

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

Varinder Singh
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Punjab & Haryana High Court at
Chandigarh

CRM No. 22535 of 2016 in/ and
CRR No. 716 of 2014 (O&M)

Date of decision: 7.10.2016

Kulbir Singh and others

.. Petitioners

VS

State of Haryana

.. Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Neeraj Sheoran, Advocate for
Mr. Aman Pal, Advocate, for the petitioners.
Mr. Ankur Mittal, Additional Advocate General, Haryana.
Mr. H. S. Randhawa, Advocate, for the complainant.

Rajesh Bindal, J.

Challenge in the present petition is to the order dated 12.2.2014 passed by the learned Court below framing charges against the petitioners. The petitioners were charged for commission of offences punishable under Sections 148, 323, 324, 427, 452, 302 (or in alternative 307 IPC) read with Sections 149 and 506 IPC. The present petition was filed claiming that the charges should not have been under Section 302 IPC but under Section 304 IPC.

Learned counsel for the State submitted that vide order dated 27.10.2014, this court directed the trial to continue, however, passing of the final order was stayed. At the time of admission on 26.11.2014, interim order was directed to be continued. He further submitted that during the interregnum, the trial is over, and even statements under Section 313 Cr.P.C. have also been recorded. Only final judgment is to be pronounced.

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Learned counsel for the complainant submitted that the grievance of the petitioners can very well be taken care of by the learned Court below in terms of provisions of Section 222(2) Cr.P.C. as any person can be convicted for a lesser offence, even if not charged for that. Claim of the petitioners is that they should not have been charged under Section 302 IPC, but under Section 304 IPC.

After hearing learned counsel for the parties and considering the submissions, as noticed above, the present petition is disposed of. It is settled that if an accused is charged with a major offence and the ingredients of the major are not proved, the accused can be convicted for minor offence, if the ingredients of minor offence are available. This can be done by invoking provisions of Section 222 Cr.P.C. Reference can be made to Sannaia Subba Rao and others vs State of A. P. 2008 (4) RCR (Criminal) 1 and Pandharinath vs State of Maharashtra 2009 (14) SCC 537. The Court below will keep in view the above settled principles of law and the evidence produced on record by the parties while recording conviction and sentence in the matter.

7.10.2016
vs

(Rajesh Bindal)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No