

CRR-335 of 2019 (O&M)

2025:PHHC:016534



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

CRR-335 of 2019 (O&M)

Date of decision: 04.02.2025

Gulab Singh and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CRR-41 of 2019 (O&M)

Karamjit Kaur

.....Petitioner

Versus

State of Punjab and another

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Sukhdeep Singh Sidhu, Advocate,
for the petitioner(s).

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

NAMIT KUMAR, J.

1. By way of this order, aforementioned two revision petitions are being disposed of as common questions of law and facts are involved therein as both the revision petitions arise from the same order.

2. Instant revision petitions have been filed impugning the order dated 17.12.2018 passed by the Court of learned Additional Sessions Judge, Bathinda, whereby on an application filed by the State under Section 319 Cr.P.C., petitioners have been summoned to face



trial in case arising from FIR No.127 dated 26.05.2018 registered under Sections 306/34 IPC at Police Station Raman, District Bathinda.

3. Brief facts of the case are that petitioner No.1-Gulab Singh is the brother-in-law (*Jeth*); petitioner No.2-Major Singh (CRR-335 of 2019) is the father-in-law and petitioner-Karamjit Kaur in CRR-41 of 2019 is the sister-in-law (*Jethani*) of deceased Paramjit Kaur, who was married to Mandeep Singh, younger brother of petitioner No.1 and son of petitioner No.2. On 26.05.2018 Paramjit Kaur @ Veerpal Kaur consumed some poisonous substance in her matrimonial home and on 27.05.2018 she unfortunately died at Adesh Hospital, Bathinda. Consequently, on the basis of complaint of Baljit Kaur wife of Jagsir Singh, FIR No.127 dated 26.05.2018 under Sections 306/34 IPC was registered at Police Station Raman against Mandeep Singh, husband of deceased Paramjit Kaur; Gurdeep Kaur, mother-in-law of deceased Paramjit Kaur; Gulab Singh and Major Singh, petitioners in CRR-335 of 2019. However, as the investigating agency did not find any incriminating material against the petitioners during the course of investigation, petitioners Gulab Singh and Major Singh were found innocent and their names were mentioned in column No.2, whereas Karamjit Kaur (petitioner in CRR-41 of 2019) was not named in the FIR, thus report under Section 173 Cr.P.C. was presented only against Mandeep Singh and Gurdeep Kaur i.e. husband and mother-in-law of deceased Paramjit Kaur. During trial, prosecution i.e. State moved an application under Section 319 Cr.P.C. for summoning Gulab Singh, Major Singh and Karamjit Kaur as additional accused to face trial along



with other accused under Sections 306, 34 IPC. The said application has been allowed by the Court of learned Additional Sessions Judge, Bathinda, vide order dated 17.12.2018. Discontented with their summoning by the trial Court, petitioners have filed present revision petitions.

4. Learned counsel for the petitioners vehemently contended that the trial Court has committed a grave error of law in not appreciating that the powers under Section 319 Cr.P.C. are to be exercised sparingly only if the evidence vividly points out the possible involvement of the person(s) proposed to be prosecuted. He further contended that there is not an iota of evidence against the petitioners to glean a conclusion of their involvement. Further, the fact that petitioners-Gulab Singh and Major Singh were found innocent during the course of investigation has also not been considered by the trial Court. There is no evidence to suggest even remotely that the petitioners were cruel to the deceased. He further contended that the allegations are general and vague in nature without attributing any specific role to the petitioners. He further contended that during cross-examination complainant turned hostile and has specifically stated that petitioners and other family members never maltreated, abused or harassed deceased Paramjit Kaur. He further submitted that Mandeep Singh and Gurdeep Kaur @ Hardeep Kaur i.e. husband and mother-in-law of deceased Paramjit Kaur, who were facing trial under Sections 306, 34 IPC, have already been acquitted by the trial Court vide judgment dated 01.06.2023.



5. On the other hand, learned State counsel could not dispute that the complainant has turned hostile and has not levelled any allegation against the petitioners and husband and mother-in-law of deceased Paramjit Kaur have already been acquitted by the trial Court.

