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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1409 OF 2013

Shri Mahatab Fattebhai Nadaf

.. Petitioner

Vs.

State of Maharashtra and ors.

.. Respondents

Mr. Girish Agrawal for petitioner.

Mr. J. P. Yagnik, APP for State.

Mr. P. G. Sarda for respondent nos.2 to 9.

CORAM: NARESH H. PATIL &
PRAKASH D. NAIK, JJ.

AUGUST 24, 2016.

P.C.

1. The petitioner challenges order dated 18/2/2013 passed by the II Ad-hoc Additional Sessions Judge, Solapur below Exh. 3 in Sessions Case No. 229 of 2011. Learned counsel for the petitioner submitted that in an application filed on 13/10/2011 by the petitioner under Section 173(8) of Cr. P. C., further investigation was necessary. Learned counsel submitted that supplementary statement of the petitioner was not recorded. The medical certificate of treatment taken by the petitioner in the Primary Health Centre at Mandrup, Taluka - South Solapur was not collected. The charge-sheet was not filed for an offence punishable under Section 307 of the IPC.

2. Learned APP submitted that charge was already framed in this case. There is a cross case. Both the cases are to be tried together by the Sessions Court. Learned counsel appearing for respondent nos.2 to 9 submitted that supplementary statement of the petitioner was recorded. On the application filed by the petitioner, the cross case came to be transferred. Therefore, both the cases are to be tried together and, therefore, they are posted before the Sessions Court.

3. We have perused the record, the order dated 18/2/2013 passed below Exh. 3 in Sessions Case No. 229 of 2011 by the II Ad-hoc Addl. Sessions Judge, Solapur. We have also perused the charge-sheet.

4. In case the petitioner had taken treatment in the Primary Health Centre then the prosecution or even the defence to take necessary steps to produce the record maintained by State. At page 31 of the petition is a medical certificate issued by Ashwini Sahakari Rugnalay, Solapur.

5. As to whether a charge framed under Section 324 of IPC is

required to be altered to Section 307 of IPC is for the trial court to decide. Such issues are based on consideration of facts and the evidence led before the trial court.

6. Without expressing any opinion on the merits, we observe that no interference is warranted. Petition is disposed of.

(PRAKASH D. NAIK, J.)

(NARESH H. PATIL, J.)