

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CRM-M-8634-2016 (O&M).
Decided on: March 14, 2016.**

Jagmohan Singh

.. Petitioner(s)

VERSUS

State of Punjab

.. Respondent(s)

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CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

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**PRESENT Mr.Vivek Salathia, Advocate,
for the petitioner.**

M.M.S. BEDI, J. (ORAL)

This is a petition for quashing of order dated 29.11.2012, to the extent that the Additional Sessions Judge, has refused to accept the supplementary report under Section 173 (8) Cr.P.C., Annexure P5, filed by the prosecution agency which was subsequent to an earlier chargesheet filed under Section 307 IPC.

Counsel for the petitioner submits that on the basis of the medical evidence and other material forming part of the supplementary report under Section 173 (8) Cr.P.C., no offence under Section 307 IPC, is made out.

I have heard the counsel for the petitioner and gone through the controversy raised by the petitioner.

It is an admitted case that the Illaqua Magistrate had committed the both, the original report under Section 173 (2) Cr.P.C. and supplementary report under Section 173 (8) Cr.P.C. regarding inclusion of offence under Section 307 IPC and exclusion of offence under Section 307 IPC respectively to the Sessions Court.

On asking of the Court, counsel for the petitioner has submitted that at present on the basis of both the reports, the learned Additional Sessions Judge, has framed charge under Section 307 IPC by separate order dated 29.11.2012.

Counsel informs that no proceedings have taken place from 2012 to 2016, after framing of charges and that the Sessions Court ought to have accepted the supplementary report under Section 173 (8) Cr.P.C.

I am of the considered opinion that the petitioner has got alternative remedy available under Section 216 Cr.P.C. to approach the trial Court against the order framing charges. This remedy is open to a party at any time till the delivery of judgment.

Counsel for the petitioner, at this stage, seeks permission to withdraw the petition without prejudice to the right of the petitioner to avail the remedy under Section 216 Cr.P.C.

Disposed of as withdrawn with above said liberty.

(M.M.S. BEDI)
JUDGE

March 14, 2016.
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