

2025:PHHC:065319



121.

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

CRR-3143-2019 (O&M)

Date of decision: 13.05.2025

Deepak

.... Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Akashdeep Singh, Advocate, for the petitioner.

Mr. Rahul Mohan, Senior DAG, Haryana.

Mr. Sajjan Singh, Advocate, for respondents No.2 to 4.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-36636-2019

Application is allowed, as prayed for.

CRR-3143-2019

1. The instant criminal revision petition is directed against the order dated 01.10.2019 passed by learned Sessions Judge, Rohtak, whereby the application filed by the petitioner under Section 319 of Cr.P.C. for summoning private respondents, Kapil, Bhawan and Nanha, as additional accused in case FIR No.431, dated 08.08.2017, under Sections 148, 149, 302, 324 IPC, registered at Police Station Sampla, District Rohtak, was dismissed.

2. It is the case of the petitioner, who is both the complainant and an injured eyewitness, that the incident in question occurred in the intervening night of 07/08.08.2017, and that the FIR was lodged without delay at 03:15 AM. In the FIR, the petitioner specifically named the private respondents, Kapil, Bhawan and Nanha along with the already charge-sheeted co-accused, Satpal and Surinder, alleging that while Satpal inflicted multiple blows upon the deceased Manjeet, the private respondents actively restrained the deceased to facilitate the assault. The petitioner was himself injured in the same incident and later appeared as PW10 before the Trial Court, where he reaffirmed the same allegations on oath.

3. Learned counsel for the petitioner has submitted that the nature of injuries recorded in the post-mortem report – 15 incised wounds involving vital organs, such as chest, heart, spleen, and lungs – ruled out any possibility of a spontaneous or isolated attack. Learned counsel has emphasized that the role attributed to the private respondents of restraining the deceased was instrumental in the fatal outcome.

4. In support of the application under Section 319 Cr.P.C., learned counsel for the petitioner has placed heavy reliance on the decision of the Hon'ble Supreme Court in ***Harjinder Singh Versus State of Punjab, 2023 SCC Online SC 539***, wherein it was held that at the stage of Section 319 Cr.P.C., the standard of proof is not “beyond reasonable doubt” but merely whether the evidence available on record, if unrebutted, discloses the involvement of a person not already arrayed as an accused. Learned counsel has further contended that consistent ocular testimony of PW10—

who is both the author of the FIR and a stamped witness—satisfies the threshold laid down by the Hon’ble Supreme Court.

5. It has still further been argued that reliance placed by the learned Trial Court on the results of a polygraph test to discard the testimony of the petitioner was wholly impermissible in law. In this regard, learned counsel has cited the decision rendered by the Constitution Bench of the Hon’ble Supreme Court in *Selvi and others Versus State of Karnataka, 2010 (7) SCC 263*, wherein it was conclusively held that the results of polygraph, narco analysis, and brain mapping tests are inadmissible in evidence and cannot be relied upon even if undertaken voluntarily.

6. *Per contra*, learned State counsel assisted by learned counsel for the private respondents, has submitted that no specific overt act or use of weapon has been attributed to the private respondents. Further, the allegations against them are general and repetitive, and merely reiterate the contents of the FIR. It has been still further submitted that no motive has been assigned to the private respondents, and that the incident appears to have occurred at the spur of the moment, suggesting absence of any motive on the part of private respondents.

7. Learned counsel for the private respondents has also referred to certain inconsistencies in the statements made by the complainant during investigation, which, as per him, clearly casts doubt on his credibility.

8. It has been further submitted by the learned State counsel as well as learned counsel for the private respondents that summoning of

additional accused under Section 319 Cr.P.C. is a serious matter and should be exercised sparingly. It has been asserted that the power is extraordinary in nature and, therefore, should not be invoked lightly on the basis of general or vague allegations.

9. I have heard learned counsel for the parties and perused the material placed on record.

10. Section 319 Cr.P.C. provides that any Court may proceed against any person not being the accused, who appears to have committed any offence, if it appears from the evidence during the course of enquiry or trial that such person should be tried together with the accused already facing trial. The provision, thus, enables the court to summon additional persons as accused based on material emerging from the evidence recorded.

11. In *Harjinder Singh's case (supra)*, the Hon'ble Supreme Court clarified that the standard of evaluation at the stage of deciding an application under Section 319 Cr.P.C. is whether the evidence, if left unrebutted, is sufficient to establish the involvement of the proposed accused. The court is not required to conduct a meticulous or exhaustive analysis akin to a trial; rather, the enquiry is limited to the prima facie worth of the evidence.

12. It is also well settled that the deposition of a witness in court, if consistent with the FIR and medical evidence, constitutes substantive evidence and cannot be disregarded merely because it reiterates the version given earlier. It needs to be emphasized that even a single witness, if found reliable, can form the basis for summoning under Section 319 Cr.P.C.

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.

14. In the present case, the sworn deposition of PW10, who is not only the complainant but also an injured eyewitness, categorically implicates private respondents in the role of restraining the deceased while the co-accused inflicted the fatal blows. This conduct, if ultimately established, clearly amounts to active facilitation of the offence in question.

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.

17. In view of the foregoing discussion, this Court has no hesitation to hold that the impugned order 01.10.2019 passed by learned Sessions Judge, Rohtak, deserves to be set aside. The Trial Court failed to apply the correct standard under Section 319 Cr.P.C. and relied upon impermissible grounds to decline summoning of the private respondents.

18. Accordingly, the instant revision is allowed and the private respondents, Kapil, Bhawan and Nanha, are directed to be summoned as additional accused to face trial in case FIR No.431, dated 08.08.2017, under Sections 148, 149, 302, 324 IPC, registered at Police Station Sampla, District Rohtak.

19. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

May 13, 2025
sanjeev

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