



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

CRR-873-2025 (O&M)

Date of Decision: 01.04.2025

SAHIB SINGH

...Petitioner

V/S

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Anmol Partap Singh Mann, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. Present revision petition has been filed impugning the order dated 01.02.2025 passed by learned Additional Sessions Judge, Ambala, vide which the application under Section 319 Cr.P.C. (now Section 358 of BNSS) for summoning respondent No. 2 Harinder Singh and respondent No. 3, Harbans sons of Kirpal Singh as additional accused, has been dismissed.

2. The FIR in the present case was registered on the complaint of Sahib Singh brother of deceased Angrej Singh, stating that Harinder Singh and Harbans Singh as having played an active role alongwith Malkeet Kaur wife of Angrej Singh and her maternal cousin Gurmeet Singh alias Gurmail Singh, in mentally and physically abusing his brother, in support of the illicit relationship between aforementioned Malkeet Kaur and her cousin brother Gurmeet Singh alias Gurmail Singh. Insult to injury was added by the fact that the private respondents were also cousin brothers of Malkeet Kaur and Gurmeet Singh. Said abuse, harassment and humiliation led Angrej Singh to commit suicide in the intervening night of 24/25-06.2021 by hanging himself at his residence. The death was immediately reported to the Police by



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the petitioner. Resultantly FIR No. 070 dated 25.06.2021 under Sections 306, 34 and 120-B of IPC was registered at Police Station Panjokhra, Ambala.

3. Learned counsel for the petitioner *inter alia* contends that learned trial Court has not invoked the power under Section 319 Cr.P.C. (now Section 358 of BNSS), inspite of the fact that the private respondents were duly named in the FIR and their names also figured in the suicide note written by the deceased. He further, submits that the FSL report clearly indicates that suicide note is genuine and written by the deceased. The jurisdictional police authorities have failed to collect evidence against the private respondents. The petitioner, when stepped into the witness box, has reiterated the allegations levelled in the FIR. Learned counsel further submits that the Court below has not considered the factual matrix in the right earnest and an application under Section 319 Cr.P.C. which was filed by the prosecution to summon respondent Nos. 2 and 3 as an additional accused was unfairly dismissed by the learned Court below vide impugned order dated 01.02.2025 which has been passed in violation of the ratio of law laid down in '**Hardeep Singh Vs. State of Punjab and others**' 2014 (3) SCC 92.

4. *Per contra*, learned State counsel, while appearing on advance notice, opposes the prayer made by learned counsel for the petitioner and submits apart from a bald statement against the private respondents, in a one line suicide note, there is no other evidence, as per the case set up by the prosecution. The reason assigned for suicide of the deceased was that his wife was having illicit relationship with her cousin-Gurmeet Singh and both of them have been placed in column No. 1 of the final report and have been sent for facing the trial by the Investigating Agency after conclusion of the



investigation. During the investigation, the veracity of the allegations made against the private respondents have been duly examined and no evidence has come on record. As such, there is nothing available on record qua their complicity.

5. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that no new evidence was found against the private respondents.

6. This Court is of the considered opinion that the learned Court below has passed a well reasoned order. The material available on record, does not satisfy the crucial test in view of the ratio of law laid down in ***Hardeep Singh's case (supra)***, i.e. the test of there being more than a *prima facie* case 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.

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.



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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 is made out to interfere in the finding given by the learned Court below, and thus, the present petition stands dismissed.

01.04.2025
Ajay Goswami

Whether speaking/reasoned
Whether reportable

(HARPREET SINGH BRAR)
JUDGE

Yes/No
Yes/No