

2025:PHHC:052795



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

Sr. No.201**CRR-111-2025 (O&M)****Date of decision : 24.04.2025**

Yashmeet Kaur and another

..... Petitioners

VERSUS

State of Punjab and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Navinder Jit Singh Dandiwal, Advocate
for the petitioners.

Mr. Randhir Singh Thind, DAG, Punjab.

Mr. Rahul Bhargava, Advocate, for respondent No.2.

KIRTI SINGH, J. (Oral)

1. By way of the present revision petition, the petitioners have challenged the order dated 07.11.2024 passed by the learned JMIC, Ajnala vide which an application under Section 319 Cr.P.C. filed by the complainant for summoning the petitioners as additional accused has been allowed and the petitioners have been summoned as additional accused.

2. Succinctly put, facts pertaining to the present petition are that FIR in the instant case was registered on the complaint moved by respondent No.2, stating therein that her marriage was solemnized with Gagandeep Singh son of Surinder Singh, as per the Sikh rites about 15 years ago, and that the couple share two daughters out of the wedlock. It was alleged that throughout her marriage, she had been subjected to cruelty by her husband in connivance with her sisters-in-law, who are the petitioners in the instant case, and were living in their parental home, which is also the matrimonial

2025:PHHC:052795



home of respondent No.2. It was further alleged that the accused persons, including the petitioners, harassed the complainant-respondent No.2 for bringing more dowry as well as for getting transferred her share in the land owned by her parents. It was also the allegation of respondent No.2 that her third child, a baby girl, was, as disclosed by hospital reports, born alive, but she was informed that the child died at the time of birth; and that the accused got the tubectomy of respondent No.2 performed without her consent. Subsequent to the registration of the FIR, respondent No.2 moved this Court by way of a direction petition i.e., CRM-M-1093-2024 titled as 'Harpreet Kaur Vs. State of Punjab and others', is pending before this Hon'ble Court, whereunder a SIT was ordered to be constituted. Compliance was duly made and the SIT so constituted prepared its report dated 11.04.2024 wherein the present petitioners were exonerated. Thereafter, when the examination in chief of the complainant-respondent No.2 as PW-1 stood completed, an application under section 319 Cr.P.C. was moved, which was allowed by way of the impugned order dated 07.11.2024.

3. Learned counsel appearing for the petitioners, *inter alia*, submits that petitioners are sister(s)-in-law of the complainant who have been falsely implicated in this case and have wrongly been summoned as additional accused. There is no evidence on record to implicate the petitioners. He has drawn the attention of this Court to the investigation that was conducted by the Special Investigation Team and report dated 11.04.2024 in which, after thoroughly investigating the entire matter, to the extent of even taking into account the tower locations of mobile phones used by the petitioners, it was held by the SIT that the petitioners did not harass

2025:PHHC:052795



respondent No.2 herein or made any demand for dowry, and neither were they involved in forcing respondent No.2 for getting operated for tubectomy nor did they kill the new born child, as alleged.

4. *Per contra*, learned counsel for respondent No.2 opposed the prayer and has submitted that serious and specific allegations have been leveled against the petitioners. The investigation carried out by the SIT constituted for that purpose cannot be relied on, since the relevant medical records of respondent no.2 were not taken into account. Also, the facts that it was petitioner No.1 whose signatures figure at the consent form for performing tubectomy of respondent No.2, and that it was petitioner No.1 who gave consent for taking the new born child in her care, were overlooked. Further, the report of the SIT also cannot be relied upon as being fair and proper, since the SIT did not properly investigate the reasons for the death of the third female child. Additionally, the trial Court while allowing the application under section 319 for summoning of the petitioners as additional accused categorically observed that the burn marks inflicted on the person of respondent No.2 are not the doing of one person. Thus, in light of the facts of the case, the present revision petition be dismissed.

5. On a pointed query made by this Court, learned State counsel submits that the petitioners were exonerated in the investigation carried out by a special team constituted for that purpose, after taking into account the material that surfaced during investigation, including the hospital reports, mobile tower locations of the petitioners herein, as also after duly enquiring about the antecedents of the petitioners from the villagers.

2025:PHHC:052795



6. Heard the submissions made and perused the judicial record.
7. Before proceeding further, it is pertinent to discuss the observations made by the Hon'ble Supreme Court in some of its recent judgments. Discussing the scope of Section 319 Cr.P.C., the Constitution Bench of Hon'ble Supreme Court in ***Hardeep Singh vs. State of Punjab, SC 2014 (1) RCR (Criminal) 623*** has laid down that:

"105. Power under Section 319 Cr.P.C. 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.

