

ORDER BELOW EXH.43

1. Accused have filed present application for alteration of charge by deleting charge framed under Section 324 and 504 of IPC.
2. It is contention of accused that, the original F.I.R., Medical Certificate and Statement of the witnesses do not prima-facie disclose the material ingredients of Section 324 of IPC. It is alleged by the informant that, accused have assaulted by knife. The Medical Certificate shows all injuries are simple in nature which have not caused by dangerous weapon. The charge-sheet prima-facie nowhere reflects the material ingredients of section 504 of IPC. In case the charges are not deleted, it would amount to abuse to process of law. Hence prayed to allow the application.
3. The prosecution have filed say below Exh.44 and denied all the contentions in the application. It is contended that, the application is not tenable in the eye or law. The F.I.R. prima-facie discloses the accused have initially assaulted with fists and blows and later on caused injury by weapon of knife and threatened to the informant. The knife is seized in the crime. So as to attract ingredients of 324 knife is weapon. So the charge framed under section 324 is prima-facie attracted. The informant and witnesses are present to depose before the Court. So as to prolong the matter the present application is filed and prayed to reject the same.
4. Heard both the advocates. I have gone through the charge-sheet and charge framed against the accused. On perusal of F.I.R. it could be seen that, the informant has specifically stated accused no.1 has assaulted with knife. On perusal of statement of witnesses they have specifically stated the assault was with the help of knife. During

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the investigation the alleged knife is seized. The seized article is produced before the Court for trial. The Medical Certificate shows there is simple injuries caused with an hard and blunt object. The informant and all the witnesses stated about the incident.

5. The section 324 of IPC specifically states “ voluntarily causing hurt by means of any instrument for shooting, stabbing or cutting or any instrument which used as weapon of offence....” In the present crime knife is used by the accused as a weapon. Knife is a weapon used for stabbing and certainly which is a hard and blunt object. It is not necessary to cause a grievous injury by weapon to attract provisions of Section 324. On the other hand any injury caused by the weapon would certainly suffices the purpose to attract provisions of Section 324 of IPC. Even though the Medical Certificate shows nature of injury is simple there is abrasion and contusion caused with hard and blunt object. Whether the said injuries are caused with knife or not is part of evidence and it cannot be concluded at this stage that, provisions of Section 324 and 504 are not attracted.

6. Considering all these facts and circumstances I do not find any substance in the arguments and contentions raised in the application. Accordingly, I proceed to pass following order.

ORDER

Application at Exh.43 stands rejected.

(R.B.Kulkarni)

Date- 26/06/2024

Jt. Judicial Magistrate F.C., Atpadi.

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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	- A. A. Jamadar
Court	- Jt. CJJD and JMFC, Atpadi.
Date	- 26.06.2024
Order signed by the Presiding Officer on	- 26.06.2024
Order uploaded on	- 26.06.2024