



CRR-1414-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-1414-2023

Date of decision : 12.09.2025

JAGTAR SINGH

... Petitioner

Versus

STATE OF PUNJAB &amp; ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. K.S. Kahlon, Advocate  
for the petitioner.

Mr. M.S. Toor, A.A.G., Punjab.

Mr. Inderjit Sharma, Advocate  
for respondent No.2.

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**JASJIT SINGH BEDI, J.**

The prayer in the revision petition is for setting aside the summoning order dated 29.03.2023 passed by the Addl. Sessions Judge, Gurdaspur under Section 319 Cr.P.C.

2. The brief facts of the case are that an FIR No.05 dated 20.01.2018 U/s 307, 324, 323, 427, 379, 506, 148, 149 IPC and Section 25 of Arms Act P.S. Sekhwan, Police District Batala, District Gurdaspur came to be registered at the instance of respondent No.2/complainant Rajwinder Kaur W/o Harjit Singh R/o Dala which reads as under:-

*"Statement of Rajwinder Kaur wife of S. Harjit Singh Caste Jat, resident of Dala, P.S. Sekhwan, H.No. 88, Police Line Jalandhar aged 48 years 98157- 09248. It is stated that I am resident of above mentioned address and do household work. My husband Harjit Singh is serving in the police department at Jalandhar. My paternal village is Thikriwal. We are two sisters and one brother. I have one god brother namely Mithu*



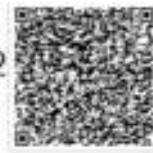
*Singh and my brother Sarwan Singh is in Canada. He got married about 13 years ago with Davinder Kaur d/o Kashmir Singh Caste Jat, r/o Mundi Kohal, P.S. Sekhwan. My sister-in-law Davinder Kaur's brothers namely Varinder Singh @ Rana Cheema, Harpreet Singh @ Happy son of Kashmir Singh, Caste Jat r/o Mundi Kohal, P.S. Sekhwan had taken Rs. 10.00 lakhs from my mother and my brother Sarwan Singh. My mother Lakhwinder Kaur and my god brothers Mithu Singh used to demand their money back from them, due to which they used to be quarrel on demand of money with the in-laws family of my brother and my mother alongwith my god brother Mithu. For this reason on 16.01.2018 my god brother Mithu Singh was given injuries in his house as Varinder Singh @ Rana Cheema, Harpreet Singh @ Happy sons of Kashmir Singh Caste Jat r/o Mundi Kohal entered his house and caused him injuries. And he was admitted in Civil Hospital Batala and my brother Mithu Singh son of Late Sohan Singh on his statement Varinder Singh @ Rana Cheema, Harpreet Singh @ Happy sons of Kashmir Singh caste Jat, R/o Mundi Kohal, P.S. Sekhwan a case was registered against them bearing FIR No. 4 dated 18.01.2018 u/s 452, 324, 323, 506, 34 IPC P.S. Sekhwan was registered. Today I and my husband Harjit Singh, my son Akrambir Singh and my god brother Mithu Singh who had got discharged from hospital and had returned. After meeting him and knowing his well being we were returning in our Alto Car to Jalandhar when we reached near the house of Dalbir Singh s/o Shyam Singh r/o Thikri Wala Guraya at 4.40 p.m. from the side of Butter on the kacha path one vehicle Ford Figo Sports which was driven by Varinder Singh @Rana Cheema on the co-driver seat his father Kashmir Singh and on the rear seat Kulwant Kaur wife of Kashmir Singh, Davinder Kaur d/o Kashmir Singh caste jat r/o Mundi Kohal were seated. And they rammed their vehicle in our car Alto and one more vehicle i-20 grey in colour which was being driven by Harpreet Singh @*



