



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

CRR-1427-2019(O&M)

Reserved on :13.05.2025**Pronounced on: 04.07.2025**

Swati Kataria

...Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:- Petitioner in person.

Mr. Anmol Malik, DAG, Haryana.

Mr. K.P.S. Virk, Advocate for respondents No.2 to 6, 8 & 9.

KIRTI SINGH, J.

Under challenge in the revision petition is the order dated 24.04.2019, whereby the application under Section 319 Cr.P.C. for summoning the private respondents as additional accused was dismissed by the learned Addl. Sessions Judge, Karnal in case bearing FIR No.694 dated 27.10.2016, under Sections 323, 325, 307, 354 and 506 IPC, registered at Police Station Assandh, Karnal.

2. The brief factual matrix of the case is that the instant FIR was registered upon a written complaint submitted by the petitioner on 26.10.2016, alleging therein that the petitioner and her family had been facing constant harassment at the hands of the accused persons for the transfer of ownership of the agricultural land owned by them. On 19.10.2016 when the petitioner along with her mother was heading back to Karnal after supervising the harvest of the crops planted in their agricultural land, they apprehended that they were being followed and therefore they started to head back towards their village, when a vehicle rammed into their



car with great force. The petitioner got down to check the damage done to her car, when she saw the number plate of the offending car of the make of Volkswagen Vento. It was then she spotted the same car heading towards them once again, whereafter she ran and sat in her car. It is submitted that then allegedly Baba Badbhangh Singh along with Narender Singh, Gurdial Singh, Inderjeet Singh along with two-three other persons pulled the petitioner out of her car and started assaulting her. On seeing this, the mother of the petitioner rushed out from the car to rescue her, upon which Hardeep Singh, Mandeep Singh, Inderjeet Singh, Sidder, Gurdeep Singh and one other person alighted from the car, whereafter Mandeep Singh raised a Lalkara to kill the mother of the petitioner, who was then attacked with wooden sticks and run over by their car. Meanwhile the petitioner was also molested by the accused, who ran away upon spotting light coming from a distant vehicle. The petitioner thereafter made frantic calls to her brother, and in a short span of time the PCR arrived and the petitioner along with her mother were taken to a local hospital from where they were sent to civil hospital, Karnal in an Ambulance. Due to the critical condition of the mother of the petitioner, she was referred to PGI, but the petitioner chose to get her admitted at Fortis Hospital, Mohali, from where she was subsequently moved to Landmark Hospital. Initially the investigating agency on 3-4 occasions could not get the statement of the mother of the petitioner recorded as she had been declared unfit for that purpose by the doctors. Meanwhile, after the lodging of the FIR, challan was presented only against the accused Mandeep Singh while all the other accused persons were exonerated by the investigating agency. The petitioner thereafter approached this Court, seeking transfer of the investigation, pursuant to which the



investigation of the case was transferred by the Director General of Police to the State Crime Bureau, Haryana in May 2017. Pending the investigating report from the Bureau, which was only submitted on 25.03.2019, the petitioner had moved an application under Section 319 Cr.P.C. seeking summoning of the private respondents as additional accused, which was dismissed vide impugned order dated 24.04.2019. Aggrieved by the same the petitioner has filed the present petition.

3. It is the submission of the petitioner that the application filed by the petitioner under Section 319 Cr.P.C. has been wrongly dismissed by the learned Trial Court. It is submitted that the statement of the petitioner as also her mother who was an injured witness in the aforesaid occurrence was recorded by the learned Trial Court, and they were also subjected to the test of cross examination, which they withstood and supported the case of the prosecution. Yet, the application for summoning private respondents herein as additional accused was dismissed by observing that it had been intentionally moved at a delayed stage with an intent to prolong the trial. It is submitted that the learned Trial Court failed to take into consideration the fact that the application was filed at that stage only for the reason that further investigation qua the present FIR had been pending with the special crime Branch, and the petitioner was, in all spirits, expecting a fair and impartial investigation and anticipating that the proposed accused would be found guilty for the crimes they committed against the petitioner and her mother, which unfortunately did not happen. Qua the other observations of the learned Trial Court regarding there being material improvements in the version presented by the petitioner, it is submitted that an FIR need not be an encyclopedia of events, nor does it need to be as detailed as the deposition



