

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

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2026:PHHC:079114



**CRR-1047-2026(O&M)
Decided on : 21.05.2026**

Gurtej Singh @ Gurtej Singh Brar

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Samay Sandhwalia, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

Mr. Amaninder Singh Sekhon, Advocate
for the complainant.

MANISHA BATRA, J. (Oral)

1. The instant revision petition has been filed against the order dated 23.02.2026, passed by the Court of learned Sessions Judge, Faridkot (*hereinafter referred to as 'learned trial Court'*) in case arising out of FIR No. 79 dated 17.05.2024, initially registered under Sections 302 and 34 of IPC at Police Station Jaito Faridkot, District Faridkot (Sections 302 and 34 of IPC were deleted and Sections 306 and 201 of IPC were added later on), whereby an application filed by the complainant for alteration in charge has been allowed and the charge has been altered from Section 306 of IPC to Section 302 of IPC.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a statement made by the complainant Surinder Singh, wherein it was alleged that his niece, Kulwinder Kaur, had been married to the present petitioner approximately 16 years prior to the occurrence. It was alleged that since the inception of the matrimonial relationship, the petitioner had been subjecting the deceased to ill-treatment, including physical assault. He further alleged that the petitioner was involved in extramarital relationships, which fact was disclosed by the deceased to her parental family. On 16.05.2024, upon receiving information that Kulwinder Kaur had been admitted to a hospital, the complainant reached there and found her in a critical condition. Upon inquiry, the deceased allegedly disclosed that on the said day, the petitioner had thrown her onto the bed, while her mother-in-law caught hold of her arm and then the petitioner, while slapping her, forcibly administered some poisonous substance into her mouth with an intent to kill her. Thereafter, he left the place after snatching her mobile phone. The victim became unconscious and was subsequently taken to the hospital. The victim later on died. Initially, a case under Section 302 IPC was registered. However, during the course of investigation, the offence under Section 302 IPC was deleted and offences under Sections 306 and 201 IPC were added. The petitioner, who had been arrested and remained in custody, was granted the concession of bail by the learned trial Court vide order dated 05.08.2024.

3. It is also revealed from the perusal of the record that during the course of trial, the prosecution moved an application seeking alteration of charge, which came to be allowed by the learned trial Court, vide impugned

order dated 23.02.2026, whereby charges under Sections 302 and 201 IPC were ordered to be framed against the petitioner substituting the charges under Section 306 of IPC. The operative part of the order dated 23.02.2026 reads as under :

“5. Perusal of the testimony of PW3 Surinder Singh and PW4 Nirmal Singh reveals that both witnesses have consistently deposed that deceased Kuldeep Kaur, while admitted in hospital and stated to be conscious and oriented, made an oral dying declaration before them to the effect that accused Gurtej Singh forcibly took her into a room, pushed her on the bed, slapped her and, in furtherance of common intention with his mother Sukhjit Kaur, forcibly administered poisonous spray into her mouth. Both witnesses have further stated that Sukhjit Kaur caught hold of the arms of the deceased while Gurtej Singh administered the substance and thereafter the accused snatched her mobile phone and confined her in the room by bolting it from outside. It has also come in their statements that the deceased raised alarm and subsequently became unconscious.

6. The aforesaid depositions attribute a specific overt act to accused Gurtej Singh in forcibly administering a poisonous substance, allegedly with the intention to cause death. The testimonies further disclose an alleged motive that accused Gurtej Singh was maintaining illicit relations with other women, which was objected to by the deceased, leading to harassment and maltreatment despite intervention through panchayats.

7. At the stage of framing or alteration of charge, the Court is not required to meticulously appreciate evidence or to evaluate its probative value. The settled legal

position is that if, on the basis of material available on record, a strong suspicion arises that the accused has committed an offence, the Court would be justified in framing the charge. Detailed appreciation of evidence and determination of its reliability is a matter to be undertaken at the stage of final adjudication.

8. Though, learned counsel for the accused laid very much emphasis on the fact that PW2 Dr. Ishwer Tayal testified that there were no injury marks on the body of deceased and use of dye/ stenching agents/ emetics in the Paraquat by the manufacturer makes the same highly improbable to be used for homicidal purpose. But the said contention of learned counsel for the accused cannot be accepted being untenable. It is no longer *res integra* that charges can be framed merely on the basis of strong suspicion. Moreover, when there is contradiction in the ocular and medical evidence regarding the occurrence, it is incumbent upon the court to rely upon the ocular version. The testimony regarding the oral dying declaration, if believed, is a substantive piece of evidence. Whether such declaration is truthful and reliable is a matter to be tested during final appreciation of evidence.

9. The fact that the investigation initially resulted in filing of report under Section 306 IPC does not fetter the power of the Court under Section 216 Cr.P.C. to alter or add any charge if, from the evidence adduced during trial, it appears that a different offence is made out. The Court is duty bound to frame appropriate charge in consonance with the evidence emerging on record.