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*Happy alongwith four unidentified persons. They parked the vehicle on the back side of our car. And one more vehicle the brand I do not know which consisted five unidentified persons parked the vehicle in front of our vehicle. Varinder Singh @ Rana Cheema armed with datar and pistol in holster, Kashmir Singh armed with datar. Kulwant Kaur and Davinder Kaur are empty handed alighted from vehicle and Harpreet Singh @ Happy armed with datar and pistol in his holster and four more unidentified persons who were also armed with weapons alighted from the vehicle and another vehicle five unidentified persons who also had deadly weapons. All the accused encircled our vehicle and took us out from our vehicle. Davinder Kaur, Kulwant Kaur and Kashmir Singh gave lalkara and said "catch hold of them and they will be taught a lesson. For helping god brother Mithu Singh" and Harpreet Singh gave datar blow on my husband Harjit Singh and it hit on his left arm bicep. Then my husband fell on the ground and while he was lying on the ground Varinder Singh @ Rana Cheema gave datar blow which hit on his right leg (tibia). Then Kashmir Singh gave datar blow on my husband which hit on his left leg tibia. Then Varinder Singh @ Rana Cheema and Harpreet Singh @ Happy fired on my husband which hits on his legs. Unidentified persons dragged my husband. And also caused injuries with their weapons. Harpreet Singh @ Happy and Varinder Singh @ Rana Cheema threatened my son Akrambir Singh and me by pointing his pistol at us in case you come forward and interfere in any manner your family will also bear the consequences. Varinder Singh @ Rana Cheema took out Rs. 95,000/- from the coat pocket of my husband and the above assailants alongwith their weapons ran away on their vehicles. My husband is under treatment who is not in condition to make statement. The remaining version he shall give with details when he is in condition to make statement. I certify legal action be taken against the*

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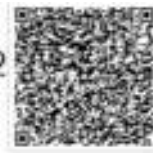
*accused for attacking my husband with the intention to kill and also damaging the vehicle Rajwinder Kaur.”*

3. Though 15 persons were named as accused, on conclusion of the investigation, the report under Section 173(2) Cr.P.C. came to be submitted against 10 accused. Two accused were declared proclaimed offenders. The petitioner and certain other persons were exonerated.

4. During the course of the trial, injured Harjit Singh was examined as PW1. On the basis of his statement, the petitioner and one Kashmir Singh came to be summoned as additional accused under Section 319 Cr.P.C. vide order dated 29.03.2023 passed by the Court of Additional Sessions Judge, Gurdaspur.

5. The petitioner has preferred the instant revision petition against the aforementioned order of summoning.

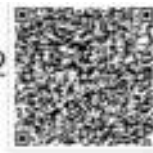
6. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The occurrence took place on 19.01.2018. The FIR came to be registered at the instance of respondent No.2/complainant Rajwinder Kaur on 20.01.2018. The petitioner was not named as an accused in the said FIR. Thereafter, the supplementary statement of respondent No.2/complainant Rajwinder Kaur was recorded on 24.01.2018. In the said statement, once again the petitioner was not named as an accused though the statement reveals that she had discussed the occurrence with her mother Lakhwinder Kaur and Kashmir Singh (Chacha) and had identified Amrik Singh, Mandeep Singh alias Happy, Jaspal Singh alias Bittu, Karan and Kuljit Singh alias Billa as the other accused. Subsequently, the statement of Lakhwinder Kaur was recorded under Section 161 Cr.P.C. on 25.01.2018 wherein she

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stated that the petitioner was sitting on the rear seat of a car at the time of the occurrence. A similar statement was made by injured Harjit Singh on 30.01.2018. He contends that had Lakhwinder Kaur seen the petitioner at the time of the occurrence, she would have certainly disclosed this fact to her daughter respondent No.2/complainant Rajwinder Kaur and the name of the petitioner would have been mentioned in the supplementary statement of respondent No.2/complainant Rajwinder Kaur which was recorded on 24.01.2018. However, taking the prosecution case to be correct, no role whatsoever has been attributed to the petitioner other than the averment that he was sitting on the rear seat of a vehicle at the place of occurrence. For the purposes of summoning a person as an additional accused there must be more than *prima facie* evidence which is lacking in the present case. He, therefore contends that the impugned order is liable to be set aside.

