



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 16230 OF 2025



BETWEEN:

1. SRI ANBALAGAN,
S/O THYAGARAJAN
AGED ABOUT 48 YEARS,
R/AT OLD NO.615, NEW NO.18
4TH CROSS, KODIHALLI,
BENGALURU - 560 008.
PERMANENT RESIDENT OF
THIRUMANOOR VILLAGE
ARIYALUR TALUK AND DISTRICT
TAMIL NADU - 621 715.
2. SRI. SUDHAKAR,
S/O GOVINDASWAMY,
AGED ABOUT 43 YEARS,
R/AT FLAT NO.07, LAKSHMI NAGAR,
SUNSHINE APARTMENT, 1ST MAIN,
POZHICHALUR,
CHENNAI - 630 076.

...PETITIONERS

(BY SRI. GAGANDEEP E, ADVOCATE)

AND:

THE STATE OF KARNATAKA
REPRESENTED BY JEEVAN BHEEMANAGARA
POLICE STATION,
BENGALURU - 560 038.
REPRESENTED BY





HIGH COURT GOVERNMENT PLEADER,
HIGH COURT BUILDING,
BENGALURU - 560 001.

...RESPONDENT

(BY SRI. VINAY MAHADEVAIAH, HCGP FOR R1)

THIS CRL.P IS FILED U/S 482 OF CR.PC (FILED U/S 528 BNNS) PRAYING TO SET ASIDE THE ORDER DATED 14.03.2025 PASSED IN SC NO.1223/2014 BY THE LEARNED XLV ADDL.CITY CIVIL AND SESSIONS JUDGE COURT, BENGALURU.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

ORAL ORDER

The petitioners are before this Court calling in question the order of the concerned Court, which adds an offence *i.e.*, the offence punishable under Section 498A of the Indian Penal Code, 1860 ('the IPC' for short) at the fag end of the proceedings in SC.No.1223/2014, which is being tried for offence punishable under Section 306 of the IPC.

2. Heard Sri. Gangandeep E., learned counsel appearing for the petitioners and Sri. Vinay Mahadevaiah, learned High Court Government Pleader appearing for respondent No.1.



3. The petitioner is accused No.1, daughter of the complainant. The daughter of the complainant dies by committing suicide on 13.12.2013. The axe of abetment falls on the petitioner and other members. The petitioner is accused No.1, who is said to have hurled certain abuses which had led to the daughter committing suicide. The trial is on for 10 years for the offence punishable under Section 306 of the IPC. The concerned Court at the fag end of the trial realises that the petitioner ought to have also been charged under the offence punishable under Section 498A of the IPC as well and passes an order for framing of charge for the offence punishable under Section 498A of the IPC, by invoking its power under Section 216 of the Cr.P.C. The petitioners/accused Nos.1 and 2 are before this Court challenging the order of the concerned Court on the application filed by the prosecution seeking inclusion of the offence punishable under Section 498A of the IPC at the fag end of the trial on the score that the concerned Court ought not to have considered the application and added an offence to be tried all over again.



4. The learned counsel appearing for the petitioners would seek to place reliance upon the judgment of the Co-ordinate Bench in the case of **SHIVAPPA v. STATE OF KARNATAKA** reported in **2024 SCC OnLine Kar 31774** to buttress his submission that the prosecution cannot file an application under Section 216 of the Cr.P.C. seeking alteration of the charge on the score that it is only the concerned Court which has *suo motu* power to alter charges. He would further seek to place reliance upon the judgment of the Apex Court in the case of **DIRECTORATE OF REVENUE INTELLIGENCE v. RAJ KUMAR ARORA** reported in **2025 SCC OnLine SC 819**, which, according to the learned counsel, considers the entire spectrum of the law and holds that the prosecution cannot be permitted to file an application of alteration of charge under Section 216 of the Cr.P.C.

5. *Per contra*, the learned High Court Government Pleader would refute the submission in contending that *albeit* Section 216 of the Cr.P.C permits *suo motu* alteration of charge at the hands of the concerned Court, the prosecution is also



well within its power to file an application seeking alteration of charges and would seek dismissal of the petition.

6. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the available material on record.

