



2026:AHC:48879

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 1619 of 2026

Raman And 4 Others

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Nitin Raj Singh, Raj Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 87

HON'BLE ABDUL SHAHID, J.

1. Heard learned counsel for the revisionists, learned counsel for the opposite party no.2 and the learned AGA for the State.
2. The present criminal revision has been preferred against the summoning order dated 4.12.2025, passed by the Additional District and Sessions Judge, Court No. 3, Aligarh, by which the revisionists have been summoned under Section 319 Cr.P.C. to face trial in Session Trial No. 1812 of 2022 (State of U.P. Vs. Mukesh @ Fadda and others), arising out of case crime No. 446 of 2021 under Sections 147, 148, 149, 452, 302 IPC, Police Station Iglas, District Aligarh.
3. Learned counsel for the revisionists has submitted that the revisionist were nominated in the FIR but during investigation, their nomination were found false, Hence, no charge sheet was filed against them. The charge sheet has been filed against other accused persons other than the revisionists.
4. Learned counsel for the revisionists has submitted that during trial, evidence of PW-1, PW-2 and PW-3 had been rerecorded and they have impleaded the revisionists.
5. Learned counsel for the opposite party no.2 has submitted that the revisionists were named in the FIR and they have been wrongly exonerated in the charge sheet. The statement of PW-1, PW-2 and PW-3 had been recorded before the learned trial court and the evidence has been found much more than prima facie against them, hence they have been summoned under Section 319 Cr.P.C for the trial.
6. Learned counsel for opposite party no.2 has submitted that the impugned order has rightly been passed by the learned trial court. He relied on Section 319 Cr.P.C. which reads as under:-

"Section 319 Cr.P.C. Power to proceed against other persons appearing to be guilty of offence.(1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any

offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed."

7. The Hon'ble Supreme Court has consistently held, and more particularly in the Constitution Bench judgment in **Hardeep Singh Versus State of Punjab, (2014) 3 SCC 92**, that the evidence recorded during trial can be considered for summoning an accused under Section 319 Cr.P.C.

8. The summoning of the revisionists by the impugned order dated 7.5.2024 was passed by the learned trial court after perusing the statements recorded during trial. The learned trial court also considered the law laid down by the Hon'ble Supreme Court in Hardeep Singh (supra), **Brijendra Singh and Others v. State of Rajasthan; 2017 Lawsuit SC 484**. The ingredients and conditions required for summoning an accused under Section 319 Cr.P.C., as elaborated in Hardeep Singh (supra), stand duly satisfied.

9. It is held by Hon'ble Supreme Court in **Asim Akhtar Versus The State of West Bengal and another, 2024 INSC 794** that complicity of any person sought to be arrayed as an accused can be decided with or without conducting cross-examination of the complainant and other prosecution witnesses and there is no mandate to decide the application under section 319 Cr.P.C. before cross examination of other witnesses. It is held by the Hon'ble Supreme Court in **Hardeep Singh (supra)**, that the word "evidence" used in section 319 Cr.P.C. indicates, the word "evidence" is limited to the evidence recorded during trial. The summoning of accused under section 319 Cr.P.C. is settled, that this power is an extraordinary power, which should be used sparingly with circumspection and while passing the summoning order under section 319 Cr.P.C. court must consider whether more than prima facie case made out, or not; mere prima facie case is not sufficient.

10. It is held by Hon'ble Supreme Court in **Omi Versus State of M.P. (2025) 2 SCC 621**, that trial court can add an individual as accused only on the basis of the evidence adduced before it and not on the basis of the materials available in the charge sheet or the case diary because such materials contained in the charge sheet or the case diary do not constitute evidence. It is held by the Hon'ble Supreme Court in **Shiv Baran Versus State of U.P., 2025 SCC OnLine SC 1457** that trial court can exercise power to summon an additional accused under section 319 Cr.P.C. only on the basis of the evidence adduced before it and not any other material collected during investigation.

11. It is settled law by the Constitution Bench in **Hardeep Singh (supra)** that evidence recorded before the trial court is the evidence which has to be considered for summoning of an accused under Section 319 Cr.P.C. The nature of the evidence has to be more than prima facie. The cross examination is even not necessary. If the evidence

recorded during trial is of upto the extent that if unrebutted, it would lead their conviction, which is sufficient to summon the accused under Section 319 Cr.P.C. In the present case, the victim as well as her father had supported the prosecutions story and specified the role of the revisionists in the said crime. The contradiction in the statements under Sections 161, 164 and the statement and deposition recorded before the trial court that have to be seen and analyzed by the learned trial court at the end of the trial after completion of the entire evidence.

12. PW-1 Jagdish had specifically deposed before the learned trial court that the said incident is of 16.8.2021 at 8.00 pm. He deposed that when my son Amar Singh aged about 35 years were going upstairs, at that time my co-villagers, Bankat, son of Raman Lal, Raman lal son of Bhurey Singh, Hanshraj son of Suwa, Atal son of Roshan Singh and Satyaveer son of Chokhey Lal had surrounded my son Amar Singh and Banker and Hanshraj had fired on him and he became seriously injured. I took my son in injured condition with the assistance of Bhikki and Chandrapal at Medical College, Aligarh, where doctor has declared my son as dead. My wife Omwati and wife of deceased, Radha had saw when the accused person fired to my son. The entire incident took place in front of ourselves.

13. The statement of Smt. Radha has also recorded as PW-2, who is the wife of deceased. She has supported the prosecution story that on 16.8.2021 around 8.00 p.m, when my husband Amar Singh was going upstairs, at that time co-villagers, Raman, Satyaveer, Bankat, Atal and Hanshraj came and they were having arms and ammunition in their hands and they fired to my husband. At that time my father-in-law and mother-in-law were also present at the house.

14. Smt. Omwati has recorded her statement as PW-3, who is mother of deceased and she completely supported the prosecution story. At the date of incident on 16.8.2021 at 8.00 p.m, when she along with her daughter-in-law were making preparation for food, at that time co-villagers, Raman, Bankat, Atal, Hanshraj and Satyaveer entered into the house. Bankat and Hanshraj had fired to my son Amar Singh. Co-villagers took my son for treatment at Aligarh.

15. There are specific deposition by these three witnesses, who are father, wife and mother of the deceased. the incident is of grave and serious in nature and was occurred in the premises of the informant. The nature of the evidence is much more than prima facie and it lead to very close to conviction if goes unrebutted.

16. In view of the above, there is neither any illegality nor irregularity in the impugned order dated 4.12.2025. The revision is liable to be dismissed and it is **dismissed**.

March 10, 2026
sfa/

(Abdul Shahid,J.)