CNR No: PHHC010595032022
2026:PHHC:185348

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-24991-2022 (O&M)

Ramesh Arora

... Petitioner

Versus

Union of India

... Respondent

Reserved on: 31.08.2026
Pronounced on: 06.10.2026
Uploaded on: 06.10.2026

Whether only the operative part of the judgment is pronounced ? *No*

Whether full judgment is pronounced ? *Yes*

CORAM: HON'BLE MR. JUSTICE RAMESH CHANDER DIMRI

Present: Ms. Isha Goyal, Advocate and
Mr. Raja Paramdeep Saini, Advocate
for the petitioner.

Ms. Gurmeet Kaur Gill, Sr. Panel Counsel
for the respondent.

****

RAMESH CHANDER DIMRI, J.

1. Facts relevant for deciding the petition in question are that the respondent through its Drugs Inspector Sushant Sharma filed a complaint Annexure P-1 dated 08.04.2015 against the petitioner under Section 18(a)(i) read with Section 27(d) of the Drugs and Cosmetics Act, 1940 (for brevity

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CNR No: PHHC010595032022
2026:PHHC:185348



'1940 Act') before the Court of learned Chief Judicial Magistrate, Amritsar. It was averred in the complaint that as per an email received from Dr. Madhur Gupta on 30.06.2014 regarding urgent attention in respect of a message received from Philippines, Food and Drugs Administration, concerning approximately 45 serious adverse reactions including 01 death related to contaminated Heparin Sodium (Meprine 5) administered to the patients which has tested positive for bacterial contamination (Psudomonas aeroginosa and Enterobacter cloacae) manufactured by M/s Medchem International Ltd., Hyderabad and subsequent instructions from the office of Drugs Controller General of India, investigation was conducted by Zonal Office, Hyderabad on 01.07.2014 and 02.07.2014 in the premises of M/s Medchem International Ltd., Hyderabad. During investigation, it was mentioned that the said drug was manufactured by M/s Kwality Pharmaceuticals Pvt. Ltd., Amritsar and it is supplied to M/s Pharma Survey Philippines through third party agreement. It was concluded that further investigation on quality of the product manufactured by the said pharmaceuticals company shall be initiated by Sub Zone Office, Chandigarh. An investigation report dated 03.07.2014 was sent by Zonal Officer, Hyderabad. Accordingly, necessary joint investigation was carried out by Drugs Inspector Sushant Sharma and others in the premises of the said pharmaceuticals company on 05.07.2014. During investigation, the said officer drew 06 drugs samples including that of the drug in question

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CNR No: PHHC010595032022
2026:PHHC:185348

Heparin Sodium (Meparin 5) as mentioned in Form No.17 out of 11 drugs samples drawn under Section 23 of the 1940 Act and Rules framed thereunder. The said officer filled up Form No.17 and Form No.17-A at the spot and recorded details of the samples so lifted for test analysis. Samples were drawn and were sealed as per law. One sealed sample portion of the drug was sent to the concerned laboratory. The respondent received a test report dated 02.09.2014 alleging that the sample sent does not conform to claim to I.P. in respect of test for particulate matter and is also not of standard quality for the reason mentioned in the report. The respondent accordingly issued a notice dated 10.09.2014 to the petitioner. The said report was also forwarded to the Drugs Controller General of India with request for opinion from screening committee for prosecution/administrative action. The respondent received a reply from the petitioner. The petitioner did not agree with the report. The respondent also received show cause notice issued by Licensing Authority, Punjab to the petitioner. Accordingly, the respondent filed the said complaint for prosecution etc. of the petitioner.

