



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

**CRR-1695-2021 (O&M)**  
**Reserved on :-21.07.2026**  
**Date of Pronouncement:- 30.07.2026**  
**Uploaded on:- 30.07.2026**

Nitesh Bansal

... Petitioner

Versus

State of U.T., Chandigarh

... Respondent

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**CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Argued by :-

Mr. R.S. Cheema, Senior Advocate with  
Mr. Satish Sharma, Advocate,  
Ms. Sumanjit Kaur, Advocate and  
Mr. Prince Bharol, Advocate for the petitioner.

Ms. Sharmila Sharma, Additional Public Prosecutor,  
U.T., Chandigarh.

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**VIRINDER AGGARWAL, J.**

1. By way of the present criminal revision petition, the petitioner has invoked the revisional jurisdiction of this Court to challenge the legality, validity and correctness of the order dated 02.08.2021 passed by the learned Additional Sessions Judge, Chandigarh, whereby charges were ordered to be framed against the petitioner and his co-accused, Gaurav Aneja, for the offences punishable under Sections 304, 336 and 338 read with Section 34 of the Indian Penal Code, 1860, arising out of FIR No. 32



dated 22.02.2020 (Annexure P-1), registered at Police Station Sector 34, Chandigarh.

2. The factual matrix giving rise to the present revision petition, shorn of unnecessary details, is that on 22.02.2020, at about 4:00 p.m., an unfortunate incident of fire broke out in House No. 3325, Sector 32-D, Chandigarh, which was being used as a Paying Guest (PG) accommodation. Upon receiving information, the local police along with the Fire Brigade immediately rushed to the spot. During the rescue operation, three young girls, namely Riya, Pakshi and Muskaan, were found lying unconscious inside the premises. They were immediately shifted to the hospital, where they were declared 'brought dead'. Two other occupants of the premises, namely Femina Sardana and Jasmine Kaur, who had sustained burn injuries, were admitted to the hospital for medical treatment. On the very same day, i.e., 22.02.2020, the present petitioner, Nitesh Bansal, was arrested by the investigating agency.

2.1. Consequently, FIR No. 32 dated 22.02.2020 (**Annexure P-1**) came to be registered against the owner of the premises, Gaurav Aneja, the present petitioner Nitesh Bansal, who was allegedly operating the Paying Guest accommodation, and another accused, Nitish Popli, for the commission of offences under the relevant provisions of the Indian Penal Code.

2.2. During the course of investigation, on 23.02.2020, the Central Forensic Science Laboratory (CFSL) team conducted a detailed inspection of the premises. During such inspection, pieces of a burnt electrical switchboard were recovered from Room No. 6, besides burnt electric wires, sockets and a completely burnt electronic device. The aforesaid



articles were taken into possession vide separate recovery memos, translated copies whereof have been placed on record as **Annexure P-2**.

2.3. According to the prosecution, the petitioner, along with co-accused Nitish Popli, was running the Paying Guest accommodation in the said premises, which had been taken on lease from co-accused Gaurav Aneja, the owner of the property. It is further alleged that several small cubicles had been created inside the house by partitioning the premises with fibre sheets and wooden structures, thereby accommodating a large number of female paying guests. The prosecution alleges that the passage inside the premises had been rendered extremely narrow, adequate ventilation had not been provided, windows and emergency exits were absent, and the staircase connecting the various floors was unusually narrow and uneven, thereby compromising the safety of the occupants in the event of any emergency. It is further alleged that despite the foreseeable risk of fire or similar mishaps, no emergency escape route or safety measures had been provided. During investigation, it was also found that as many as 33 girls were residing in the said PG accommodation spread over the ground, first and second floors.

2.4. The investigation further reveals that on 24.02.2020, pursuant to the disclosure statement allegedly made by the present petitioner, the investigating agency recovered the lease deed pertaining to the premises in question as well as the Tenant Verification Forms from his rented accommodation. Thereafter, on 27.02.2020, co-accused Gaurav Aneja, the owner of the premises, was also arrested. Simultaneously, an independent inquiry into the incident was conducted by the Sub-Divisional Magistrate (South), Union Territory, Chandigarh.



2.5. Subsequently, vide orders passed by the senior police officers, the investigation of the present case was transferred to the Crime Branch on 20.03.2020. During the course of further investigation, it also surfaced that co-accused Nitish Popli had already discontinued his partnership with the present petitioner in relation to the operation of the PG accommodation prior to the incident.

