

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Revision No. 1050 of 2022

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1. Nagendra Pandey, aged about 53 years, S/o Rudradev Pandey,
 2. Madhu Devi, aged about 43 years, W/o Nagendra Pandey,
 3. Satyendra Pandey, aged about 51 years, S/o Rudradev Pandey,
 4. Sarita Devi, aged about 45 years, W/o Satendra Pandey,
- All are resident of : Ward No.-02, Rapura, Harigawan, Garhwa, Majhiaon, P.O. Harigawan & P.S. Majhiaon, Dist.-Garhwa, State-Jharkhand

... **Petitioners**

Versus

1. The State of Jharkhand
2. Ram Kathin Tiwari, S/o Late Raj Kumar Tiwari, residing at Village-Tolra, P.O. & P.S.-Rehla, Dist.-Palamu, State-Jharkhand

... **Opp. Parties**

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For the Petitioner : Mr. Deepak Kr. Dubey, Advocate
Mrs. Rakhi Sharma, Advocate
Mrs. Ruhi Dubey, Advocate
Ms. Aparna Sharma, Advocate
For the State : Mr. Gautam Rakesh, A.P.P.

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P R E S E N T
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

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ORDER

C.A.V. on 10.06.2026

Pronounced on 24.06.2026

1. Instant criminal revision is directed against the order dated 10.08.2022 passed by Additional Sessions Judge-I, Garhwa in S.T. No. 158 of 2017, whereby and whereunder application under Section 216 of Cr.P.C. has been allowed

and the case was fixed on 12.09.2022 for reading of additional charge against the accused petitioners .

2. Factual matrix giving rise to this revision is that informant's daughter Savita Devi (since deceased) was married in the year 1997 with one Subhash Pandey. It is alleged that after some time of marriage, informant's daughter was subjected to physical and mental cruelty leveling accusation of theft by her in-laws Gotni and elder brother-in-laws. On 16.05.2012, all the accused persons (present petitioners) at about 3:00 pm, dragged Savita Devi by hair and forcibly administered her poisonous substance in Sattu. The above incident was informed to the informant (father of the deceased) by his elder Natini (Divya Kumari) through mobile phone. Then, he rushed towards village Rapura and reached at the matrimonial home of his daughter, who was brought to Sadar Hospital, Garhwa for treatment but died.

On the basis of fardbeyan of the informant, F.I.R. was registered for the offence under Sections 328, 302 read with Section 34 of the I.P.C.

3. After conclusion of the investigation, the Investigating Officer submitted charge-sheet against the accused persons for the offence under Section 306 of the I.P.C. The cognizance was taken for the aforesaid offence and case was committed to the Court of Sessions.

4. Initially, the charge was framed for the offence under Section 306 of the I.P.C. against the present petitioners in the month of July, 2017. The trial commenced, wherein, as per evidence of Doctor, I.O. and P.W.-4 Divya Kumari (daughter of the deceased) being sole eye -witness of the occurrence categorically revealed that the deceased was forcibly administered poison, due to which, she died. The viscera report of the deceased also corroborates the case of poisoning. Therefore, prosecution filed an application under Section 216 of the Cr.P.C. for adding charge under Section 328 & 302/34 of the I.P.C.

5. The learned trial Court after giving opportunity of hearing to both the parties allowed the application filed by the prosecution and charge was altered by framing the additional charge under Section 328 & 302/34 I.P.C., which has been assailed in this revision.

6. I have already heard the arguments of learned counsel for the petitioners and the learned A.P.P for State.

7. Learned counsel for the petitioners has strenuously argued that under the provisions of Section 216 of the Cr.P.C., neither prosecution nor accused has any vested right to get alteration or adding of any charge, rather, this power is within the domain of the Court alone. Therefore, the learned trial Court has committed serious illegality, while allowing the application of the prosecution for adding the charge. Learned counsel has placed reliance upon the reported judgment in the case of **P. Kartikalakshmi vs. Sri Ganesh & Anr. (2017) 3 SCC 347** wherein at para 6, the Hon'ble Supreme Court has laid down as under:-

“6. Having heard the learned counsel for the respective parties, we find force in the submission of the learned senior Counsel for respondent 1. Section 216 CrPC empowers the Court to alter or add any charge at any time before the judgment is pronounced. It is now well settled that the power vested in the Court is exclusive to the Court and there is no right in any party to seek for such addition or alteration by filing any application as a matter of right. It may be that if there was an omission in the framing of the charge and if it comes to the knowledge of the Court trying the offence, the power is always vested in the Court, as provided

under Section 216 Cr.P.C. to either alter or add the charge and that such power is available with the Court at any time before the judgment is pronounced. *It is an enabling provision for the Court to exercise its power under certain contingencies which comes to its notice or brought to its notice.* In such a situation, if it comes to the knowledge of the Court that a necessity has arisen for the charge to be altered or added, it may do so on its own and no order need to be passed for that purpose. After such alteration or addition when the final decision is rendered, it will be open for the parties to work out their remedies in accordance with law.”