2. On the basis of the said complaint, the petitioner was summoned under the abovementioned Sections. On appearance of the petitioner, the said Magistrate served a notice of accusation dated 23.03.2018 upon him. The petitioner did not plead guilty to it and claimed trial. The prosecution evidence was then led in the complaint. It was closed

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2026.10.06 14:12
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Punjab and Haryana High Court, Chandigarh

CNR No: PHHC010595032022
2026:PHHC:185348

on 09.01.2020. Statement of the petitioner under Section 313 of the Code of Criminal Procedure, 1973 (for brevity '1973 Code') was recorded. Defence evidence was also recorded on 18.03.2020 and 05.03.2021. The petitioner submitted written submissions against the complainant. However, on 28.09.2021, the respondent filed an application for amendment of notice of accusation. The petitioner filed reply dated 12.10.2021 to the said application. After hearing the parties on the said application, the concerned Magistrate allowed the said application through its order Annexure P-6 dated 03.03.2022. The said Magistrate then served a fresh notice of accusation Annexure P-7 dated 25.04.2022 on the petitioner. On that very date, it adjourned the matter for re-recording of the statement under Section 313 of the 1973 Code. The petitioner, through the present petition, challenges the said order Annexure P-6 along with all its consequential proceedings as bad in law.

3. Notice of the petition was given to the respondent. Upon notice, the respondent filed a response dated 14.11.2023. In the same, the respondent has defended the said application as well as order on it. It also says that the petitioner neither challenged the report of the Government Analyst nor requested the said Magistrate to send the sample for re-testing in terms of Section 25(4) of the 1940 Act. It also says that the petition in question under Section 482 of the 1973 Code is not maintainable as no ground is made out to exercise jurisdiction provided under the said Section.

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2026.10.06 14:12
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CNR No: PHHC010595032022
2026:PHHC:185348

As per it, no prejudice has been caused to the petitioner. The amendment sought was within the parameters of the complaint. Earlier notice of accusation was not as per the allegations and facts mentioned in the complaint. The said application sought to amend the said mistake. The impugned order has accordingly permitted the said amendment. With the material averments in the reply, the respondent has prayed for dismissal of the petition.

4. I have heard Ms. Isha Goyal, Advocate, assisted by Mr. Raja Paramdeep Saini, Advocate, learned counsel for the petitioner and Ms. Gurmeet Kaur Gill, Senior Panel Counsel, for the respondent.

5. Learned counsel for the petitioner has, *inter alia,* argued that provisions contained in Section 216 of the 1973 Code are not applicable to a summons case and specifically to the proceedings carried out under Section 251 of the said Code; that the amendment done is beyond the scope of the complaint as well as application filed by the respondent; that the entire evidence had been led by the prosecution and statement of the petitioner had also been recorded whereafter defence evidence was also produced and the complaint in question was fixed for final arguments; that the said application at that stage was not maintainable; that the impugned notice of accusation has resulted in grave prejudice to the petitioner; that the respondent has no vested right to get the notice of accusation altered/amended; and that the impugned order amounts to misuse of process

VISHNU
2026.10.06 14:12
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CNR No: PHHC010595032022
2026:PHHC:185348



of law and therefore is not sustainable. She has accordingly prayed for acceptance of the petition. In support of her arguments, she has relied upon reports ***Edward Vs. Victor Immanuel, 2003(1) RCR (Criminal) 39; Shiv Narain Bhasin Vs. State of Himachal Pradesh, 1986 (2) RCR (Criminal) 107; Career Institute Educational Society Vs. Om Shree Thakurji Educational Society, 2023 LiveLaw (SC) 380; M/s Intercorp Industries Ltd. and others Vs. Registrar of Companies, 2021 (224) Comp Cas 94; P. Kartikalakshmi Vs. Sri Ganesh and another, 2017(3) SCC 347; Vijay Kumar Jain Vs. State of Madhya Pradesh, 2020 CriLJ 2411; Raminder Pal Singh Khurana Vs. State of Punjab and another, 2025(3) RCR (Criminal) 466; Praveen Pal Vs. State of U.P. and 3 others, 2026 NCAHC 106407; Girineni Srinivasa Rao and others Vs. Girineni Radhamma and another, 1975 CriLJ 1287; State of Punjab Vs. Vinod Shah and another, 2026 (2) RCR (Criminal) 503; Siddappa Vs. Patel Shivappa, 1967 AIR (Mysore) 248*** as well as decisions in ***Criminal Miscellaneous No.59978 of 2021*** titled as ***Vishnu Kumar Yadav and another Vs. State of Bihar and another*** **rendered on 18.06.2026**; ***Criminal Revision No.2014 of 2010*** titled as ***Smt. Poornima @ Purneshwari Choudhary Vs. Ishwari Patle and another*** **rendered on 23.01.2013;** and ***CRLMC No.3158 of 2016*** titled as ***Bijaya Kumar Das Vs. State of Odisha and another*** **rendered on 05.01.2023.**

