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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

21 CRIMINAL WRIT PETITION NO. 740 OF 2024

Madhukar Ashruba Sanap
VERSUS
The State Of Maharashtra And Others

.....
Mr. Vilas P. Savan, Advocate for Petitioner
Mr. A.D. Wange, APP for Respondents No.1 to 4 – State
.....

CORAM : SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.

DATE : 16 SEPTEMBER, 2025

PER COURT :-

1. Learned APP informs that now the charge-sheet has been filed before the trial Court.
2. The petition was filed seeking transfer of the investigation to another officer and a direction for addition of sections.
3. It appears that the FIR was registered for offences punishable under Sections 324, 323, 504, 506, 143, 147, 148, and 149 of the IPC. It further appears that some of these sections have been maintained by the Investigating Officer while filing the charge-sheet. According to the petitioner, taking into consideration the documents, there ought to have been addition of Sections 307, 326, 327, 354, 354-B, and 379 of the IPC.

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4. The first and foremost fact is that the charge-sheet has now been filed. At the stage of taking cognizance, the learned Magistrate can also take cognizance of those offences which were not included in the charge-sheet by the Investigating Office and further opportunity would be available to frame charges for the additional sections as well, taking into consideration the material in the charge-sheet. Section 323 of the Code of Criminal Procedure lays down the procedure to be followed when, after the commencement of an enquiry or trial, the Magistrate finds that the case should be committed to the Court of Sessions. Therefore, at any stage before the pronouncement of judgment, the procedure as contemplated under Section 323 of Cr.P.C. can be adopted. Further, Section 325 of the Code of Criminal Procedure lays down the procedure to be followed that Magistrate cannot pass a sentence sufficiently severe. Therefore, various options are available to the petitioner, and even at this stage, upon going through the charge-sheet, he can approach the Magistrate under Section 173(8) of the Code of Criminal Procedure for further investigation.

5. In view of the aforesaid legal position, the learned Advocate appearing for the petitioner seeks withdrawal of the petition, with liberty to take appropriate recourse before the learned Magistrate.

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6. The Writ Petition stands disposed of as withdrawn, with liberty as prayed.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

S P Rane