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

CRM-18524-2022 IN/AND
CRR-951-2022
Date of decision: 18.05.2022

AMANDEEP SINGH AND ANR

...Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. P.S. Ahluwalia, Advocate
for the petitioners.

Mr. Bhupender Beniwal, AAG, Punjab

SURESHWAR THAKUR, J. (ORAL)

CRM-18524-2022

The instant application has been filed for seeking permission to place on record Annexures P-1 and P-2.

For the good, and, valid reasons, recorded in the application, the same is allowed, subject to all just exceptions.

CRR-951-2022

1. In petition FIR bearing No.251 of 08.10.2020, registered at Police Station Kotwali Patiala, District Patiala, offences constituted under Sections 307, 323, 341, 34 of IPC, are embodied.
2. After conclusion of investigations into the petition FIR, the investigating officer concerned, preferred an affirmative report containing therein, the commission of the offences (supra), by the present petitioners.

3. Though, when the challan appertaining to the petition FIR became listed for consideration of the relevant material, upon which the charge(s) appertaining to the petition offences, could be or could not be framed, against the present petitioners, yet despite the learned counsel for the petitioners arguing for discharge, rather the learned trial Judge concerned, declined relief qua the above to the petitioners.

4. Moreover, though impliedly, and, tacitly an argument was raised, that from the incriminatory evidence, as became collected by the investigating officer concerned, and, also from the reading of the contents of the FIR, no ingredient for framing of a charge against the accused, under Section 307, rather is made out, but the above argument was also rejected.

5. Since only an implied rejection of the above argument, was made, in the order framing charge against the accused, and, was made only after the argument(s) for the accused being discharged, becoming addressed, and, the above argument becoming rejected. Therefore any implied rejection of any plea qua alteration of charge, without any application, becoming cast under the relevant provisions of the Cr.P.C., cannot be, at this stage be concluded, to tantamounting to the completest ouster of any remedy to the petitioner to yet proceed to make a fresh application before the learned trial Judge concerned, seeking alteration of the charge from one under Section 307 of IPC, to some other penal offence(s) of a lesser severity, and, gravity.

6. In consequence in the face of the above, the present petition asking for alteration of charge from the one, under Section 307 of IPC, to some other penal offences rather of a lesser severity, and, gravity, is not maintainable before this Court. However, even if the petition at hand is declared to be not maintainable, but yet liberty is reserved to the petitioners to yet make a fresh

application under the relevant provisions of the Cr.P.C., seeking therethrough the relief for alteration of the charge. If the above application is filed within a fortnight from today, thereons the learned trial Judge concerned, shall within a month thereafter make, after hearing all concerned, a valid order, in accordance with law.

7. Disposed of accordingly.

18.05.2022

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(SURESHWAR THAKUR)
JUDGE

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