



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

295

CRM-M-6077-2026
Date of Decision : **July 09, 2026**

JOBANPREET SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB AND ORS.

.....Respondents

CORAM: HON'BLE MR. JUSTICE H.S. GREWAL

Present : Mr. L.S.Mann, Advocate for the petitioner.

Mr. K.D.Sachdeva, DAG, Punjab.

H.S. GREWAL, J. (Oral)

1. This petition has been filed under Section 528 BNSS seeking quashing of the order dated 02.01.2026 (Annexure P-8) passed by the learned Sessions Judge, Fatehgarh Sahib, whereby the order 20.01.2024 (Annexure P-6) passed by the learned trial Court has been set-aside and consequently the petitioner has been summoned as an additional accused under Section 319 of Cr.P.C. in case FIR No.51 dated 19.05.2020 registered under Sections 325, 323, 341, 201, 34 IPC, at Police Station Mulepur, Tehsil and District Fatehgarh Sahib.

2. The petitioner was although named in the FIR and was attributed an injury on the arm of the son of the complainant, which was declared simple in nature. However, during investigation vide report dated 07.09.2020, the present petitioner was exonerated as he was found not present at the spot.

Thereafter while deposing in evidence, the complainant has named the petitioner again and thereafter the prosecution moved an application under Section 319 Cr.P.C. for summoning the petitioner as an additional accused. The Revisional Court has held that the petitioner had caused an injury on the arm of the son of the complainant and complainant-Joginder Singh had stated that the petitioner gave a soti blow on the left arm of his son Khushdeep Singh and while Khushdeep Singh appearing as PW2 has stated that he was hit by a soti on his left arm. Khushdeep Singh has suffered injury of swelling in his left shoulder which was kept under observation.

3. Mere reading of the order of the learned trial Court, it is *prima facie* made out that the learned trial Court has not considered the report which has exonerated the petitioner as there is no mention of such report in its order. Moreover, the only observation is that injury No.1 is the pain and swelling on the left shoulder, which was kept under observation and was declared as simple in nature and, therefore, the accused Jobanpreet Singh was summoned for the “offences” under Sections 323, 325/34 and 341/34 IPC. Moreover, the very description of the injury is also attributed to the petitioner, which was also not found on the person of Kushdeep Singh. Swelling on the shoulder and injury on the arm would be totally different. Moreover, as per the settled proposition of law, there has to be more than *prima facie* evidence to summon the additional accused to face trial.

4. Admittedly, the powers under Section 319 Cr.P.C. are extraordinary in nature but it should be used only when strong and convincing

evidence comes before the Court during trial. In the present case, apart from the allegations already contained in the FIR, there is no separate, independent, or stronger evidence to show that the petitioner had actively participated in the commission of the alleged offence.

5. Hon'ble the Supreme Court in the case of **Brijendra Singh vs. State of Rajasthan(supra)**, while deciding the similar issue, has held as under:-

“13. In order to answer the question, some of the principles enunciated in Hardeep Singh's case may be recapitulated:-

Power under [Section 319](#) Cr.P.C. can be exercised by the trial court at any stage during the trial, i.e., before the conclusion of trial, to summon any person as an accused and face the trial in the ongoing case, once the trial court finds that there is some 'evidence' against such a person on the basis of which evidence it can be gathered that he appears to be guilty of offence. The 'evidence' herein means the material that is brought before the Court during trial. Insofar as the material/evidence collected by the IO at the stage of inquiry is concerned, it can be utilised for corroboration and to support the evidence recorded by the Court to invoke the power under [Section 319](#) Cr.P.C. No doubt, such evidence that has surfaced in examination-in-chief, without cross- examination of witnesses, can also be taken into consideration. However, since it is a discretionary power given to the Court under [Section 319](#) Cr.P.C. and is also an extraordinary one, same has to be exercised sparingly and only in those cases where the circumstances of the case so warrants. The degree of satisfaction is more than the degree which is warranted at the time of framing of the charges against others in respect of whom chargesheet was filed. Only where strong and cogent evidence occurs against a person from the evidence led before the Court that such power should be exercised. It is not to be exercised in a casual or a cavalier manner. The prima facie opinion which is to be formed requires stronger evidence than mere probability of his complicity.

14. xxxxxxxxx

15. *This record was before the trial court. Notwithstanding the same, the trial court went by the deposition of complainant and some other persons in their examination-in-chief, with no other material to support their so- called verbal/ocular version. Thus, the 'evidence' recorded during trial was nothing more than the statements which was already there under [Section 161](#) Cr.P.C. recorded at the time of investigation of the case. No doubt, the trial court would be competent*

to exercise its power even on the basis of such statements recorded before it in examination-in-chief. However, in a case like the present where plethora of evidence was collected by the IO during investigation which suggested otherwise, the trial court was at least duty bound to look into the same while forming prima facie opinion and to see as to whether ‘much stronger evidence than mere possibility of their (i.e. appellants) complicity has come on record. There is no satisfaction of this nature. Even if we presume that the trial court was not apprised of the same at the time when it passed the order (as the appellants were not on the scene at that time), what is more troubling is that even when this material on record was specifically brought to the notice of the High Court in the Revision Petition filed by the appellants, the High Court too blissfully ignored the said material. Except reproducing the discussion contained in the order of the trial court and expressing agreement therewith, nothing more has been done. Such orders cannot stand judicial scrutiny.’”