6. On the other hand, learned Senior Panel Counsel for the

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2026.10.06 14:12
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CNR No: PHHC010595032022
2026:PHHC:185348

respondent has argued that the application in question prayed for amendment which stood already contained in the complaint filed by the respondent; that earlier notice of accusation was factually incorrect; that the impugned order is in accordance with the contents of the complaint and therefore, no prejudice has been caused to the petitioner; that notice of accusation in question could have been altered/amended at any time till the complaint in question was decided; that the argument that Section 216 of the 1973 Code is not applicable to Section 251 of the said Code and to a summons case, is without substance and therefore, may be rejected; and that the impugned order is as per evidence on record and law warranting no interference under Section 482 of the 1973 Code. She has accordingly prayed for dismissal of the petition. In support of her arguments, she has relied upon the reports ***Girraj Prasad Meena Vs. State of Rajasthan and others, 2014(13) SCC 674; Neeru Shabnam Vs. Manoj Kumar, 2019(3) ILR (H.P.) 372*** and decision in ***Dukhiram Bhattacharya Vs. The State of West Bengal and another*** **rendered on 27.01.2020.**

7. After such hearing and perusal, I may state that the star argument raised on behalf of the petitioner in support of the petition in question is that since the complaint in question was a summons case, Section 216 of the 1973 Code will not apply to the said complaint and therefore, notice of accusation already served upon the petitioner could not have been ordered to be altered/amended by applying the said Section to the

VISHNU
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CNR No: PHHC010595032022
2026:PHHC:185348



said complaint. In this regard, I may state that there are judgments cited by learned counsel for the petitioner and learned counsel for the respondent holding contrary to each other in respect of applicability of the said Section to a summons case. Judgments cited by learned counsel for the petitioner hold that said Section is not applicable to the summons case whereas judgments cited by learned counsel for the respondent hold that the said Section will be applicable to a summons case and therefore, thereunder, a notice of accusation served under Section 251 of the 1973 Code can be altered/amended. At the same time, there is no judgment rendered by Hon'ble the Supreme Court cited by learned counsel for the petitioner in support of non-applicability of the said Section to a summons case. However, learned counsel for the respondent has cited ***Girraj Prasad Meena***'s report (*supra*) to contend that a notice of accusation can be altered/amended qua a charge framed under Section 228 of the abovestated Code or a notice of accusation served under Section 251 thereof. Relevant observations made by Hon'ble the Supreme Court in the said report are contained in para No.6 thereof. The said observations are reproduced as under: -

> *"6. Filing of charge sheet and taking cognizance has nothing to do with the finality of charges, as charges framed after the cognizance is taken by the court, can be altered/amended/changed and any charge can be added at any*

VISHNU
2026.10.06 14:12
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Punjab and Haryana High Court, Chandigarh

CNR No: PHHC010595032022
2026:PHHC:185348



stage upto the stage of conviction in view of the provisions of Section 216 Cr.P.C. The only legal requirement is that, in case the trial court exercises its power under Sections 228/251 Cr.P.C., the accused is entitled to an opportunity of show-cause/hearing as required under the provisions of Section 217 Cr. P.C. (Vide: ***Umesh Kumar v. State of A.P., JT 2013 (12) SC 213****).”*

8. Furthermore, in ***Neeru Shabnam***’s report (*supra*), a Single Bench of Himachal Pradesh High Court applied provisions contained in Section 216 of the 1973 Code to a summons case. Relevant observations of the said report are contained in paras No.4 & 5. The same are reproduced as under: -

