

CRR-4474-2016 (O&M)

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

**CRR-4474-2016 (O&M).
Decided on: December 2, 2016.**

Chiman Singh

.. Petitioner(s)

VERSUS

State of Punjab

.. Respondent(s)

*** * ***

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

*** * ***

**PRESENT Mr.P.P.S.Duggall, Advocate,
for the petitioner.**

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

The petitioner has filed the present revision petition challenging the order framing charges under Section 302 IPC along with Sections 279, 337, 338 and 427 IPC, in FIR No.186 dated 1.11.2014, registered at Police Station, Makhu.

Counsel for the petitioner submits that the complainant in the present case had been driving a motorcycle at a high speed as a result of which he fell from the motorcycle and was admitted in the hospital. The complainant-injured was discharged two days after admission in the hospital. He worked normal for a period of two months but after expiry of about 67 days, he was readmitted in the hospital on account of having received injuries which were not result of any

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collusion or any accident. The police had, thereafter, added offence under Section 302 IPC. The charges have been framed under Section 302 IPC. The statement of the doctor has also been recorded.

Counsel for the petitioner has referred to the medical evidence and the statements of the witnesses recorded during the course of investigation and pointed out a few irregularities and contradictions to submit that the petitioner has been wrongly charged for offence under Section 302 IPC. He has made a pointed reference to the statement of doctors who has been examined on oath in the Court as PW.1 and PW.2 who deposed that the injuries received by the deceased on his second admission in the hospital are different from the injuries which had been received by him and that those injuries are not result of road accident.

I have heard the counsel for the petitioner at length and carefully gone through the various parts of the report under Section 173 (2) Cr.P.C. and the material forming part of the said report and also carefully appreciated his contentions.

The order framing charges has been challenged by the petitioner at a stage when the evidence is being produced by making a reference to the said evidence.

All the pleas which are being raised before this Court for quashing the charge under Section 302 IPC, on appreciation of evidence can always be raised at the appropriate stage before the trial Court. The trial Court has got jurisdiction either under Section 216 Cr.P.C. to modify the charges or under Section 221 (2) Cr.P.C. to pass

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any order on appreciation of evidence in case Court is satisfied that some offence has been committed different from the offence for which he had been charged. It is always open to the Court to pass any order of acquittal or pass sentence for a lesser offence for which he is not charged.

Taking into consideration the stage of the trial when the medical evidence has already been produced and the evidence of the prosecution is being produced, I do not deem it appropriate to exercise powers under Section 482 Cr.P.C. especially when the rights of the petitioner are safeguarded by the Statute for not being convicted for offence for which he is charged. The accused can always be acquitted or convicted for a lesser offence in case the ingredients of serious offence are not established. Avoiding the appreciation of evidence, at this stage, lest it should prejudice the right of the petitioner or the prosecution agency, it is left open to the trial Court to appreciate all the pleas raised by the petitioner in this petition and discussed hereinbefore and pass appropriate order at appropriate stage, in accordance with law.

Disposed of with above observations.

(M.M.S. BEDI)
JUDGE

December 2, 2016.
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Whether speaking / reasoned
Whether reportable:

Yes / No
Yes / No