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

CRM-M-17622-2022 (O&M)

Date of Decision:- 23.09.2025

Harjit Singh

.... Petitioner

VERSUS

State of Haryana and others

.... Respondents

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Munish Kumar Garg, Advocate
for the petitioner.

Mr. Abhishek Yadav, DAG, Haryana.

AMARJOT BHATTI, J.(Oral)

1. Petitioner Harjit Singh has filed petition under Section 482 of Cr.P.C. for quashing of impugned order dated 04.03.2022 (Annexure P-8) passed by learned Additional Sessions Judge-cum-Special Judge, Fast Track Court, Fatehabad in Sessions Case No. 188 of 2021, case titled "State Vs. Sukhwinder Singh etc." in FIR No. 121 dated 14.09.2021 (Annexure P-1) registered at Police Station Jakhal, District Fatehabad under Section 120-B, 341, 342, 354-C and 506 of IPC and Section 6, 17 and 18 of POCSO Act, in which Final Report dated 02.11.2021 (Annexure P-4) was submitted against accused already facing trial and application filed under Section 319 Cr.P.C. (Annexure P-7) was dismissed by impugned order as referred above.



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2. As per brief facts of case, FIR has been lodged on the written complaint of complainant 'HS' who stated that on 13.09.2021 at about 09:30 am, his daughter 'RK' aged about 16 years was going to school who was threatened on the way by Bunty @ Gurjit Singh that in case she did not visit his house, her brother who is studying in a private school near the hotel would be killed. Victim stated that she does not have any fear. On her way, she went to the house of Bunty. He called his accomplices namely Sukhwinder Singh, Malkiat Singh and Rajesh through telephonic call who belonged to the same village. Said Bunty tried to take off her clothes, whereas, Sukhwinder Singh and Malkiat Singh started making video. Rajesh Singh and Tarsem Singh were standing outside the door. After some time, her mother reached there and got the door opened forcibly. All of them started intimidating them that said obscene video will be uploaded on the group. With these allegations, present FIR was registered.

3. Learned counsel for petitioner argued that as per facts narrated in FIR both Rajesh Singh and Tarsem accused/respondent Nos. 2 and 3 were specifically named. There is statement of victim recorded on 14.09.2021 (Annexure P-2), statement of victim recorded under Section 164 Cr.P.C. (Annexure P-3) where both private respondent Nos. 2 and 3 were specifically named and specific role was attributed to them. Investigating Agency without any valid reason found respondent Nos. 2 and 3 innocent and presented challan (Annexure P-4) against remaining accused. After framing of charges, statement of victim has been recorded as PW-4 (Annexure P-6), where again both respondent Nos. 2 and 3 are specifically



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named. On this, application was filed under Section 319 Cr.P.C. (Annexure P-7) which was wrongly declined by passing impugned order dated 04.03.2022 (Annexure P-8). Facts of the case and documents on record alongwith statement of victim are not considered in its right perspective. Application filed by petitioner was wrongly rejected by the trial Court, as a result, present petition has been filed.

4. On the other hand, learned State counsel filed status report confirming the facts narrated in FIR and investigation carried out by police. It is matter of record that after investigation, challan was presented in Special Court against Sukhwinder Singh, Malkiat Singh and Bunty @ Gurjit Singh, whereas, respondent Nos. 2 and 3 were found innocent. After framing of charges, prosecution evidence is being recorded. Learned State counsel pointed out that during investigation, no overt act was found qua Rajesh Singh and Tarsem. In fact, it was Tarsem – respondent No. 3 who had called the mother of victim that her daughter was apprehended by Bunty @ Gurjit Singh. There is no perversity in the investigation carried out by Investigating Agency. Therefore, considering all the facts, trial Court rightly rejected the application filed under Section 319 Cr.P.C.

5. I have considered the arguments advanced before me and have gone through the record with able assistance of learned counsel for petitioner as well as learned State counsel. Detailed facts narrated in FIR indicates that victim who is aged about 16 years on 13.09.2021 went to the house of Bunty @ Gurjit Singh at about 10:30 am. He closed the door and he called his accomplices namely Sukhwinder Singh, Malkiat Singh and



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Rajesh by calling them on phone. It is alleged that it was Bunty @ Gurjit Singh who tried to remove clothes of victim and Sukhwinder Singh and Malkiat Singh started making video. As per facts narrated in FIR, Rajesh Singh and Tarsem were standing outside the door. It has come in FIR (Annexure P-1), statement of victim 'RK' recorded in the presence of legal aid counsel (Annexure P-2) as well as statement of victim recorded under Section 164 Cr.P.C. (Annexure P-3) that Tarsem had called mother of victim who reached on the spot and her mother managed to rescue her daughter i.e. victim. Therefore, during investigation in this case accused/respondent Nos. 2 and 3 were found innocent and were not challaned alongwith main accused. After framing of charges, statement of victim has been recorded as PW-4 (Annexure P-6), where again aforesaid factual position has been confirmed. Petitioner filed application under Section 319 Cr.P.C. Provisions of Section 319 Cr.P.C. runs 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.



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(4) Where the Court proceeds against any person under sub-section (1), then

(a) the proceedings in respect of such person shall be commenced afresh, and the 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.”

6. In order to appreciate the facts and circumstances of case, there is landmark judgment of **Hon’ble Supreme Court of India** cited in *[Law Finder Doc Id # 514451] 2014 (1) R.C.R. (Criminal) 623 “Hardeep Singh Vs. State of Punjab and others”*, where broad principles were laid down for summoning of accused under the provision of Section 319 Cr.P.C. There is another judgment of **Hon’ble Supreme Court of India** cited in *Criminal Appeal No.549 of 2023*, case titled “Juhru & Ors. Vs. Karim and Another” decided on 21.02.2023, where again it was elaborated that “*the power under Section 319 Cr.P.C is discretionary and extraordinary power. It has to be exercised sparingly and only in those cases where the circumstances of the case so warrant. Unlike criteria for framing of charges, here evidence must be stronger than prima facie case and short of satisfaction that the evidence if unrebutted would lead to conviction.*”

Therefore, in the light of settled proposition of law and statement of victim recorded from time to time, no negative overt act has been established on the part of respondent Nos. 2 and 3 in the commission of offence. Tarsem – respondent No. 3 informed mother of the victim by



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making a telephonic call, who reached the spot and rescued her daughter. All these facts have been rightly considered and appreciated by learned Additional Sessions Judge-cum-Special Judge, Fast Track Court, Fatehabad while passing impugned order dated 04.03.2022 (Annexure P-8). Consequently, I do not find any reason to interfere in aforesaid impugned order (Annexure P-8) and same is, accordingly, upheld and petition filed by petitioner is, accordingly, dismissed.

7. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

23.09.2025

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No