6. I have heard learned counsel for the parties and perused the record.

7. In pursuance of the order dated 17.12.2018, proceedings against the petitioners remained stayed vide order dated 11.02.2019 and 18.01.2019 passed by this Court. Although the interim orders were vacated by this Court vide order dated 20.05.2024. However, proceedings went on against Mandeep Singh and Gurdeep Kaur who have ultimately been acquitted vide judgment dated 01.06.2023.

8. The extent of the power of the Court to summon persons other than the accused to stand trial in a pending case has been considered by the Hon'ble Apex Court in case of ***Ram Singh and others vs. Ram Niwas and another, 2009(3) RCR (Criminal) 501.*** In the said case, various authorities of the Hon'ble Apex Court have been considered by the Hon'ble Apex Court with reference to extent of power under Section 319 Cr.P.C. The relevant part from the above said judgment is extracted below:

“12. Indisputably, the court must satisfy itself about the existence of an extraordinary situation enabling it to exercise an extraordinary jurisdiction. It is true that the court is not denuded of its power to exercise the said jurisdiction only because a person named as an accused in the FIR was not charge-sheeted as a result whereof no cognizance has been taken against him. What is necessary



for the said purpose is that the person concerned was not being tried as an accused before the Court at that stage.

13. This Court in the case of ***Kailash v. State of Rajasthan, 2008(2) RCR(Criminal) 200 : 2008(2) RAJ 323 : [2008(3) SCALE 338]***, has held that a glance of the provision would suggest that during the trial it has to appear from the evidence that a person not being an accused has committed any offence for which such person could be tried together with the accused who are also being tried. This Court has laid emphasis on the words, 'it appears from the evidence', 'any person', and 'has committed any offence'. It was further held that the power under Section 319 has to be essentially exercised only on the basis of the evidence brought on record of the case. The discretionary jurisdiction could, therefore, be exercised only after the legal evidence comes on record and from that evidence it appears that the concerned person has committed an offence.

14. In the case of ***Raj Kishore Prasad v. State of Bihar & Anr., 1996(2) RCR(Criminal) 804 : [(1996)4 SCC 495]***, this Court opined :

"14. Learned counsel differ however on the other question posed in Kishun Singh case [Kishun Singh v. State of Bihar, 1993(1) RCR(Criminal) 647 : (1993)2 SCC 16]. It was whether a Court of Session, to which a case is committed for trial by a Magistrate, could, without itself recording evidence, summon a person not named in the police report presented under Section 173 of the Code of Criminal Procedure, 1973, to stand trial along with those named therein; if not in exercise of power conferred by Section 319 of the Code, then under any other provision ? The answer given was in the affirmative, on the basis of Section 193 of the Code,

2025:PHHC:016534



as it presently stands, providing that once the case is committed to the Court of Session by a Magistrate, the restriction placed on the power of the Court of Session to take cognizance of an offence as a Court of Original Jurisdiction gets lifted, thereby investing the Court of Session unfettered jurisdiction to take cognizance of the offence which would include the summoning of the person or persons whose complicity in the crime can prima facie be gathered from the material available on the record. It is on this reasoning that this Court sustained the order of the Court of Session (though it ostensibly was under Section 319 CrPC terming material of investigation before it as 'evidence') summoning the unnamed accused to stand trial with the named accused. A stage has thus been discovered, before the reaching of the stage for exercise of power under Section 319 CrPC, on the supposition and premise that it is pre-trial when the question of charge was being examined. Such power of summoning the new accused has been culled out from the power exercisable by the Court of Session under Sections 227 and 228 of the Code, enabling it to discharge under Section 227 or charge under Section 228 the accused persons before it and while so to summon another accused involved in the commission of the crime, prima facie appearing from the material available on record of the case. Thus at a stage posterior to the stage envisaged under Section 319, the Court of Session has been held empowered to summon an accused if a prima facie case is made out from the material available on the record."



