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In the Court of District & Addl. Sessions Judge-II, Begusarai

Present: Sanjay Kumar-III

S.T Case No-1022/2023

Sahebpur Kamal P.S. Case No.- 176/2021

Ramasish Yadav & others Vs. State of Bihar

05.05.2025

1. A petition dated 15.04.2025 was filed on behalf of the informant and the learned Addl. P.P. stating therein to correct the typographical mistake in charge framed on 06.03.2024 in which name of accused Adarsh Kumar @ Nunu Babu was typed in place of deceased Ramakant Yadav. Besides, in place of 06.03.2024 was typed as 09th day of March, 2024 as the date of framing of charges.

Its rejoinder was filed on 17.04.2025.

2. Heard both the parties. In its petition the learned counsel for the informant and learned Addl. P.P. has submitted that in course of argument it was detected that the charge which was framed on 06.03.2024 have got some typographical error. While dealing with the charge under Section 302/149 of I.P.C the name of accused Adarsh Kumar @ Nunu Babu was typed in place of deceased Ramakant Yadav. It was further submitted that though the P.O. has explained and signed the charge on 06.03.2024 but the typing part has mentioned the date of framing of charge has 9th day of March, 2024. These are typographical errors and no prejudiced is going to cause to the defense or the prosecution case. Hence, this court be pleased to correct the charge for the just decision of the case.

In its rejoinder dated 17.04.2025, the learned counsel for the defense has submitted that the petition of the informant is not maintainable either in law or facts. The first objection of the learned counsel for the defense is that though the petition, starts with a petition on behalf of the prosecution but it was filed by a private lawyer and not by the State who has got no locus standi to file such petition. The provision of law has also not been mentioned, it was vehemently objected by the defense that the present case is at the last stage of argument, the prosecution and defense evidences have been closed and the entire statement of witnesses were based on charge framed and the witnesses were cross-examined on the basis of charges as framed so the defense would be highly

prejudiced. If, this court would amend the charge the whole stand of the defense would vitiate unless those witnesses are recalled for cross-examination. Since, the defence would have to incur extra expenditure if the petition is allowed then the court be pleased to award some costs for further trial. Lastly, it was prayed that there is no merit in the prosecution case and the court be pleased to dismiss the petition.

3. Considered the submissions of the charge and also gone through the provision of amendment of charges under **Section 216 Cr.P.C:-**

(i) Any Court may alter or add to any charge at any time before judgment is pronounced.

(ii) Every such alteration or addition shall be read and explained to the accused.

(iii) If the alteration or addition to a charge is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defense or the prosecutor in the conduct of the case, the Court may, in its discretion, after such alteration or addition has been made, proceed with the trial as if the altered or added charge has been the original charge.

(iv) If the alteration or addition is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may, either direct a new trial or adjourn the trial for such period as may be necessary.

(iv) If the offence stated in the altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the altered or added charge is founded.

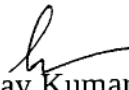
From the perusal of Section 216 Cr.P.C it empowers the court to alter or add to any charge at any time before the judgment is pronounced. This power is exclusively vested to the Court. The accused must be explained of the new charges so that he should know that what amendment or alteration has been made and if it is found that no prejudice is going to cause the accused from such alteration. The Court may proceed further without resorting to summoning of already examined witnesses.

From the above provision and its explanation as enumerated in Section 216(iii) and (iv) of Cr.P.C. It is quite clear that amendment or alteration to the charges could be done at any time before the judgment. The question is that whether from such alteration the defense is going to be prejudiced or not? If alteration or amendment is of such a nature that it is going to change the nature of the case or the stand taken by the defense the court may give all opportunities to the defense to protect its legal interest. This court has perused the evidences and the statement of the accused under Section 313 Cr.P.C. From all where, in the examination-in-chief and the cross-examination of the witnesses it has come before the Court that the name of the deceased was Ramakant Yadav and the accused was mentioned as Adarsh Kumar @ Nunu Babu. The same facts have come in the statement under Section 313 Cr.P.C of the accused persons. This shows that defense was well aware of the name of the accused and the deceased. From this fact, this court is of the view that the settled principle as enumerated in Section 216 Cr.P.C. and various decisions of the Hon'ble Court's defense is not going to prejudice. For this reason, this court is of the view that this typographical error is a clerical mistake which should be corrected without being detrimental to any of the two parties.

4. For this reason, the petition dated 15.04.2025 is allowed with only modification in the names of the deceased and typed date on the charges. All other parts of the charge to remain as it was.

Put up on 13.05.2025 for further argument.

Dictated

 05.05.25
(Sanjay Kumar-III)

District & Addl. Sessions Judge-II,
Begusarai.
05.05.2025