2.6. Upon completion of investigation, the investigating agency presented the final report under Section 173 Cr.P.C. against the present petitioner and co-accused Gaurav Aneja for offences punishable under Sections 304 and 336 IPC, a translated copy whereof has been placed on record as **Annexure P-3**. Thereafter, a supplementary report dated 17.09.2020 under Section 173 Cr.P.C. was also filed before the learned Trial Court, enclosing, inter alia, the statements of the two injured witnesses, namely Jasmine Kaur and Femina Sardana, recorded under Section 161 Cr.P.C. The translated copy of the supplementary report has been annexed as **Annexure P-4**, whereas the statements of Jasmine Kaur and Femina Sardana have been appended as **Annexures P-5** and **P-6**, respectively.

2.7. Ultimately, vide order dated 02.08.2021, the learned Additional Sessions Judge, Chandigarh framed charges against the present petitioner and co-accused Gaurav Aneja under Sections 304, 336 and 338 read with Section 34 IPC, and fixed the matter for recording of prosecution evidence on 26.08.2021.

3. Learned counsel appearing on behalf of the petitioner assails the impugned order primarily on the ground that the learned Trial Court has framed the charge under Section 304 IPC without undertaking the



requisite judicial scrutiny of the essential ingredients constituting the said offence. It is contended that the impugned order neither analyses nor records any *prima facie* satisfaction regarding the existence of the indispensable element of knowledge, which alone distinguishes an offence under Section 304 IPC from one punishable under Section 304-A IPC. According to the learned counsel, the learned Trial Court has failed to appreciate the settled distinction between culpable homicide not amounting to murder and death caused by a rash or negligent act.

3.1. It is further argued that even if the entire prosecution case is accepted at its face value, the allegations disclose, at the highest, an act of negligence in maintaining the premises and omission in providing safety measures. The gravamen of the allegations, as reflected not only in the FIR but also in the statements of the prosecution witnesses, is one of rashness and negligence. Significantly, the learned Trial Court itself has framed charges under Sections 336 and 338 IPC, both of which are founded upon the concepts of rashness and negligence. Learned counsel submits that once the injuries allegedly suffered by the surviving occupants have been attributed to rash and negligent conduct, there exists no legal basis for segregating the fatalities and invoking Section 304 IPC, instead of the more appropriate provision contained in Section 304-A IPC. It is thus contended that Sections 337, 338 and 304-A IPC constitute a cognate class of offences dealing with consequences flowing from rash and negligent acts and, therefore, the impugned order suffers from a manifest error of law.

3.2. It is further submitted that it is the admitted case of the prosecution itself that the unfortunate occurrence was an accidental fire,



allegedly originating from a laptop charger, which, according to the prosecution, was of inferior quality and had presumably been purchased from the grey market. There is no allegation whatsoever that the petitioner had any intention to cause death or that he possessed the requisite knowledge that his acts were so imminently dangerous as to make the occurrence of death a probable consequence. In the absence of the essential ingredients contemplated under Section 304 IPC, continuation of the proceedings under the said provision would amount to a gross misuse of the criminal process.

3.3. In support of the aforesaid submissions, learned counsel has placed reliance upon the judgments of the Hon'ble Supreme Court in ***Keshub Mahindra vs. State of Madhya Pradesh, 1996(6) SCC 129; Sushil Ansal vs. State through CBI, 2014(6) SCC 173; Shantibhai J. Vaghela and another vs. State of Gujarat and others, 2012(13) SCC 231***; as well as the judgment of this Court in ***Rajesh Aggarwal and another vs. State of Haryana, Criminal Revision No. 413 of 2001, decided on 27.11.2006***, which was subsequently affirmed by the Hon'ble Apex Court. It is submitted that the ratio laid down in the aforesaid decisions clearly delineates the distinction between offences under Sections 304 and 304-A IPC, and squarely supports the petitioner's contention that the facts of the present case, even if accepted in their entirety, do not travel beyond the realm of criminal negligence punishable under Section 304-A IPC and prayed that instant criminal revision petition be allowed.

4. Per contra, learned Additional Public Prosecutor has vehemently opposed the present revision petition and supported the impugned order, contending that the material collected during investigation



unmistakably discloses the commission of offences for which charges have rightly been framed. It is submitted that the prosecution case, at the stage of framing of charge, is required to be examined only to ascertain whether a strong prima facie case exists and not to undertake a meticulous appreciation of evidence. It is argued that the record reveals a conscious and reckless disregard for the safety of the occupants of the premises, thereby justifying the framing of charges against the petitioner.

