



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**CRIMINAL WRIT PETITION NO.126/2024**

(Ajay S/o Dilip Kharpas Vs. The State of Maharashtra and another)

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders  
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Court's or Judge's orders

Mr. U.V. Chakrawarti, Counsel for the petitioner.  
Mr. M.J. Khan, A.P.P. for the respondents.

**CORAM: VINAY JOSHI AND MRS.VRUSHALI V. JOSHI, JJ.**  
**DATED : 7.2.2024.**

Heard.

2. This petition seeks transfer of investigation in Crime No.0180/2022 registered by respondent No.1 Police Station Chikhali, District Buldhana for the offence punishable under Sections 307, 143, 147, 148, 149, 144, 504 and 506 of the Indian Penal Code.

3. Petitioner is informant of said case. It is petitioner's grievance that initially the police have registered F.I.R. for the offence punishable under Section 307 of the Indian Penal Code and the rest. According to the petitioner there was an assault by means of baseball bat causing injuries of grave nature at legs as well as injury near the eye and face which is a case of attempt to commit murder. It is submitted that after investigation only on the basis of medical report the police concluded that it is an offence punishable under Section 326 of the Indian Penal Code and accordingly filed final report.

4. The petitioners learned Counsel would submit that the investigation was conducted in a bias manner. Though

the offence punishable under Section 307 of the Code is made out, under political influence the police have filed final report of lesser offence namely 326 of the Code. Moreover, some discrepancies of the evidence have been pointed out.

5. After filing of final report by taking cognizance the learned Magistrate issued summons to the witnesses. It is informed that the trial Court has already framed charge in terms of sections invoked in the chargesheet. The record indicates that the petitioner do had approached to the Magistrate for invoking Section 307 of the Code, however, vide order dated 20.10.2023 the Magistrate expressed that the said submission will be considered at the time of framing of charge. It is informed that at the time of framing charge no such application was filed by the informant seeking to frame charge under Section 307 of the Indian Penal Code.

6. Notably chargesheet has been filed on 15.5.2022, cognizance was taken, charge has been framed and now the petitioner is seeking for addition of Section 307 of the Code and urge for transfer of investigation. It is a matter of appreciation whether the facts set out in the police papers does or does not make a case of attempt to commit murder. The petitioner can very well move to the trial Court seeking alteration of charge in terms of Section 216 of the Code on which the learned Magistrate can pass appropriate order in accordance with law. As regards the transfer of investigation at this belated stage we are not inclined to entertain such a prayer. Moreover, we make it

clear that the investigation agency has a power to carry further investigation in terms of Section 173(8) of the Code which they may exercise if found to be fit.

7. In view of the above, we are not inclined to entertain the petition. Hence petition stands disposed of in above terms.

(MRS.VRUSHALI V.JOSHI, J.)

(VINAY JOSHI, J.)