15. In the case of ***Rakesh & Anr. v. State of Haryana, 2001(3) RCR(Criminal) 681 : [(2001)6 SCC 248]***, it was held :

"11. In support of his contention, learned Senior Counsel Mr. Ranjit Kumar referred to the decision of this Court in ***Joginder Singh v. State of Punjab, (1979) 1 SCC 345***. In our view, this decision nowhere lays down that before a person is added as accused in a sessions trial case, he should be permitted to cross-examine the witnesses whose evidence is recorded. On the contrary, it lays down that once the Sessions Court is seized of the matter as a result of the committal order against some accused the power under Section 319(1) can come into play and the court can add any person, not an accused before it, as an accused and direct him to be tried along with other accused. The Court has further observed that the very purpose of enacting Section 319(1) clearly shows that even persons who have been dropped by the police during investigation but against whom evidence showing their involvement in the offence comes before the criminal court are included in the expression 'any person not being the accused'."

16. We must, however, at this stage also place on record that this Court, in the case of ***Municipal Corporation of Delhi v. Ram Kishan Rohtagi & Ors., 1983(1) RCR(Criminal) 73 : [(1983)1 SCC 1]***, opined that the power under the said provision must be exercised very sparingly and not as a matter of course. In the case of ***Joginder Singh & Anr. v. State of Punjab & Anr. [(1979) 1 SCC 345]***, this Court even opined that such a power can be exercised even without there being a committal order passed against a person. [see also ***Lok Ram v. Nihal***



Singh & Anr., 2006(2) RCR(Criminal) 707 : 2006(2) Apex Criminal 71 : [(2006)10 SCC 192]; Shashikant Singh v. Tarkeshwar Singh & Anr., 2002(3) RCR(Criminal) 191 : [(2002)5 SCC 738]; Michael Machado & Anr. v. Central Bureau of Investigation & Anr., 2000(2) RCR(Criminal) 75 : [(2000)3 SCC 262]; Palanisamy Gounder & Anr. v. State represented by Inspector of Police, 2006(2) RCR(Criminal) 235 : 2006(2) Apex Criminal 244 : [(2005)12 SCC 327]; Kailash Dwivedi v. State of M.P. & Anr. [(2005)11 SCC 182] and Mohd. Shafi v. Mohd. Rafiq & Anr., 2007(2) RCR(Criminal) 762 : 2007(2) RAJ 534 : [2007(5) SCALE 611].

9. After considering the various judgments, the Hon'ble Apex Court in Ram Singh's case (supra) held as under:-

17. The High Court, in our opinion, however, has committed a serious error in proceeding on the premise that mere existence of a prima facie case would be sufficient to exercise the court's jurisdiction under Section 319 of the Code. We have noticed hereinbefore the importance of the word 'appears'. What is, therefore, necessary for the court is to arrive at a satisfaction that the evidence adduced on behalf of the prosecution, if unrebutted, would lead to conviction of the persons sought to be added as accused in the case.

18. The High Court furthermore committed a serious error insofar as it failed to take into consideration that when the order dated 29th May 2003 was passed, the learned Judge was in a position to consider the evidence brought on record including the cross-examination of the prosecution witnesses. The High Court did not arrive at any finding that a case has been made out for exercise of such an extraordinary jurisdiction which, in terms of the



judgments of this Court, is required to be exercised very sparingly.”

10. In the absence of any material suggesting existence of more than *prima facie* case available during the course of trial of an offence, Courts ought to refrain themselves from exercising its discretionary and extraordinary power under Section 319 Cr.P.C. The Constitution Bench of the Hon’ble Supreme of India in ***Hardeep Singh Vs. State of Punjab (2014) 3 SCC 92*** has held that the power under Section 319 Cr.P.C is a discretionary and an extraordinary power. It is to be exercised only on the basis of the material available before the Court during the trial and not because the Magistrate or the Sessions Judge is of the opinion that some other accused/person may also be guilty of committing that offence.