“4. Having perused the material available on record, this Court finds that on 2.4.2018 Court below held consideration on charge, whereas complaint filed under Section 500 of IPC ought to have been decided as “Summons case” and there was no requirement, if any, for consideration on charge. Since matter came to be listed for consideration on charge on the aforesaid date, petitioner/accused also raised plea for discharge, which was ultimately turned down. Subsequently, on 28.4.2018 learned Court below put notice of accusation to the accused for having committed the offence punishable under

VISHNU
2026.10.06 14:12
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Punjab and Haryana High Court, Chandigarh

CNR No: PHHC010595032022
2026:PHHC:185348

Section 501 of IPC and thereafter complainant moved an application under Section 216 of the Code of Criminal Procedure, 1973 for alteration of charge. Vide order dated 31st July, 2018 learned trial Court partly allowed the application under Section 216 Cr.P.C., 1973 filed by the complainant and listed the matter for framing of additional charge on 25.8.2018.

5. Though, having perused order dated 2.4.2018, this Court has no hesitation to conclude that learned Court below initially wrongly proceeded to decide the case as a "Warrant case", but as has been noticed here-in-above, subsequently, Court below vide order dated 24.8.2018 rectified its mistake and put notice of accusation to the accused. Since there is no specific provision contained in Criminal Procedure Code, which provides for alteration of notice of accusation in "Summons case", court can alter notice of accusation while exercising power under Section 216 Cr.P.C., 1973 which empowers court to alter charge. There is no significant difference between "charge" and "notice of accusation", save and except that charge is framed in "warrants case" and notice of accusation is put in a "summons case". Needless to say, charge can be altered at any stage before pronouncement of judgment, as has been enshrined under Section 216 Cr.P.C., 1973 and as such,

VISHNU
2026.10.06 14:12
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Punjab and Haryana High Court, Chandigarh

CNR No: PHHC010595032022
2026:PHHC:185348



there appears to be no force in the arguments of learned counsel representing the petitioner that learned Court below erred while passing impugned order dated 31st July, 2018 accepting prayer of the complainant for alteration of charge."

9. Not only this, in the report ***Sakiri Vasu Vs. State of Uttar Pradesh and others, (2008) 2 SCC 409,*** the Hon'ble Supreme Court while referring to Section 156 of the 1973 Code observed as under: -

"16. The power in the Magistrate to order further investigation under Section 156(3) is an independent power, and does not affect the power of the investigating officer to further investigate the case even after submission of his report vide Section 173(8). Hence the Magistrate can order re-opening of the investigation even after the police submits the final report, vide State of Bihar vs. A.C. Saldanna AIR 1980 SC 326 (para 19).

17. In our opinion Section 156(3) Cr.P.C. is wide enough to include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order registration of an F.I.R. and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police. Section 156(3) Cr.P.C., though briefly worded, in our

VISHNU
2026.10.06 14:12
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Punjab and Haryana High Court, Chandigarh

CNR No: PHHC010595032022
2026:PHHC:185348



opinion, is very wide and it will include all such incidental powers as are necessary for ensuring a proper investigation.

18. It is well-settled that when a power is given to an authority to do something it includes such incidental or implied powers which would ensure the proper doing of that thing. In other words, when any power is expressly granted by the statute, there is impliedly included in the grant, even without special mention, every power and every control the denial of which would render the grant itself ineffective. Thus where an Act confers jurisdiction it impliedly also grants the power of doing all such acts or employ such means as are essentially necessary to its execution.

19. The reason for the rule (doctrine of implied power) is quite apparent. Many matters of minor details are omitted from legislation. As Crawford observes in his Statutory Construction (3rd Edn. Page 267):-

> *"… If these details could not be inserted by implication, the drafting of legislation would be an indeterminable process and the legislative intent would likely be defeated by a most insignificant omission."*

20. In ascertaining a necessary implication, the Court simply determines the legislative will and makes it effective. What is

VISHNU
2026.10.06 14:12
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Punjab and Haryana High Court, Chandigarh

CNR No: PHHC010595032022
2026:PHHC:185348

necessarily implied is as much part of the statute as if it were specifically written therein.

