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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M- 46869-2025

Date of Decision: 17.09.2025

HARJINDER SINGH ALIAS HARJINDER SINGH AULAKH ALIAS  
JITA

... PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE SUBHAS MEHLA**

Present: Mr. Naveen Bawa, Advocate  
for the petitioner.

Mr. Subhash Godara, Additional Advocate General, Punjab.

**SUBHAS MEHLA, J. (ORAL)**

The instant petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS, 2023') seeking quashing of impugned order dated 08.07.2025 passed by the JMIC, Jagraon, District Ludhiana whereby application under Section 216 of Cr.P.C. filed by respondent no. 2 for adding the charge of Sections 457, 380 of IPC in FIR No. 90 dated 23.08.2018 registered under Sections 448, 427, 201 IPC at Police Station City Raikot, District Ludhiana has been wrongly allowed.

2. Learned counsel for the petitioner contended that no offence under Section 380 and 457 IPC is made out against the petitioner as the complainant moved the application after five months of the incident



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regarding missing of Eco machine and an amount of Rs. 1700, which is an after thought. But after thorough investigation by the police, Section 380 and 457 IPC have been deleted and now the trial Court has altered the charges without providing an opportunity to the petitioner accused to cross-examine the witness PW-1 and requested that the application under Section 216 Cr.P.C. be decided after providing opportunity to cross examine the witness on facts which is necessary for proper adjudication of application under Section 216 Cr.P.C.

3. On the other hand, learned State counsel, appearing on advance notice, contended that the application for the said purpose was moved on the very next date but he failed to point out the exact date on copy of application the same was moved or whenever supplementary statement was recorded as in initial complaint these facts are missing. Learned State counsel further submits that there is no prejudice to the petitioner at this stage as only the charges have been framed and it is a matter of trial as petitioner gets the opportunity to cross-examine witness.

4. Faced with this, learned counsel appearing for the petitioner contended that the incident is of the intervening night of 16/17<sup>th</sup> August, 2018 but the application regarding missing of Eco-machine was moved in the month of January, 2019.

5. Heard.

6. Keeping in view the submissions made by learned counsel for the petitioner that the application was moved after five months and after thorough investigation by the police, no offence under Sections 380 and 457 IPC has been made out and the charges have been altered only on

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examination-in-chief of the complainant and petitioner/accused are not provided the opportunity of hearing, this Court finds merit in the present petition and the same is allowed. Consequently, the order dated 08.07.2025 is hereby set aside. The trial Court is directed to pass a fresh order on the application moved by the complainant after cross-examination of the complainant.

7. Disposed of accordingly.

**(SUBHAS MEHLA)**  
**JUDGE**

17.09.2025

*Sima*

*Whether speaking/reasoned*      *Yes/No*

*Whether reportable*              *Yes/No*