7. On the other hand, the learned State counsel along with the learned counsel for respondent No.2/complainant contend that though that petitioner is not named in the FIR or the supplementary statement of respondent No.2/complainant Rajwinder Kaur, his name finds mentioned in the statement under Section 161 Cr.P.C. of Lakhwinder Kaur on 25.01.2018 and of Harjit Singh (injured) on 30.01.2018. As per the said statement, he was present at the spot. Therefore, the impugned order has been passed with due application of mind as there is more than *prima facie* evidence against the petitioner. They, therefore contend that the present petition is liable to be dismissed.

8. I have heard the learned counsel for the parties.



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9. Before proceeding further in the matter, it would be apposite to refer to the provisions of Section 319 Cr.P.C and it reads 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.*

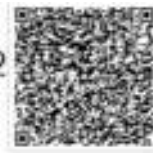
*(4) Where the Court proceeds against any person under sub- section (1), then-*

*(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.”*

10. The Hon'ble Supreme Court in the case of **Brijender Singh & others Vs. State of Rajasthan, Criminal Appeal No.763 of 2017, decided on 27.04.2017**, held as under:-

*“12. The moot question, however, is the degree of satisfaction that is required for invoking the powers under Section 319 Cr.P.C. and the related question is as to in what situations this power should be exercised in respect of a person named in the FIR but not charge-sheeted. These two aspects*



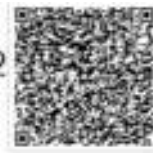
*were also specifically dealt with by the Constitution Bench in Hardeep Singh's case and answered in the following manner:*

*"95. At the time of taking cognizance, the court has to see whether a prima facie case is made out to proceed against the accused. Under Section 319 Cr.P.C., though the test of prima facie case is the same, the degree of satisfaction that is required is much stricter. A two-Judge Bench of this Court in *Vikas v. State of Rajasthan* [2013(4) RCR (Criminal) 948 : 2013(6) Recent Apex Judgments (R.A.J.) 356 : (2014) 3 SCC 321], held that on the objective satisfaction of the court a person may be "arrested" or "summoned", as the circumstances of the case may require, if it appears from the evidence that any such person not being the accused has committed an offence for which such person could be tried together with the already arraigned accused persons.*

*xx xx xx*

*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 if "it appears*

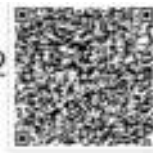


*from the evidence that any person not being the accused has committed any offence" is clear from the words "for which such person could be tried together with the accused". The words used are not "for which such person could be convicted". There is, therefore, no scope for the court acting under Section 319 Cr.P.C. to form any opinion as to the guilt of the accused.*

*(emphasis supplied)"*

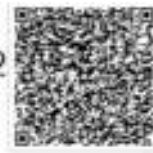
13. *In order to answer the question, some of the principles enunciated in Hardeep Singh's case may be recapitulated:*

*Power under Section 319 Cr.P.C. can be exercised by the trial court at any stage during the trial, i.e., before the conclusion of trial, to summon any person as an accused and face the trial in the ongoing case, once the trial court finds that there is some 'evidence' against such a person on the basis of which evidence it can be gathered that he appears to be guilty of offence. The 'evidence' herein means the material that is brought before the Court during trial. Insofar as the material/evidence collected by the IO at the stage of inquiry is concerned, it can be utilised for corroboration and to support the evidence recorded by the Court to invoke the power under Section 319 Cr.P.C. No doubt, such evidence that has surfaced in examination-in-chief, without cross-examination of witnesses, can also be taken into consideration. However, since it is a discretionary power given to the Court under Section 319 Cr.P.C. and is also an extraordinary one, same has to be exercised sparingly and only in those cases where the circumstances of the case so warrants. The degree of satisfaction is more than the degree which is warranted at the time of framing of the charges against others in respect of whom charge sheet was filed. Only where strong and cogent evidence occurs against a person from the evidence led before the Court that such power should be exercised. It is not to be exercised in a casual or a cavalier manner. The prima facie opinion which is to be formed requires stronger evidence than mere probability of his complicity.*