21. An express grant of statutory powers carries with it by necessary implication the authority to use all reasonable means to make such grant effective. Thus in ITO, Cannanore vs. M.K. Mohammad Kunhi, AIR 1969 SC 430, this Court held that the income tax appellate tribunal has implied powers to grant stay, although no such power has been expressly granted to it by the Income Tax Act.

22. Similar examples where this Court has affirmed the doctrine of implied powers are Union of India vs. Paras Laminates AIR 1991 SC 696, Reserve Bank of India vs. Peerless General Finance and Investment Company Ltd AIR 1996 SC 646 (at p. 656), Chief Executive Officer & Vice Chairman Gujarat Maritime Board vs. Haji Daud Haji Harun Abu 1996 (11) SCC 23, J.K. Synthetics Ltd. vs. Collector of Central Excise, AIR 1996 SC 3527, State of Karnataka vs. Vishwabharati House Building Co-op Society 2003 (2) SCC 412 (at p. 432) etc.

23. In Savitri vs. Govind Singh Rawat AIR 1986 SC 984 this Court held that the power conferred on the Magistrate under Section 125Cr.P.C. to grant maintenance to the wife implies the

VISHNU
2026.10.06 14:12
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Punjab and Haryana High Court, Chandigarh

CNR No: PHHC010595032022
2026:PHHC:185348



power to grant interim maintenance during the pendency of the proceeding, otherwise she may starve during this period.

24. In view of the abovementioned legal position, we are of the view that although Section 156(3) is very briefly worded, there is an implied power in the Magistrate under Section 156(3) Cr.P.C. to order registration of a criminal offence and /or to direct the officer in charge of the concerned police station to hold a proper investigation and take all such necessary steps that may be necessary for ensuring a proper investigation including monitoring the same. Even though these powers have not been expressly mentioned in Section 156(3) Cr.P.C., we are of the opinion that they are implied in the above provision."

10. If the said observations are applied to the case in question, it comes out that Section 251 of the 1973 Code permits the Magistrate concerned to serve a notice of accusation upon the accused of a summons case. Keeping in view such power granted to the Magistrate concerned, it can easily be inferred that power to alter/amend a notice of accusation was inherent in the Magistrate concerned and therefore it has exercised its power for alteration of the said notice of accusation in the present case. The said ground of non-applicability of Section 216 of the said Code to a summons case therefore looses significance and has no substance.

11. Coming to the second argument of learned counsel for the

VISHNU
2026.10.06 14:12
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Punjab and Haryana High Court, Chandigarh

CNR No: PHHC010595032022
2026:PHHC:185348



petitioner that the amendment done by the learned Magistrate is beyond scope of the complaint as well as application filed by the respondent, I may state that if the notice of accusation served upon the petitioner on 23.03.2018 is perused, it comes out that it was in the following terms: -

> *"That on 30.06.2014 in the area of Nagkalan, Sushant Sharma, the then Drugs Inspector CDSCO, Sub Zone, Chandigarh along with his team inspected your premises i.e. Kwality Pharmaceutical Pvt. Ltd. and took six samples of drugs i.e. Cimetidine, Injection 100 mg/ml, Furosemide Injection USP 20 mg/ml, Salbutamol Injection BP 0.5 mg/ml, Hyoscine Butylbromide BP 20 mg, Lidocaine Hydrochloride Injection IPW/v 20 ml, Meparin 5 (Heparin Sodium) for which you did not produce any valid drugs licence or RMP certificate thus contravened under Section 18(a)(i) read with Section 27(d) of the Drugs and Cosmetic Act 1940 and within the cognizance of this Court."*

12. If the said notice of accusation is compared to the contents of the complaint in question and evidence led in it, it was altogether different to such contents/evidence and in fact had material variance to the same. Contents of the complaint in question as summed up above do not at all coincide with the said notice of accusation. However, through the impugned alteration/amendment, the learned Magistrate has now served the altered/amended notice of accusation on the petitioner in the following terms: -