11. The trial Court must evaluate the material against the persons sought to be summoned and then adjudge whether such material, more or less, carry the same weightage and value as has been testified against those who are already facing trial. In the absence of any credible material, the power under Section 319 Cr.P.C. ought not to be invoked. A two Judge Bench of the Hon’ble Supreme Court in ***Juhru and others Vs. Karim and another (2023) 5 SCC 406***, while relying upon ***Hardeep Singh’s case*** (supra) has held as under:-

“17. It is, thus, manifested from a conjoint reading of the cited decision that power of summoning under Section 319 CrPC is not to be exercised routinely and the existence of more than prima facie case is sine qua non to summon an additional accused. We may hasten to add that with a view to prevent the frequent misuse of power to summon



additional accused under Section 319 CrPC, and in conformity with the binding judicial dictums referred to above, the procedural safeguard can be that ordinarily the summoning of a person at the very threshold of the trial may be discouraged and the trial court must evaluate the evidence against the persons sought to be summoned and then adjudge whether such material, more or less, carry the same weightage and value as has been testified against those who are already facing trial. In the absence of any credible evidence, the power under Section 319 CrPC ought not to be invoked.

12. In the present case also, in my opinion, learned Additional Sessions Judge, while summoning the petitioners as accused, has neither recorded any finding justifying that a *prima facie* case is made out against the petitioners nor there is any cogent evidence on record on the basis of which it can reasonably be construed that such evidence will lead to conviction of the persons sought to be summoned. There is sufficient evidence on record that investigating agency has found the petitioners innocent during investigation. Further, the complainant did not name Karamjit Kaur as accused in the FIR. The summoning of the petitioners is entirely on the basis of a statement of the complainant, which is based on conjectures and surmises and without any cogent evidence to support the case of the prosecution that the deceased was being harassed and beaten by the petitioners and other accused, as a result of which she consumed poisonous substances and committed suicide and even the said statement is not in consonance with medical report, which has been proved on record by PW2 Medical Officer stating that cause of the death of deceased Paramjit Kaur was “cardio



respiratory arrest”, which implies that she died a natural death and it was not a case of suicide or homicide. Further, the complainant did not support the prosecution case as in her cross-examination she stated that statement suffered by her in Court on 23.10.2018 was not a voluntary statement and the same was suffered under police threat and pressure. She further stated that accused Gulab Singh, Major Singh, Mandeep Singh, Gurdeep Kaur and Karamjit Kaur never maltreated, abused or harassed Paramjit Kaur. She has further stated that Paramjit Kaur never disclosed to her in person or on phone that she was ever maltreated or harassed by the accused; accused never demanded any dowry and Paramjit Kaur was never compelled to terminate her fetus. She further stated that Gulab Singh never physically assaulted her and all the accused tried their level best to save the life of deceased. From the totality of the facts and circumstances of the case and evidence on record, it is abundantly clear that prosecution case is a subsequent concoction and a marked improvement over the original version. In such circumstances there are no reasonable grounds that petitioners can be convicted, specifically when even the main accused Mandeep Singh and Gurdeep Kaur have already been acquitted by the trial Court.

13. Operative part of judgment dated 01.06.2023 passed by learned Judge Special Court, Bathinda, whereby accused Mandeep Singh and Gurdeep Kaur i.e. husband and mother-in-law of the deceased have been acquitted, reads as under: -

“7. In order to prove its case, complainant Baljit Kaur has been examined as PW-1. It is pertinent to mention herein that she was earlier examined as PW-1 on

2025:PHHC:016534



23.10.2018 prior to the moving of application under Section 319 Cr.P.C. which was allowed by the court. After disposal of the aforesaid application, she has been again examined as PW-1 on 14.12.2022. She does not support the case of the prosecution. She has resiled from her previous statements suffered to the police as well as in the court on earlier occasion. She further states that her sister-in-law Paramjit Kaur was the younger sister of her husband. She was married to accused Mandeep Singh about 18 years ago. From the marriage, one male child was born who expired. Thereafter, one girl child was born who is presently in the custody of Mandeep Singh. She further states that she lodged the complaint against accused and his family under pressure of police and the co-villagers. She identifies the accused in the court being husband and relative of Paramjit Kaur. She further states that earlier she suffered statement in the court against accused persons under pressure of the police and she does not want to initiate any action against the accused. She was declared hostile and allowed to be cross-examined by learned Addl. PP for the State, however, nothing material could be elicited there from.