8. On the other hand, learned A.P.P. controverting the aforesaid arguments raised on behalf of the petitioners, has submitted that admittedly, the F.I.R. was registered for the offence under Sections 328 & 302/34 of the IPC against the accused persons but the investigating officer submitted charge sheet under Section 306 of the IPC. As per F.I.R. itself, it was a case of forcible administration of poison to the deceased, which was sole cause of her death. The information was also received by the informant from eye witness Divya Kumari (P.W.-4). It was mere formal application of the prosecution for adding charge under Section 328 & 302/34 of the IPC, which was elaborately considered by the learned trial Court, on its own wisdom and considered the necessity

in the factual background of the case, which has been proved by the prosecution, therefore, order for adding the charge under Section 328 and 302 /34 of IPC was passed. It is further submitted that simply because the prosecution filed an application for adding charge, the satisfaction of the learned trial Court cannot be vitiated as there is no requirement of filing any application by either party under Section 216 of the Cr.P.C. and the power is vested on the Court *suo moto*. The result would have been otherwise, if the application filed by the prosecution might have been rejected, then certainly the prosecution had no vested right for adding charges sought for. Therefore, there is no illegality or infirmity in the impugned order and no merits in this revision, which is fit to be dismissed.

9. I have gone through the impugned order in the light of contentions raised on behalf of both side.

10. It appears that although the F.I.R. was lodged under Section 328 & 302/34 of the IPC and there was specific allegation against the petitioners that they had forcibly administered poisonous substance mixing in Sattu to the deceased. The sole eye witness is the daughter of the

deceased P.W.-4 (Divya Kumari) who has also been examined during trial. F.S.L. Report also corroborates that highly poisonous substance was found in the viscera of the deceased.

11. It is here pertinent to observe that Section 216 Cr.P.C. empowers the trial Court to alter or add the charges, at any time, before the judgment is pronounced. Whenever, such an alteration or addition is made, it is to be read out and explained to the accused. The phrase “add to any charge” in sub-section (1) of Section 216 Cr.P.C. includes addition of a new charge. The provision enables the alteration or addition of a charge based on materials brought on record during the course of trial. Section 216 Cr.P.C. provides that the addition or alteration has to be done “at any time” before judgment is pronounced. Sub-section 3 provides that if the alteration or addition to a charge does not cause prejudice to the accused in his defence or the prosecutor in the conduct of the case, the Court may proceed with the trial, as if the additional or alternative charge is the original charge. Sub-section (4) of Section 216 Cr.P.C. contemplates a situation, where the addition or alteration of the charge will prejudice the accused

or the prosecutor, it empowers the Court to either direct a new trial or adjourn the trial, for such period, as may be necessary to mitigate the prejudice likely to be caused to the accused.

12. It appears that there is no fitter on the power of the Court simply because the addition/alteration of charge has been sought for, by the parties by filing an application. But at the same time, the reliance placed upon the Judgment of Hon'ble Supreme Court in the case of **P. Kartikalakshmi (supra)** by the petitioner, wherein the application for addition of charge was filed by the prosecution, was rejected by the concerned trial Court, thereafter, revision was filed by the prosecution and assailed up to the Hon'ble Supreme Court and it was reiterated that there is no vested right in the parties to seek invocation of Section 216 Cr.P.C.

13. In the instant case, the application filed by the prosecution has been allowed by the learned trial Court having considered the facts, circumstances and materials available on record and the necessity to frame charge under Section 328 & 302/34 of the IPC against the present petitioners. It is not surprising to the defence by adding the

aforesaid charges because from the very inception, the prosecution case is very specific that the deceased died due to administration of poisonous substance in Sattu by the present petitioners.

14. In view of above discussion and reasons, I do not find any reason to interfere with the impugned order and no merits in this revision, which stands **dismissed**.

15. Pending I.A., if any, stands disposed of.

16. Let a copy of this order be sent to the concerned Court for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi

Dated: 24/06/2026

Basant / **AFR**

Uploaded On: 25/06/2026