10. In view of the consistent statements of PW3 and PW4 regarding the alleged forcible administration of poisonous substance, coupled with allegations of prior harassment, this Court is of the considered opinion that there exists

sufficient material giving rise to a strong suspicion that the accused may have committed offences punishable under Sections 302 and 201 of IPC.

11. Accordingly, the application moved by the prosecution under Sections 216 and 217 Cr.P.C. is allowed. The charge against the accused is ordered to be altered for offences punishable under Sections 302, 201 of IPC.”

4. Aggrieved from the aforesaid order/alteration of charge, the petitioner has filed the present petition.

5. It is argued by learned counsel for the petitioner that the impugned order passed by the learned trial Court altering the charge from Section 306 IPC to Section 302 IPC is wholly unsustainable in the eyes of law, as the same has been passed without properly appreciating the material collected during investigation and the evidence already available on record. It is argued that although the FIR was initially registered under Section 302 IPC, however, after a detailed investigation conducted by the police authorities, the offence under Section 302 IPC was deleted and offence under Section 306 IPC was added. Even the mother of the petitioner was found innocent during investigation and was not challaned.

6. It is further argued that the learned trial Court failed to consider the detailed enquiry conducted by the DSP, wherein statements of independent witnesses, call detail records and the statement of the 14-year-old son of the deceased and petitioner were taken into account. The said enquiry categorically revealed that the petitioner was not present at the house at the time when the deceased allegedly consumed the poisonous substance. Rather, the material collected during enquiry showed that the petitioner was at his

office in Village Rameana and was informed telephonically about the incident thereafter. Had the petitioner been present at home, there would have been no occasion for repeated calls being made to him by family members and neighbours. The statement of the minor son, who is a natural and independent witness, clearly shows that after returning from school, he found his mother vomiting and noticed smell of pesticide in the vomit, whereafter family members immediately shifted her to the hospital. It is argued that the said witness nowhere supported the prosecution version regarding forcible administration of poison by the petitioner. It is also argued that the learned trial Court, while dismissing the application filed under Section 358 of BNSS (*which corresponds to Section 319 Cr.P.C.*) seeking summoning of the mother of the petitioner as additional accused, had relied upon the same enquiry report and statement of the son, however, while allowing the application for alteration of charge, the very same material has been ignored without any justification. Moreso, the hospital record itself shows that the deceased was taken to the hospital by the petitioner and his family members and remained conscious and oriented for several hours during treatment, yet she did not make any complaint before any doctor, nurse or hospital staff regarding forcible administration of poison. The alleged oral dying declaration made only before the complainant does not inspire confidence and appears to be an afterthought. Even the post-mortem report does not reveal any external injury marks on the body of the deceased. Learned counsel submits that the doctor himself, during his statement, admitted that paraquat spray is highly improbable to be used for homicidal purposes. Therefore, in

absence of any corroborative medical evidence, the trial Court erred in altering the charge to Section 302 IPC merely on conjectures and surmises.

7. Another argument has been raised by learned counsel for the petitioner to the effect that the impugned order had been passed by the learned trial Court on the basis of an application filed by the prosecution and not at its own. It is submitted that no party including a complainant, accused or even prosecution has the locus to invoke the provisions of Section 216 Cr.P.C. and it is the Court which has to pass an order on its own. While relying upon the judgment of this Court rendered in *Santosh v. State of Haryana, 2025 NCPHHC 2793*, learned counsel for the petitioner has stressed that the impugned order is not sustainable on that very ground also and it is, thus, urged that the present petition deserves to be accepted and the impugned order is liable to be set aside.

8. Reply has been filed by the respondent-State. Learned State counsel, assisted by learned counsel for the complainant, has argued that the impugned order passed by the learned trial Court does not suffer from any illegality or perversity and has been passed after due appreciation of the evidence that surfaced during trial. It is further argued that the complainant, while appearing as PW3, consistently reiterated the allegations levelled in the FIR regarding forcible administration of poisonous substance by the petitioner with the aid of co-accused. It was further argued that at the stage of alteration of charge, the Court is only required to examine whether a strong suspicion is made out from the material available on record and not to conduct a meticulous appreciation of evidence. The oral dying declaration made by the deceased before PW3 and PW4 specifically attributed a direct

role to the petitioner in administering poison and, therefore, sufficient material existed for framing charge under Section 302 IPC. It is also submitted that the Court is fully empowered under Section 216 Cr.P.C. to alter or add any charge at any stage of the trial if the evidence so warrants and, thus, the learned trial Court has rightly altered the charge from Section 306 IPC to Section 302 IPC. Therefore, it is urged that the petition, being devoid of any merit, is liable to be dismissed.

