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

**CRR-1173-2025 (O&M)
Date of Decision: 05.05.2025**

Sukhpal @ Rana

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

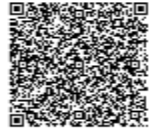
Present: Mr. Mohit, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

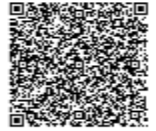
1. Present revision petition has been preferred against impugned order dated 05.04.2025 passed by learned Additional Sessions Judge, Charkhi Dadri, vide which the application filed by the petitioner-complainant seeking summoning of respondents No.2 & 3 as additional accused under Section 319 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') [now Section 358 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS')] to face the trial in FIR No.106 dated 23.05.2020 under Sections 148, 149, 307, 323, 325, 341, 506 of the Indian

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Penal Code, 1860 (for short 'IPC'), registered at Police Station Jhojhu Kalan, has been dismissed.

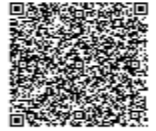
2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has levelled specific allegations against respondents No.2 & 3 in his statement, on the basis of which, FIR (*supra*) was registered, however, their names were mentioned in column No.2 of the final report/challan. Further, when the petitioner appeared as PW1, he specifically named respondents No.2 & 3, as discernible from the statement dated 17.12.2022 (Annexure P-2). Furthermore, there is no difference in the FIR and statement of the petitioner recorded at the time, when he appeared as PW1 and role of respondents No.2 & 3 and injuries caused to him by the accused persons, which are declared dangerous to life, were specifically mentioned in the FIR (*supra*). As such, learned trial Court ought to have summoned respondents No.2 & 3 as additional accused to face the trial, by exercising the power under Section 319 of Cr.P.C. (*now Section 358 of BNSS*). It is further contended that in spite of the specific allegations against respondents No.2 & 3, learned trial Court ignored the evidence available on record and misread the statements of the petitioner and dismissed the application filed by the petitioner under Section 319 of Cr.P.C. (*now Section 358 of BNSS*) for summoning respondents No.2 & 3 as additional accused by means of a non-speaking order and by erroneously ignoring the



law laid down by the Hon'ble Supreme Court in ***Hardeep Singh Vs. State of Punjab, (2014) 3 SCC 92*** and ***Sugreev Kumar Vs. State of Punjab and others, 2019 (@) Law Herald (SC) 1047***.

3. *Per contra*, learned State counsel submits that veracity of the allegations have been thoroughly examined and qua complicity of respondents No.2 & 3, the same have been found false. Learned trial Court passed a well reasoned order and rightly dismissed the application filed by the petitioner under Section 319 of Cr.P.C. (*now Section 358 of BNSS*).

4. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the allegations made by the petitioner against respondents No.2 & 3 completely lack specificity. The improvements made, while deposing before learned trial Court, cannot form the basis for exercising the extraordinary power under Section 319 of Cr.P.C. (*now Section 358 of BNSS*). Mere statement of the complainant, which is not substantiated by any credible material, cannot be a ground to invoke the discretionary and extraordinary power of this Court to summon an additional accused under Section 319 of Cr.P.C. (*now Section 358 of BNSS*). In the absence of any material suggesting existence of more than *prima facie* case available during the course of trial of an offence, the Courts ought to refrain themselves from exercising its discretionary and extraordinary power under Section 319 of Cr.P.C. (*now Section 358 of BNSS*). The Constitution Bench



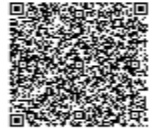
of the Hon'ble Supreme Court in **Hardeep Singh's** case (*supra*) has held that the power under Section 319 of Cr.P.C. (*now Section 358 of BNSS*) is a discretionary and extraordinary power. It is to be exercised only on the basis of the material available before the Court during the trial and not because the Magistrate or the Sessions Judge is of the opinion that some other accused/person may also be guilty of committing that offence.

5. In the absence of any credible material, the power under Section 319 of Cr.P.C. (*now Section 358 of BNSS*) 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.

6. Further, there is major contradiction in the roles of the proposed accused as recorded in the application-complaint Ex.PW1/A and

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in the statement of the petitioner, when he appeared as PW1 before the Court. As such, these contradictions are creating a doubt for even making a *prima facie* case in favour of the complainant-injured.

7. In view of the aforesaid facts and circumstances, this Court does not find any illegality or perversity in the impugned order dated 05.04.2025 passed by learned Additional Sessions Judge, Charkhi Dadri and the same is hereby upheld. Accordingly, the present revision petition is dismissed being bereft of any merit.

8. All the pending miscellaneous application(s), if any, shall stand disposed of.

05.05.2025
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No