6. Reference can also be made to the judgment of the Hon’ble Supreme Court in **Hardeep Singh versus State of Punjab and others (supra)**, wherein following observations have been made:-

“Power under [Section 319 CrPC](#) is a discretionary and an extraordinary power. It is to be exercised sparingly and only in those cases where the circumstances of the case so warrant. It is not to be exercised because the Magistrate or the Sessions Judge is of the opinion that some other person may also be guilty of committing that offence. Only where strong and cogent evidence occurs against a person from the evidence led before the court that such power should be exercised and not in a casual and cavalier manner.”

7. Moreover, while dealing with the similar case, a Coordinate Bench of this Court in **Varinder Singh versus State of Punjab, 2024(1) RCR (Criminal) 118**, relied upon the aforesaid judgments of the Hon’ble Supreme Court and held that mere reiteration of allegations without any credible and strong material is not sufficient for summoning an accused under Section 319 Cr.P.C. The relevant extract thereof is as under:-

“7. xxxxxxxx. Therefore, in the opinion of this Court, summoning of the petitioner under Section 319 Cr.P.C. merely on the statement made by the complainant without taking into consideration documentary and other evidence during the course of investigation warrants interference by this Court. The trial Court was at least duty-bound to look into the material/evidence collected by the investigating agency, while forming prima facie opinion and to see as to whether much stronger evidence than mere possibility of complicity of the petitioner has come on record. The Hon’ble Supreme Court in **Brijendra Singh’s case (supra)** has held that the trial Court cannot summon a person as accused on the basis of examination-in-chief of the complainant and his witness in case where the complainant lodged FIR against three persons in a murder case, who were found away to a distance place on day of occurrence on the basis of documents by the investigating agency.

8. The FIR is not supposed to be an encyclopaedia of the entire events and cannot contain the minute details of the events. Mere statement of the complainant reiterating the contents of FIR/complaint not substantiated by any credible material, cannot be a ground to invoke the discretionary and extraordinary power of this Court to summon an additional accused under Section 319 Cr.P.C. In the absence of any material suggesting existence of more than prima facie case available during the course of trial of an offence, courts ought to refrain themselves from exercising its discretionary and extraordinary power under Section 319 Cr.P.C. The Constitution Bench of the Hon’ble Supreme of India in **Hardeep Singh Vs. State of Punjab (2014) 3 SCC 92** has held that the power under Section 319 Cr.P.C is a discretionary and an extraordinary power. It is to be exercised only on the basis of the material available before the Court during a trial and not because the Magistrate or the Sessions Judge is of the opinion that some other accused/person may also be guilty of committing that offence.

9. The trial Court must evaluate the material against the persons sought to be summoned and then adjudge whether such material, more or less, carry the same weightage and value as has been testified against those who are already facing trial. In the absence of any credible material, the power under Section 319 Cr.P.C. ought not to be invoked. A two Judge Bench of the Hon’ble Supreme Court in **Juhru and others Vs. Karim and another (2023) 5 SCC 406** speaking through Justice Surya Kant,

while relying upon **Hardeep Singh's case (supra)** has held as under:-

“16. It is, thus, manifested from a conjoint reading of the cited decision that power of summoning under Section 319 CrPC is not to be exercised routinely and the existence of more than prima facie case is sine qua non to summon an additional accused. We may hasten to add that with a view to prevent the frequent misuse of power to summon additional accused under Section 319 CrPC, and in conformity with the binding judicial dictums referred to above, the procedural safeguard can be that ordinarily the summoning of a person at the very threshold of the trial may be discouraged and the trial court must evaluate the evidence against the persons sought to be summoned and then adjudge whether such material, more or less, carry the same weightage and value as has been testified against those who are already facing trial. In the absence of any credible evidence, the power under Section 319 Cr.P.C. ought not to be invoked.”

(emphasis supplied)

8. In light of the above, this Court is of the considered view that the impugned order dated 02.01.2026 (Annexure P-8) is unsustainable and liable to be set aside.

9. Consequently, this petition is allowed and the summoning order dated 02.01.2026 (Annexure P-8) passed by the learned Sessions Judge, Fatehgarh Sahib against the petitioner in case FIR No.51 dated 19.05.2020 registered under Sections 325, 323, 341, 201, 34 IPC, at Police Station Mulepur, Tehsil and District Fatehgarh Sahib, is hereby quashed qua the petitioner only.

10. Pending application, if any, shall stand disposed of accordingly.

July 09, 2026

ajaysharma

(H.S. GREWAL)

JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No