106. Thus, we hold that though only a prima facie case is to be established from the evidence led before the Court, not necessarily tested on the anvil of cross-examination, it requires much stronger evidence than mere probability of his complicity. The test that has to be applied is one which is more than prima-facie case as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes unrebutted, would lead to conviction. In the absence of such satisfaction, the Court should refrain from exercising power under Section 319 Cr.P.C. In Section 319 Cr.P.C. the purpose of providing if "it appears from the evidence that any person not being the accused has committed any offence" is clear from the words "for which such person could be tried together with the accused". The words used are not "for which such person could be convicted". There is, therefore, no scope for the Court acting under Section 319 Cr.P.C. to form any opinion as to the guilt of the accused."

2025:PHHC:052795



8. The Hon'ble Supreme Court in **Criminal Appeal No.1487 of 2025 decided on 01.04.2025 titled as Satbir Singh Vs. Rajesh Kumar and others**, held as under:-

'14. Quite recently, a coordinate Bench of this Court in Jitendra Nath Mishra v. State of Uttar Pradesh & Another¹¹, upon considering Hardeep Singh (supra), had the occasion to observe as follows:

"10. Section 319 CrPC, which envisages a discretionary power, empowers the court holding a trial to proceed against any person not shown or mentioned as an accused if it appears from the evidence that such person has committed a crime for which he ought to be tried together with the accused who is facing trial. Such power can be exercised by the court qua a person who is not named in the FIR, or named in the FIR but not shown as an accused in the charge-sheet. Therefore, what is essential for exercise of the power under Section 319 CrPC is that the evidence on record must show the involvement of a person in the commission of a crime and that the said person, who has not been arraigned as an accused, should face trial together with the accused already arraigned. However, the court holding a trial, if it intends to exercise power conferred by Section 319 CrPC, must not act mechanically merely on the ground that some evidence has come on record implicating the person sought to be summoned; its satisfaction preceding the order thereunder must be more than prima facie as formed at the stage of a charge being framed and short of satisfaction to an extent that the evidence, if unrebutted, would lead to conviction."

9. Further, answering in affirmative to the question of whether the Court can exercise the power under the provision of 319 Cr.P.C. on the basis of the statement made in examination-in-chief of the witnesses concerned, the Supreme Court in **Hardeep Singh (supra)** observed that since a person against whom material is disclosed is only summoned to face trial, the Court

2025:PHHC:052795



need not wait for the evidence against the proposed accused to be tested by cross examination.

10. The principles of law with reference to exercise of jurisdiction under 319 Cr.P.C. are well settled. As has been opined in a plethora of judgments, it is clear that the objective to invoke the powers under Section 319 Cr.P.C., is to not allow the real perpetrators of an offence to get away unpunished. The legislative intent behind the inclusion of this provision is to prevent the miscarriage of justice by ensuring that all individuals who might have a role in the offence are brought before the court for examination, thus ensuring that no one can escape from the clasp of law simply because they were not initially identified as an accused.

11. Reverting to the case in hand, a perusal of the record clearly shows that the learned Single Judge while passing the order dated 07.11.2024 has rightly placed reliance upon burn photographs of respondent No.2 and MLR showing burn marks on the back, chest and arms of respondent No.2. A copy of the same has been annexed along with reply filed by counsel for respondent No.2 as Annexure R/2. This Court is one with the observation of the trial Court wherein it held that there is very high suspicion of complicity of the petitioners along with accused Gagandeep Singh in subjecting respondent No.2 to cruelty, because the likelihood of the burn marks on the back of respondent No.2 being inflicted by one person single handedly is too farfetched a conclusion, especially when respondent no.2 is able bodied and capable of resisting such an attack. Further, the signatures of petitioner No.1 also appear on the consent form for performing tubectomy of respondent No.2. Moreso, respondent no.2 in her testimony as

2025:PHHC:052795



PW-1 has reiterated the serious and specific allegations of physical as well as mental cruelty against both the petitioners.

12. At this stage, it is only the summoning of the petitioners to face trial for which, this Court, after considering the facts of the case in circumspection, is convinced of there being more than a prima facie case. However, it goes without saying that the veracity of allegations leveled against the petitioners is yet to be proved during the course of trial.

13. Accordingly, this Court has no hesitation to hold that the findings of the learned JMIC, Ajnala are plausible and do not warrant any interference by this Court.

14. For the foregoing reasons, the impugned order dated 07.11.2024 passed by the learned JMIC, Ajnala, is upheld. The petition is, accordingly, dismissed.

15. Nothing stated hereinabove shall be construed to be an expression of an opinion on the merit of the case.

16. Pending miscellaneous application(s), if any, also stands disposed of, accordingly.

(KIRTI SINGH)
JUDGE

24.04.2025
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No