> *"That on 5.7.2014, Sushant Sharma alongwith Manish Kakkar,*

VISHNU
2026.10.06 14:12
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Punjab and Haryana High Court, Chandigarh

CNR No: PHHC010595032022
2026:PHHC:185348



Drugs Inspector, Sukhdeep Singh Drugs Inspector inspected your premises i.e. Kwality Pharmaceutical Pvt. Ltd. Nagkala, Majitha Road, Amritsar and drawn six drugs samples including drug Heparin Sodium (Meparin) Batch No.N76 N.D07/2013/E/D-07-2016 as mentioned in form 17, out of 11 sample drawn under section 23 of the Drugs and Cosmetics Rules and the samples were sent to Central Drugs Laboratory Calcutta after attestation give the report dated 2.9.2014 and the sample was declared in report not of Standard Quality with reason sample does not conform to IP with respect to test for particular matter and not of Standard Quality as per the report and thereby you committed an offence punishable under Section 18A(I) read with Section 27(d) of the Drugs and Cosmetic Act, 1940 which is with the cognizance of this Court."

13. If one compares said notice of accusation with contents of the above summed up complaint and evidence led in it, he/she can easily gather that the said notice of accusation is in accordance with such contents/evidence. Therefore, by altering/amending notice of accusation earlier issued to the petitioner, the learned Magistrate has removed the abovestated contradiction in contents of the complaint as well as evidence led in it vis-a-vis the notice of accusation. In the facts/circumstances of the present case, I find that such alteration/amendment was necessary for doing justice between parties of the *lis* in question. Not only this, after such alteration/amendment, the learned Magistrate gave opportunity to both the parties to examine witnesses. However, as is evident from Annexure P-8,

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2026.10.06 14:12
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CNR No: PHHC010595032022
2026:PHHC:185348



neither the complainant nor the petitioner availed the said opportunity. They rather came forward with a plea that after amendment of the notice of accusation, complainant does not want to examine any witness and the deposition of the witnesses already examined prior to amendment thereof, be read as such after amendment of such notice. Similarly, the petitioner also stated before the learned Magistrate that he does not want to cross-examine any witness of the complainant after amendment of the notice of accusation and all the witnesses already cross-examined prior to such amendment be read as such after amendment thereof. In that view of the matter, it comes out that the petitioner forgave his right to cross-examine witnesses of the complainant after amendment of the notice of accusation. After forgiving such right, he cannot be heard to say that alteration/amendment is not in accordance with contents of the complaint. Therefore, it cannot at all be said that amendment in the notice of accusation carried out by the learned Magistrate is beyond scope of the complaint or evidence led in it. So far as scope of the application filed by the respondent is concerned, the amendment was to be done as per the contents of the complaint as well as evidence led in it and not as per contents of the application. The said argument of learned counsel for the petitioner has therefore also no substance.

14. True it is that in the complaint in question, the complainant had led all its evidence and statement of the petitioner under Section 313 of the

VISHNU
2026.10.06 14:12
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Punjab and Haryana High Court, Chandigarh

CNR No: PHHC010595032022
2026:PHHC:185348

1973 Code had already been recorded whereafter the petitioner had also led evidence in defence and the complaint in question was fixed for final arguments. At the same time, as is settled in law, a charge can be amended/altered till a case is finally decided. If the same analogy is applied to a summons case, it has to be held that notice of accusation can be altered/amended till such a case is finally decided. The petitioner does not say that the case in question stood finally decided. In view thereof, the said argument of learned counsel for the petitioner has also no substance.

