

CASE ANALYSIS:

ANANT PRAKASH SINHA v. STATE OF HARYANA & OTHERS

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Introduction

The right to have a fair trial goes way back. It has developed over thousands of years. In 1215, Magna Carta was a first step in giving all freemen the right to fair trial by jury. This case¹ also revolves upon the theme of having a fair trial and the question of prejudice is involved in this case as the particular section which is linked with this case talks about the prejudice being cause to the accused and the Apex court heavily relied upon the precedents which were earlier established by the Hon'ble Supreme court while adjudicating this dispute and settled the position of law which came up in front of this court.

The present case emanates from lodging of an FIR for the offences which are under Section 498A/323/34 of the Indian Penal Code, 1860 (hereinafter referred as IPC) against the husband and the mother-in-law of the complainant alleging cruelty and some dispute related to divorce. Charges were framed against the husband, after charge sheet was filed against him under Sections 498A and 323 of the IPC.

During the trial, an application under Sec. 216 of the Criminal Procedure Code, 1973 (hereinafter referred as Cr.PC) was filed for framing another charge for which no charge sheet was filed by the police. The same application under Sec. 216 of the Cr.PC was allowed by the Magistrate, was challenged in the Sessions court, but the Sessions court did not find any fault in the order given by the Magistrate. This has led to filing of petition under Sec. 482 of the Cr.PC by the husband of the complainant before the Hon'ble High Court. The High Court held that the Court could exercise power of addition or modification of any charge under Sec. 216 of Cr.PC on the basis of all the materials which are placed before the court. The Hon'ble Court also said that the trial court has stated sufficient reasons for addition of the charge and hence the impugned order does not need any rectification or interference and hence the SLP has been filed by the aggrieved party before the Hon'ble Supreme Court of India.

ANALYSIS

The question that came in front of the court was to decide as to whether Magistrate has power under Sec. 216 Cr.PC to modify or

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¹ *Anant Prakash Sinha v. State of Haryana and Ors.*, AIR 2016 SC 1197

alter the charge if an applicant is filed by the informant and in addition to this does the trial court can alter the charge if some evidence comes on record or any material which has already been placed on the record.

Sec. 216 of Cr.PC confers jurisdiction on all Courts, consisting specific Courts too, to modify or add any charge framed earlier, at any time before the judgment is pronounced.² The Courts are entrusted through statutory provisions to exercise the power of addition of charge or modification of charges when some materials are placed before the court, which has reasonable nexus with the charges, which are sought to be added or modified.³ Merely because the charges are altered after the conclusion of the trial, that itself will now not lead to the conclusion that it has ended in prejudice to the accused person and contrary to the natural justice since the sufficient safeguards had been incorporated in Sec. 216 Cr.PC⁴, which has later been brushed up through catena of judicial decisions.⁵

The courts are empowered enough to change the charges if there is something which is left out during previous proceedings. The test is that it must be carried out by considering the materials available on the record.⁶ It can be

found on the basis of the FIR or other documents placed on the record as the court can take the perusal of these documents. If the court has not framed a charge despite the material on the record, it has the jurisdiction to do that at later stage.

Sec. 226 clearly mandates that it is compulsory on the part of the Court to check that no prejudice is caused to the accused and he is allowed to have a fair trial and that is an in built safeguard in this section. It is obligatory to for the trial court to facilitate the trial in such a manner that no prejudice in favour of any party arises and a fair trial is affected.⁷ The accused must always be made aware of the case, which is against him so that he can properly lead his defense.⁸

CONCLUSION

An accused can be punished for an offence, which is less severe or minor than the one he has been charged with, except the accused satisfies the magistrate that there has been travesty of justice by not framing the charge under a particular provision, and some prejudice has been caused to the accused. In determining whether any error, omission or irregularity in framing the charges has led to a failure of justice, the Court must pay

² C.B.I. v. *Karimullah Osan Khan*, AIR 2014 SC 2234.

³ *Jasvinder Saini and Ors. v. State (Government of NCT of Delhi)*, (2013) 7 SCC 256.

⁴ *State of Gujarat v. Girish Radhakrishnan Varde*, AIR 2014 SC 620.

⁵ *Jasvinder Saini & Ors. v State* on 13 October, 2011, W.P.(CRL) No. 413/2011 & Cr.L.M.A. 3645/2011;

Ajay Kumar Ghoshal Etc. v. State of Bihar & Anr., Criminal Appeal Nos. 119-122 of 2017.

⁶ *Hasanbhai Valibhai Qureshi v. State of Gujarat and Ors.*, (2004) 5 SCC 347.

⁷ Clause (3) & (4) of Section 216 CrPC.

⁸ *Raj Kumar v. Union of India and Ors.*, (2012) ILR 5 Delhi 599.

consideration to the fact i.e., whether an objection could have been raised at an earlier stage during the proceedings or not. While adjudicating a particular question i.e., regarding prejudice, the magistrate must consider the fact that every accused has a fundamental right of fair and proper trial, where he must know what he is charged with

and what are the facts and scenario which must be established against him, are elucidated and explained to him in an unequivocal manner and in addition to this he must be provided with a fair and proper chance of defending himself against the charges framed against him.

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