9. This Court has heard the rival submissions.

10. A careful consideration of the rival submissions and the material available on record would show that the learned trial Court has exercised the jurisdiction vested in it under Section 216 Cr.P.C. strictly within the parameters settled by law. The scope of Section 216 Cr.P.C. is wide and enables the Court to alter or add any charge at any stage before pronouncement of judgment if the material available on record so warrants. The object of the provision is to ensure that the charge framed by the Court remains in consonance with the evidence emerging during trial and that no offender escapes trial for the real offence disclosed from the record merely because of an initial omission or defect in framing of charge. The Hon'ble Supreme Court in *Anant Prakash Sinha alias Anant Sinha versus State of Haryana and another*, AIR 2016 SC 1197 has categorically held as under:

“The Court can change or alter the charge if there is defect or something is left out. The test is, it must be founded on the material available on record. It can be on the basis of the complaint or the FIR or accompanying documents or the material brought on record during the course of trial. It can also be done at any time before pronouncement of

judgment. It is not necessary to advert to each and every circumstance. Suffice it to say, if the court has not framed a charge despite the material on record, it has the jurisdiction to add a charge. Similarly, it has the authority to alter the charge. The principle that has to be kept in mind is that the charge so framed by the Magistrate is in accordance with the materials produced before him or if subsequent evidence comes on record. It is not to be understood that unless evidence has been let in, charges already framed cannot be altered, for that is not the purport of Section 216 Cr.P.C.”

11. Reference can also be made to the authority cited as ***Sanjay v. State of Haryana, CRR-1063-2021, decided on 26.10.2021***, passed by this Court, wherein although initially the accused had been charged under Sections 363, 366-A IPC read with Section 12 of the POCSO Act and Section 9 of the Prohibition of Child Marriage Act, during the course of trial the prosecutrix, while appearing in examination-in-chief before the Court, categorically stated that the accused had committed rape upon her. In view of the said deposition, the prosecution immediately moved an application under Section 216 Cr.P.C. seeking alteration of charge, which was allowed by the trial Court and additional charge under Section 6 of the POCSO Act was framed against the accused. The same came to be challenged before this Court, wherein, while relying upon the authorities cited as ***Dr. Nallapareddy Sridhar Reddy v. The State of Andhra Pradesh and others, 2020 (1) RCR (Criminal) 787 and Anant Prakash's case (supra)***, this Court upheld the order of the trial Court by observing that the application for amendment of charge was moved immediately by the prosecution when the statement was

given by the victim that she had been raped by the accused and it could not be brushed aside as the same was sufficient for the Court to form a presumption regarding the existence of ingredients constituting the offence found upon the material placed before it. Hence, what emerges is that even subsequent evidence emerging during trial can constitute sufficient material for alteration of charge and the prosecution can move for it, though it is not its vested right.

12. In the present case, the learned trial Court has noticed that PW3 Surinder Singh and PW4 Nirmal Singh consistently deposed regarding the oral dying declaration allegedly made by the deceased, wherein a direct and specific role was attributed to the petitioner in forcibly administering poisonous substance to the deceased with the aid of co-accused. The said evidence surfaced during trial and constituted substantive material before the Court. At this stage, the truthfulness or reliability of the said dying declaration cannot be minutely examined as the same would fall within the domain of appreciation of evidence at the final stage of trial.

13. The contention raised on behalf of the petitioner that during investigation the offence under Section 302 IPC had been deleted and Section 306 IPC had been added, also does not advance the case of the petitioner. The opinion formed by the investigating agency cannot curtail or fetter the powers of the Court under Section 216 Cr.P.C. Once evidence emerging during trial discloses ingredients of a graver offence, the Court is duty bound to frame an appropriate charge in accordance with law. The criminal Court is not bound by the conclusions drawn during investigation and is required to independently assess the material brought before it during trial. The argument that the medical evidence does not support homicidal administration of

poison or that no injury marks were found on the body of the deceased, are all matters touching upon appreciation and probative value of evidence, which cannot be conclusively adjudicated at the stage of alteration of charge. Even otherwise, where ocular evidence in the form of an oral dying declaration specifically implicates the accused, the same cannot be discarded outrightly merely because certain aspects of medical evidence are sought to be relied upon by the defence.

14. The judgment relied upon by learned counsel for the petitioner in ***Santosh's case (supra)*** also does not render any assistance to the petitioner. No doubt, it has been observed therein that neither the complainant nor the prosecution has any vested right to seek alteration of charge under Section 216 Cr.P.C., however, the said proposition itself does not curtail the *suo motu* powers of the Court to alter or add a charge on the basis of material brought before it. In fact, even if an application is moved by the prosecution or complainant, the Court is always competent to examine the material so placed before it and, upon being satisfied that ingredients of another offence are prima facie disclosed, proceed to alter the charge in exercise of its independent judicial power under Section 216 Cr.P.C. Thus, the said judgment rather supports the view that the determinative factor is not the locus of the applicant but the existence of material before the Court warranting alteration of charge.

15. In the considered opinion of this Court, the learned trial Court has neither conducted a roving inquiry nor recorded any finding on guilt. It has merely formed a prima facie opinion on the basis of evidence adduced during trial that sufficient grounds exist to frame charge under Section 302

IPC. The impugned order, therefore, does not suffer from any patent illegality, perversity or jurisdictional error warranting interference in revisional jurisdiction. Hence, finding no merit in the present petition, the same stands dismissed.

16. However, it is clarified that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

21.05.2026

Waseem R. Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No