15. For what has been stated and observed above, it cannot be said that the impugned order is misuse of process of law and therefore is not sustainable. The alteration/amendment ordered/carried out by the learned Magistrate, rather, is as per law and facts of the case. May be that it has also been argued before me that the notice of accusation now served upon the petitioner was served without application of mind. At the same time, I find that the same is in accordance with contents of the complaint in question as well as evidence led in it and it cannot at all be said that it has been served without application of mind. In the present case, alteration/amendment has been carried out by the learned Magistrate as per contents of the complaint and evidence led in it, may be that the respondent filed an application for such alteration. A right to move an application vis-a-vis a discretion to alter/amend a notice of accusation are two different situations. In the present case, the respondent exercised the former one whereas notice of accusation

VISHNU
2026.10.06 14:12
I attest to the accuracy and integrity of this document
Punjab and Haryana High Court, Chandigarh

CNR No: PHHC010595032022
2026:PHHC:185348



was altered/amended by the learned Magistrate and it is as per contents of the complaint in question as well as evidence led in it. There is also much difference between a right and vested right. Further, in the report ***Sohan Lal Vs. State of Rajasthan, (1990) 4 SCC 580,*** charge was altered/amended on an application of the prosecution. In the report ***Kantilal Chandulal Mehta Vs. State of Maharashtra, AIR 1970 SC 359,*** charge was altered on oral request of a party. In ***P. Kartikalakshmi***'s report (*supra*) also, while asserting power of the Court to alter/add a charge, it was observed that neither a complainant/accused nor prosecution had a vested right to seek addition or alteration of charge. Rather, legal position on the issue appears to have been summarized in ***Praveen Pal***'s report (*supra*) in the following manner: -

> *"15. In the above judgments, the Hon'ble Supreme Court has held that the court may alter or add any charge under Section 216 Cr.P.C. and no party can seek such addition or alteration of the charge as a matter of right by filing an application. It is the trial court which would decide whether an appropriate charge has been framed or not, at the appropriate stage of the trial. On a consideration of broad probabilities of the case, the total effect of the evidence and documents adduced, the trial court must satisfy itself that the exercise of power under Section 216 Cr.P.C./239 B.N.S.S. is necessary. The provision*

VISHNU
2026.10.06 14:12
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Punjab and Haryana High Court, Chandigarh

CNR No: PHHC010595032022
2026:PHHC:185348



has been enacted with the solitary object to ensure a fair and full trial to the accused in each case.

16. If there was an omission in framing of the charge and it comes to the knowledge of the court trying the offence, power is always vested in the court, as provided under Section 216 Cr.P.C./239 B.N.S.S. to either alter or add the charge and that such power is available with the court at any time before the judgment is pronounced. The application preferred by the applicant-accused before the trial court was rightly rejected since it was not incumbent upon the trial court to pass an order under Section 216 Cr.P.C./239 B.N.S.S. on the application moved by the applicant-accused."

16. Therefore, remaining reports relied upon by the learned counsel for the petitioner are not applicable to the facts/circumstances of the present petition.

17. May be that the petitioner has come forward with a plea that impugned notice of accusation has caused prejudice to him. At the same time, on perusal thereof, I find that it is in consonance with the contents of the complaint and the case set up by the respondent since inception of the proceedings as well as evidence adduced by it. The amended/altered notice of accusation was also put to him and he did not admit it. Once it is so, it is for the petitioner to answer the said accusation in accordance with law. It

VISHNU
2026.10.06 14:12
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Punjab and Haryana High Court, Chandigarh

CNR No: PHHC010595032022
2026:PHHC:185348

does not lie in his mouth to say that the amendment of the notice of accusation in accordance with contents of the complaint in question and evidence led in it have caused prejudice to him. He has a liberty to rebut case set up against him and for that purpose, he is still having the opportunity to lead defence evidence. In that view of the matter, such argument raised on behalf of the petitioner also has no substance.

18. For the reasoning given and discussion made in preceding portion of the present judgment, I find that the present petition has no substance calling for interference under Section 482 of the 1973 Code. It is accordingly dismissed. However, anything mentioned in the present judgment shall not affect final decision of the complaint in question by the learned Magistrate.

19. Interim application/s, if any, is/are disposed off.

[RAMESH CHANDER DIMRI]
JUDGE

06.10.2026
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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2026.10.06 14:12
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