7. The issue at this juncture lies in a narrow compass as to whether the order of the concerned Court permitting alteration of charge on an application being filed by the prosecution is in consonance with law or otherwise. Therefore, the application in the order so passed is necessary to be considered. The objection to the application filed by the prosecution reads as follows:

**"OBJECTION TO THE APPLICATION FILED UNDER
SECTION 216 of Cr.P.C BY THE PUBLIC PROSECUTOR.**

1. The Application Under Section 216 Cr.P.C. is neither maintainable in fact or law and has to be dismissed in limine.
2. The Application is filed with Ulterior motive to protract the Proceedings at the fag end of the case when the matter is posted for Cross Examination of DW-1 Anbalagan.
3. The Application could have been filed at earlier instance when the Prosecutor was aware of the Evidence accrued in their favor.



4. The Accused No.1 has not humiliated his wife nor has harassed, tortured and hence death note is not written by the Deceased at the time of her committing suicide.

5. The Accused No.1 has taken utmost care of his wife and her family well in his 27 days of Married life ie. Between 15th November 2013, date of marriage to the date of incident on 12th December 2013. After marriage, Accused No.1 has taken his wife to her college on 20th November 2013 to attend her arrear exam which her father also confirms the same in his cross examination and she secured pass mark successfully as evidence marked Exhibit-D-12 by DW-1. Accused No.1 has again taken her college to give her Second Paper on 26th November 2013 which also she secured pass mark successfully as evidence marked Exhibit-D-12 by DW-1. This is clear evident for how Accused No.1 treated and taken care of deceased's well-being during her life time.

6. The Accused No.1 on 29th November 2013, has taken all her family members ie her father Anbalagan PW-1, mother Selvi PW-8, and grandmother to Bangalore by train by booking train tickets for them as evidence marked Exhibit-D-03 by DW-1 and after reaching Bangalore, taken them to nearby Shiva temple and his office on Old Airport road in Bangalore on 1st December 2013 to see how his work environment is as evidence marked Exhibit D-05 by DW-1. When the deceased fell sick due to urinary problem, the Accused No.1 had taken her to hospital on 3rd December 2013 for her speedy recovery as marked Exhibit-D-04 by DW-1. On 5th December 2013, her father and her family members celebrated Mangal sutra Re-knotting ceremony at Bangalore with Deceased and Accused No.1 and her father Anbalagan PW-1 during cross examination has confirmed the same that they were all happy during those days.

7. The Accused No.1 in order to ease out his wife's household job, had bought and installed a washing machine at Bangalore home on 5th December 2013 as evidence marked Exhibit-D04 by DW-1. Also Accused No.1 has bought and gave his wife, Bangalore Pre-Paid SIM based on her request on 8th December 2013 which is 4 days prior her committing suicide since her Tamil



Nadu Pre-paid SIM incoming calls were charged when roaming in 2013, Usage details and Call history submitted as evidence marked Exhibit-D-1 by DW-1.

8. PW-2 Ravi [Uncle of the Deceased) has stated before Hon'ble Court that A-1 and Deceased were living peacefully for a week after marriage. PW-3 M. Keerthy [Sister's husband of the Deceased] has stated before Hon'ble court that A-1 and Deceased were living for 20 days in Kumbakonam and then left to Bangalore and living peacefully for a week thereafter.

9. PW-4 Mrs. Susheela [Landlord of A-1's rented house] has stated before Hon'ble court that after they come to Bangalore, Accused No.1 and Deceased led their life happily for 15 days and there was no sign of any friction between them. PW-S Ashok [Landlord's son in-law has stated before Hon'ble court that after they come to Bangalore, Accused No.1 and Deceased led their life happily for 10-12 days and deceased has never complained anything to him at any Point of time.

10. The Deposition of Dr. Suresh PW-10 who did the post mortem of the Deceased before Hon'ble court, recorded that Except the ligature mark on her neck due to hanging, no other injuries are found on the body of the deceased which is evident for no any physical torture had been given at any point of their marriage.

11. The Accused No.1 has also Produced his ICICI Bank statement for October to December 2013 period as evidence marked Exhibit-D-11 by DW-1 where his bank balance is steady and did not fluctuate for the entire period and he had not undergone any loss of money or financial difficulties.

12. During the time of mahazar, page 56 of the charge sheet recorded that the following gold articles were on Deceased body, they are Mangal sutra with dollar, One gold ring, one pair of gold earrings and one pair of Silver leg ring, one pair of Silver leg chain recovered from her body which confirms that Deceased was wearing enough jewellery like any normal household women wears at home.