14. When we translate the aforesaid principles with their application to the facts of this case, we gather an impression that the trial court acted in a casual and cavalier manner in passing the summoning order against the appellants. The appellants were named in the FIR. Investigation was carried out by the police. On the basis of material collected during investigation, which has been referred to by us above, the IO found that these appellants were in Jaipur city when the incident took place in Kanaur, at a distance of 175 kms. The complainant and others who supported the version in the FIR regarding alleged presence of the appellants at the place of incident had also made statements under Section 161 Cr.P.C. to the same effect. Notwithstanding the same, the police investigation revealed that the statements of these persons regarding the presence of the appellants at the place of occurrence was doubtful and did not inspire confidence, in view of the documentary and other evidence collected during the investigation, which depicted another story and clinchingly showed that appellants plea of alibi was correct.

15. This record was before the trial court. Notwithstanding the same, the trial court went by the deposition of complainant and some other persons in their examination-in-chief, with no other material to support their so-called verbal/ocular version. Thus, the 'evidence' recorded during trial was nothing more than the statements which was already there under Section 161 Cr.P.C. recorded at the time of investigation of the case. No doubt, the trial court would be competent to exercise its power even on the basis of such statements recorded before it in examination-in-chief. However, in a case like the present where plethora of evidence was collected by the IO during investigation which suggested otherwise, the trial court was at least duty bound to look into the same while forming prima facie opinion and to see as to whether 'much stronger evidence than mere possibility of their (i.e. appellants) complicity has come on record. There is no satisfaction of this nature. Even if we presume that the trial court



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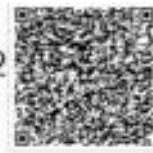
*was not apprised of the same at the time when it passed the order (as the appellants were not on the scene at that time), what is more troubling is that even when this material on record was specifically brought to the notice of the High Court in the Revision Petition filed by the appellants, the High Court too blissfully ignored the said material. Except reproducing the discussion contained in the order of the trial court and expressing agreement therewith, nothing more has been done. Such orders cannot stand judicial scrutiny.”*

(emphasis supplied)

In *Shiv Prakash Mishra Vs. State of Uttar Pradesh & another, 2019(5) R.C.R. (Criminal) 946*, the Hon’ble Supreme Court held as under:-

*“9. The standard of proof employed for summoning a person as an accused person under Section 319 Cr.P.C., 1973 is higher than the standard of proof employed for framing a charge against the accused person. The power under Section 319 Cr.P.C., 1973 should be exercised sparingly. As held in Kailash v. State of Rajasthan and another 2008(2) RCR (Criminal) 200 : (2008) 14 SCC 51, "the power of summoning an additional accused under Section 319 Cr.P.C., 1973 should be exercised sparingly. The key words in Section are "it appears from the evidence"...."any person"...."has committed any offence". It is not, therefore, that merely because some witnesses have mentioned the name of such person or that there is some material against that person, the discretion under Section 319 Cr.P.C., 1973 would be used by the court."*

*10. As held by the Constitution Bench in para (105) in Hardeep Singh, the power under Section 319 Cr.P.C., 1973 is discretionary and is to be exercised sparingly which reads as under:-*

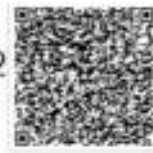


*"105. Power under section 319 CrPC, 1973 is a discretionary and an extraordinary power. It is to be exercised sparingly and only in those cases where the circumstances of the case so warrant. It is not to be exercised because the Magistrate or the Sessions Judge is of the opinion that some other person 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 CrPC, 1973. In section 319 CrPC, 1973 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 CrPC, 1973 to form any opinion as to the guilt of the accused."*

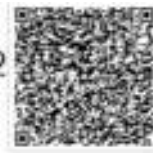
*11. The above view was followed in Brijendra Singh as under:-*

*"13. In order to answer the question, some of the principles enunciated in Hardeep Singh case (2014) 3 SCC 92 may be recapitulated:..... However, since it is a discretionary power given to the court under section 319 CrPC, 1973 and is also an extraordinary one, same has to be exercised sparingly*