4.1. Elaborating the aforesaid submissions, learned Additional Public Prosecutor contends that the investigation has revealed that the premises in question had been structurally modified by partitioning each floor into numerous small cubicles with the aid of fibre sheets and wooden partitions, thereby substantially increasing the occupancy beyond the safe capacity of the building. The internal passages had been rendered extremely narrow, while adequate windows and ventilation had either been blocked or altogether omitted, thereby severely compromising the means of escape in the event of any emergency. It is further submitted that neither the owner of the premises nor the persons operating the paying guest accommodation had provided any emergency exit, emergency door or escape window for the safety of the occupants. The staircase connecting the various floors was found to be narrow, congested and structurally unsuitable for the safe evacuation of a large number of residents during an emergency. The investigation has further disclosed that no fire safety measures whatsoever had been installed in the building and, significantly, not even a single fire extinguisher or other firefighting equipment was available at the premises. According to the prosecution, despite being fully aware of the grave risks inherent in accommodating a large number of



paying guests in such unsafe conditions, the owner as well as the persons operating the PG continued to run the establishment without adopting the minimum statutory and safety precautions. Such conscious omission and reckless disregard for human life, according to the State, constitute sufficient material to justify the charges framed against the petitioner. It is, therefore, prayed that the present criminal revision petition, being devoid of any merit, deserves to be dismissed.

5. I have heard learned counsel for the parties and have gone through the paper book minutely with their able assistance.

6. So far as the jurisdiction of this Court to quash the charge is concerned, it is well settled that the inherent powers conferred under Section 482 of the Code of Criminal Procedure, 1973 (now Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023) are to be exercised sparingly and with circumspection. While examining the legality or correctness of an order framing charge, this Court is required to undertake only a *prima facie* appraisal of the allegations emerging from the FIR and the final report submitted under Section 173 Cr.P.C. The Court is not expected to meticulously appreciate the evidence or adjudicate upon the truthfulness of the allegations, as such an exercise falls exclusively within the domain of the trial. This limitation must invariably guide the exercise of inherent jurisdiction while scrutinising the prosecution case.

6.1. In the present case, a perusal of the final report reveals that the prosecution has alleged that the petitioner, Nitish Bansal, was operating a Paying Guest (PG) accommodation in the premises taken on lease from co-accused Gaurav Aneja. The allegations further disclose that, with a view to accommodating a larger number of girl residents, the rooms were illegally



partitioned by using highly inflammable materials, including fibre and wood, without obtaining the requisite permissions from the competent authority. It is further alleged that the passages and staircases were excessively narrow, no emergency exit or fire-fighting arrangements had been provided, and the building was rendered wholly unsuitable for safe evacuation or rescue operations in the event of a fire or any other emergency.

6.2. In an analogous factual backdrop, the Hon'ble Supreme Court in ***Sushil Ansal vs. State through Central Bureau of Investigation, 2014 (6) SCC 173***, while dealing with the Uphaar Cinema tragedy involving structural deviations, fire safety violations and obstruction of escape routes, resulting in the death of 59 persons and injuries to several others, upheld the conviction of the accused under Section 304-A IPC and declined to accept the contention that the case attracted Section 304 IPC.

6.3. While arriving at the aforesaid conclusion, the Hon'ble Supreme Court placed reliance upon its earlier decision in ***Keshub Mahindra vs. State of Madhya Pradesh, 1996(6) SCC 129***, arising out of the Bhopal Gas Tragedy, wherein the accused were operating an industrial establishment storing highly toxic Methyl Isocyanate (MIC). The allegations therein pertained to serious deficiencies in the design of the plant, selection of construction material, storage systems, safety mechanisms and disposal facilities, ultimately leading to leakage of MIC gas, causing the death of thousands of persons and extensive injuries to many others. While examining whether the facts disclosed an offence under Section 304 Part II IPC or Section 304-A IPC, the Hon'ble Supreme Court held as under:-



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“Before any charge under Section 304 Part II can be framed, the material on record must at least prima facie show that the accused is guilty of culpable homicide and the act allegedly committed by him must amount to culpable homicide. In view of Section 299 IPC, the material relied upon by the prosecution for framing a charge under Section 304 Part II must at least prima facie indicate that the accused had done an act which had caused death with at least such a knowledge that he was by such act likely to cause death. The entire material which the prosecution relied upon before the trial court for framing the charge cannot support such a charge unless it indicates prima facie that on that fateful night when the Plant was run at Bhopal it was run by the accused concerned with the knowledge that such running of the Plant was likely to cause death of human beings. Mere act of running a Plant as per the permission granted by the authorities would not be a criminal act. Even assuming that it was a defective Plant and it was dealing with a very toxic and hazardous substance like MIC the mere act of storing such a material by the accused in Tank could not even prima facie suggest that the accused concerned thereby had knowledge that they were likely to cause death of human beings. In fairness to the prosecution it was not suggested and could not be suggested that the accused had an intention to kill any human being while operating the Plant. Taking the entire material on its face value and assuming it to represent the correct factual position in connection with the operation of the Plant at Bhopal on that fateful night it could not be said that the said material even prima facie called for framing of a charge against the accused concerned under Section 304 Part II IPC on the specious plea that the said act of the accused amounted to culpable homicide only because the operation of the Plant on that night ultimately resulted in deaths of a number of human beings and cattle.”



