

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
*HON'BLE SRI JUSTICE HARINATH.N
+CRIMINAL PETITION No.3424 OF 2025
%04.04.2025

#Between:

Sriram Chandra Sekhar @ Chintu, S/o.Subrahmanyam Naidu,
aged 45 years, R/o.D.No.s28-761/1, Kannaiah Naidu Colony,
Chittoor Town and Mandal, Chittoor District.

...Petitioner

AND

1. The State of Andhra Pradesh, rep.by its Public Prosecutor,
High Court of Andhra Pradesh at Amaravati.
2. Veluri Sathish Kumar Naidu, S/o.V.Subramanyam Naidu, aged
24 years, R/o.D.No.2-768, Rice Mill Compound,
Kongareddipalli, Chittoor Town and Mandal, Chittoor District.

...Respondents

Counsel for the Petitioner/accused:

- 1.Sri. D.Purnachandra Reddy

Counsel for the Respondent/complainant(S):

- 1.Learned Public Prosecutor
- 2.Sri. P.Sai Surya Teja

The Court made the following:

<Gist:

>Head Note:

? Cases referred:

1. 1980 Supp SCC 92
2. (2017) 3 SCC 347
3. (2016) 6 SCC 105
4. (2020) 12 SCC 467

This Court made the following:

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...Respondents

DATE OF ORDER PRONOUNCED: 04.04.2025

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE HARINATH.N

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|---|--------|
| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of order may be marked to Law Reporters/Journals? | Yes/No |
| 3. Whether Your Lordships wish to see the fair copy of the order? | Yes/No |

JUSTICE HARINATH.N

APHC010152542025



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3457]

FRIDAY ,THE FOURTH DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE HARINATH.N

CRIMINAL PETITION NO: 3424/2025

Between:

Sriram Chandra Sekhar @ Chintu

...Petitioner/Accused

AND

The State Of Andhra Pradesh and
Others

...Respondent/Complainant(s)

Counsel for the Petitioner/accused:

1.D PURNACHANDRA REDDY

Counsel for the Respondent/complainant(S):

1.PUBLIC PROSECUTOR

2.P SAI SURYA TEJA

The Court made the following:

THE HON'BLE SRI JUSTICE HARINATH. N**CRIMINAL PETITION No.3424 OF 2025****ORDER :**

1. The Criminal Petition is filed challenging the order passed in CrI.MP.No.308 of 2025 in SC.No.110 of 2016 on the file of VI Additional District and Sessions Judge – Cum – Special Judge for Trial of Offences against Women at Chittoor.
2. The petitioner is arraigned as Accused No.1 in SC.No.110 of 2016 and is aggrieved by the order passed by the VI Additional District and Sessions Judge – Cum – Special Judge for Trial of Offences against Women at Chittoor on a petition filed by the prosecution under Section 216 of Code of Criminal Procedure (for short Cr.P.C.,).
3. The learned Sessions Judge has allowed the petition filed by the prosecution and reframed the following charges ;
 - i. Charge under Section 120-B of Indian Penal Code be framed against the accused A1 to A12 for the alleged criminal conspiracy with an intention to kill the Katari Anuradha (herein after referred as Deceased No.1), Katari Mohan (herein after referred as Deceased No.2).
 - ii. Charge under Section 302 of Indian Penal Code be framed against the accused A1 for the alleged causing death to Deceased No.1 by A1's use of a firearm.

- iii. Charge under Section 302 r/w 149 of Indian Penal code be framed against the accused A2 to A5 for their alleged presence with A1 while doing the above act and shared a common object.
 - iv. Charge under Section 307 of Indian Penal Code be framed against the accused A4 for the alleged attempt to commit murder of P.W1 by using dagger.
 - v. Charge under Section 307 r/w 149 of Indian Penal Code be framed against the accused A1 to A3 and A5 for their alleged presence with A4 while doing the above act and shared a common object.
 - vi. Charge under section 302 of Indian Penal Code be framed against the accused A1 to A5 for the alleged causing death to Deceased No.2 by use of a dagger, big knives etc.,
4. Sri.P.Veera Reddy, learned senior counsel appearing for the petitioner, submits that under Section 216 of Cr.P.C., it is the exclusive power of the Court to alter charge and that there could not have been an occasion for the investigating officer to file a petition seeking alternation of charge.
5. It is submitted that the petition seeking alteration of charges was filed at a very belated stage after the examination of as many as 56 prosecution witnesses was completed. The Investigating officer was examined as PW.57 for almost a month, and the petition was filed by the prosecution at a belated stage. The attempt of the prosecution is only to delay the trial.

