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

CRIMINAL REVISION APPLICATION NO. 31 OF 2024

Chandrabhan Satyadev Yadav	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Prasad Panchal a/w Ms. Neha Rane, Mr. Gaurav Ombale, for the applicant.

Mrs. Mahalakshmi Ganapathy, APP for respondent – State.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 17, 2025

P.C.:

1. The applicant is challenging the judgment and order passed by the Special Judge, Greater Bombay, in Criminal Appeal No. 398 of 2017, whereby judgment and order passed by the Metropolitan Magistrate 20th Court, Mazgaon in CC No. 4600164/PW/2016 dated 4 May 2017, is set aside and matter is remanded back to the Magistrate's Court with direction to frame the charge afresh against the applicant on the basis of record available in the Court.
2. The prosecution case in brief is that on 20 September 2013 FIR bearing No.244/2013 came to be lodged at Agripada Police Station against the Applicant and other co-accused for alleged offences punishable u/s 465, 467, 468, 469, 471, 420 of IPC.

3. The first informant was residing in Room No.66, Patra Chawl, Sane Guruji Marg, Agripada along with his father Mithulal Yadav, and cousin brother Chandrabhan Yadav (Son of Sayadev Yadav). The said room was standing in his father's (deceased) name. Satyadev Yadav passed away six years back. In August 2012 Complainant's father also passed away.

4. Three years prior to demise of first informant father, he was residing at his native place. It is alleged that the electricity bill of the premise was standing in the name of the Complainant's deceased father till April 2013 and rent receipt till 3 September, 2013. In the month of June 2013 when the Complainant checked the electricity bill he found that the name of the Applicant was appeared on the bill. On approaching to the B.E.S.T office, he came to know about the transferring electricity bill.

5. The Applicant prepared forged affidavit dated 14 March 2013 pretending to be executed by the Complainant's deceased father i.e. Ramkeval Mithulal Yadav, in order to transfer electricity meter/bill in Applicant's name. Hence, F.I.R. mentioned as above was lodged.

6. The learned Advocate for the Applicant inviting my attention to the impugned judgment and order submitted that the Appellate Court recorded a finding that no order is passed by Trial Court pertaining to offences punishable under Section 465, 467, 469, and 420 of Indian Penal Code, and also recorded a finding that the charges are not signed by the Metropolitan Magistrate. He submitted that on perusal of charge framed by the Metropolitan

Magistrate, it is evident that necessary charge in relation to all offences has been framed by the Metropolitan Magistrate. However, there is clerical error of lack of signature on the said charge by the Magistrate. He submitted that the accused has not raised a ground of prejudice due to non-signature of the charge. Therefore, merely because the charge is not framed, the Appellate Court was not justified in passing the order of re-trial by framing new charge. He therefore, submitted that the impugned order deserves to be quashed and set aside.

7. Per contra, learned APP invited my attention to paragraph no.11 of the judgment to urge that on conjoint reading of the judgment of Magistrate and Appellate Court, it is evident that there is no discussion by the Magistrate in relation to applicability of offences in relation to charge framed under Section 465, 467, 469, and 420 of IPC. The discussion is only in relation to offences under Sections 468 and 471. Therefore, the Appellate Court rightly directed re-trial of the said offences.

8. The learned APP further submitted that the failure of the Magistrate to sign the charge is not a minor irregularity but a substantial error. According to her, the framing of charge is a serious stage of criminal trial which puts the accused on notice about the offences he is required to meet. When the charge itself is unsigned, it cannot be treated as a valid charge. Therefore, the Appellate Court was justified in directing the matter for a fresh trial.

9. In order to examine this contention, it is necessary to refer to Section 464 of the Code of Criminal Procedure, which reads as follows:

“464. Effect of omission to frame, or absence of, or error in, charge.

(1) No finding, sentence or order by a Court of competent jurisdiction shall be deemed invalid merely on the ground that no charge was framed or on the ground of any error, omission or irregularity in the charge including any misjoinder of charge, unless, in the opinion of the Court of appeal, confirmation or revision, a failure of justice has in fact been occasioned thereby.

(2) If the Court of appeal, confirmation or revision is of opinion that a failure of justice has in fact been occasioned, it may –

(a) in the case of an omission to frame a charge, order that a charge be framed and that the trial be recommenced from the point immediately after the framing of the charge.

(b) in the case of an error, omission or irregularity in the charge, direct a new trial to be had upon a charge framed in whatever manner it thinks fit:

Provided that if the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.”

10. A plain reading of the above provision makes it clear that omission to frame, absence of, or even error in the charge does not

automatically vitiate the judgment of a competent Court. The appellate or revisional Court must be satisfied that such omission or irregularity has in fact occasioned a failure of justice. It is only in such a situation that the appellate or revisional Court is empowered either to direct framing of a fresh charge and recommencement of trial, or to order a new trial.

11. In the present case, it is not the case of the prosecution that failure to sign the charge has caused prejudice to it. It is also not the case of the accused that the omission has resulted in any failure of justice or that he was not aware of the offences for which he was being tried. On the contrary, the charges were clearly framed by the Trial Court and the accused participated in the trial with knowledge of the allegations. The omission to affix signature on the charge is, therefore, at best a clerical error. In my opinion, such omission by itself cannot be a ground to direct re-trial of the entire matter.

12. However, while examining the finding recorded by the Appellate Court, I find substance in the observation that the Trial Court did not discuss the applicability of offences under Sections 465, 467, 469 and 420 of the IPC. The Trial Court confined its discussion only to Sections 468 and 471. The absence of reasoning by the Trial Court in relation to the other offences cannot be overlooked. A judgment must reflect consideration of all charges framed and the evidence led in support of them.

13. In view of the above discussion, I am of the opinion that the impugned judgment and order of the Appellate Court directing

complete re-trial cannot be sustained. However, to the limited extent of absence of discussion by the Trial Court on certain charges, the matter needs to be remanded back for proper consideration.

14. Hence, the following order is passed:

(i) The impugned judgment and order dated 21 August 2023 passed by the learned Special Judge in Criminal Appeal No.398 of 2017 is quashed and set aside.

(ii) Clause (i) of the said order is confirmed.

(iii) Clause (ii) shall stand substituted as follows:

The matter is remanded back to the Trial Court with a direction to afford opportunity of oral hearing to both sides, based on the material already placed on record and the charges framed by the Trial Court on 9 February 2016. The Trial Court shall thereafter consider all charges, including those under Sections 465, 467, 469 and 420 IPC, and decide the matter in accordance with law.

15. Criminal Revision Application stands disposed of.

(AMIT BORKAR, J.)