



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

121

CRR-392-2025**Date of decision: 14.02.2025**

Suresh Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. S.S. Antal, Advocate for the petitioner.

MANJARI NEHRU KAUL, J.

1. The petitioner/complainant is challenging the order dated 13.01.2025 passed by the learned Sessions Judge, Hisar, whereby an application under Section 319 of the Cr.P.C. for summoning additional accused/private respondents namely, Ashish son of Ajmer, Sanju @ Deepak son of Ajit, Amit son of Kuldeep and Ravi son of Sanjay Kumar, was dismissed.

2. It is contended by the learned counsel for the petitioner that the said order is legally unsustainable and warrants interference.

3. Learned counsel for the petitioner has further argued that the case originates from FIR No.212 dated 13.04.2022 under Sections 147, 148, 149, 323 and 302 of the IPC registered at Police Station Narnaud, District Hisar, on the complaint of the petitioner. In both the FIR and the statement recorded under Section 161 of the Cr.P.C., the petitioner specifically named the private respondents as being the perpetrators of the crime in question. However, when the charge sheet



CRR-392-2025

was filed under Section 173 of the Cr.P.C. on 22.07.2022, the private respondents were not named as accused.

4. It has been further submitted that the Post Mortem Report of deceased Ankit dated 25.04.2022 reveals that he suffered five injuries on his person. The petitioner, while deposing as PW-12 before the learned Trial Court on 13.09.2024, reiterated that the private respondents participated in the attack, inflicting number of injuries on the deceased with bricks, fists, and legs, leading to his death. Accordingly, application under Section 319 of the Cr.P.C. was filed to summon them along with one other accused Abhishek. The learned Trial Court, after considering the evidence, allowed the application only against accused Abhishek, however, erred in dismissing it with respect to the private respondents on the ground that they were not visible in the video footage of the occurrence in question. It has been argued by the learned counsel for the petitioner that this finding of the learned Trial Court is flawed, as the summoning of accused should not have been based only on the video footage but also on the testimony of the petitioner, who was an eye witness to the occurrence in question. It has been further submitted that the petitioner had not only named the private respondents while lodging the FIR in question but had even named them in his statement recorded under Section 161 of the Cr.P.C. and thereafter again detailed their role while appearing before the learned Trial Court. A prayer has, therefore, been made for summoning the private respondents as additional accused.

5. I have heard learned counsel for the petitioner and perused



CRR-392-2025

the relevant material on record, including the allegations levelled in the FIR annexed as Annexure P-1.

6. As per the allegations in the FIR, the complainant and deceased Ankit were *Kabaddi* players; an altercation broke out between Ankit and the accused party. Several persons, including the private respondents allegedly assaulted Ankit. Specifically, accused Vikas, Sachin, struck the deceased on his head with bricks, while the private respondents allegedly assaulted the deceased with punches and kicks. Following the incident, the deceased was hospitalized in an unconscious state and thereafter succumbed to his injuries.

7. Section 319 of the Cr.P.C. empowers the Trial court to summon any person not already an accused if it appears from the evidence recorded that they have committed an offence for which they could be tried together with the accused already before the Court. However, the exercise of this power under Section 319 of the Cr.P.C. is not mechanical and must be guided by well settled legal principles. Hon'ble the Supreme Court has laid down the evidentiary standard for summoning additional accused. The Supreme Court through its authoritative pronouncement in ***Hardeep Singh Vs. State of Punjab, (Constitution Bench) : 2014(3) SCC 92*** clarified that a *prima facie* case must be based on substantial evidence rather than mere conjecture or suspicion. While it does not require proof beyond a reasonable doubt, the evidence must be strong enough to justify summoning the accused for trial. In ***Ramesh Chandra Srivastava Vs. The State of U.P. and another : 2021 SCC OnLine (SC) 741***, the Supreme Court further



CRR-392-2025

refined the standard, holding that for summoning under Section 319 of the Cr.P.C., the evidence should be higher than what is required to establish a mere *prima facie* case but lower than the threshold of proving guilt beyond a reasonable doubt. The power under Section 319 of the Cr.P.C. must be exercised judiciously, based on cogent and credible evidence.

8. Adverting to the facts of the present case, although the complainant named the private respondents as perpetrators of the crime along with the others while getting his statement recorded before the police and as well as deposing during the course of trial, however, the investigation carried out by the police, including the analysis of video footage of the occurrence in question, contradicts this claim.

9. The following crucial facts emerge from the record:

(i) it transpires from the material on record including the impugned order, and which fact has not been disputed by the learned counsel for the petitioner before this Court also that when the video footage of the incident was played before the learned Trial Court during the hearing of the application under Section 319 of the Cr.P.C., the complainant/petitioner, despite being present, was only able to identify co-accused Abhishek son of Satyanarayan at the scene of the crime. The private respondents were not identifiable in the footage.

(ii) The investigating officer filed a status report after thoroughly analyzing the video evidence. It concluded that the private respondents were not present at the spot during the occurrence and were wrongly named in the FIR and subsequent statements.



CRR-392-2025

(iii) The complainant's testimony before the learned Trial Court as PW-12 and the corroborative statement of another eye witness PW-13 Ankit @ Monu son of Vijender, confirmed the presence and participation of only co-accused Abhishek son of Satyanarayan in the alleged assault. No such categorical assertion was made against the private respondents.

(iv) The most cogent and unimpeachable evidence in this case is the video recording, which however, contradicts the allegations levelled by the petitioners. Since the private respondents are undisputedly not visible in the footage, and both material witnesses failed to identify them, summoning them as additional accused would be legally untenable. In cases where documentary evidence (such as video footage) contradicts oral testimony, Courts must give precedence to more reliable evidence. Therefore, applying the settled ratio of law laid down by the Apex Court in ***Hardeep Singh's case (supra)*** and ***Ramesh Chandra Srivastava's case (supra)***, it is evident that no *prima facie* case, let alone the higher standard required for summoning an accused under section 319 of the Cr.P.C. is made out against the private respondents. In the present case, the learned Trial Court has meticulously examined the evidence and arrived at a reasoned conclusion. The video footage, corroborated by the investigation report and the testimony of the eye witness, conclusively negates the presence of private respondents at the scene of crime.

10. Since no sufficient evidence exists to justify summoning the private respondents as additional accused, the instant revision

**CRR-392-2025**

petition is devoid of merit and is accordingly dismissed.

11. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

14.02.2025

Vinay

**(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No