6. The learned senior counsel places reliance on **V.C.Shukla Vs. State through C.B.I**¹ and submits that the object of framing of charge as per the judgment of the Hon'ble Supreme Court is that the accused is clearly informed about the charge(s) in unambiguous terms. Allegations of facts constituting the offence, must be informed to the accused. The section of law which alleged to be violated with the name of the law in which it is contained should be informed. The object of a charge is to convey to the accused person of the case he is to answer.
7. The learned senior counsel appearing for the petitioner also relies on **P.Kartilakshmi Vs. Sri Ganesh and another**², the Hon'ble Supreme Court at para 7 and 8 held as follows ;

...7 We were taken through Sections 221 & 222 of the Cr.P.C. in this context. In the light of the facts involved in this case, we are only concerned with Section 216 Cr.P.C. We, therefore, do not propose to examine the implications of the other provisions to the case on hand. We wish to confine ourselves to the invocation of Section 216 and rest with that. In the light of our conclusion that the power of invocation of Section 216 Cr.P.C. is exclusively confined with the Court as an enabling provision for the purpose of alteration or addition of any charge at any time before pronouncement of the judgment, we make it clear that no party, neither de facto complainant nor the accused or for that matter the prosecution has any vested right to

¹ 1980 Supp SCC 92

² (2017) 3 SCC 347

seek any addition or alteration of charge, because it is not provided under [Section 216 Cr.P.C.](#) If such a course to be adopted by the parties is allowed, then it will be well nigh impossible for the Criminal Court to conclude its proceedings and the concept of speedy trial will get jeopardized.

8. In such circumstances, when the application preferred by the appellant itself before the Trial Court was not maintainable, it was not incumbent upon the Trial Court to pass an order under [Section 216 Cr.P.C.](#) Therefore, there was no question of the said order being revisable under [Section 397 Cr.P.C.](#) The whole proceeding, initiated at the instance of the appellant, was not maintainable. Inasmuch as the legal issue had to be necessarily set right, we are obliged to clarify the law as is available under [Section 216 Cr.P.C.](#) To that extent having clarified the legal position, we make it clear that the whole proceedings initiated at the instance of the appellant was thoroughly misconceived and vitiated in law and ought not to have been entertained by the Trial Court. As rightly pointed out by the learned senior counsel for respondent no.1, such a course adopted by the appellant and entertained by the Court below has unnecessarily provided scope for protraction of the proceedings which ought not to have been allowed by the Court below.

8. The learned senior counsel submits that when the law is clear on the circumstances under which Section 216 of Cr.P.C., can be invoked by the Court, the order of the learned Sessions Judge altering the charges under Section 216 of Cr.P.C., upon receipt of the prosecution's petition, from the prosecution has to be held as illegal and contrary to law.

9. Sri.P.Venkateswarlu, learned senior counsel appearing for the 2nd respondent submits that the order passed by the learned Sessions Judge is can be challenged under revision and not under Section 482 of Cr.P.C., (new section 528 of BNSS). It is submitted that the order passed by the learned Sessions Judge is justified as the purpose of prosecuting a criminal case against an accused charged of committing any offence is to frame charges against the accused accurately for the offences and depending upon the evidence. Framing of appropriate charges in accordance with the evidence available on record would only promote justice and fairness in the trial.
10. The learned senior counsel further submits that Section 216 of Cr.P.C., empowers the Court to alter charge at any stage before pronouncement of the judgment. In the present case, there is absolutely nothing wrong in the order passed by the Sessions Court. It is also submitted that it does not matter whether the investigating officer has filed a petition seeking alteration of charge or not. The learned Sessions Judge can treat the petition as information for altering the charge based on the evidence available and considering the requirement for altering the charges.

11. It is also submitted that no prejudice can be caused to the accused and that the accused would be granted a fair opportunity to cross-examine the witnesses on the additional charges. It is also submitted that the trial is to be completed in the said case within a period of six months and the trial Court was directed to complete trial in six months time vide order dated 25.10.2024 passed by the Hon'ble Supreme Court in miscellaneous application No.2145 of 2024 in Criminal Appeal No.1250 of 2022.

