by hard and blunt object. According to him, wooden plank is used, resulting into causing injury on the face of the victim and charge, as such, is rightly framed under Section

(3)

307 of the Indian Penal Code.

5. According to him, it is also always open for the learned Court below to alter charge or to consider the evidence for an offence punishable with lessor punishment.

6. Having bestowed my thought to the submissions made and having considered the reasons cited by learned Sessions Judge in the order impugned passed below Exhibit-50, it is required to be noted that the victim has suffered injuries by hard and blunt object on his face as is apparent from the injury certificate and other material. The said aspect is rightly taken in to account by the learned Session Judge while dealing with the application. In view thereof, no case for interference in extraordinary jurisdiction is made out. As such, the petition fails, same stands dismissed.

(N.W. SAMBRE, J.)