

SESSIONS CASE NO.157/2019
(CNR- MHPU01-003035-2019)

The State of Maharashtra
Thr. Lonikand Police Station

...Applicant.

Vs.

Yogesh Dattatray Murkute

...Opponents.

ORDER BELOW EXH.72.

The Ld. Addl. PP. filed application under Section 239 of BNSS for alteration of charge.

2] It is submitted that the charge is framed against both the accused below Exh.69 U/Ss. 302, 201, 365 r/w. 34 of the IPC. The charge U/S.365 of IPC is for abduction of secretly and wrongfully confining the deceased. However, from the fact and evidence of the present case it appears that the accused abducted the deceased Balasaheb Murkute with intention to commit his murder and accordingly committed murder and disposed the body with intention to disappear the evidence. So prayed that the charge U/S.365 r/w 34 of the IPC is necessary to be altered for the offence U/S. 364 r/w 34 of the IPC.

3] The Ld. Advocate for the accused opposed the application and contended that the application is devoid of merits. The ingredients of kidnapping or abduction are absent in the charge-sheet. There is no evidence in this regard in the application or in the charge-sheet. Hence, urged to reject the application.

4] Heard Ld. Addl. P.P. Smt. Vaishali V. Patil and Ld. Advocate Shri. Bhagwat for the accused. The charge-sheet is filed against the accused U/Ss. 302, 201, 365, 323 r/w. 34 of the IPC. Even the charge at Exh.69 came to be framed against the accused U/Ss. 302, 201, 365 r/w. 34 of the IPC on 25/1/2023. Now when the matter is about to be posted for evidence, the Ld. Addl. P.P. filed this application for alteration of the charge U/S. 365 r/w. 34 of the IPC to U/S. 364 r/w. 34 of the IPC.

5] On perusal of the charge-sheet specific allegations are levelled against the accused that they kidnapped and abducted the deceased Balasaheb Sonba Murkute, forcibly taken him in the Celerio car No.MH-12/PT-3767 to Vadgaon Bhand, Tal. Daund, Dist. Pune, from Shivajinagar Court. Further, the allegations are very specific that the accused abducted and confined the deceased in the car. It is alleged that the accused assaulted the deceased, throttled him, committed murder and in order to disappear the evidence, thrown the dead body in the Bhima river. Thus, from the contents of the charge-sheet the allegations are not only levelled of abducting the deceased persons to be secretly and wrongfully confined, but also that they have committed the murder and disappear the evidence.

6] Sec. 365 of the IPC provides punishment for kidnapping or abducting any person with intent to cause that person to be secretly and wrongfully confined. Here, the

contents of the report and statement of witnesses denotes that the accused not only abducted the deceased, but assaulted and committed his murder. Thus, the purpose of abduction was not only to secretly and wrongfully confined the deceased, but in order to commit his murder. Ultimately, the ingredients of Sec.364 of the IPC are attracted.

7] No doubt Sec. 364 of the IPC is a grater offence than Sec.365 of the IPC. Invoking the charge of U/S. 364 of the IPC, will certainly increased the gravity of the offence than U/S.365 of the IPC. As the trial is yet to be commenced for evidence, the defence will have an opportunity to cross-examine the witness on the charge U/S. 364 of the IPC. Therefore, no prejudice will be caused to the accused if the charge is altered to Sec.364 of the IPC than U/S.365 of the IPC. Hence, the order -

ORDER

1. Application is allowed.
2. The charge framed U/S. 365 of the IPC is altered to charge U/S. 364 of the IPC.
3. The altered charge be read over and explained to the accused.
4. The application is disposed of.

Pune.
Date:-12/06/2026

(Arvind T. Wankhede)
Principal District and
Sessions Judge, Pune.

CERTIFICATE

“ I affirm that the contents of this PDF file are word to word as per the original order.”

Name of the Steno : Sau. G. M. Naik (Stenographer, Grade I)

Name of the Court : Arvind T. Wankhede
Principal District and Sessions Judge, Pune

Date of Order : 12/06/2026

Order signed by : 12/06/2026

PO on

Order uploaded on : 12/06/2026