

Order below Exh. 01 in R.C.C.No. 67/2020
(CNR No. MHRT080005142020)

Heard both the sides on the point of altering/adding the charge under section 504 of the Indian Penal Code, 1860, in view of section 216 of the Code of Criminal Procedure.

02. The Ld. APP submitted that the actual words of abusing the complainant are not mentioned in the complaint nor came on record in the testimony recorded before the Court. The Ld. Defence Advocate also argued that the specific words of abusing the complainant are not mentioned in the complaint and hence, the charge under section 504 of the IPC was not framed against the accused.

03. Perusal of record reveals that the charge is framed against the accused below Exh. No. 06, only under section 324 and 506 of the IPC. Perusal of the complaint reveals that it is mentioned in it that the accused has abused the complainant at the time of the incident. But, the specific actual words are not mentioned. So also, in the statements of the witnesses recorded before the Police Officer, the same fact is mentioned. But, the actual words are absent. In the chargesheet, it is mentioned that the accused has abused the complainant.

04. While exact abusive words are not mandatory for framing a charge under Section 504 of the IPC, the prosecution needs to prove an intentional insult that was likely to provoke a breach of the peace. The absence of specific abusive words doesn't automatically negate the charge if other evidence, like the context

and circumstances, suggests an intent to provoke a breach of peace. For a charge under this section, the prosecution needs to establish the following:-

a. Intentional Insult: The accused must have intentionally insulted the complainant.

b. Provocation: The insult must be of such a nature that it is likely to provoke the person insulted to commit a breach of the peace or any other offense.

c. Intention or Knowledge: The accused must have intended or known that their action was likely to cause a breach of the peace.

05. While the exact words used might be crucial evidence, the absence of specific abusive language doesn't automatically preclude a charge under Section 504, IPC. If the circumstances and context of the incident, including the relationship between the parties and the surrounding events, suggest an intentional insult that could provoke a breach of the peace, the charge can still be framed. Hence, considering the complaint, statements recorded by the Investigating Officer, the chargesheet filed against the accused and the oral evidence came on record, I am of the view that the charge under section 504 of the IPC should be framed.

06. Under section 216 of the Code of Criminal Procedure, it is provided that the charge can be altered or added even at the stage of pronouncing the judgment. The provision is designed to ensure that the accused is tried for the correct offense, even if the

initial charges were inaccurate or incomplete based on the evidence presented during the trial. The main purpose of this provision is to serve the interests of justice.

07. Section 216 of CrPC explains that the court shall have the power to alter or add to a charge at any time before the pronouncement of judgement. After such alteration or any addition made to the charge, the charge shall be explained to the accused. If an alteration or addition to a charge is such that proceeding of the trial immediately would not prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, proceed with the trial as if the altered or added charge was the original charge after the alteration or addition has been added. If an addition or alteration to a charge is such that proceeding of the trial immediately would prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may either order a new trial or adjourn, it as it deems fit.

08. The present matter is fixed for judgment. But, as stated above, the new charge under section 504 of the IPC is required to be framed against the accused. Adding a new charge against the accused shall not cause prejudice to the accused to defend himself nor to the prosecution to conduct the case. The opportunity to the accused is required to be allow to have a fair trial. Hence, both the parties are required to allow the permission to recall or re-examine the witnesses. Hence, I pass following order :-

ORDER

1. The charge against the accused for the offence punishable under section 504 of the IPC is required to be framed. Accordingly, accused shall remain present on next date for framing of the charge accordingly.
2. Both the parties are at liberty to recall or re-examine the witnesses.

Date : 27/06/2025

(Smt. R. R. Kulkarni)
J.M.F.C. Devrukh

- : CERTIFICATE : -

I affirm that the contents of this Pdf file are same words as per original file.

Name of Stenographer :- S. A. Bhale
Court Name :- The Court of Judicial Magistrate F.C.,
Devrukh
Date :- 27/06/2025
order signed by PO.on :- 27/06/2025
order uploaded on :- 27/06/2025