

::: ORDER BELOW APPLICATION AT EXHIBIT NO.30 :::

1. Present application has been preferred by the Prosecution seeking relief of adding section 316 of the Indian Penal Code in charge frame and request to modify the charge framed against the accused on 08/12/2021.
2. It is the say of learned Public Prosecutor Mr.P.J.Parmar that as per the deposition of the Dr.Jitendra Rathod at Exh.26, wherein he specifically stated that deceased was pregnant having dead female foetus aged approximately 8 months was found inside the uterus. Meaning thereby, accused herein thereby caused death of a quick unborn child and he would be guilty of culpable homicide and therefore, learned Ad.PP Mr.Parmar prayed to alter the charge under section 216 of the Code of Criminal Procedure and kindly pass an order to alter the charge and frame the charge against accused herein under Section 316 of the Indian Penal Code alongwith Section 302,397,449 of the Indian Penal Code and under Section 135(1) of the Gujarat Police Act.
3. Learned counsel for the accused Mr.M.B.Somaiya (L.A.D.C.) argued that considering the facts, necessary order may be passed.
4. Heard, learned counsel of respective parties and gone through the deposition of PW-11 namely Dr.Jitendra S. Rathod vide Exh.26 and also gone through the Post-mortum Report at Exh.27, from which it appears that deceased was pregnant having dead female foetus aged approximately 8 months was found inside the uterus. Meaning thereby, accused herein thereby caused death of a quick unborn child. Under

this circumstance, charge against the accused herein is required to be altered at this stage and alteration of charge cause no prejudice to the accused side as accused has right to further cross-examination of the PW-11 accordingly to the limited extent of alteration of charge. Hence, I passed following final order in the interest of justice.

::: F I N A L O R D E R :::

1. Present application is hereby allowed.
2. Office is hereby directed to alter the charge which was framed vide Exh.3 on 08/12/2021.
3. It is further directed to office that altered charge read and explained to the accused.
4. Defence at liberty to further cross-examination of the PW-11 to the very limited extent as per alter charge on advance notice.

Pronounced and signed today on this 27th day of August -2024.

(Vijay Premchand Agrawal)

Date:-27/08/2024

Additional Sessions Judge Jamnagar

Place:- Jamnagar.

UIC No.GJ0689

A J RAVAL/PS