

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

**CRR-4504-2016 (O&M)
Date of decision-19.12.2016**

Somnath

...Petitioner

Vs.

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Amit Singla, Advocate for the petitioner.

JITENDRA CHAUHAN, J. (Oral)

CRM-39634-2016

Application is allowed as prayed for.

Annexure P-4 is taken on record subject to all just exceptions.

CRR-4504-2016

This revision petition has been filed by the complainant for setting aside the impugned order dated 07.09.2016 passed by learned Sub Divisional Judicial Magistrate, Ratia vide which an application filed by the prosecution for summoning the respondent No.2- Gaurav Kumar @ Goldy as additional accused under Section 319 of Criminal Procedure Code (in short 'Cr.P.C') was dismissed.

Contents that learned Court below erred in dismissing the application moved by the petitioner for summoning respondent No.2 as additional accused as presence of the respondent No.2 on the spot along with other co-accused is proved on record. He had given injuries on right arm and legs of the petitioner. During the trial, the petitioner has named all the

accused persons including respondent No.2 who had participated in the incident. The petitioner in his statement has specifically explained the role of the accused persons but Court below erred in dismissing the application moved by the petitioner for summoning respondent No.2 under Section 319 Cr.P.C.

I have heard learned counsel for the petitioner and gone through the case file.

It is settled law that extra ordinary powers under Section 319 Cr.P.C are to be used sparingly under compelling and strange circumstances to achieve the ends of justice, as has been held by Hon'ble the Supreme Court in **Krishanappa Vs. State of Karnataka-2004 (4) R.C.R.Criminal 678**. The summoning of an accused in a criminal trial is a serious matter. In **Hardeep Singh vs. State-2014(1) R.C.R.Criminal 623**, it has been observed that the word “evidence” in Section 319 Cr.P.C has to be broadly understood and not literally i.e. as evidence brought during a trial.

In this case, the prosecution has filed an application under Section 319 Cr.P.C to summon respondent No.2- Gaurav Kumar @ Goldy as additional accused. All other accused have already been ordered to be summoned.

Prosecution has not examined investigating officer so far without which it cannot be said that respondent No.2 was also involved in the alleged incident. Otherwise also, report under Section 173 of Cr.P.C has not been filed against respondent No.2. The impugned order spells out that the trial Court has rightly exercised its power.

This Court does not find any illegality or perversity in the findings recorded by the learned Court below.

Consequently, revision petition stands dismissed.

Anything observed hereinabove shall not be construed as an expression of opinion on the merits of the case.

(JITENDRA CHAUHAN)
JUDGE

December 19, 2016
vanita

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