made before the Court. In the instant case, it can at best be construed that there were minor differences in the contents of the FIR and the testimony of the petitioner and her mother in the present case, which could have been harmoniously construed and inferred. It is further submitted that the observation of the learned Trial Court that the accused were not named in the FIR, can also be falsified from a bare reading of the FIR. It is further submitted that the petitioner and her mother had categorically named all the accused persons and designated specific roles to them, and that there submissions also stand supported by medical evidence in the form of MLRs of the petitioner and her mother. The petitioner submits that for the purpose of summoning additional accused, only existence of more than a prima facie case needs to be seen, which is clearly present in the instant case.

4. *Per contra*, learned counsel appearing on behalf of the private respondents submits that the learned Trial Court had rightly dismissed the application moved by the petitioner for summoning the private respondents as not only had it been filed at a belated stage when the defence evidence was being advanced, but also correctly observed in the impugned order that seeking their summoning was nothing but an afterthought, since there were glaring inconsistencies and material improvements in the version of the petitioner. It is further submitted that the proposed accused were first exonerated by the police after taking into account all the evidence, including their call details and mobile tower locations. Similarly, even in the final report submitted by the State Crime Bureau, the private respondents were found innocent, a conclusion which was arrived at after making independent witnesses join investigation and after examining the results of the polygraph



tests which the respondents had willingly undergone. Therefore, the present petition deserves to be dismissed.

5. Learned State counsel while relying upon the contents of the reply dated 02.10.2024 submits that all the accused persons were joined investigation and even their polygraph tests were conducted after obtaining consent, wherein their answers were found to be positive and truthful. Only accused Mandeep Singh was *prima facie* found guilty and therefore arrested. Further, call details and location of the proposed accused were obtained and compared with accused Mandeep Singh, whereafter it was found that no call was made by them, on the mobile phone of the accused Mandeep Singh. Further their location was also not that as the place of the alleged occurrence. It was thus that all the private respondents herein were declared as innocent and thereafter even the learned Trial Court dismissed the application for their summoning as additional accused vide the impugned order dated 24.04.2019.

6. Heard the submissions made and perused the judicial file along with the record of the trial Court.

7. Before proceeding further, it is pertinent to discuss the observations made by the Hon'ble Supreme Court in some of its recent judgments. Discussing the scope of Section 319 Cr.P.C., the Constitution Bench of Hon'ble Supreme Court in ***Hardeep Singh vs. State of Punjab, SC 2014 (1) RCR (Criminal) 623*** has laid down that:

"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 unrebutted, 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."

8. The Hon'ble Supreme Court in **Criminal Appeal No.1487 of 2025 decided on 01.04.2025 titled as Satbir Singh Vs. Rajesh Kumar and others**, held as under:-

'14. Quite recently, a coordinate Bench of this Court in Jitendra Nath Mishra v. State of Uttar Pradesh & Another¹¹, upon considering Hardeep Singh (supra), had the occasion to observe as follows:

"10. Section 319 CrPC, which envisages a discretionary power, empowers the court holding a trial to proceed against any person not shown or mentioned as an accused if it appears from the evidence that such person has committed a crime for which he ought to be tried together with the accused who is facing trial. Such power can be exercised by the court qua a person who is not named in the FIR, or named in the FIR but not shown as an accused in the charge-sheet. Therefore, what is essential for exercise of the power under Section 319 CrPC is that the evidence on record must show the involvement of a person in the commission of a crime and that



the said person, who has not been arraigned as an accused, should face trial together with the accused already arraigned. However, the court holding a trial, if it intends to exercise power conferred by Section 319 CrPC, must not act mechanically merely on the ground that some evidence has come on record implicating the person sought to be summoned; its satisfaction preceding the order thereunder must be more than prima facie as formed at the stage of a charge being framed and short of satisfaction to an extent that the evidence, if unrebutted, would lead to conviction.”

9. The principles of law with reference to exercise of jurisdiction under 319 Cr.P.C. are well settled. As has been opined in a plethora of judgments, it is clear that the objective to invoke the powers under Section 319 Cr.P.C., is to not allow the real perpetrators of an offence to get away unpunished. The legislative intent behind the inclusion of this provision is to prevent the miscarriage of justice by ensuring that all individuals who might have a role in the offence are brought before the court for examination, thus ensuring that no one can escape from the clasp of law simply because they were not initially identified as an accused.

