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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

932 CRIMINAL WRIT PETITION NO. 1585 OF 2018

MADAN DADASAHEB TORADMAL AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA

Mr.Z.H.Farooquii h/f Mr.N.V.Gaware, Advocate for the petitioners.
Mr.C.V.Bhadane, APP for the respondent/State.

(CORAM : SUSHIL M. GHODESWAR, J.)

DATE : 11 DECEMBER, 2025

PER COURT :

1. The petitioners are challenging the order dated 24.08.2018 passed by the learned J.M.F.C.Karjat, below Exh.128 in RCC No.67/2011. The said order came to be passed on the application Exh.128 preferred by the prosecution under Section 216 of the Criminal Procedure Code for framing of an additional charge under Section 326 of the IPC.

2. Vide the impugned order, the charge u/s 326 r/w 149 of the IPC came to be added. Being aggrieved with the said order, the petitioners have approached this Court.

3. Heard the learned Advocate for the petitioners. According to him, the learned J.M.F.C. has committed an error in passing the impugned order. According to him, the petitioners were being prosecuted for the offence punishable u/s 143, 147, 148, 324, 323, 504, 506 of the IPC and also under the provisions of 37(1)(3) and 135 of the Bombay Police Act. In RCC No.67/2011, the evidence of the witnesses was recorded and the statements of witnesses u/s 313 of the Cr.PC. were also came to be recorded on 23.10.2013. The learned Advocate for the petitioners further submits that though the case was fixed for argument on 13.11.2013, the prosecution has sought adjournment by filing an application on the ground that the order was challenged before the learned Additional Sessions Judge in revision. He has further submitted that the learned APP, who was conducting the matter before the Trial Court, sought adjournments on number of occasions by filing the applications at Exh.93, 99 and 100, which came to be rejected except the application at Exh.93. He has also submitted that the Revisional Court vide order dated 09.06.2017 has dismissed the Criminal Revision Application No. 210/2018 filed by the prosecution.

4. Thereafter, the prosecution has filed an application vide

Exh.128 u/s 216 for framing of an additional charge. According to the learned Advocate for the petitioners, the said application was an attempt to prolong the matter and to harass the petitioners unnecessarily. He has submitted that even the evidence which is recorded, does not disclose the commission of such offence, hence there is no need to add Section 326 of the IPC. He has further submitted that at the fag end of the Trial, such step ought not to have taken by the prosecution and further the learned J.M.F.C. was required to reject the said application. Therefore, when the evidence does not disclose commission of such offence, framing of such charge additionally for the offence u/s 326 amounts to cause prejudice, and therefore, he is praying for quashing and setting aside the impugned order.

5. The learned Advocate for the petitioners, in support of his submissions has relied upon the judgment in the case of **Anant Prakash Sinha @ Anant Sinha Vs. State of Haryana and another [2016 AIR (SC) 1197]**, in which it has been held that it is the duty of the Trial Court to bear in mind that no prejudice is caused to accused while directing framing of an additional charge.

6. Heard the learned APP. He has submitted that the order passed by the learned J.M.F.C. is correct and proper and requires no interference. According to him, the learned Trial Court is empowered to alter or add any charge as per the provisions of Section 216 of the Cr.P.C. He has relied upon the judgment delivered by the Apex Court in **[(2020) 12 SCC 467] in the matter of Dr.Nallapareddy Sridhar Reddy Vs. State of Andhra Pradesh and Others.**

7. After hearing the learned Advocates for the parties and on going through the impugned order, it is clear that the prosecution has preferred application below Exh.128 u/s 216 of the Cr.P.C. for framing additional charge u/s 326 of the IPC. As per Section 216 of the Cr.P.C., any Court may alter or add any charge at any time before the judgment is pronounced. Further vide sub section 2 of Section 216 of the Cr.P.C., every such alteration or addition in charge shall be read and explained to the accused.

8. By exercising its powers u/s 216 of the Cr.P.C., the learned J.M.F.C, vide impugned order dated 24.08.2018, allowed the application and also pleased to observe in clause 3 of the operative

order that, “As provided under Section 217 of the Criminal Procedure Code, prosecution is having liberty to recall and examine the witness with reference to such addition.” Even in paragraph No.8 of the order, the learned J.M.F.C. has observed that when the charge is added against the accused persons, it will not cause prejudice to the accused in their defence as they are given an opportunity to cross examine the witnesses on the basis of addition of the charge, if they want to recall any witness for cross examination. By observing so, the learned J.M.F.C. has allowed the application and frame the additional charge u/s 326 of the IPC.

9. As the impugned order has passed upon proper reasoning and grounds, it requires to be maintained. Moreover, the trial is pending before the learned Trial Court since 2011 and this matter is also pending before this Court since 2018. Hence, as no sufficient valid and strong grounds are available to call interference in the impugned order, the instant writ petition stands rejected. Writ Petition is disposed of accordingly.

(SUSHIL M. GHODESWAR, J.)