

ORDER BELOW EXH. 49 IN R.C.C NO. 66 /2015

1. This is an application under Section 216 of code of criminal procedure, 1973 for addition of charge for offences punishable under section 468,471 of Indian Penal code, 1860.
2. The sum and substance of application and submissions of learned APP for state are that the charge sheet against accused for offence punishable under section 447,143,420,427,323,504,506 of Indian Penal Code. The predecessor of this court was pleased to frame charge against accused below Exh. 21. The case is pending for evidence. It is contended that the accused have showed forged document as order from the Tahsil office, Sillod, for breaking wire fencing and thereby they mislead and cheat informant. The said thing specifically mentioned in the report and in the statements of witnesses. Tahsildar, Sillod informed to investigating officer through its letter dated 23.07.2014 and 31.07.2014 that Tahsil office has not issued any order. It is contained that offence under section 468 and 471 are appears to be committed. However, the said sections are not included in the charge sheet. Therefore, learned APP for state prayed for alteration of charge by addition of sections 468 and 471 of Indian Penal Code, 1860.
3. The accused have filed their say. They have contained that already charge is framed against accused for offence punishable under section 420 of Indian Penal Code 1860. there are no primary evidence under section 468 and 471 against accused. Investigating officer has filed charge sheet after completing evidence. The informant is influential person, therefore present application is filed and lodged report. Therefore, accused prayed for rejection of application.
4. Perused application and say. Heard learned APP for state and learned advocate for accused at length.
5. Considering aforesaid mentioned facts and circumstances and on perusal of documents on record it is seen that the predecessor of this court has framed charge against accused for offences punishable under section 143, 147, 447, 420, 427, 323, 504, 506 read with section 149 of Indian Penal Code 1860. Since then case is pending for the evidence of prosecution.

6. For alteration of charge either by addition or by deletion of any or more offences, the court has to see, whether there is prima facie material available on record for addition or deletion of charge? I have taken the said aspect in to my mind and I have gone through the record. The criminal law set in motion by lodging report dated 05.08.2014. It is contained in report that, accused have shown forged document to informant and to his brothers as order of Tahsildar. It is a case of prosecution that the office of Tahsildar has not issued any order. However, Tahsil office of Sillod issued letter to investigating officer informing to him that Tahsildar has not passed any order. Statement of witnesses are stating same thing.

7. Considering the aforesaid mentioned things, it appears that, the contents of section 468 and 471 are prima facie appearing in the present case. Merely the charge under section 420 is framed against accused persons that will not be sufficient, in the present case. It is necessary and lawful at this stage to alter charge by addition of Sections 468, 471 of Indian Penal Code, 1860 against an accused persons. Further it is to be considered that , the prosecution has not examined any witness. The prosecution yet to open his evidence. Therefore, if charge is altered by addition of aforesaid sections against an accused persons, no loss or prejudice would cause to prosecution or to accused. Considering the allegation against the accused persons it would be just and proper to add the sections 468, 471 of Indian Penal Code, 1860 against accused. Hence, following order is passed.

ORDER

1. Application below Exh. 49 is allowed.
2. The charge against an accused for offences punishable under section 468 and 471 of Indian Penal Code, 1860 are added.

Date:- 17.12.2018

Prakash L. Patil
Judicial Magistrate First Class
Sillod.

CERTIFICATE

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the Stenographer	:	K. P. Patil
Court	:	Shri. P. L. Patil, Jt. Civil Judge (J.D.) Sillod.
Date of Order	:	17.12.2018
Order signed by the presiding officer on	:	17.12.2018
Order uploaded on	:	04.01.2019