13. The I.O. office has collected the Call history of the Deceased which he has admitted in the Cross examination and there are total lapses in the investigation. The Call records are neither produced nor seized by the I.O.

14. The Accused No.2 visited Accused No.1 only once and the question of Accused No.2 instigating the Accused No.1 does not arise and it has not been corroborated with any of witness statement. When so much of focus given in complaint that the torture was instigated via telephone, why could the Investigation officer not able to produce any evidence of those telephone call details. IO could not produce because the complaint was fabricated and false.

15. The Call History of Accused No.2 produced by IO in chargesheet Page No.57 and 58 clearly recorded that there was no any calls made to Accused No.1 by Accused No.2 until the incident day 12th December 2013 but Accused No.1 called to Accused No.2 on 11th December 2013 evening 16.51pm to give guidance on how to reach accused No.1 home since Accused No.2 was never before visited Accused No.1 in Bangalore followed by an email with location map at 17.01pm as evidence marked Exhibit-D-08 by DW-1. If there are no phone conversation between Accused No.2 and Accused No.1 from the date of marriage 15th November 2013 until 11th December 2013 evening 16.51pm, how deceased would have called her family members and complained about Accused No.1 and Accused No.2 prior to 11th December 2013 dates.

16. On the day of the incident 12th December 2013. after taking breakfast with Accused No:1 at Bangalore home. Accused No.2 visited to his Bangalore office on official work and was there between 10.30am to 06.30pm as evidence marked Exhibit D 10 by DW-L. Also the PW-1 Anbalagan, PW-2 Ravi. PW-3 Keerthy. PW-7 Gunawathi and PW-A Selvi before Hon'ble court have not deposed any incriminating facts to attract offense under section 498A even on the day of incident 12th December 2013 when Accused No.1 and Accused No.2 are present in Bangalore.



17. The Deceased has not called her family members either from her Bangalore mobile number 8553777107 or land line number 080-25262137 on 11th and 12th December 2013 but made several calls & SMS's to her boyfriend Sakthi Vel to mobile number 9688636364 including last calls to her boyfriend and sent last SMS to her boyfriend as evidence marked Exhibit-D-01 and Exhibit-D-02 by DW-1 which was conveniently not enquired by the Investigation Officer. The I.O. has also not investigated regarding the Dual Sim Mobile-Phone andja Diary as mentioned in charge sheet page number 56 which was critical piece evidence.

18. The Accused No.1 himself Voluntarily called the Deceased father Anbalagan PW-1 on 12th December 2013 at 19.04pm as evidence marked Exhibit-D-06 by DW-1 and until then Deceased family did not know about the incident or get any calls about the so called ill-treatment and even if they would have got any calls between when they left from Bangalore ie., on 5th December 2013 to the date of incident 12th December 2013, they would have immediately informed their relative Mahendran CW-09 in Bangalore to visit his daughter. That has not happened since all were normal during those days it is understood and evident that no such torture given actually. Otherwise why IO or her family members or Mahendran have not recorded about it before IO Hon'ble court when they depose their witness statements since complaint is fictitious and fabricated.

19. The Witness of Mr. Keerthy, Mrs. Gunavathi and Mrs. Selvi the brother in law sister and Mother have not tendered themselves for cross examination and hence their deposition has be struck down by the Hon'ble court.

20. There is no Direct the accusations and also all the above Prosecution witnesses evidence produced by Prosecution for any W-1, PW-2, PW-3, PW-7, PW-8 have not stated anything before Hon'ble Court incriminating the Accused, to attract offense under section 498A.

Wherefore it is prayed before the Hon'ble court the Application filed Under Section 216 of the Code of Criminal procedure to ter frame additional charge under



Section 498A of I.P.C. is not maintainable and has to be dismissed with cost in the interest of Justice."

On the said application, the concerned Court invoking its power under Section 216 of the Cr.P.C. adds the offence under Section 498A of the IPC by the following order and posts the matter for framing of additional charge. The order of the concerned Court reads as follows:

"I have heard arguments and perused the records.

