



ORDER (BELOW EXH.21)

(Passed on 20/02/2024)

The learned APP filed this application for addition and alteration of charge against the accused.

2. It is contended that after perusal of report and FIR it reveals that accused intentionally restrained the informant and damaged his mobile as well as caused injury on his chest by means of stone. Regarding this MLC report has been filed on record. Thus, offences under Sections 341, 426 and 324 of Indian Penal Code are attracted. Although charge has been framed under Sections 337 and 506 of the Indian Penal Code. Therefore, it is necessary to alter the charge and add new sections in charge for just decision of case. Hence, the application.

3. The accused filed his say on the application itself. He strongly opposed the application, contending that there is no seizure memo for the damage of mobile on record. The injury report mention simple injury. The court has examined two witnesses. The charge could not be altered after trial begins. The informant not attend the court for his evidence. Hence, prayed to reject the application.

4. Heard the learned APP and the learned Advocate for the accused. They submitted as per contents in the application and say.

5. Perused the report and record. It shows that there is no allegations in respect of restraining the informant and causing damage

to his mobile by the accused. Injury report shows that the informant received simple injury. The record also shows that the police did not seize mobile of the informant. Perusal of record shows that my learned predecessor on 11.04.2023 framed particulars against the accused for the offences punishable under Sections 337 and 506 of Indian Penal Code after perusing the record. As this court is not vested with summary power, this court has again framed charge against the accused below Exh.14 after perusing the record. The prosecution has examined one panch witness, who did not support the prosecution. Thus perusal of record does not show ingredients of Sections 341, 426 and 324 of the Indian Penal Code. Therefore, the application is devoid of merit and deserves to be rejected. Hence, I pass following order:

ORDER

Application (Exh.21) is rejected.

Sd/-

(R.R. Sherekar)

Judicial Magistrate First Class,
(Court No.3), Kamptee.

Kamptee
Date : 20.02.2024