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6.1. It was further held as under:-

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“The material prima facie shows that there were not only structural defects but even operational defects in the working of the Plant on that fateful night which resulted into this grim tragedy. Even though, therefore, these accused cannot be charged for offences under Section 304 Part II the material led against them by the prosecution at least prima facie shows that the accused were guilty of rash or negligent acts not amounting to culpable homicide and by that act caused death of a large number of persons.”

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7. Further, in ***Rajesh Aggarwal and another vs. State of Haryana, Criminal Revision No.413 of 2001, decided on 27.11.2006***, this Court ordered alteration of the charge from Section 302 IPC to Section 304-A IPC, holding that the material on record did not disclose the commission of an offence punishable under either Section 302 IPC or Section 304 Part II IPC. In the said case, the accused were operating a pharmaceutical manufacturing unit without obtaining the requisite statutory approvals, including an approved factory plan and a No Objection Certificate from the Fire Department. It was further found that the emergency exit gate remained locked and the electrical system was defective, resulting in a fire that claimed the lives of seven employees. In the aforesaid factual backdrop, this Court held as under:-

“It cannot be said that the owner of the factory or the petitioners knew that their act of running the factory was so imminently dangerous that it must, in all probability, would cause death. It can also not be said



that accused had knowledge that their act of running the factory would cause death.”

8. In the present case as well, a *prima facie* consideration of the material collected during investigation and the final report submitted under Section 173 Cr.P.C. does not disclose that the petitioner, Nitesh Bansal, was operating the Paying Guest accommodation with the knowledge that his acts would cause death of occupants a likely consequence. The allegations, at their highest, attribute negligence in maintaining the premises and ensuring compliance with the requisite safety norms, but fall short of satisfying the essential ingredients constituting an offence punishable under Section 304 Part II IPC.

8.1. It is also significant to note that, in respect of the occupants who sustained injuries in the very same occurrence, the learned trial Court has framed charges under Sections 336 and 338 IPC, which specifically deal with rash and negligent acts endangering human life and causing grievous hurt. Once the prosecution case itself proceeds on the premise that the injuries sustained by the surviving victims resulted from rash and negligent acts attracting the aforesaid provisions, there appears to be no justifiable basis to invoke Section 304 Part II IPC in respect of the deceased persons arising out of the same incident and founded upon an identical factual matrix.

8.2. In view of the settled legal position enunciated by the Hon'ble Supreme Court and this Court in the judgments referred to hereinabove, this Court is of the considered opinion that the material collected during investigation, even if accepted at its face value, does not *prima facie*



disclose the commission of an offence punishable under Section 304 Part II IPC, nor does it justify the framing of a charge thereunder.

8.3. Consequently, the present revision petition deserves to be **allowed**. The charge framed against the petitioner, Nitesh Bansal, under Section 304 Part II IPC, as well as the corresponding charge framed against co-accused Gaurav Aneja, whose implication is founded primarily on the allegation that he was the owner of the premises leased out to the petitioner for running the Paying Guest accommodation, is hereby set aside. Instead, both the accused shall stand charged for the offence punishable under Section 304-A IPC, along with Sections 336 and 338 read with Section 34 IPC.

8.4. Since the offence under Section 304-A IPC is triable by a Magistrate, the learned Sessions Judge, Chandigarh, shall transmit the case to the Court of the learned Chief Judicial Magistrate, Chandigarh, who may either retain the case on his own file or assign it to the Court of the competent Illaqa Magistrate for trial in accordance with law after framing charge.

9. In view of the final adjudication of the principal matter, all pending miscellaneous applications, if any, arising out of or ancillary to the present proceedings shall also stand disposed of accordingly. No separate or further orders are required to be passed in respect thereof.

**30.07.2026**  
Gaurav Sorot

**( VIRINDER AGGARWAL )**  
**JUDGE**

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No