

(1)

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

CRIMINAL WRIT PETITION NO. 1284 OF 2014

Nanasaheb Kashinath Galande,
Age: 53 years, Occu: Agri.,
R/o Undirgaon, Tq. Shrirampur,
Dist. Ahmednagar

..PETITIONER

VERSUS

1. The State of Maharashtra
2. Pandurang Kashinath Galande,
Age: 64 years, Occu: Agri.,
R/o Undirgaon, Tq. Shrirampur,
Dist. Ahmednagar

..RESPONDENTS

Mr Nikhil Ghanwat, Advocate holding for Mr K. B. Autade, Advocate to for petitioner;
Mr N. T. Bhagat, Addl. Public Prosecutor for respondent No. 1;
Mr D. G. Nagode, Advocate for respondent No. 2

CORAM : N.W. SAMBRE, J.

DATE : 26th August, 2016

ORAL ORDER :

Learned Judicial Magistrate First Class, Shrirampur, framed charge against the petitioner in R.T.C. No. 142 of 2005, for offences punishable punishable under sections 466, 468 read with section 34 of the Indian Penal Code. The same was subject matter of challenge in Criminal Revision No. 6 of 2010, which came to be allowed by Additional Sessions Judge, Shrirampur, vide order dated 26th June, 2013.

(2)

2. Perusal of the contents of the complaint and that of the order of framing of the charge depicts that the present petitioner was charged for an offence under section 466, i.e. forgery of the record which is punishable with imprisonment for a term of seven years, 468 – forgery for the purpose of cheating and section 34 i.e. common intention. If the language of the charge as is framed is perused, the same goes contrary to the scheme of section 211 of the Code of Criminal Procedure. It was expected of the learned Magistrate to frame a charge with more clarity than that of the one framed, which in my opinion, vitiates the trial. A vague framing of the charge can be a ground for acquittal in appeal.

3. In view thereof, the present petition deserves to be allowed. I, therefore, pass following order:

The order dated 30th December, 2009 passed by the learned Judicial Magistrate First Class, Shrirampur, below Exh. 1 in R.T.C. No. 142 of 2005, to the extent of framing of the charge against accused respondent Nos. 1 to 3 for offences punishable under sections 466, 468 read with section 34 of the Indian Penal Code, confirmed in Criminal Revision No. 6 of 2010, by an order dated 26th June, 2013 passed by learned Additional Sessions Judge, Shrirampur, is hereby quashed and set aside.

The matter is remitted back to the learned judicial Magistrate First Class, Shrirampur, who shall frame a charge afresh, in the light of observations made herein above.

(3)

Criminal Writ Petition stands partly allowed in above terms.

(N.W. SAMBRE, J.)

amj