10. In the instant case, qua the factum of the polygraph test report being in favour of the proposed accused, a gainful reference can be made to the recent judgment passed by a Co-ordinate Bench of this Court passed in Deepak vs. State of Haryana, CRR-3143-2019, decided on 13.05.2019, wherein the petition filed for summoning of additional accused under section 319 CrPC was allowed by making the following observations:

“13. As regards the reliance placed by the Trial Court on the results of the polygraph test to discredit the petitioner, the same is wholly misconceived in law. In Selvi’s case (supra), the Constitution Bench of the Hon’ble Supreme Court authoritatively held that such test results are inadmissible in evidence and have no probative value unless independently corroborated by admissible material. Any reliance upon such inadmissible material to



draw adverse inference against a prosecution witness is manifestly erroneous.

xxx

xxx

xxx

15. The argument that the testimony is repetitive or lacks specific attribution is without merit. A statement made on oath in court is substantive in character, and the consistency between the FIR and deposition only enhances the credibility of a witness. Further and pertinently, at the stage of deciding an application under Section 319 Cr.P.C., the court is not required to adjudicate upon the truthfulness of the version, but only to see whether the material on record, if unrebutted, would justify trial.

16. The reliance placed by the Trial Court on inadmissible polygraph results to doubt the veracity of the testimony of the petitioner is not only legally untenable but also vitiates the exercise of jurisdiction under Section 319 Cr.P.C. Judicial determination must rest on admissible evidence and statutory parameters, not on investigatory tools lacking evidentiary sanctity.”

11. Further, specific allegations and roles have been assigned to the proposed accused by the petitioner, which were reiterated on oath by her and her mother while appearing before the trial Court as PW-1 and PW-6. The witnesses even underwent lengthy cross examinations but stood by their version. The ground of dismissing the application filed by the petitioner under section 319 Cr.P.C. taken by the trial Court, that there were material improvements in the version of the prosecution witnesses, is also not tenable, since a circumspect perusal of the statements on record as a whole, at best, can be seen as minor variations of recollection and not of substance, having material bearing. Rather, it appears that the trial Court has placed significant reliance on the testimony of DW-1, who stated the incident to be a road accident. At this stage, the same cannot operate to dilute the evidentiary value of depositions of PW1 and PW-6, unless tested and weighed during the trial proper. Trite to say that for summoning under



section 319 CrPC, existence of more than a prima facie case strongly indicating towards the probable guilt is suffice. Further, it is settled law that an FIR need not be an encyclopedia of events, and therefore the further details emerging during the depositions do not, per se, render the testimony infirm. Insofar as the ground of delay in filing the application is concerned, the same was also satisfactorily justified by the petitioner, stating that the application was not filed earlier in anticipation of the report of the investigation which was being conducted by the special crime Branch. The statutory provision also does not prescribe any outer limit for moving an application under section 319 Cr.P.C., nor can the same be made the basis for dismissing the same when cogent and convincing grounds are made out pointing towards the probable guilt of the proposed accused. In the instant case, a cumulative reading of the statements on record makes out a strong prima facie case against the private respondents, necessitating their summoning to prevent the miscarriage of justice.

12. Moreover, at this stage, it is only the summoning of the private respondents to face trial for which, this Court, after considering the facts of the case in circumspection, is convinced of there being more than a prima facie case. However, it goes without saying that the veracity of allegations leveled against the private respondents is yet to be proved during the course of trial.

13. For the foregoing reasons, the impugned order dated 24.04.2019 passed by the learned Addl. Sessions Judge, Karnal, is set aside. The petition is accordingly, allowed.

14. Nothing stated hereinabove shall be construed to be an expression of an opinion on the merit of the case.



15. The learned Addl. Sessions Judge, Karnal is encouraged to take the trial to its logical conclusion, in accordance with law, as expeditiously as possible.
16. Pending miscellaneous application(s), if any, also stands disposed of, accordingly.

July 04, 2025
Kapil

(KIRTI SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No