

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

CRM-M-3844-2019(O&M)

Date of decision: 17.12. 2019

Harpreet Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Atul Jain, Advocate for the petitioner

Mr. Hittan Nehra, Addl. AG, Punjab

Ms. Sukhpreet Kaur, Advocate for respondent no.2

ANIL KSHETARPAL, J. (ORAL)

Accused-petitioner has filed the present petition under Section 482 Cr.P.C for quashing of order dated 3.10.2018 by the Magistrate, affirmed in revision by the Court of Sessions. Learned Chief Judicial Magistrate has found that prima facie the petitioner-accused is required to be additionally charged with an offence under Section 409 IPC as he was an attorney.

Learned counsel for the petitioner submits that the charge under Section 406 IPC was already framed and therefore, there was no requirement of an alteration of the charge. He further submitted that as per Section 216 Cr.P.C, the Court may alter or add any charge at any time, before the judgment is pronounced, however, that power can only be exercised suo moto and not on the application of the first

informant/complainant.

This Court has considered submissions, however, does not find any substance therein. In the present case, original charge, apart from other offences, under Section 406 IPC was framed. First informant/victim subsequently filed an application for alteration/addition of charge under Section 409 IPC on the ground that petitioner-accused was an attorney and he committed criminal breach of trust. The Court on appreciation of material available on the file found substance in the application. Therefore, the charge was ordered to be amended. The charge can be amended or added at any time before the pronouncement of judgment. Discretion vests with the Judicial Magistrate to alter the charge at any stage till he pronounces the judgment.

As regards second contention of the learned counsel for the petitioner, it may be noted that Section 216 Cr.P.C entitles/enables the Court to amend or alter charge at any stage before the pronouncement of the judgment. The power under Section 216 Cr.P.C cannot be interpreted in a manner, restricted to be exercised by the Court suo moto only. It can be exercised on the application of the public prosecutor or the victim. The phraseology used in Section 216 Cr.P.C does not debar the first informant/victim to draw attention of the Court to the defective or erroneous charge.

In view of the aforesaid, this Court does not find any substance, even in the second argument of the learned counsel for the petitioner.

Hence, no ground to interfere is made out.

Dismissed.

17.12. 2019

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Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No