12. The learned senior counsel places reliance on **Anant Prakash Sinha Alias Anant Sinha Vs. State of Haryana and another**³.

The Hon'ble Supreme Court has held that in the case where the application was filed by the informant to add a charge under Section 406 of IPC as there was allegation against the husband about the criminal breach of trust as for as her Stridhan is concerned. It was in a way bringing to the notice of the learned Magistrate about the defect in framing of a charge. It was also held that the Court could have done it suomoto. The Hon'ble Supreme Court did not find fault with the learned Magistrate entertaining the petition. The learned senior counsel also relied on **Dr.Nallapareddy Sridhar reddy Vs. State of Andhra**

³ (2016) 6 SCC 105

Pradesh and others⁴. The Hon'ble Supreme Court held that Section 216 Cr.P.C., provides the Court an exclusive and wide ranging power to change an alter any charge. The Hon'ble Supreme Court at para 21 held 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 15 (2013) 7 SCC 256 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.

13. The learned senior counsel appearing for the 2nd respondent prays for dismissing the petition as the same is not maintainable.

⁴ (2020) 12 SCC 467

14. The learned Assistant Public Prosecutor appearing for the State submits that the trial has reached the final stage, the investigating officer is also examined in part. It is submitted that the investigating officer has realized that charges were not framed appropriately against the accused and as such has filed a petition before the learned Sessions Judge seeking indulgence of Court to frame additional charges. It is also submitted that the accused are delaying the trial and the prosecution only intends to frame appropriate charges against the accused and try them for the said offences. The learned Assistant Public Prosecutor prays to dismiss the petition.

15. Heard the learned senior counsel appearing for the parties and the learned Assistant Public Prosecutor and perused the material on record.

16. Section 216 of Code of Criminal Procedure reads as follows ;

Section 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 had been already obtained for a prosecution on the same facts as those on which the altered or added charge is founded.

17. Section 216 of Cr.P.C., confers an exclusive right on the Court to alter the charge at any time before pronouncement of the judgment. This does not give scope either to the prosecution or to the accused to seek alteration of a charge or addition of a new charge and file an application with a prayer to the Court to invoke the provisions of Section 216 of Cr.P.C.,
18. The intent of the legislature is only to ensure that the Court retains the exclusive power of altering a charge or adding the charge depending upon the evidence before it and to ensure that the accused are notified of the appropriate charges to which they are required to answer.
19. If the power under Section 216 of Cr.P.C., is to be invoked by the Court thus there is no scope for filing a petition under Section 216 Cr.P.C., either by the prosecution or on behalf of the accused. If Section 216 Cr.P.C., is invoked by the prosecution or the accused

there cannot be an end for any trial before any Court. If the parties to a litigation are allowed to invoke Section 216 of Cr.P.C., the very purpose of incorporating Section 216 Cr.P.C., in the Code would be defeated. If the parties misuse it, it would delay the conclusion of the trial, and the same would be beyond the scope of the Court to conclude any trial in any case.

20. The law on this issue is settled and power of the Court is exclusive and power of the Court to alter or add a charge is exclusively with the Court and no party is required to file a petition praying the Court to invoke the powers under Section 216 of Cr.P.C.,

21. On the facts of this case, it is surprising to note that the investigating officer has already altered/framed charges which are required to be altered/framed by the court. The proposed altered charges are incorporated in the petition filed by the investigating officer. It is equally surprising to note that the learned Sessions Judge had altered the charges as suggested by the prosecution in their petition filed under Section 216 Cr.P.C., *in toto*. Such a procedure is unknown to criminal jurisprudence. On these grounds, the order passed by the learned VI Additional District and Sessions Judge-Cum-Special Judge for Trial of Offences against Women, Chittoor deserves to be set aside, and accordingly, the order

passed in Crl.MP.No.308 of 2025 in S.C.No.110 of 2016 is hereby
set aside.

22. Accordingly, criminal petition is allowed.

As a sequel, pending miscellaneous petitions, if any, shall stand
closed.

JUSTICE HARINATH.N

Dated 04.04.2025
LR copy to be marked
B/o.KGM

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THE HON'BLE SRI JUSTICE HARINATH. N

CRIMINAL PETITION No.3424 OF 2025
Dated 04.04.2025

LR Copy

KGM