

Order below Exh. 26

Prosecution has filed this application asking to frame additional charge for an offence punishable under Section 326 of the Indian Penal Code.

2] Perused application and say of accused at Exh. 29. Heard learned A.P.P. and learned advocate on behalf of accused.

3] The injured informant has stated in his information of alleged offence at Exh. 24 that, the accused No. 1 has assaulted on his head through the sickle. Record goes to show that, medical officer has examined him and he find that the informant has sustained grievous injury. Accordingly, the medical officer has issued such certificate. The alleged weapon used by accused is dangerous weapon which used as a weapon of offence death is likely to be caused. Thus, prima facie I am of the view that, the prosecution has made out the offence punishable under Section 326 of the Indian Penal Code. However, the charge for said offence has not been framed. Yet, the cross-examination of injured informant and his injured wife (P.W. No. 4) is not commenced. Hence, in case, proposed charge is framed, the defense side is entitled to cross-examine said witnesses and thereby the defense side will not suffer any prejudice.

4] In view of Section 216 sub-section 1 of the Code of Criminal Procedure, the Court can alter or add any charge at any

time before judgment is pronounced. The proceeding is yet not ripened for judgment. Hence, at this stage by virtue of said provision the additional charge can be framed. Consequently, I am inclined to frame the additional charge for an offence punishable under section 326 of the Indian Penal Code. Resultantly, present application deserves to be allowed. Accordingly, I proceed to pass following order :

ORDER

- 1] Application is hereby allowed.
- 2] The additional charge for the offence punishable under Section 326 of the Indian Penal Code is hereby framed.
- 3] No order as to costs.

Date - 09/12/2021

(G.S.Mane)
Judicial Magistrate F.C.
Koregaon.