

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

CRIMINAL WRIT PETITION NO.5116 OF 2022

Safatali Soharatali Khan ... Petitioner
Versus
The State of Maharashtra ...Respondent

Mr. Sagar P. Batavia, for the Petitioner.

Mr. V. B. Konde-Deshmukh, A.P.P for the Respondent – State.

***CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.***

DATE : 2nd AUGUST 2023

P.C. :

1. Heard learned counsel for the parties.
2. By this petition, the petitioner seeks the following substantive reliefs:-

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A) *That a Writ of Certiorari, Writ of Mandamus or any other appropriate writ, order or direction be issued to Respondent No. 1 for adding Section 307 and replace Section 307 in place of Section 326 of I.P.C in FIR No. 481 of 2020 lodged on 27.10.2020.”*

3. Learned counsel for the petitioner seeks leave to withdraw this petition as during the pendency of this petition, charge-sheet has been filed in the said case, as against the accused for the offences punishable under Sections 323, 326, 504, 506 r/w 34 of the Indian Penal Code. He, however, submits that since charge-sheet has been filed in the said case, liberty be granted to the petitioner, who is the original complainant to seek alteration of charge under Section 307 of the Indian Penal Code, at an appropriate stage.

4. Petition is accordingly disposed of as withdrawn, with liberty as prayed.

5. Needless to state that, it is always open for the Court to consider the application of the petitioner (original complainant), if filed for addition of charge under Section 307 of the Indian Penal Code, on its own merits, in accordance with law.

6. We make it clear that we have not expressed any opinion on the merits of the case and it is open for the learned Judge to decide the same, in accordance with law.

7. All concerned to act on the authenticated copy of this order

GAURI GODSE, J.

REVATI MOHITE DERE, J.