



223

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

CRR-1422-2019

Date of decision: 21.03.2025

SUDHIR

...Petitioner(s)

VERSUS

STATE OF HARYANA AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Sagar Dang, Advocate for
Mr. J. P. Jangu, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

Mr. Rakesh Dhiman, Advocate for respondents No.2, 3 and 5.

JASGURPREET SINGH PURI, J. (Oral)

1. The present revision petition has been filed for setting aside the impugned order dated 23.01.2019 passed by the learned Sessions Judge, Jhajjar on an application filed by the prosecution under Section 319 Cr.P.C. for summoning the relatives of accused, namely, Jaiveer as additional accused, which was dismissed.

2. Learned counsel appearing on behalf of the petitioner submitted that it is a case where initially an FIR was registered under Section 302 of the IPC read with Section 34 of the IPC due to death of the sister of the petitioner, in which the husband of the deceased, namely, Jaiveer was one of the accused and allegations were also made in the FIR against the relatives of aforesaid



Jaiveer, namely, Suresh, Sudesh, Sumitra, Kanwal Singh and Karan Singh, who were also arraigned as accused in the FIR but during the course of investigation, the aforesaid persons were exonerated and were not challaned and challan was presented only against the husband of the deceased, namely, Jaiveer, who is facing trial and the challan was presented only under Section 306 of the IPC and the offence under Section 34 of the IPC was deleted as no act in furtherance of common intention was found in the present case by the police.

3. Learned counsel appearing on behalf of the petitioner further submitted that direct allegations were levelled in the FIR against the aforesaid persons, who are the private respondents in the present case i.e. respondents No.2 to 5 and at the time of prosecution evidence, the father of the deceased also deposed against them by reiterating the facts but the learned trial Court while dealing with the application under Section 319 Cr.P.C. has dismissed the application on the ground that no cogent evidence was found against the private respondents and therefore, they could not have been summoned as additional accused. He further submitted that once direct allegations have been levelled against the aforesaid private respondents and the same were also reiterated by the prosecution witness, who is the father of the deceased, then it was incumbent upon the learned Sessions Judge, Jhajjar to have summoned the aforesaid persons as additional accused because they were closely related to the deceased and they collectively instigated and abetted the deceased to commit suicide. He also submitted that considering the allegations against the aforesaid private respondents, whereby the sister of the petitioner was found hanging dead, they should be summoned as additional accused and face the trial



alongwith the husband of the deceased, namely, Jaiveer and therefore, the aforesaid impugned order passed by the learned Sessions Judge, Jhajjar may be set aside in this regard.

4. On the other hand, Mr. Gurmeet Singh, AAG, Haryana submitted that at the time of investigation, it was found that the aforesaid private respondents, who were sought to be summoned as additional accused under Section 319 Cr.P.C. were not involved in the present case. He further submitted that during investigation, it was found that the parents of aforesaid Jaiveer, namely, Sumitra and Kanwal Singh have been living separately from the husband of the deceased since 2006 and they also have a separate Ration Card. He further submitted that so far as the brother of the husband of the deceased, namely, Suresh is concerned, he is rather serving in the Indian Air Force and he alongwith his children is also residing separately at his place of posting. He also submitted that so far as sister of the husband of the deceased, namely, Sudesh is concerned, she is a married lady residing in her matrimonial home since 2001 and that is the reason as to why it was found on the basis of investigation that the aforesaid persons had no role to play in the present offence and the husband of the deceased, namely, Jaiveer was the only accused, who was found responsible for the offence being committed and therefore, only Jaiveer was challaned.

5. Learned counsel for respondents No.2, 3 and 5 submitted that the learned Sessions Judge, Jhajjar has rather observed on the basis of the judgment passed by a Constitution Bench of Hon'ble Supreme Court in **Hardeep Singh versus State of Punjab and others, 2014 (3) SCC 92** that no cogent or strong



reasons have been found or no material or evidence was available to implicate the aforesaid persons to face the trial, who have been kept in column No.2 of the challan and while following the law laid down by a Constitution Bench of Hon'ble Supreme Court in **Hardeep Singh's case (Supra)**, the learned Sessions Judge, Jhajjar has dismissed the application filed under Section 319 Cr.P.C. and no illegality or perversity can be found in the aforesaid impugned order.

