



SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>CRLR/824/2024</u> Tarif Mohammad And Ors --Revisionist Versus State Of Uttarakhand --Respondent <u>Hon'ble Alok Mahra, J.</u> Mr. A.S. Rawat, Senior Advocate, assisted by Mr. Gaurav Paliwal, Mr. Bilal Ahmed and Mohd. Matlub, Advocates for the revisionists. Mr. S.S. Chauhan, Deputy Advocate General and Mr. Vikas Uniyal, Brief Holder for the State of Uttarakhand. Mr. R.P. Nautiyal, Senior Advocate, assisted by Mr. Pavan Kumar Nath, Advocate for respondent no.2. 2. By means of the present Criminal Revision, the revisionists have challenged the order dated 01.10.2024 passed by the learned 2nd Additional Sessions Judge, Haridwar in Sessions Trial No.162 of 2021, whereby the learned trial Court, in exercise of powers under Section 319 of the Code of Criminal Procedure, 1973, summoned the revisionists to face trial along with the other accused persons. 3. Learned Senior Advocate appearing for the revisionists submits that although the names of the revisionists were mentioned in the First Information Report, the Investigating Officer, after conducting a fair and detailed investigation, found no credible material implicating them in the



			commission of the alleged offence and, accordingly, did not submit charge-sheet against them. It is contended that revisionist no.1 was not present at the place of occurrence on the date of the incident and was working as a labourer in another village. The said fact was verified by the Investigating Officer through the Call Detail Records (CDRs) as well as the statements of co-labourers recorded during the course of investigation. It is further submitted that the Investigating Officer also examined the CDRs of the other revisionists, recorded the statements of independent villagers under Section 161 Cr.P.C., and scrutinised other electronic evidence, whereafter he arrived at the conclusion that the revisionists were not involved in the alleged incident. Learned Senior Advocate has placed reliance upon the judgment of the Hon'ble Supreme Court in Hardeep Singh Vs. State of Punjab and others, (2014) 3 SCC 92, to contend that the power under Section 319 Cr.P.C. is extraordinary in nature and is required to be exercised sparingly and only where strong and cogent evidence emerges during the course of trial, which is much stronger than the material required for framing of charge. It is, thus, submitted that the evidence adduced before the trial Court did not satisfy the test laid down by the Hon'ble Apex Court and, therefore, the impugned order deserves to be set aside. 4. Per contra, learned Senior Advocate appearing for respondent no.2 supports the impugned order and submits that the same does not suffer from any legal infirmity. It is contended that the names of the revisionists find place not only in the First Information Report but also in the depositions of P.W.-1, P.W.-2, P.W.-3, P.W.-4 and P.W.-5, who have consistently
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			attributed specific roles to each of the revisionists in the commission of the offence. It is argued that while exercising jurisdiction under Section 319 Cr.P.C., the Court is required to examine whether the evidence recorded during trial discloses the involvement of a person not facing trial, and not whether such evidence is sufficient to record a conviction. It is further submitted that the plea of alibi raised by the revisionists constitutes a matter of defence, which can only be adjudicated upon during the course of trial after appreciation of evidence, and the same cannot be conclusively determined while considering an application under Section 319 Cr.P.C. It is, therefore, submitted that the learned trial Court has rightly exercised its jurisdiction after evaluating the evidence that had surfaced during trial. 5. I have considered the rival submissions advanced by learned counsel for the parties and have perused the material brought on record. The scope and ambit of the power under Section 319 Cr.P.C. has been authoritatively explained by the Hon'ble Supreme Court in Hardeep Singh Vs. State of Punjab and others, (2014) 3 SCC 92, wherein it has been held that although the power is extraordinary and is to be exercised sparingly, the Court is empowered to summon a person not charge-sheeted if strong and cogent evidence emerges during the course of trial indicating his involvement in the commission of the offence. The Court is not expected to conduct a mini trial or record a finding of guilt at that stage; rather, it is required to ascertain whether the evidence adduced is such that, if left un rebutted, it reasonably points towards the involvement of the proposed accused.
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