

**R. C. C. No. 37-2021
State vs. Nathuram.**

Order Below Exh. 01
[Passed on 29/01/2021]

The accused Nathuram Salveram Chambhre is produced before me with the charge-sheet by the investigating officer Police Naik Ashok Ramchandra Jaybhaye, Buckle No.1035. The accused is charge-sheeted for the offences punishable u/s. 325, 323, 504, 506 of Indian Penal Code, 1860. At every place, where these penal provisions are mentioned, one section is erased by the use of whitener. It is highly objectionable.

2] I have read the case papers. It is appearing every where right from the charge-sheet, arrest form and other places of the charge-sheet that, one penal section is deliberately erased. I have inquired the investigating officer he has admitted in open Court that he has erased the said section with the use of whitener. Further I did not find necessary to inquire him about the circumstances under which he has done so.

3] On perusal of the case papers, I have considered the injury certificate of the injured namely Raju Girju Chambhre dated 28/07/2020. In this certificate two injuries are mentioned at left hand. The first injury is contusion and it is simple injury. But the second injury is stated to be fracture and it is grievous one.

4] The incident in question is dated 26/08/2020, at about 6:00 p.m. at village Satkarwadi. It is alleged that, on the given date,

time and place, the accused assaulted the informant/injured by means of stone on his head but, during said assault, when the informant/injured raised his left hand for defence, the blow of the stone is received by him on his left hand. In short, the accused alleged to have assaulted the informant/injured on his left hand by means of stone.

5] The said stone is seized and it is referred in coloum no.10 of the charge-sheet. From the description and the nature of injury, the said stone, prima-facie appears to be a deadly weapon. Hence, causing grievous hurt by deadly weapon is covered by Sec. 326 of I.P.C., which is non-bailable and punishable up to life imprisonment.

6] The case papers further reveal that, the first information report is recorded for the offences punishable u/s. 325, 323, 504, 506 of Indian Penal Code and the accused is released on police bail.

7] Thus, from the material on record, there is strong reason to believe that the investigating officer has deliberately not attracted the offence punishable u/s. 326 of I.P.C. at the time of remand. Then he attracted the said offence at the time of filing charge-sheet and then he appears to have erased said section from the charge-sheet and other documents with the use of whitener.

8] As I have stated earlier the conduct of the investigating officer Police Naik Ashok Ramchandra Jaybhaye, Buckle No.1035 is highly questionable. He has prima-facie tried to manipulate the record which is presented before this Court. Hence, his explanation is required to be called in this respect.

9] So far as the contents of charge-sheet and material placed on record is concerned, Ld. A.P.P. and Ld. Advocate for accused both are liable to be heard. At this stage, I have heard Ld. A.P.P. and Ld. Advocate for accused. Ld. Advocate for accused fairly submitted that, it is for the Court to take the accused in M.C.R. and thereafter he will move bail application. Ld. A.P.P. also submitted that, the conduct of the investigating officer is questionable as pointed out by this Court and necessary order may kindly be passed in this respect.

Hence, the order;

ORDER

- (a) The accused is taken in M.C.R. till conclusion of trial for the offences punishable u/s. 326, 323, 504, 506 of Indian Penal Code.
- (b) The charge-sheet is accordingly accepted.
- (c) Issue show cause notice to the investigating officer Police Naik Ashok Ramchandra Jaybhaye, Buckle No.1035 explaining the circumstances as to why the offence punishable u/s. 326 of I.P.C. is not attracted in this case during investigation and even at the time of filing charge-sheet and further to explain why particular section from the charge-sheet is erased with the use of whitener. He has to specifically explain what is erased from the charge-sheet/record.

Dated :29/01/2021.

[Devendra B. Patange]
Judicial Magistrate First Class,
Court No.2, Khed-Rajgurunagar.

I affirm that the contents of this PDF file Judgment/order are same word for word as per original Judgment/order.

Name of Stenographer	Shri. D. V. Sawane
Court Name	Shri Devendra B. Patange Civil Judge, Junior Division, Khed-Rajgurunagar, Dist. Pune.
Date of Judgment/order	29-01-2021
Judgment/order signed by Presiding Officer on	29-01-2021
Judgment/order uploaded on	29-01-2021