



CRM-M-26843-2025 (O&M) 1

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

**CRM-M-26843-2025 (O&M)
Date of decision : 17.07.2025**

Sukhjinder Singh

.....Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Ashish Soi, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

CRM-26988-2025

Allowed as prayed for.

Main case

1. Prayer in the present petition has been made for quashing of order passed by learned Additional Sessions Judge, Ludhiana dated 01.04.2025 (Annexure P-7) in CRR/576/2023 vide which the revision filed by the petitioner for summoning the additional accused under Section 319 Cr.P.C. was dismissed and order passed by learned trial Court dated 20.04.2023 in Complaint case COMA/117/2013 under Sections 323, 324, 325, 379, 120-B, 506, 148, 149, 427, 420, 467, 468 and 471 of IPC, wherein application for arraying additional accused was dismissed in an arbitrary and cryptic manner. Further prayer has been made that passing of final judgment may be stayed by the trial Court, during the pendency of the present petition.

2. It has been submitted by learned counsel for the petitioner that the petitioner had filed a Criminal complaint bearing No.117 dated



21.05.2013. It is submitted that the complaint was filed against 11 of the accused as is evident from the complaint filed. However, the learned trial Court summoned only 02 of the accused for facing trial under Section 323 IPC vide summoning order dated 06.02.2015. He submits that during trial the petitioner filed an application under Section 319 Cr.P.C. for summoning the remaining accused in the complaint, who were not summoned by the learned trial Court vide summoning order dated 06.02.2015. He submits that the learned trial Court vide its impugned order dated 20.04.2023, had illegally declined the same. He submits that the petitioner assailed the same by way of filing the revision petition before the learned Revisional Court but the ld. Revisional Court had also fallen in error in dismissing the same vide impugned order 01.04.2025 and thus, has illegally upheld the order passed by learned trial Court. It has been submitted by the learned counsel for the petitioner that the learned trial Court had illegally summoned only 02 of the accused namely, Jaswant Singh and Jagminder Singh vide impugned order dated 06.02.2015. He submits that the petitioner had specifically made allegations against the respondents namely, Gulzar Singh, Sukhdev Singh Patwari and others that they came with their oblique objective and thrashed the petitioner and his family members. It is submitted that learned trial Court as well as Revisional Court had illegally declined the application filed by the petitioner under Section 319 Cr.P.C. on the ground that the petitioner did not assailed the summoning order dated 06.02.2015 and there was no fresh evidence on the record to summon the respondents. He submits that the trial Court had illegally held that the petition filed by the petitioner was not maintainable. He submits that the role of respondent No.2 and 3 was crystal clear and thus, the trial Court had fallen in error in



not summoning them earlier. He submits that there are enough evidences against the respondents for summoning them under Section 319 Cr.P.C. to face the trial along with the accused, already facing the trial. However, both the learned Courts i.e. the trial Court and the Revisional Court had fallen in error in declining the same, which is against the settled principles of law. He thus, submits that the impugned orders being unsustainable in the eyes of law, deserve to be set aside and the respondents be summoned to face trial along with the accused, already facing trial.

3. The Court has heard counsel for the petitioner and perused the record. It is deciphered that the petitioner before this Court is the complainant who filed the complaint dated 21.05.2013 against 11 accused, however, on the appreciation of the preliminary evidences led, the trial Court found the material only *qua* 02 of the accused namely, Gulzar and Sukhdev Singh Patwari and thus, these 02 accused were only summoned to face the trial vide summoning order dated 06.02.2015. Admittedly, this summoning order was never earlier challenged by the petitioner. The trial Court commenced with trial and framed the charges and thereafter, the evidences were led by both the sides. The statements of the accused were also recorded under Section 313 Cr.P.C. It is, at this stage, the petitioner filed an application under Section 319 Cr.P.C. at the fag end of the trial, on 18.01.2023, i.e. after a lapse of about 08 years from summoning of the order by the trial Court. For resolving the issue raised, the appreciation of Section 319 Cr.P.C. is relevant which is as follows:-

“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 subsection (1), then-

(a) the proceedings in respect of such person shall be commenced afresh, and 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.”

4. The learned trial Court had observed that filing of the petition under Section 319 Cr.P.C. would be a review of the order dated 06.02.2015. For invoking the power under Section 319 Cr.P.C., Hon'ble the Supreme Court in '**Hardeep Singh Vs. State of Punjab and others, 2014(1) RCR (Criminal) 623**' has held as under:-

98. Power under Section 319 Cr.P.C. is a discretionary and an extra-ordinary 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.

99. 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."

5. This Court has appreciated the arguments raised by learned counsel for the petitioner and perused the record for summoning the accused under Section 319 Cr.P.C. Even if it is assumed that the present petition is maintainable then also as per law settled by the Hon'ble the Supreme Court in 'Hardeep Singh case (supra)', it is apparent that summoning under Section 319 Cr.P.C. cannot be done in a mechanical and cavalier manner. The law is settled that the satisfaction of the Court should be more than the satisfaction which is required at the time of framing of charges. Besides this, the stage of the trial at which the present application 319 Cr.P.C, is filed cannot be ignored. Admittedly, both the prosecution



and the defence had led their respective evidences and it is at the fag end of the trial when the case was virtually at the stage of arguments, the present petition was filed. However, this Court does not find any such fresh evidence on the record which would be sufficient for summoning the respondents to face the trial under Section 319 Cr.P.C.

6. Thus, weighing the facts and circumstances of the case on the anvil of the law settled by the Hon'ble Supreme Court in ***Hardeep Singh case (supra)***, this Court finds no infirmity in the impugned orders passed and hence, the petition being devoid of any merits is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(**RAJESH BHARDWAJ**)
JUDGE

17.07.2025

ps-I

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