

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(117)

**CRR-2872-2016 (O&M)
Decided on: October 20, 2016.**

Ramrup Mishra @ Raju

.... Petitioner

Versus

State of Haryana

..... Respondent

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

Present: Mr. G.C. Shahpuri, Advocate, for the petitioner.

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

The petitioner has inter alia been charged for offence under Section 307 IPC on the allegation that the petitioner had struck his vehicles Scorpio and Ertiga against the vehicle of police party in which ASI Mohan Lal and ASI Babu Ram had saved themselves by jumping on one side and that by said act they would have caused the death of said police officials and had been guilty of murder.

Learned counsel for the petitioner submits that there is no evidence available in the challan regarding the said act and that even if the said allegation is presumed to be correct, there is no evidence establishing the intention to kill any police official.

I have heard learned counsel for the petitioner.

I do not deem it appropriate at this stage to look into the entire report under Section 173 (2) Cr.P.C or the material appended to it in the exercise of revisional jurisdiction by summoning the record but the petitioner appears to have a legal remedy of approaching the trial Court by

moving an application under Section 216 Cr.P.C. While considering the said application, the trial Court can always alter the charge. In case, the trial Court forms an opinion on the basis of material available on the record that offence under Section 307 IPC is not made out in that situation, the provisions of Section 228 (1) (a) Cr.P.C would come into operation and the Court can exercise jurisdiction to re-frame the charge and transfer the case for trial to the Chief Judicial Magistrate.

This petition is disposed of at this stage with liberty to the petitioner to move an application under Section 216 Cr.P.C read with Section 228 (1) (a) Cr.P.C before the trial Court. It is expected that in case any such application is filed, the trial Court shall pass a speaking order on the same on the basis of the material available on the record in the report submitted under Section 173 (2) Cr.P.C.

(M.M.S. BEDI)
JUDGE

October 20, 2016
harsha

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No