

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

CRIMINAL REVISION APPLICATION NO.84 OF 2017

Santosh Kumar Mishra ... Applicant

Vs.

Shri Parmeshwar B. Tiwari & Ors. ... Respondent

Mr.Santosh Kumar Mishra for the Applicant in person – present

Mr.A.R. Patil, APP, for the Respondent – State

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: JANUARY 23, 2019

P.C.:

1. While arguing the matter, the application in person insisted that the Record & Proceeding be called for and the charge which is framed under sections 323, 324 and 427 r/w 34 of the Indian Penal Code should have been altered by the learned Magistrate, 60th Court, Kurla, Mumbai. And that order of framing charge dated 7.9.2015 is to be set aside directing that Charge under sections 307 and 120B of the Indian Penal Code is to be added. The applicant submitted that besides the accused persons, some other persons are also involved and criminal conspiracy is hatched against him and his family members. He further submitted that

during the pendency of this case, another offence has taken place and the police have not investigated the said offence. He, therefore, submitted that the R & P is to be called.

2. Learned Prosecutor submitted that on a private complaint filed by the applicant, in person, directions were issued to the police by the learned Metropolitan Magistrate to investigate the matter. The police have investigated the matter and filed chargesheet. On the basis of the chargesheet, the trial Court has framed charges under sections 323, 324, 427 r/w section 34 of the Indian Penal Code.

3. Perused the Petition; the prayers; the charge framed; the statement of Shivkumar, the medical papers and also perused the injury certificate indicating injury of bite on right palm, contusion mark over forehead, contusion over left hand near elbow and blood stains in nasal region.

4. As the applicant in person is certified as per the Office Report that the applicant would be in a position to assist the Court in deciding the matter, he is heard. However, at the time of hearing of this application, he started arguing on *res judicata* and doctrine

of estoppel which are altogether irrelevant. So also, in my view, the order of framing of charge is found correct, in view of the medical certificates and the complaint. Hence, the charge is maintained. However, it is made clear that the trial Court is always empowered to alter the charge, if evidence is brought on record by the prosecution to add or delete charges.

5. In view of the above, the Revision is dismissed.

(MRIDULA BHATKAR, J.)