*and only in those cases where the circumstances of the case so warrant. The degree of satisfaction is more than the degree which is warranted at the time of framing of the charges against others in respect of whom charge-sheet was filed. Only where strong and cogent evidence occurs against a person from the evidence led before the court that such power should be exercised. It is not to be exercised in a casual or a cavalier manner. The prima facie opinion which is to be formed requires stronger evidence than mere probability of his complicity."*

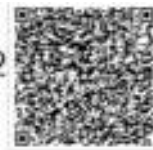
*12. In the light of the above principles, considering the present case, having regard to the contradictory statements of the witnesses and other circumstances, in our view, the trial court and the High Court rightly held that respondent No.2 cannot be summoned as an accused. The FIR in Case Crime No.328A/2013 was registered on 06.09.2013 at 18.15 hours. The name of second respondent is no doubt mentioned in the FIR and overt act is attributed to him. It is clear from the record that during the course of investigation, the Investigating Officer recorded the statements of witnesses namely Rajesh Kumar, Nizamuddin, Nand Kishore, Tribhuwan Singh, Bintu Rai and Nageshwar Kumar and other seven witnesses who have stated that respondent No.2 was not present at the place of occurrence at the time of the incident. The Investigating Officer has also recorded the statement of one Shiv Kumar Gupta and Sandeep Gupta who are working in the same office in which respondent No.2 was employed who had stated that respondent No.2 was in the office at the time of incident. Based on the statements recorded from the witnesses, the Investigating Officer found that the second respondent was posted on the post of Junior Engineer in the Bridge Construction Unit of Bridge Corporation, Lucknow and he usually resided there and on 06.09.2013, he was present at his workplace and discharging his official duties. Based on*



*the materials collected during the investigation, the Investigating Officer recorded the finding that on the date and time of incident, Subhash Chandra Shukla was not present at the place of occurrence. Accordingly, the name of Subhash Chandra Shukla was dropped when the first charge sheet was filed on 19.09.2014. The supplementary charge sheet was filed against Rahul Shukla on 15.10.2014. Though the name of second respondent was mentioned in the FIR, during investigation, it was thus found that the second respondent was not present in the place of incident and on the basis of the findings of the Investigating Officer, he was not charge sheeted. Be it noted that the appellant-complainant has not filed any protest petition then and there. During investigation, when it was found that the accused was not present at the place of incident, the courts below were right in refusing to summon respondent No.2 as an accused.”*

(Emphasis supplied)

11. Coming back to the facts of the present case, admittedly, the petitioner is not named in the FIR or in the supplementary statement of respondent No.2/complainant Rajwinder Kaur though the said supplementary statement was recorded after confabulations and consultations of respondent No.2/complainant Rajwinder Kaur with her mother Lakhwinder Kaur and Kashmir Singh (Chacha). Surprisingly, Lakhwinder Kaur did not inform her daughter Rajwinder Kaur of the presence of the petitioner at the spot but got recorded her own statement under Section 161 Cr.P.C. on 25.01.2018 to the effect that the petitioner was sitting on the rear seat of the car. A similar statement has been recorded of injured Harjit Singh on 30.01.2018. The manner in which the name of the petitioner has figured in the statement of these two witnesses who are none other than the mother and husband of respondent

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No.2/complaint Rajwinder Kaur certainly creates a doubt in the case of the prosecution qua the petitioner. Further, even as per the said statements, no injury has been attributed to the petitioner. Surprisingly, the Trial Court in its impugned order while summoning the petitioner has held that Kashmir Singh and Jagtar Singh participated in the occurrence having given blows with a dattar to Harjit Singh. Therefore, the Trial Court has not applied its mind to the role played by the petitioner.

12. Thus, the quality of the evidence available on record is not of such sterling character so as to persuade this Court to come to the conclusion that the petitioner ought to be summoned as an additional accused to face trial along with the accused already facing trial.

13. In view of the aforementioned discussion, the impugned order dated 29.03.2023 passed by the Addl. Sessions Judge, Gurdaspur summoning the petitioner as an additional accused is set aside qua the petitioner alone.

**(JASJIT SINGH BEDI)**  
**JUDGE**

**12.09.2025**

JITESH

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