In cross-examination conducted by learned defence counsel, she states that the statement suffered by her in the court on 23.10.2018 was not her voluntary statement. It was suffered under police threat and pressure. She further states that accused Gulab Singh, Major Singh, Mandeep Singh, Gurdeep Kaur, Karamjit Kaur never maltreated, abused or harassed Paramjit Kaur. She further states that Paramjit Kaur never disclosed to her in person or on phone that she was ever maltreated or harassed by the accused. Accused never demanded any dowry. Paramjit Kaur was never compelled to terminate her fetus. Accused Gulab Singh never physically assaulted her. She further

2025:PHHC:016534



states that all the accused tried their level best to save the life of deceased Paramjit Kaur who was a patient of depression and used to suffer episodes of epilepsy even before her marriage. She further states that deceased even tried to commit suicide in the year 2010 after death of her minor son. She was treated for the same at Chandigarh Clinic and Nursing Home, Bathinda. She further states that neck bone of Paramjit Kaur was not broken and no doctor disclosed to them in Civil Hospital, Bathinda that Paramjit Kaur was killed by fracture of neck or insecticides/pesticides were ever put in her mouth. Accused never abetted or instigated Paramjit Kaur to commit suicide. Karamjit Kaur and Gulab Singh never interfered in the matrimonial life of deceased Paramjit Kaur. Minor daughter namely Harmanjot Kaur of deceased Paramjit Kaur is residing happily with Mandeep Singh. She never got recorded her statement Ex.PW1/A with the police and police obtained her signatures and that of Sukhraj Singh on some blank papers. Paramjit Kaur never disclosed to her that her mother-in-law ever pressed her neck or that any of the accused pressurized her to deliver a male child.

8. Dr. Arun Dhotra, Fellowship Interventional Gastroenterology, Medanta Hospital, Gurgaon states that on 26.05.2018, he was working as Senior Resident Medicine at Adesh Institute of Medical Science and Research, Barnala Road, Bathinda. On 27.05.2018 at about 12.48 AM, one patient namely Paramjit Kaur was admitted in the hospital with alleged history of suspected poisoning and in this regard, Dr. Gurjiwan Singh issued medical ruqa Ex.PW2/A to the police. During night time, he attended the patient. During his treatment, Paramjit Kaur expired at 6.22 AM on 27.05.2018 and he issued medical ruqa Ex.PW2/B to the police. He also filled the

2025:PHHC:016534



death form of Paramjit Kaur Ex.PW2/C. He prepared death summary as Ex.PW2/D. He also proved the hostile file of Paramjit Kaur as Ex.PW2/E.

In cross-examination, he categorically states that the cause of death of Paramjit Kaur was cardio respiratory arrest. Thus, as per the expert witness, the death of Paramjit Kaur was natural and not unnatural in nature.

9. PW-3 SI Krishan Singh deposed that on 27.05.2018, he received information from MHC PS Raman regarding admission of Paramjit Kaur at Adesh Hospital and thereafter again received the information regarding the death of Paramjit Kaur in the hospital. After collecting the ruqa Ex.PW2/A, Ex.PW2/B and Ex.PW3/A, he along with HC Gurcharan Singh reached at Adesh Hospital, Bathinda, where Baljit Kaur got recorded her statement Ex.PW1/A and Sukhraj Singh attested the same. He made his endorsement Ex.PW3/B on the same and sent the statement through PHG Gurtej Singh. On the basis of that FIR Ex.PW3/C was registered by ASI Sadhu Singh. He also made his endorsement as Ex.PW3/D. Thereafter, he conducted the inquest proceeding qua the dead body of Paramjit Kaur and filled the form Ex.PW3/E and Ex.PW3/E1 and the dead body was identified by Jagsir Singh and Nirmal Singh. Dead body was shifted to CH Bathinda. Thereafter, he moved application Ex.PW3/F before SMO Bathinda to conduct the postmortem on the dead body and to know about the cause of death and concerned SMO constituted the board of doctors vide endorsement Ex.PW3/G. On 28.05.2018, HC Sukhdev Singh produced before him one parcel containing viscera of deceased Paramjit Kaur and one sealed envelope which were taken into police possession vide memo Ex.PW3/H. He also produced receipt Ex.PW3/I vide which he handed

