

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.3719 OF 2016

Mrs.Renuka Bharat Ballal ... **Petitioner**

V/s.

State of Maharashtra, Pune,
Through Khadki Police Station.

... **Respondent**

Mr.Sugandh B. Deshmukh, Advocate for the Petitioner.

Ms.P.N.Dabholkar, APP for the Respondent/State.

CORAM : A.M.BADAR J.

DATED : 4th SEPTEMBER 2017.

P.C. :

1. By this writ petition, the writ petitioner/de-facto complainant is challenging the order dated 26th May, 2016 passed below Ex. 6 in Sessions case No. 347 of 2013.

2. Heard the learned Advocate appearing for the writ petitioners. He argued that though the charge-sheet was for the offence punishable under Section 312 as well as 313 of the I.P.C., apart from other offences, those charges were not framed and ultimately, the writ petitioner/de-facto complainant was required to move an application below Ex.6 for requesting the Sessions Judge to frame charges for the offences punishable under those heads. That application came to be allowed by directing framing of charge under Sections 313 and 325 of the I.P.C..

3. In submission of the learned Advocate for the writ petitioner the learned Additional Sessions Judge ought to have framed charge even for the offence punishable under Section 312 of the I.P.C..

4. The learned APP opposed the petition by contending that charge for the offence punishable under Section 313 of the I.P.C. is for an aggravated offence and it is a major offence than the offence punishable under Section 312 of the I.P.C.. Therefore, it is not necessary to frame charge for the offence punishable under Section 312 of the I.P.C..

5. I have carefully considered the rival submissions. The offence punishable under Section 312 of the I.P.C. is committed when the victim consents for abortion, whereas the offence punishable under section 313 of the I.P.C. is committed when she does not consent for abortion. In the case in hand, according to the first informant in the roadrage the accused had assaulted her and caused her miscarriage apart from causing grievous hurt to her. In this view of the matter, it cannot be said that the first informant/alleged victim of the crime was a consenting party to the abortion/miscarriage. It is her case that her miscarriage was caused by the accused without her consent by assaulting her. Hence, the learned Sessions Judge was perfectly correct for directing framing of charge under Section 313 of the I.P.C..

In this view of the matter, there is no infirmity in the impugned order, the writ petition is therefore dismissed.

(A.M.BADAR J.)

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