The PSI of JB Nagar police has filed charge sheet against the accused No.1 and 2 for the offenses punishable U/sec. 306 and 109 of IPC. The accused No.1 is the husband of the deceased. Their marriage was solemnized on 15.11.2013 and she committed suicide on 12.12.2013. as per the charges framed against both the accused it is seen that the deceased was not good looking women and on said ground both the accused harassed and embarrassed her and often told her to come before accused No.1 with proper makeup. This also led as per prosecution case the deceased to committed suicide. As per Sec. 498A explanation-1, any kind of harassment amounts to cruelty. The above conduct of accused No.1 and 2 clearly fit within the 04 corners of Sec. 498A of IPC of course subject to proof. However there is no bar to frame charge for the offence punishable U/sec. 498A of IPC. Therefore I am of the opinion that there is sufficient materials to frame additional charges against the accused No.1 and 2 for the offence punishable U/sec. 498A of IPC. In the result I proceed to pass the following;

ORDER

The application filed by the Learned PP U/sec. 216 of Cr.P.C is hereby allowed and case is set down to frame additional charge against accused No.1 and 2 for the offence punishable U/sec. 498A of IPC.

For framing of additional charge by 22.3.25."



As observed herein above, the issue is the power under Section 216 of the Cr.P.C.

8. The learned counsel appearing for the petitioner has placed reliance upon the judgment of the Apex Court in the case of **DIRECTORATE OF REVENUE INTELLIGENCE (*supra*)**, wherein the Apex Court considers the entire spectrum of the law and interprets the provision under Section 216 of the Cr.P.C., and holds as follows:

"**141.** One another question of law which has sprung up in the facts of our case is whether, after the charges are framed by the Trial Court, an accused could be discharged or his charges could be deleted through an application made under Section 216 of the CrPC.

iii. The scope of Section 216 of the Code of Criminal Procedure, 1973 ('the Cr.P.C.' for short)

142. Section 216 of the CrPC reads as thus:

"216. Court may alter charge.—

- (1) *Any Court may alter or add to any charge at any time before judgment is pronounced.*
- (2) *Every such alteration or addition shall be read and explained to the accused.*
- (3) *If the alteration or addition to a charge is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such alteration or addition has been made, proceed with the trial as if the altered or added charge had been the original charge.*



- (4) *If the alteration or addition is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.*
- (5) *If the offence stated in the altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the altered or added charge is founded."*

(Emphasis supplied)

143. Under this provision, any Court is empowered to "alter" or "add" to any charge framed against the accused, at any time before the judgment is pronounced. Therefore, an outer time limit is set i.e. the power conferred upon the Courts cannot be exercised after a decision is pronounced in the matter. Although the provision does not expressly provide for the stage of the trial after which the power under Section 216 CrPC can be exercised, yet logic and rationale obviously requires it to be exercised after a charge has been framed by the Trial Court under Section 228 CrPC. For if no charge has been framed, there arises no occasion to add or alter it. As a natural corollary, if an accused has already been discharged under Section 227 CrPC, no application or action under Section 216 CrPC would be maintainable.

144. The Court may alter or add to any charge either upon its own motion or on an application by the parties concerned. Therefore, such a power can be invoked by the Court *suo moto* as well. This power under Section 216 CrPC is exclusive to the concerned Court and no party can seek such an addition or alteration of charge as a matter of right by filing an application. It would be the Trial Court which must decide whether a proper charge has



been framed or not, at the appropriate stage of the trial. On a consideration of the broad probabilities of the case, the total effect of the evidence and documents adduced, the Trial Court must satisfy itself that the exercise of power under Section 216 is necessary. The provision has been enacted with the salutary object to ensure a fair and full trial to the accused person(s) in each case.

145. This Court in *Anant Prakash Sinha v. State of Haryana*, (2016) 6 SCC 105 summarised the principles as regards Section 216 CrPC. Herein, charges were framed against the appellant-husband for the commission of offences punishable under Sections 498-A and 323 IPC. During the pendency of the matter, the informant wife had filed an application under Section 216 CrPC for framing an additional charge under Section 406 IPC against both the husband and the mother-in-law on the ground that there was an express complaint with regard to the misappropriation of her entire Stridhan and other articles. Hence, it was contended that the accused persons had committed criminal breach of trust, however, a charge sheet was not filed in respect of the said offence. The application was allowed by the Trial Court and subsequently, the Revisional Court upheld the framing of charge under Section 406 IPC only against the appellant-husband. This Court while agreeing with the High Court summarised the principles underlying Section 216 CrPC as follows:

- i. *First*, the test for exercise of power under Section 216 CrPC is that it must be founded on the material available on record and therefore, it can be on the basis of the complaint or the FIR, or other accompanying documents or materials brought on record during the course of the trial. The charge which has been framed by the Trial Court must therefore be in accord with the materials available before him.



