

STATE OF HARYANA

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v.

RAJESH AGGARWAL & ANR.

(Criminal Appeal No. 2218 of 2011)

AUGUST 20, 2018

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**[ABHAY MANOHAR SAPRE AND  
SANJAY KISHAN KAUL, JJ.]**

*Code of Criminal Procedure, 1973: s.482 – Quashing of FIR – Prosecution case was that a blast took place in a factory resulting in death of seven persons and criminal proceedings were initiated against the respondents being the persons responsible for the affairs and running of the factory for commission of offence punishable under s.302 IPC – Respondents sought quashing of FIR – High Court partly allowed the petition and altered the charge to s.304A IPC – On State’s appeal, held: The reasoning and the conclusion arrived at by the High Court for altering the charge for the offence from s.302 to s.304-A IPC at this stage cannot be faulted with – Sessions Judge is directed to complete the trial within one year – Penal Code, 1860 – s.304A.*

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**Dismissing the appeal, the Court**

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**HELD: The trial in the case must set in motion and conclude in terms of the direction of the High Court for deciding as to whether any case under Section 304-A IPC has been made out against the respondents or not and, if so, what punishment can be imposed on them for commission of such offence, and if not, then why. Due to pendency of this litigation and the stay operating, the trial in the case remained stayed for all these years. The Sessions Judge, who is seized of the trial of the respondents’ case in question, is directed to ensure that the trial is completed on merits within one year from the date of this order strictly in accordance with law. Depending upon the evidence adduced by the prosecution, the Sessions Judge has ample power to alter/amend/add any charge by taking recourse to powers under Section 216 of the Cr.P.C. notwithstanding the High Court altering the charge at this stage. [Paras 13-16] [927-E-G; 928-A-B]**

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A CRIMINAL APPELLATE JURISDICTION : Criminal Appeal  
No. 2218 of 2011

From the Judgment and Order dated 27.11.2006 of the High Court of Punjab & Haryana at Chandigarh in Criminal Revision No. 413 of 2001.

B Dr. Monika Gusain, Ms. Manpreet Kaur Bhalla, Niraj Jha, Vinod Sharma, Gopal Singh, Shivam Singh, Advs. for the appearing parties.

The Judgment of the Court was delivered by

C **ABHAY MANOHAR SAPRE, J.** 1. This appeal is filed by the State of Haryana against the final judgment and order dated 27.11.2006 passed by the High Court of Punjab & Haryana at Chandigarh in Criminal Revision No.413 of 2001 whereby the High Court partly allowed the petition filed by the respondents herein and altered the charge framed against them for the offence punishable under Section 302 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”) to that under Section  
D 304-A IPC.

2. Few facts need to be mentioned *infra* for the disposal of the appeal, which involves a short point.

E 3. There is a private limited company called “M/s Kee Pharma Private Limited” at Gurgaon (Haryana). This company is engaged in the business of manufacture of chemical drugs in their factory at Gurgaon.

4. The respondents are said to be the shareholders/Directors of the Company and are responsible for the day-to-day affairs and working of the Company and its factory.

F 5. On 27.06.1996, a blast occurred in the factory premises and as a result of which smoke spread in the entire factory. When the blast occurred, 45 workers were present in the factory. They ran here and there for their safety. This resulted in stampede in the factory area causing death of seven workers.

G 6. This led to registration of FIR No.694 of 1996 on 27.06.1996 against the respondents in PS Sadar, Gurgaon at the instance of some of the workers. It was registered against the respondents being the persons responsible for the affairs and running of the Company and its factory for commission of offence punishable under Section 302 IPC.

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7. The respondents, questioning the legality of the FIR registered against them for the offence punishable under Section 302 IPC, filed a petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “the Cr.P.C.”) in the High Court of Punjab and Haryana and sought its quashing. A

8. By impugned order, the High Court partly allowed the petition and altered the charge framed against the respondents for the offence punishable under Section 302 IPC to Section 304-A IPC. B

9. The State felt aggrieved by the impugned order and filed this appeal by way of special leave in this Court.

10. Heard Dr. Monika Gusain, learned counsel for the appellant-State and Mr. Gopal Singh, learned counsel for the respondents. C

11. The short question, which arises for consideration in this appeal, is whether the High Court was justified in partly allowing the petition and thereby was justified in altering the charge framed against the respondents for the offence punishable under Section 302 IPC to Section 304-A IPC. D

12. Having heard the learned counsel for the parties and on perusal of the record of the case, we find no merit in the appeal.

13. At the outset, we are constrained to observe that the trial in the case must set in motion and conclude in terms of the direction of the High Court for deciding as to whether any case under Section 304-A IPC has been made out against the respondents or not and, if so, what punishment can be imposed on them for commission of such offence, and if not, then why. In our opinion, the reasoning and the conclusion arrived at by the High Court for altering the charge for the offence from Section 302 to Section 304-A IPC at this stage cannot be faulted with. E F

14. It is really unfortunate that due to pendency of this litigation and the stay operating, the trial in the case remained stayed for all these years. It obviously benefited the respondents who, despite not questioning the altering of the charge by the High Court, did not face trial even for altered charge. G

15. Without expressing any opinion on the factual controversy on the said unfortunate incident, which took the life of seven workers as the same is now subject matter of trial before the Sessions Judge, we

- A direct the Sessions Judge, who is seized of the trial of the respondents' case in question, to ensure that the trial is completed on merits within one year from the date of this order strictly in accordance with law.

16. Needless to observe, depending upon the evidence adduced by the prosecution, the Sessions Judge has ample power to alter/amend/  
B add any charge by taking recourse to powers under Section 216 of the Cr.P.C. notwithstanding the High Court altering the charge at this stage.

17. With these observations/directions, the appeal fails and is accordingly dismissed. The order granting interim stay is recalled.

- C 18. Registry is directed to send a copy of this order forthwith to the concerned Sessions Judge/Police Station for ensuring compliance of the directions contained in this order.

Devika Gujral

Appeal dismissed.