



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

131

CRM-M-8646-2025 (O&M)
Date of decision: 17.02.2025

Karamjit Singh

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Jashanpreet Singh Marwaha, Advocate
for the petitioner.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 528 of BNSS, 2023, is for quashing the order dated 12.11.2024, passed by learned Sessions Judge, Faridkot vide which the revision petition filed by respondents No.2 and 3 has been allowed and the well reasoned order dated 08.05.2023, passed by learned Judicial Magistrate Ist Class, Faridkot in FIR No.16 dated 05.02.2022 registered under Sections 452, 323, 148, 149 IPC (Sections 148 and 149 IPC deleted later on and Section 34 IPC has been added) at Police Station Sadar Kotkapura, District Faridkot, has been set-aside.

2. The brief facts of the case are that on 28.01.2022, a quarrel occurred between the petitioner and Arshdeep Singh. On 30.01.2022, a Panchayat was convened at the complainant's house to resolve the matter. During the discussion, the complainant suggested calling Arshdeep Singh to facilitate the compromise, which led to the accused



persons, including Jaspal Singh, Ravi, Lovely, Raj Kumar, Amritpal Singh @ Sunny (respondent No. 3), and Reetu (respondent No.2), using abusive language. When the Panchayat members asked them to leave, they became aggressive and attacked the complainant. At around 8:15 AM, Jaspal Singh, Ravi, Lovely, Reetu (respondent No.2), Amritpal Singh @ Sunny (respondent No.3), and Raj Kumar entered the complainant's house, armed with sticks, kirch, and baseball bats. They attacked the complainant. Jaspal Singh hit the complainant on the head, followed by Ravi hitting him on the cheeks with a kirch. Lovely attacked him on the finger with a baseball bat, and while the complainant was lying on the floor, Reetu hit him on the leg, and Amritpal Singh @ Sunny kicked him. When the Complainant raised an alarm, the Panchayat members intervened, and the attackers fled with their respective weapons. The complainant was later admitted to the Civil Hospital, Kotkapura, and a medical report was prepared and thereafter, the FIR No.16 dated 05.02.2022 was registered against the six accused under Sections 452, 323, 34 IPC. Later on during the pendency of the examination-in-chief of PW-2, an application under Section 319 Cr.P.C. for summoning respondents No.2 and 3 as an additional accused, was moved by the learned Public Prosecutor, and the same was allowed by the learned trial Court on 08.05.2023, however, pursuance to the revision petition preferred against the same, the said order dated 08.05.2023 was set-aside and the learned trial Court was directed to decide the application under Section 319 Cr.P.C. afresh.



Thereafter, the petitioner/complainant approached this Court vide CRM-M No.3194 of 2024, which was allowed and the order dated 23.11.2023, has been set-aside with a direction to the learned Revisional Court to pass fresh orders and thereafter, the learned Revisional Court vide impugned order dated 12.11.2024, allowed the revision petition preferred against the order dated 08.05.2023. Hence, this petition.

3. Learned counsel for the petitioner inter alia contends that the learned Sessions Judge has exercised his revisional power without adverting to the factual matrix of the case and erroneous findings have been recorded by the learned Sessions Judge, Faridkot, to the extent that it has been observed in the impugned order that the respondent – Amritpal Singh @ Sunny has not inflicted any injury and in fact, a categoric narration in the FIR (supra) is mentioned to the extent that the aforementioned respondent has inflicted injury on the leg of the complainant and as such, the learned Revisional Court ought to have not allowed the revision petition filed by the private respondents and further the Deputy Superintendent of Police, has conducted a biased enquiry and exonerated the private respondents without there being any justifiable reasons and there are several shortcomings in the enquiry report. The learned trial Court has summoned respondents No.2 and 3 by exercising powers under Section 319 Cr.P.C., on the basis of the examination-in-chief of eye-witness PW-1 and complainant PW-2 and both of them specifically deposed that respondents No.2 and 3 were also



present at the place of occurrence and had fully participated in the alleged offence.

4. Per contra, learned State counsel opposed the prayer made by the petitioner on the ground that the learned Revisional Court has rightly allowed the application filed under Section 319 Cr.P.C. and passed a well-reasoned order and the same do not require any interference.

5. Having heard learned counsel for the parties and after perusing the record, this Court finds no force in the arguments advanced by learned counsel for the petitioner. It is no longer *res integra* that the powers under Section 319 of the Cr.P.C. must be exercised only after satisfying the existence of more than a *prima facie* case. The Hon'ble Apex Court in "Hardeep Singh vs State of Punjab", 2014(3) SCC 92, has laid down the degree of satisfaction required at the time of summoning of a person/accused as an additional accused. The operative part of the said judgment, reads as follows:-

"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 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."

And further, while concluding, it was held as follows:-

"117.5 Though under Section 319 (4) (b) Cr.P.C., the accused subsequently impleaded is to be treated as if he had been an accused when the court initially took cognizance of the offence, the degree of satisfaction that will be required for summoning a person under Section 319 Cr.P.C would be the same as for framing a charge. The difference in the degree of satisfaction that will be required for summoning a person under Section 319 Cr.P.C would be the same as for framing a charge. The different in the degree of satisfaction for summoning the original accused and a subsequent accused is on account of the fact that the trial may have already commenced against the original accused and it is in the course of such trial that materials are disclosed agaisnt the newly summoned accused. Fresh summoning of an accused will result in delay of the trial- therefore the degree of satisfaction for summoning of accused (original and subsequent) has to be different."

6. It is to be understood that at the time of finding the merit whatsoever in the application under Section 319 Cr.P.C., more than *prima facie* case is to be established from the evidence led before the court which is not necessarily to be tested on the anvil of cross-



examination. *Prima facie* standard is much stronger than mere probability of his complicity and the test that has to be applied is one which is more than *prima facie* as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes un rebutted, would lead to conviction. The Deputy Superintendent of Police has examined the veracity of the allegations made by the petitioner and the petitioner along with the witnesses were duly associated in the enquiry and mere probability that the petitioner may have participated would not satisfy the test as culled out by the Hon'ble Apex Court in ***Hardeep Singh's case (supra)***.

7. 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's case (supra)*** 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 a 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.

8. The trial Court must evaluate the material against the person 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 speaking through Justice Surya Kant, while relying upon **Hardeep Singh’s case (supra)** has held as under:-

“16. 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.”

9. In view of the above, no ground for setting-aside the order dated 12.11.2024 passed by learned Sessions Judge, Faridkot, is made out. Accordingly, the present petition is dismissed.

(HARPREET SINGH BRAR)
JUDGE

17.02.2025

yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No