- ii. *Secondly*, the power must not be construed in a restricted manner to mean that unless evidence has been let in, the charges that have already been framed cannot be altered. The Court is empowered to change or alter the charge framed, if it finds that there is a defect or that something has been left out in the order framing charge.
- iii. ***Thirdly***, it is obligatory for the Court to ensure that no prejudice is caused to the accused due to the addition or alteration of charge. The accused must be informed and made aware of the new charge as also the case against him so that he can understand the defence that can be led on his behalf.

The relevant observations are reproduced hereinbelow:

"18. From the aforesaid, it is graphic that the court can change or alter the charge if there is defect or something is left out. The test is, it must be founded on the material available on record. It can be on the basis of the complaint or the FIR or accompanying documents or the material brought on record during the course of trial. It can also be done at any time before pronouncement of judgment. It is not necessary to advert to each and every circumstance. Suffice it to say, if the court has not framed a charge despite the material on record, it has the jurisdiction to add a charge. Similarly, it has the authority to alter the charge. The principle that has to be kept in mind is that the charge so framed by the Magistrate is in accord with the materials produced before him or if subsequent evidence comes on record. It is not to be understood that unless evidence has been let in, charges already framed cannot be altered, for that is not the purport of Section 216 CrPC.

19. In addition to what we have stated hereinabove, another aspect also has to



be kept in mind. It is obligatory on the part of the court to see that no prejudice is caused to the accused and he is allowed to have a fair trial. There are in-built safeguards in Section 216 CrPC. It is the duty of the trial court to bear in mind that no prejudice is caused to the accused as that has the potentiality to affect a fair trial. It has been held in *Amar Singh v. State of Haryana* [*Amar Singh v. State of Haryana*, (1974) 3 SCC 81 : 1973 SCC (Cri) 789] that the accused must always be made aware of the case against him so as to enable him to understand the defence that he can lead. An accused can be convicted for an offence which is minor than the one he has been charged with, unless the accused satisfies the court that there has been a failure of justice by the non-framing of a charge under a particular penal provision, and some prejudice has been caused to the accused. [...]"

(Emphasis supplied)

146. In another decision of this Court in *Nallapareddy Sridhar Reddy v. State of A.P.*, (2020) 12 SCC 467, the scope of powers under Section 216 was elaborated. It was stated that the power under this provision to alter a charge is an exclusive and wide-ranging power and this is clear from the fact that it may be exercised at any time before the judgment is pronounced, meaning also at a stage wherein the evidence and arguments are completed and the judgment is reserved. It was further stated that if the Court is of the opinion that there was an omission in the framing of charge or if the existence of the factual ingredients constituting another offence is also inferred from a *prima facie* examination of the material brought on record, the alteration or addition of a charge can be done. Such material brought on record must have a direct nexus with the ingredients of the alleged offence. This Court cautioned that the power under this provision must be exercised judiciously and observed as follows:



"21. From the above line of precedents, it is clear that Section 216 provides the court an exclusive and wide-ranging power to change or alter any charge. The use of the words "at any time before judgment is pronounced" in sub-section (1) empowers the court to exercise its powers of altering or adding charges even after the completion of evidence, arguments and reserving of the judgment. The alteration or addition of a charge may be done if in the opinion of the court there was an omission in the framing of charge or if upon prima facie examination of the material brought on record, it leads the court to form a presumptive opinion as to the existence of the factual ingredients constituting the alleged offence. The test to be adopted by the court while deciding upon an addition or alteration of a charge is that the material brought on record needs to have a direct link or nexus with the ingredients of the alleged offence. Addition of a charge merely commences the trial for the additional charges, whereupon, based on the evidence, it is to be determined whether the accused may be convicted for the additional charges. The court must exercise its powers under Section 216 judiciously and ensure that no prejudice is caused to the accused and that he is allowed to have a fair trial. The only constraint on the court's power is the prejudice likely to be caused to the accused by the addition or alteration of charges. Sub-section (4) accordingly prescribes the approach to be adopted by the courts where prejudice may be caused."

(Emphasis supplied)

a. What is the meaning of the expression "alter" occurring in Section 216 CrPC.

