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

CRIMINAL REVISION APPLICATION NO. 389 OF 2025

Satyajit Das ... Applicant
V/s.
 The State of Maharashtra and anr ... Respondents

Mr. Priyal Sarda, a/w ms. Seema Dighe, for the applicant.

Mrs. Rajashree Newton, APP for respondent – State.

Mr. Amit Munde, SPP a/w Mr. Jay Vohra for Respondent – CBI -ACB (Pune).

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 17, 2025

P.C.:

1. The applicant, who is the accused, is facing prosecution on the basis of a chargesheet filed by the respondent for offences punishable under Sections 120B, 409, 420, 468, 471 of the Indian Penal Code, read with Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act. He is challenging the order of the learned Special Judge by which the charge under Section 409 of the Indian Penal Code has been altered to include 12,000 ERCs in addition to the already existing charge regarding 50,000 ERCs.

2. The facts giving rise to the present proceedings are that the applicant is being tried before the learned Special Judge (CBI-ACB), Pune, for the aforesaid offences. The chargesheet was

originally filed against six accused persons. Out of them, accused No.2 came to be discharged by order dated 25 January 2019 passed below Exhibit 109, and accused No.6 also came to be discharged by order dated 8 June 2018 passed below Exhibit 13 in Special Case No.50 of 2014.

3. The trial thereafter proceeded against the remaining accused. As of now, the prosecution has completed recording of evidence of all its witnesses. The learned Trial Judge has also heard the final arguments of both sides. Reported judgments and citations were also submitted, and arguments were closed. At that stage, the prosecution, through the learned Public Prosecutor, filed an application below Exhibit 470 on 28 April 2025 under Section 216 of the Code of Criminal Procedure, seeking alteration of the charge.

4. The applicant filed his reply to the said application on 7 May 2025 below Exhibit 473. In his reply, the applicant pointed out that the application was illegal, prejudicial to his defence, and therefore prayed for rejection of the application below Exhibit 470.

5. The learned Trial Judge, after hearing both sides, rejected the application below Exhibit 470 by order dated 2 June 2025. However, while doing so, the learned Judge altered the charge against the applicant by passing an order below Exhibit 1, directing him to answer the altered charge in respect of 12,000 ERCs. The learned Judge also granted liberty to the prosecution to recall any witness with reference to the altered charge.

6. Being aggrieved by the impugned order dated 11 August 2025 passed below Exhibit 1 in Special Case No.50 of 2014, the applicant has approached this Court.

7. The learned Advocate for the applicant submitted that the prosecution had filed an application below Exhibit 470 under Section 216 of the Code of Criminal Procedure at the stage of final arguments, seeking alteration of the charge. By this alteration, the prosecution intended to substitute the words so that the new charge would read as accused No.1 being entrusted with 12,000 ERCs other than 50,000 ERCs in his capacity as a public servant. The learned Special Judge allowed the application and altered the charge accordingly, changing it from 50,000 ERCs to 12,000 ERCs. He submitted that this Court, in Criminal Revision Application No.289 of 2025, had already quashed and set aside the earlier order dated 2 June 2025 and restored the application below Exhibit 470 to the file of the Trial Court for fresh consideration. He further pointed out that by the impugned order dated 11 August 2025, the Trial Court, while rejecting the application below Exhibit 470, again proceeded to alter the charge by substituting the words "other than," thereby framing a new charge against accused No.1 for 12,000 ERCs other than 50,000 ERCs. It was argued that the entire evidence in the trial had been led by the accused on the footing that the charge was in respect of 50,000 ERCs. Alteration of charge at this advanced stage would seriously prejudice the applicant, as the defence strategy and cross-examination were based on the original charge. Reliance was placed upon the judgment of this Court in *Santosh Baburao Gayakwad vs. Punit*

Pramod Grover, 2025 Supreme (Bom) 132, wherein it was held that the principle of res judicata applies even at different stages of the same proceeding if the Court has already decided the issue on merits. He therefore submitted that the alteration of charge at this stage violates the applicant's right to a fair trial.

8. Per contra, the learned Advocate for respondent No.2 submitted that this Court, while passing order in Criminal Revision Application No.289 of 2025, had recorded the contention of respondent No.2 that the prosecution case was that accused No.1 had misappropriated 12,000 ERCs apart from 50,000 ERCs. It was for that reason that this Court had set aside the order dated 2 June 2025 and restored the application below Exhibit 470 to the file of the Special Court for fresh consideration.

9. Placing reliance upon the judgment of the Supreme Court in *P. Kartikalakshmi vs. Sri Ganesh and another, (2017) 3 SCC 347*, the learned Advocate submitted that the Court has the power to alter the charge suo motu if it is of the opinion that such alteration is necessary in the interest of justice. He submitted that the learned Special Judge exercised this power while altering the charge and at the same time granted liberty to the applicant to recall or re-examine any witness in respect of the altered charge. Therefore, it was contended that no prejudice is caused to the applicant by such alteration.

10. I have carefully considered the rival submissions and perused the record. The point for determination is whether the Trial Court committed any jurisdictional error in altering the charge by the

impugned order dated 11 August 2025.

11. Section 216 of the Code of Criminal Procedure empowers the Court to alter or add to any charge at any time before judgment is pronounced. The provision is couched in wide terms and gives ample discretion to the Trial Court. The only safeguard is that such alteration must not cause prejudice to the accused and that he must be given a fair opportunity to meet the altered charge.

12. It is true that in the earlier round, this Court had set aside the order dated 2 June 2025 and restored the application below Exhibit 470 to the file of the Trial Court for fresh consideration. The Trial Court, by the impugned order, rejected the application of the prosecution. However, while doing so, it proceeded to exercise its suo motu power under Section 216 CrPC and altered the charge against accused No.1. The Trial Court granted liberty to the applicant to recall or re-examine any witness in relation to the altered charge.

13. The reliance placed by the applicant on the judgment in *Santosh Baburao Gayakwad* is misplaced. The principle of res judicata has no application in the matter of alteration of charge, as the statute itself confers continuing jurisdiction upon the Court to amend, modify, or add to the charge at any stage before judgment. Once such power is statutorily vested, the principle of finality cannot defeat it.

14. On the other hand, the law laid down by the Hon'ble Supreme Court in *P. Kartikalakshmi* , is clear. The Court has suo motu power to alter the charge whenever it finds that the

alteration is necessary to advance the cause of justice. The only requirement is that the accused should not be taken by surprise and must be afforded an opportunity to meet the new charge. In the present case, the Trial Court has specifically safeguarded this right by permitting the applicant to recall witnesses.

15. The apprehension of prejudice raised by the applicant is therefore unfounded. The alteration of charge does not ipso facto vitiate the proceedings. What is relevant is whether the accused has been given an opportunity to defend himself. Since such liberty has been expressly preserved by the Trial Court, there is no violation of the right of fair trial under Article 21 of the Constitution.

16. I find that the Trial Court acted within the scope of Section 216 CrPC. The alteration of charge from 50,000 ERCs to 12,000 ERCs other than 50,000 ERCs is in tune with the prosecution case. The Trial Court has balanced the interests of justice by protecting the rights of the accused. No jurisdictional error, illegality, or perversity is made out.

17. The Criminal Revision Application, therefore, fails. It is accordingly rejected.

(AMIT BORKAR, J.)