

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Revision Application No. 200 of 2024

<i>Date</i>	<i>Order with Signature of Judge</i>
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1. For orders on M.A No.15346/2024.
2. For hearing of Case.
3. For hearing of M.A No.15347/2024.

17.02.2025

Mr. Zahoor Ahmed, Advocate for the Applicant.
Mr. Muhammad Iqbal Meo, Assistant Prosecutor General, Sindh.
Respondent Fateh Muhammad is present in person.

ORDER

ALI HAIDER 'ADA'-J:- Through this Criminal Revision Application, the applicant has impugned the order dated 24.09.2024 passed by learned Addl. Session judge-III, Karachi (South) whereby an application under Section 227 Cr.P.C for alteration in charge, was dismissed.

2. The brief facts of the prosecution's case are that FIR No.452 of 2023 was registered under Section 354, 506, 427, 337-A(i) PPC at P.S Tipu Sultan, Karachi by the present applicant against the respondent. As in that FIR, the complainant narrated that her clothes were turned down and even some injuries were sustained by using iron rod, further issuance of threats of dire consequences/grievous hurt was also mentioned.

3. Learned counsel for the applicant submits that the FIR was registered under Section 506 PPC and others while in final challan the opinion of the investigation officer was placed in which the offence under Section 506-B PPC was inserted/added. Learned counsel further submits that on 22.03.2024 learned trial Court framed the charge under Section 354, 337-A(i), 337-L(ii), 427 and 506 PPC, therefore, he moved an application to alter the Section 506 PPC into 506-B PPC but the learned trial Court passed impugned order with the verdict that no weapon was used and even the PW Mohsin was not mentioned in the FIR as the same order was misconceived, therefore, same is liable to be set-aside.

4. Learned Assistant P.G, Sindh supports the impugned order and submits that in 154 Cr.P.C statement name of PW Mohsin was not mentioned while name of PW Adnan was mentioned in the FIR, as such, 154 Cr.P.C is based in which the offence is to be initiated and the steps are to be taken. He further submits that after conclusion of the trial, the complainant is at liberty to move a fresh application after recording their evidence.

5. Respondent Fateh Muhammad files a statement along with some documents, which were supplied to the other side. He submits that the impugned order is speaking one in nature and due to the grudge, such application is filed with almost delay of five months and they are lingering on the matter just to cause humiliation. He further submits that the offence under Section 506-B PPC is not attracted.

6. Heard arguments and perused the material available on record.

7. The record reflects that FIR No. 452 of 2023 was lodged by the applicant, who herself disclosed the offence involving the use of an iron rod and the issuance of threats to commit murder or cause dire consequences. Therefore, there is no need to rely on other witnesses to determine whether their names were included in the charge sheet. The learned trial court passed an order in which it observed that the accused/respondent was admittedly unarmed, while the prosecution's case, on a bare reading, alleges that the respondent/accused was armed with an iron rod.

8. The provisions for framing charges are provided in Chapter 19 of the Code of Criminal Procedure, 1898. Section 221 Cr.P.C. provides prescribed profarma for determining the status of the offence, while Section 222 Cr.P.C. provides procedure that under what manner, the act of committing offence must be stated and such illustrations were also prescribed.

Sections 221, 222 and 223 of Cr.P.C, are reproduced as under;_

“221. Charge to state offence:

- (1) Every charge under this Code shall state the offence with which the accused is charged.
- (2) Specific name of offence sufficient description: if the law, which creates the offence, gives it any specific name, the offence may be described in the charge by that name only.
- (3) How stated where offence has no specific name: If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged
- (4) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.
- (5) What implied in charge: The fact that the charge is : made is equivalent to a statement, that every legal condition required by law, to constitute the offence charged was fulfilled in the particular case.
- (6) Language of charge:- The charge shall be written either in English or in the language of the Court.
- (7) Previous conviction when to be set put: If the accused having been previously convicted of any offence, Is liable, by reason of such previous conviction, to enhanced punishment ,or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court may think fit to award for the subsequent offence, the fact, date and place of the previous conviction shall be stated in the charge, if such statement has been omitted, the Court may add it any time before sentence is passed.

222. Particulars as to time, place and person :

- (1) The charge, shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably .sufficient to give the accused notice of the matter with which he is charged.
- (2) When the accused is charged with criminal breach of trust or dishonest misappropriation of money, it shall be sufficient to specify the gross sum in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of Section 234 : Provided that the time included between the first and last of such dates shall not exceed one year

223. When manner of committing offence must be stated:

When the nature of the case is such that the particulars mentioned in Sections 221 and 222 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such, particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.”

9. The learned trial Court framed the charge on 22.03.2024 under Sections 354, 337-A(i), 337-L(ii), 427 and 506 PPC, on the other hand, on 24.09.2024 same is contra with the earlier charge because the learned trial Court addressed to respondent that you also issued life threats. In view of the above, the instant Criminal Revision Application is hereby

allowed. Consequently, impugned order dated 24.09.2024 is hereby set-aside and the case is remanded to learned trial Court with directions to decide the application of complainant after hearing the parties and as per material available on record as well as in view of Sections 221, 222 & 223 of Cr.P.C.

JUDGE

Zulfiqar/P.A