147. P. Ramanatha Aiyar in his Law Lexicon (6th Edn.) defined "alter" as "to make a change in; to modify; to vary in some degree". "Alteration" is defined as a "change or substitution of one thing for



another". Further, it has been elaborated that the term "alter" is to be distinguished from its synonyms i.e., "change" and "amend". To change something may import the substitution of an entirely different thing, while on the other hand, to alter would be to operate upon a subject matter which continues to be the same objectively while just modified in some particular. To illustrate it better in the context of charging an accused with an offence, let's say an accused is charged with an offence initially under Section 323 IPC for simple hurt. If the Trial Court is of the opinion that the case is in fact one of grievous hurt, it may alter the charge of the accused for an offence under Section 325 IPC. This would be an alteration since the broad subject matter continues to be the same. Further, to amend would imply that the modification made in the subject improves it, which might not necessarily be the case with an alteration. In other words, an amendment may involve an alteration but an alteration does not always amend.

148. In *Sohan Lal v. State of Rajasthan*, (1990) 4 SCC 580, this Court while holding that an application under Section 216 would not be maintainable against persons who have already been discharged, elaborated the meaning of the words "alter and add to" as follows:

"12. Add to any charge means the addition of a new charge. An alteration of a charge means changing or variation of an existing charge or making of a different charge. Under this section addition to and alteration of a charge or charges implies one or more existing charge or charges."

(Emphasis supplied)

149. Therefore, to alter a charge would be to vary an existing charge and make a different charge. Hence, when the Court exercises its power under Section 216, either on its own motion or on an application made by the parties, and "alters" a charge, it would be necessary that the existing charge be varied and a new charge be made. In the instant case, in Criminal Appeal No. 1319 of 2013, the



Trial Court in its order dated 30.11.2006 had held that the charge framed by his predecessor for the offence under Sections 8, 22 and 29 of the NDPS Act had not been made out and that the case of the accused had to be a case under the D&C Act which would be triable by the Metropolitan Magistrate. In Criminal Appeal No. 272 of 2014, again, the Trial Court in its order dated 17.04.2010 similarly held that the offences under Sections 8 and 22 of the NDPS Act were not made out and the matter would fall within the rigours of the D&C Act.

150. However, if careful attention is paid to the orders of the Special Judge in both the appeals, it cannot be said that they have exercised their power under Section 216 to "alter" the charge of the accused persons. We say so because, the charge which existed under Sections 8, 22 and 29 of the NDPS Act in Criminal Appeal No. 1319 of 2013 and under Sections 8 and 22 of the NDPS Act in Criminal Appeal No. 272 of 2014 respectively were not varied and a different charge under a specific provision of the D&C Act was not made. In such a circumstance, in effect, the Special Judge had discharged or deleted the charge of the accused persons under the NDPS Act in both the appeals."

(Emphasis supplied)

As a conclusion, the Apex Court holds that the Court may alter or add the charge either upon its own motion or on an application of the parties concerned. Therefore, the prosecution is also a party, which can seek alteration of the charge. The power of the Court to alter the charge rests even after reserving the order for its judgment, but before the pronouncement of the order. Therefore, the power of the



concerned Court to alter the charge under Section 216 of the Cr.P.C. is well recognized by a plethora of judgments rendered by the Apex Court, and whether it should be by the prosecution or by the victim or by the Court *suo motu*, is also considered by the Apex Court in the aforesaid judgment. The Apex Court clearly holds that it can be by either of the parties and not only *suo motu* by the Court. Here, the prosecution has filed an application. No fault can be found with the prosecution filing the said application.

9. The judgment of the Co-ordinate Bench, which the learned counsel appearing for the petitioners would place reliance upon would have become applicable, but for the judgment of the Apex Court, wherein the Apex Court delineates the entire issue and holds that the parties are well within their jurisdiction to file an application to alter the charge, which is to be considered by the concerned Court. The concerned Court has considered the law and passed the order by rendering cogent reasons. Therefore, there is no warrant of interference.



10. Since the trial is on for the last 12 years, I deem it appropriate to direct its conclusion, within an outer limit of four months from the date of receipt of a copy of the order, including the trial for the altered charge under Section 498A of the IPC. With the aforesaid observations, the petition stands **rejected.**

Ordered accordingly.

I.A.No.1 of 2025 stands disposed as a consequence.

Sd/-
(M.NAGAPRASANNA)
JUDGE

JY
List No.: 1 Sl No.: 4