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

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**CRR-1367-2025
Decided on:23.05.2025**

Amandeep Singh**...Petitioner****Versus****State of Punjab and another****...Respondents****Coram : Hon'ble Mr. Justice Rajesh Bhardwaj**

Present: Mr. Arshpreet Khadial, Advocate (through V.C.),
for the petitioner.

Rajesh Bhardwaj, J.

1. Prayer in the present revision petition is for setting aside the order dated 03.04.2025 passed by the learned Additional Sessions Judge, Bathinda, whereby an application under Section 358 of the BNSS, 2023 (erstwhile Section 319 of Cr.P.C.) filed by the prosecution for summoning of Mandeep Kaur as additional accused to face joint trial along with the accused already charge-sheeted has been dismissed.

2. Succinctly, the facts of the present case are that FIR No.22 dated 10.05.2024 had been registered under Sections 302, 325, 323, 427, 148, 149 IPC at Police Station Kot Fatta, District Bathinda on the statement of complainant-petitioner Amandeep Singh, who stated that house of accused Amandeep Singh @ Amna and Harbans Singh is situated in his neighbourhood. The complainant Amandeep Singh has 2 kanals of land situated in front of a street leading to the house of both the accused. He has sown vegetables in the said land and taking care of the same along with his family members. On 09.05.2024, at about 08.30 am, Kulwinder Singh, father of the complainant, entered into a verbal altercation with both the accused. Thereafter, his father came back to home. However, at about 10.15 pm, father of the complainant visited the said land to take care of pet animals and vegetables. When the

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complainant was standing outside the gate of his house, he heard certain noises. On hearing the same, he reached at the spot where he saw accused Amandeep Singh @ Amna armed with gandasa, Harbans Singh armed with a sword, Lovedeep Singh armed with iron rod, Lohara Singh and Mandeep Kaur bare handed and three unknown persons having baseball, kasoli and iron pipe. All these accused were inflicting injuries to Kulwinder Singh and accused Lohara Singh as well as Mandeep Kaur were raising exhortations. The complainant raised alarm for help, on which his cousin Mandeep Singh and Jagsir Singh reached at the spot. When they were trying to save his father from the clutches of accused, then accused Amandeep Singh @ Amna, Lovedeep Singh and unidentified persons assaulted him and Mandeep Singh with their weapons. While the complainant was taking his father to hospital on a vehicle, the accused also caused damage to the said vehicle. Thereafter, the accused ran away from the spot. The injured Kulwinder Singh died at Civil Hospital, Bathinda due to the injuries sustained by him.

Upon registration of the FIR, the investigation commenced and during investigation, Mandeep Kaur was declared innocent. The police submitted *challan* against all accused except Mandeep Kaur, whose name was kept in column no.2 of the report filed under Section 173 Cr.P.C.

During trial, the prosecution examined the complainant Amandeep Singh as PW1, who reiterated his allegations in his examination-in-chief against all the accused including Mandeep Kaur, on the basis thereof, the prosecution had filed the application under Section 358 of the BNSS, 2023 for summoning Mandeep Kaur as an additional accused to face the trial. After hearing both the sides, the learned trial Court dismissed the said application vide its order dated 03.04.2025 and hence, the petitioner has approached this Court aggrieved against the impugned order.

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3. Learned counsel for the petitioner has submitted that the petitioner is the complainant on whose behest FIR No.22 dated 10.05.2024 had been registered. In the FIR, he had alleged that respondent no.2-Mandeep Kaur had also actively participated. He submitted that though Mandeep Kaur was empty handed at the time of occurrence along with three unknown youth who were armed with baseball bat etc. but she exhorted the other accused to cause injuries on the person of deceased Kulwinder Singh. It is submitted that the investigating agencies have illegally exonerated her. He further submitted that during the course of trial, the complainant Amandeep Singh, while appearing as PW1, had reiterated his allegations in the examination-in-chief and, thus, respondent no.2 deserves to be summoned under Section 358 of the BNSS, 2023 to face trial along with the other accused. It is submitted that the learned trial Court has failed to appreciate the fact that respondent no.2 had actively participated in commission of offence. He, thus, submitted that the view taken by the learned trial Court while dismissing the application is totally unsustainable in the eyes of law and hence, the present revision petition deserves to be allowed.

4. After hearing learned counsel for the petitioner and perusing the available record, it is inferred that the petitioner had lodged the FIR in question, wherein he had made allegations regarding involvement of the accused including respondent no.2-Mandeep Kaur. During investigation, on the application filed by respondent no.2, an inquiry was entrusted to the DSP (Rural), Bathinda and it was found in the inquiry that though respondent no.2 was present at the spot at the time of occurrence but she did not participate in the assault. As per the inquiry conducted, it is also substantiated that she also made a call to the police to come for assistance to stop the ensued fight between both the groups. Thus, she was found to have been rightly exonerated by the learned trial Court.

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5. For appreciation of the issue involved, Section 358 of BNSS, 2023 is relevant, which is reproduced here-as-under:-

“358. 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.

6. The Constitutional Bench of Hon'ble Supreme Court in **Hardeep Singh vs. State of Punjab and others, (2014) 3 SCC 92** has held that power under Section 319 Cr.P.C. is discretionary and an extra ordinary power, which is to be exercised sparingly and in those cases where the circumstances so warrant. It should be exercised only where strong and cogent evidence occurs against a person and such power should not be exercised in a casual and cavalier manner. It has been further held that there is no scope by the Court under Section 319 Cr.P.C. to form any opinion as to the guilt of the accused. In the case in hand, no specific role has

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been assigned to respondent no.2-Mandeep Kaur and on conclusion of the investigation, she was declared innocent.

7. Weighing the facts and circumstances of the present case on the anvil of law settled by the Hon'ble Supreme Court, the Court finds no infirmity in the order dated 03.04.2025 passed by learned Additional Sessions Judge, Bathinda. Hence, the present revision petition, being devoid of any merit, is hereby dismissed.

May 23, 2025
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(Rajesh Bhardwaj)
Judge

Whether Speaking/Reasoned: NO/YES
Whether Reportable: NO/YES