



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

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**CRM-M-1749-2025
Date of decision: 27.08.2025**

GAJENDER

.....Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Ravi Malik, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present petition is to the order dated 29.11.2024 passed by the Additional Sessions Judge, Palwal whereby the revision petition bearing No. 101 dated 17.08.2023 filed by respondent No.2-Puran Chand had been allowed and the petitioner had been summoned as an additional accused to face trial in case bearing FIR No. 555 dated 16.07.2016 registered under Sections 323, 325, 452, 506 and 34 of the Indian Penal Code, 1860 at Police Station Camp Palwal, District Palwal.

2. Learned Counsel appearing on behalf of the petitioner has vehemently argued that the petitioner was found innocent during the police investigation and was exonerated by the police in the final report filed under Section 173 Cr.P.C. Thereafter, upon examination of the evidence, an



application was moved by the respondent No.2 under Section 319 Cr. P.C. for summoning of the petitioner and some other co-accused as an additional accused to face trial. While deciding the said application, a detailed order dated 18.07.2023 was passed by the trial Court wherein the said application was dismissed. Against the said order, respondent No.2 preferred a criminal revision before Sessions Judge, Palwal. Vide the impugned order dated 29.11.2024, the Additional Sessions Judge partly allowed the Revision-Petition and has directed summoning of the petitioner as an additional accused.

3. I have heard learned Counsel appearing on behalf of the petitioner and have gone through the documents appended alongwith the present petition including the impugned order.

4. Learned Counsel appearing on behalf of the petitioner has been confronted with the specific recording by the Additional Sessions Judge, Palwal in his order dated 29.11.2024 which reads thus:-

“14. Shiv Kumar allegedly suffered 1 injury on his head which he attributes to Deepak (already facing the trial) as well as to Mukesh and Gajender. Whereas Pooran Chand narrated in his testimony that at the time of the assault, when he attempted to intervene by raising his hand, Gajender inflicted a lathi on his hand. The version of PW2 Pooran Chand with regard to the assault with a stick on his hand by Gajender and the fracture in the middle finger of the right-hand, indicate that the police overlooked this aspect while declaring Gajender as innocent. The Investigating Officer stated in his cross-examination that Pooran Chand did not suffer any injury,



however, this could have stemmed only out of observation as in the MLR only swelling is mentioned which was later confirmed to be a fracture by the x-ray report. The testimony of PW-2 finds support with the medical papers and also corroboration from the testimonies of the other 2 injured/ eyewitnesses and this provides sufficient grounds to exercise the power under Section 319 CrPC. Rather, from the evidence, it appears that Gajender was also involved in the alleged assault.

15. However, with respect to the other proposed accused, the evidence remains insufficient to establish their active participation in the alleged offence. The testimonies lack independent corroboration and there is no new material presented during trial to justify their summoning. Admittedly, the FIR No. 577 was also registered and the said case is the cross version in which ShivDutt, Somdutt, Rahul and Bhagat Singh are facing trial. Apparently, an attempt is being made to over implicate.

*16. For the aforesaid reasons, **the revision petition is hereby partly allowed, only to the extent that the impugned order dated 18/07/2023 is modified only to the extent that Gajender is to be summoned as an additional accused under Section 319 CrPC. The dismissal of the application concerning the remaining proposed accused is upheld.***

5. Counsel for the petitioner is not in a position to dispute the fact that there is no explanation put forth by the Police with respect to the injury on the middle finger of the right hand of the respondent No.2-complainant which was eventually found to be a fracture as per the X-ray report.



6. The specific finding recorded by the Additional Sessions Judge, Palwal is that the said injury was seemingly over looked by the police while filing the final report and declaring the petitioner as innocent. In the absence of any evidence to counter the aforesaid finding or fact recorded by the Additional Sessions Judge, Palwal or to establish that no injury was sustained by the complainant on his middle finger resulting into a fracture, I find that the order passed by the Additional Sessions Judge, Palwal does not suffer from any illegality or impropriety.

7. The present petition is accordingly dismissed.

(VINOD S. BHARDWAJ)
JUDGE

AUGUST 27, 2025
Vishal Sharma

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