2025:PHHC:016534



over the dead body of Paramjit Kaur to Jagsir Singh and Nirmal Singh. He deposited the case property with MHC of PS along with documents for sending it for examination. On 02.06.2018, he arrested accused Mandeep Singh and Gurdeep Kaur vide memo Ex.PX/1 and personal search of accused Mandeep Singh was conducted vide memo Ex.PX/2 while personal search of Gurdeep Kaur @ Hardeep Kaur was conducted vide memo Ex.PX/3. On 04.06.2018, he prepared rough site plan of the spot Ex.PW3/J with proper marginal notes. On the same day, he recovered dowry articles of Parmjit Kaur from the house of accused Mandeep Singh vide memo Ex.PW3/K. On the same day, he also recovered dowry articles which were produced by accused Mandeep Singh and Hardeep Kaur belonging to deceased Paramjit Kaur vide memo Ex.PW3/L. On the same day, he also recovered dowry articles in the form of gold and silver jewellery which were produced by accused Mandeep Singh and Hardeep Kaur belonging to deceased Paramjit Kaur vide memo Ex.PW3/M. On return to PS, he deposited the case property with the MHC of PS. On 05.06.2018, both the accused suffered disclosure statement that they had received 230 grams of gold jewelery as dowry from Paramjit Kaur and her family out of which 20 grams were got recovered by them and remaining had been sold by them and in this regard, he recorded disclosure statement Ex.PW3/N. He also recovered photographs of the marriage which are Ex.P1 to Ex.P17. On 09.06.2018, Bhola Singh produced before him list of dowry articles in the form of gold and silver jewellery etc. and he took the same into police possession vide memo Ex.PW3/O. During investigation, the histopathology report of the doctors was received which is Ex.PW3/P1 in which it is reported that at the time of death Paramjit Kaur was pregnant and her



fetus was sent for examination and report of the doctor concerned is Ex.PW3/P2 and Ex.PW3/P3. During investigation he collected the record i.e. marriage invitation card of deceased Ex.PW3/P4, sale deed Ex.PX/5 with other record as well as PMR Ex.PW3/P6.

10. It transpires from the record that the FIR was lodged on the allegations that Paramjit Kaur died an unnatural death in her matrimonial home. Baljit Kaur is the complainant. However, in the court, she has deposed on oath that accused had no role to play in the death of deceased Paramjit Kaur. She resiled from her previous statement suffered to the police.

11. In view of the shifting stand taken by her, she is unworthy of credit and her testimony is liable to be discarded. Even otherwise PW-2, the medical officer categorically states in his cross-examination that the cause of death of deceased Paramjit Kaur was cardio respiratory arrest. It implies that she died a natural death. It was neither a case of suicide nor homicide.

12. In the aforesaid view of the matter and in the absence of any incriminating evidence on the record, the prosecution has miserably failed to prove the charged offences against the accused. Accordingly, both the accused stand acquitted. File be consigned to the record room.”

14. It is thus apparent that neither any strong and cogent evidence has emerged against the revisionists so as to establish their complicity in the crime in question nor there is any *prima facie* case, which is *sine qua non* to summon an additional accused, therefore, the court below while dealing with the application under Section 319 Cr.P.C. filed by the prosecution for summoning the revisionists, has



"casual and cavalier" fashion, since summoning of the revisionists is entirely on the basis of a statement of the complainant, and it is a settled proposition of law in *Ram Singh's case* (supra) that the court is required to arrive at a satisfaction that the evidence adduced on behalf of the prosecution, if unrebutted, would lead to conviction of the persons sought to be added as accused in the case. Furthermore, the court below has failed to notice the inherent contradiction in the prosecution case, as has already been noted herein above. As such, the order impugned cannot be sustained. The court below has thus failed to exercise its jurisdiction diligently and committed a jurisdictional error in passing the impugned order, whereby it has summoned the prospective accused i.e. revisionists to face trial in aforementioned Sessions trial inasmuch as, the court below has exercised it's jurisdiction with material irregularity, which has vitiated the impugned order, therefore, warranting interference by this Court.

15. In view of the above, the present revision petitions bearing CRR No.335 of 2019 and CRR No.41 of 2019 are allowed and the impugned order dated 17.12.2018 passed by the court of learned Additional Sessions Judge, Bathinda, is quashed.

16. Pending application(s), if any, shall also stand disposed of.

04.02.2025
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No