6. I have heard the learned counsels for the parties.

7. It is a case where an application was moved by the prosecution under Section 319 Cr.P.C. for summoning the relatives of accused-Jaiveer, namely, Suresh, Sudesh, Sumitra, Kanwal Singh and Karan Singh as additional accused to face the trial. Initially, the FIR was registered under Section 302 of the IPC read with Section 34 of the IPC but later on during the course of investigation, it was found that the aforesaid persons, who were sought to be summoned as additional accused were not involved in the present offence and they were exonerated by the police and even a report under Section 173 Cr.P.C. was presented under Section 306 of the IPC and the provisions of Section 34 were deleted. After the deposition of prosecution witness, who is the father of the deceased, whereby he reiterated the same allegations before the learned trial Court, an application was moved under Section 319 Cr.P.C. for summoning the aforesaid persons as additional accused since they were named in the FIR, although exonerated by the police. The learned Sessions Judge, Jhajjar dismissed the application filed under Section 319 Cr.P.C. for summoning the aforesaid persons as additional accused and the order vide which the aforesaid application was dismissed has been assailed in the present revision petition.



8. The learned Sessions Judge, Jhajjar while dealing with the aforesaid application filed under Section 319 Cr.P.C. observed with regard to all the aforesaid persons that as per the police, during investigation it was found that they were not involved in the present offence because of the reason that the father and mother of the husband of the deceased were not residing with their son, namely, Jaiveer since 2006 and rather they were having a separate Ration Card. So far as the uncle of Jaiveer, namely, Karan Singh is concerned, he was also residing separately from Jaiveer. Another person, namely, Suresh, who was also sought to be summoned as an additional accused being brother of Jaiveer was serving in the Indian Air Force and he alongwith his children was residing at the place of his posting and so far as the sister of aforesaid Jaiveer, namely, Sudesh is concerned, she was residing in her matrimonial home since 2001 and that was the reason as to why Section 34 of the IPC was deleted from the present case.

9. The learned Sessions Judge, Jhajjar while following the law laid down by a Constitution Bench of Hon'ble Supreme Court in **Hardeep Singh's case (Supra)** held that, at this stage, no cogent reason or evidence has been found or any material has been found against the aforesaid private persons and therefore, for the purpose of considering the application filed under Section 319 Cr.P.C. for summoning additional accused, the parameters which have been laid down by a Constitution Bench of Hon'ble Supreme Court in **Hardeep Singh's case (Supra)** are to be followed but the ingredients were not fulfilled.

10. Hon'ble Supreme Court in **Hardeep Singh's case (Supra)** laid down the law as to what was the standard of proof for the purpose of



summoning of an additional accused under Section 319 Cr.P.C. The relevant portion of the aforesaid judgment is reproduced as under:-

“105. Power under Section 319 Cr.P.C is a discretionary and an extraordinary 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.

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 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. 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 of “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”.



11. A perusal of the aforesaid judgment passed in **Hardeep Singh's case (Supra)** would show that it is a settled law that a person can be summoned as an additional accused only when there are strong and cogent reasons and the Court arrives at the conclusion that '*more than prima facie*' case is made out because the standard of proof is on a higher and stronger footing as compared to that at the time of framing of charges. It was in this context and considering the facts and circumstances that the learned Sessions Judge, Jhajjar has declined to interfere in summoning the aforesaid persons as additional accused, who are the relatives of the husband of the deceased, namely, Jaiveer because no strong reason or material was found to arrive at more than *prima facie* satisfaction.

12. After hearing the learned counsels for the parties and perusing the aforesaid impugned order dated 23.01.2019 passed by the learned Sessions Judge, Jhajjar, this Court is of the considered view that not only the scope of the revision petition is very limited but even otherwise also there is no illegality or perversity in the aforesaid impugned order which has been passed by the learned Sessions Judge, Jhajjar.

13. Consequently, finding no merit in the present revision petition, the same is hereby dismissed.

21.03.2025
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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