

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

CRR-197-2018
Date of Decision:-**12.04.2023**

IKRAMUDDIN AND ORS

... Petitioner(s)

Versus

STATE OF HARYANA

... Respondent(s)

-. -

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-. -

Present:- Mr. Mohamad Arshad, Advocate
for the petitioners.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

-. -

KARAMJIT SINGH, J. (Oral)

Present petition has been filed by the petitioners seeking quashing of order dated 5.12.2017 passed by the Additional Sessions Judge, Mewat whereby charges are framed against the petitioners and other accused persons under Sections 323, 324, 307 read with Section 149 IPC and under Sections 148 and 506 IPC, in a case having FIR No.417 dated 18.10.2014 registered under Sections 148, 149, 323, 324, 506, 307 IPC and Section 25 of Arms Act, at Police Station Tauru, District Mewat.

The counsel for the petitioners while addressing the arguments submits that his only grievance is that while the petitioners are charged

under Section 307 read with Section 149 IPC but similarly situated co-accused has been charged with less graver offence punishable under Sections 326 read with Section 149 IPC. So prayer is made that the charge framed against the petitioners by the learned trial Court be altered/modified to aforesaid extent.

The present petition is resisted by the State counsel, who submits that there is no illegality in the impugned order, which has been passed by the learned trial Court after going through the entire record available on judicial file of the case.

I have considered the submissions made by the counsel for the parties.

As per the provisions of Section 216 Cr.P.C., it is open to the trial Court to alter the charge at any stage of the trial depending on the material that is brought before it in the form of evidence.

The Hon'ble Supreme Court in case of **State of Maharashtra vs. Salman Salim Khan, 2004(1) SCC 525**, has observed that Higher Court cannot go into the correctness and sufficiency of the material and give conclusive finding about the same. It should be left to the trial Court to alter or modify any such charge at any appropriate stage based on material produced by way of evidence.

In the light of the aforestated settled position of law, in the instant case if similarly situated co-accused is charged with lesser offence while petitioners are charged under Section 307 IPC read with Section 149

IPC, then trial Court is under bounden duty and should remove such disparity, if any, as has been alleged by the counsel for the petitioners.

The present petition stands disposed of in the aforesaid terms and interim order dated 16.3.2018 is hereby vacated.

12.04.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No