

Arjun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO.289 OF 2025

Satyajit Das

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

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Mr. Priyal Sarda a/w Shubham Sane, Rajesh Ranglani & Seema Dighe,
for the Applicant.

Ms. G. S. Rao, APP, for the Respondent No.1-State.

Mr. Amit Munde, SPP a/w Jai Vohra, for the Respondent No.2 – CBI-
ACB, Pune.

CORAM: MADHAV J. JAMDAR, J.
DATED: 14 JULY 2025

P.C.:

1. Heard Mr. Sarda, learned Counsel for the Applicant, Mr. Munde, learned SPP for the Respondent No.2-CBI and Ms. Rao, learned APP for the Respondent No.1-State.
2. By the present Criminal Revision Application the challenge by the Applicant - original Accused No.1 is to the legality and validity of the Order dated 2nd June 2025 passed by the learned Special Judge (CBI-ACB), Pune below Exhibits-1 and 470 in Special Case ACB No.50 of 2014 (“**impugned Order**”). By the impugned Order the said Exhibit-470 Application has been rejected and in spite of that the charge has been framed afresh.
3. By the said Application at Exhibit-470 the charge which is proposed to be framed is as per Paragraph No.5 of the said Application,

which reads as under :-

“5. In this regard it is submitted that & the second charge framed for sec 409 IPC does not show the word “other than” 50,000 ERC’s & that is in respect of 12,000 ERCs. Therefore, the same prayed to be read as follows;

“Secondly that during the aforesaid period your accused no.1 entrusted with 12,000 ERCs other than i.e. 50000 ERCs in your capacity of a public servant i.e. Permanent Way Inspector, Stores, Central Railway, Pune, commits breach of trust by preparing false record of those 12,000 ERCs by Accused No.1 at the Chorpuri Store, Pune as he has sent it to discharged Accused No. 2 and Accused No. 2 has made the record that he has received the said 12,000 quantity at Uruli. But physically not a single ERC has been reached to Uruli and that you thereby committed an offence punishable under section 409 of Indian Penal Code””

4. It is the submission of Mr. Sarda, learned Counsel for the Applicant that once Application bearing Exhibit-470 is rejected, the learned Judge has committed an error in re-framing the charge. He further submits that the charge is re-framed at the fag end of the trial after arguments were concluded. He states that the same is impermissible.

5. On the other hand, Mr. Munde, learned SPP supports the impugned Order and states that alteration or addition of charge at any stage is permissible under Section 216 of the *Code of Criminal Procedure, 1973* (“CrPC”).

6. As far as the first contention that the charge has been re-framed at the fag end, there is no substance in the said contention. Sub-Section

(1) of Section 216 of CrPC gives specific power to the Court to alter or add to any charge at any time before judgment is pronounced. Thus, there is no substance in the contention raised by learned Counsel of the Applicant that framing of the charge at belated stage is impermissible.

7. As far as the second contention that this power could not have been utilized, after the Application bearing Exhibit-470 is rejected, there is some substance in the said contention. However, it is also required to be noted that even after rejecting the said Application, the Court has power under Sub-Section (1) of Section 216 of CrPC to alter or add to charge at any time before judgment is pronounced.

8. It is the contention of Mr. Sarda, learned Counsel for the Applicant that the charge re-framed is with respect to the allegation of misappropriation to the extent of 50,000 ERCs. It is required to be noted that even it is the contention of Mr. Munde, learned Counsel of the Respondent No.2-CBI that the observations in Paragraph No.13 of the learned Judge are contrary to the evidence on record.

9. In any case, it is required to be noted that the charge which the CBI wanted to alter is to the effect that Accused No.1 entrusted with 12,000 ERCs other than i.e. 50,000 ERCs in capacity of Accused No.1 as a public servant. Thus, what is sought to be contended by CBI is that allegation against Accused No.1 is misappropriation of 12,000 ERCs apart from 50,000 ERCs.

10. Thus, it is clear that the impugned Order has been passed without properly appreciating the material on record.
11. Accordingly, impugned Order dated 2nd June 2025 passed by the learned Special Judge (CBI-ACB), Pune below Exhibits-1 and 470 is quashed and set aside.
12. The said Application bearing Exhibit-470 is restored to the file of the learned Trial Court. The learned Trial court to decide the said Application bearing Exhibit-470 afresh.
13. It is clarified that the contentions of both the parties on merits are expressly kept open.
14. The Criminal Revision Application is allowed and disposed of in above terms.

[MADHAV J. JAMDAR, J.]