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

**CRR No.675 of 2025 (O&M)
Date of Decision: 12.03.2025**

Jile Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Ankur Lal, Advocate
for the petitioner.

RAJESH BHARDWAJ J.

1. Present petition has ben filed praying for the quashing of impugned order dated 15.02.2025 passed by the learned trial Court whereby the application under Section 319 Cr.P.C. for summoning respondents No.2 to 12 to face trial in FIR No.220, dated 03.07.2022, registered for the offences punishable under Sections 148, 149, 323, 506, 302 of IPC, at Police Station Bawal, District Rewari, Haryana was dismissed. Further prayer has been made for staying the further proceedings before the learned trial Court till the decision of the present revision petition.

2. As per the facts of the case, the petitioner before this Court is the complainant, on whose statement, FIR No.220, dated 03.07.2022, under Sections 148, 149, 323, 506, 302 of IPC, at Police Station Bawal, District Rewari, Haryana was registered. On conducting the investigation,

the challan was filed under Section 173 Cr.P.C. Respondents No.2 to 12 were found to be innocent during the investigation. On filing the challan, the charges were framed and the trial commenced. During the trial, the petitioner appeared before the learned trial Court as PW-2 and deposed against the respondents. Thus, an application under Section 319 Cr.P.C. was filed for summoning respondents No.2 to 12. The learned trial Court, on hearing both the sides, finding no merit in the application filed by the petitioner and thus dismissed the same vide impugned order dated 15.02.2025. Hence being aggrieved the petitioner is before this Court by way of filing the present revision petition.

3. Learned counsel for the petitioner has vehemently contended that the impugned order has been passed in contravention with the law settled. He has submitted that the impugned order is totally cryptic and has been passed in a cavalier manner. He has submitted that Chhajju Singh suffered injuries at the hands of respondents and the co-accused but the Investigating Agencies illegally exonerated them during the investigation and hence, they deserve to be summoned under Section 319 Cr.P.C. to face the trial along with the co-accused already facing the trial. He has submitted that the petitioner had appeared before the learned trial Court as PW-2 on 10.07.2024. He has submitted that the ocular version is medically corroborated. He has submitted that respondents No.2 to 12 were declared innocent on the inquiry carried out by the DSP, namely, Sh. Rajesh Kumar. He has submitted that neither the Inquiry report of the DSP was annexed nor the DSP has been made a witness. He has submitted that there were specific allegations made against respondents

No.2 to 12 regarding committing the overt act in committing the murder of deceased, Chhajju Singh. However, the learned trial Court had illegally dismissed the application filed by the petitioner under Section 319 Cr.P.C. He has relied upon the law laid down by Hon'ble the Supreme Court in '*Manjeet Singh vs. State of Haryana and others*', **Criminal Appeal No.875 of 2021**, decided on 14.08.2021 and has submitted that the impugned order being totally in contravention to the law settled, deserves to be set aside and respondents No.2 to 12 be summoned to face the trial along with the accused, who already face trial.

4. Heard.

5. On hearing learned counsel for the petitioner and perusing the record, it is deciphered from the record that the petitioner before this Court is the complainant, at whose behest, FIR No.220, dated 03.07.2022 under Sections 148, 149, 323, 506, 302 of IPC at Police Station Bawal was got registered. During the investigation, respondents No.2 to 12 were exonerated as no such material evidence was found against them regarding their complicity. As evident from the record, the complainant in his first version did not allege regarding the presence of respondents at the place of occurrence at the time of altercation. The investigation was conducted by the DSP and on conducting the thorough investigation, the accused were exonerated. The petitioner appeared before the learned trial Court as PW-2 where he improved his version for summoning under Section 319 Cr.P.C.

6. To understand the controversy in hand, the statutory provisions of Section 319 Cr.P.C. is necessary to be considered, which reproduced as under:

“319. Power to proceed against other persons appearing to be guilty of offence-

1. Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.
2. Where such person is not attending the Court, he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.
3. Any person attending the Court although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.
4. Where the Court proceeds against any person under subsection (1), then-
 - (a) the proceedings in respect of such person shall be commenced afresh, and witnesses re-heard;
 - (b) subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced.”

7. For invoking the power under Section 319 Cr.P.C., Hon'ble the Supreme Court in *Hardeep Singh Vs. State of Punjab and others*, 2014(1) RCR (Criminal) 623 has held as under:-

98. Power under Section 319 Cr.P.C. is a discretionary and an extra-ordinary 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.

99. 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."

8. It has been held by the Hon'ble Supreme Court that summoning under Section 319 Cr.P.C. is an extraordinary power which cannot be used in a cavalier manner and the same has to be used sparingly. In all its humility, there is no dispute regarding the judgment

relied upon by counsel for the petitioner. However, in the facts and circumstances of the same, the same is distinguishable. As per the judgment relied upon by the petitioner, Hon'ble the Supreme Court had laid down the guidelines for invoking the power under Section 319 Cr.P.C. There is no dispute regarding the power of jurisdiction of Court invoking its powers under Section 319 Cr.P.C. however, the same is subject to the fulfillment of the requisite parameters which the petitioner has failed to qualify.

9. Thus, weighing the facts and circumstances of the case on the anvil of the law settled by the Hon'ble Supreme Court in **Hardeep Singh case (supra)**, this Court finds that the view taken by the learned Additional Sessions Judge, Rewari vide order dated 15.02.2025 suffers from no infirmity and hence, the petition being devoid of any merits is hereby dismissed. Pending application, if any also stands dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

12.03.2025

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