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

**CRR-1358-2025
Date of Decision: 22.05.2025**

Kxxxxxxx

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Amandeep Singh Manaise, Advocate
for the petitioner.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present revision petition has been filed under Section 442 of BNSS, 2023 for challenging the order dated 01.04.2025 passed by learned Additional Sessions Judge, Gurdaspur vide which the application under Section 319 Cr.P.C. moved by the prosecution for summoning of respondents No.2 to 7 as additional accused in case bearing FIR No.55, dated 09.05.2022, under Sections 376, 498-A, 342, 341, 506, 120-B IPC and Section 4 of POCSO Act, registered at Police Station Ghuman, Police District Batala, District Gurdaspur has been dismissed.

2. Learned counsel for the petitioner submitted that in the present case a complaint was given by the petitioner on the basis of which the present FIR was registered, she has specifically so alleged that the accused namely Jagroop Singh had committed an offence of rape upon her and at the same time allegations were also made against the mother of the aforesaid accused namely Jaswinder Kaur that she had mixed some intoxicant

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substance in tea of the petitioner due to which she fell unconscious and thereafter, offence of rape was committed upon her and another allegation was made against one of the co-accused namely Kulwant Singh who was the cousin of the aforesaid Jagroop Singh, who had allegedly clicked photographs and made a video. The allegations against Satnam Singh, who is the father of the aforesaid Jagroop Singh were that they were harassing the petitioner. It is further alleged in the FIR that ultimately the petitioner and the aforesaid Jagroop Singh got married to each other. The family first got them engaged and then they were married to each other and now they are living separately. Therefore, the present FIR is not only under Section 376 IPC but also under Section 498-A IPC. He further submitted that apart from the above, since the petitioner was minor at the time of occurrence, the provision of Section 6 of the POCSO Act was also invoked.

3. Learned counsel for the petitioner further submitted that although the FIR was registered against the aforesaid Jagroop Singh, who is the main accused and in addition to that it was also registered against Satnam Singh (Father), Jaswinder Kaur (Mother), Pawanjot Singh, Kulwant Singh, Lovejot Kaur and Gurwinder Singh @ Guri (Cousins) but the police has presented the challan only against the aforesaid main accused, namely, Jagroop Singh and with regard to the remaining accused as so mentioned in the FIR, the challan was not presented by the police and rather it was so stated in the challan that qua them a supplementary challan will be presented. He also submitted that since the supplementary challan was not presented an application was moved under Section 319 Cr.P.C. because there were direct allegations against the aforesaid persons but the same has been erroneously dismissed and therefore, the aforesaid relatives may also

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be summoned as additional accused to face the trial.

4. Learned counsel for the petitioner also submitted that so far as the availability of any extra material before the learned trial Judge at the time of considering the application under Section 319 Cr.P.C. is concerned, it was only the contents in the FIR, challan and the statement of the petitioner as PW-1 on the basis of which the application was moved.

5. I have heard the learned counsel for the petitioner.

6. It is a case where the petitioner has challenged the order dated 01.04.2025 passed by learned Additional Sessions Judge, Gurdaspur by which the application under Section 319 Cr.P.C. for summoning the relatives of the main accused, namely, Jagroop Singh, who is the husband of the petitioner has been dismissed. The challan has been presented by the police against the main accused, namely, Jagroop Singh only and he has been facing trial. Those who are sought to be summoned as additional accused are Satnam Singh (Father of Jagroop Singh), Jaswinder Kaur (Mother of Jagroop Singh), Pawanjot Singh, Kulwant Singh, Lovejot Kaur and Gurwinder Singh @ Guri (Cousins of Jagroop Singh). It was also stated by learned counsel for the petitioner during the course of arguments that the aforesaid Lovejot Kaur and Gurwinder Singh @ Guri were completely exonerated by the police.

7. When the petitioner deposed before the Court as PW-1, she also reiterated the same allegations which were so stated by her in the FIR. So far as the allegations against the aforesaid two persons, namely, Lovejot Kaur and Gurwinder Singh @ Guri, who were sought to be summoned as additional accused were that these persons had also connived with the main accused namely Jagroop Singh and therefore, they are also sought to be



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summoned. So far as the allegation against Satnam Singh, who is the father of Jagroop Singh is concerned, he had harassed the petitioner, so far as Jaswinder Kaur, who is the mother of Jagroop Singh is concerned, she had mixed some intoxicant substance in tea and the petitioner became unconscious and the offence of rape was committed upon her and so far as the allegations against Pawanjot Singh and Kulwant Singh are concerned, they had also connived with the main accused by clicking photographs.

8. Learned trial Judge on the basis of the aforesaid facts and circumstances and considering the ratio of authoritative judgment of a Constitutional Bench of Hon'ble Supreme Court in "**Hardeep Singh Vs. State of Punjab**" (2014) 3 SCC 92, and also considering the judgment of "**Ramesh Chandra Srivastava Vs. State of U.P.**", 2021(12) SCC 608 came to the conclusion that for the purpose of summoning any person as an additional accused, more than a *prima facie* case has to be made out for the purpose of satisfying the conscience of the Court based upon material. It is an admitted case of the petitioner that the petitioner and the aforesaid accused, namely, Jagroop Singh, they have already got married although their relationship has turned sour but other allegations were made against the relatives of Jagroop Singh.

9. The law with regard to summoning of an additional accused in an application under Section 319 Cr.P.C. is no longer *res integra*. It was so held by a Constitutional Bench of Hon'ble Supreme Court in **Hardeep Singh's Case (Supra)** that at the time of summoning a person as an additional accused the same can be done only when there are strong and cogent reason available with the Court and it is not only a *prima facie* satisfaction of the Court which is required but it is 'more than *prima facie*



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satisfaction' which is required because it affects the Rights of a person including the liberty. Even the degree of proof which is to be exercised at the time of consideration of an application under Section 319 Cr.P.C. has to be on higher pedestal than that of the degree of proof which is required at the time of framing of the charges. The relevant portion of the same is reproduced 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



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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."

10. Learned trial Judge had so considered the application of the prosecution under Section 319 Cr.P.C. for summoning the additional accused in the light of the settled law and came to the conclusion that in the present case, the petitioner has only in her statement as PW-1 reiterated the version which she had putforth in the FIR and that does not satisfy the judicial cognizance of the Court for coming to more than *prima facie* conclusion in accordance with the judgment of Hon'ble Supreme Court as aforesaid and the well settled laws. Even the learned counsel for the petitioner has also stated that apart from the allegations contained in the FIR and the statement of the petitioner as PW-1, there is no other material available on record. Not only this, in the present case, investigation was thoroughly conducted and rather SIT was formed which came to the conclusion that the challan is to be presented only against Jagroop Singh, who is now facing the trial.

11. After hearing the learned counsel for the petitioner and perusing the documents placed on record, this Court is of the considered view that the test which has been laid down by a Constitutional Bench of Hon'ble Supreme Court in ***Hardeep Singh's Case (Supra)*** and also in ***Ramesh Chandra Srivastava's Case (Supra)*** are not satisfied by the petitioner. There is nothing on the record to arrive at the conclusion that more than *prima facie* case is made out. Therefore, this Court does not find any illegality and perversity in the impugned order dated 01.04.2025 passed by the learned Additional Sessions Judge, Gurdaspur so as to make an interference in the

Revision Petition of which the scope is very limited.

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

22.05.2025

Bhumika

(JASGURPREET SINGH PURI)

JUDGE

1. Whether speaking/reasoned:

2. Whether reportable:

Yes/No

Yes/No