



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

**CRM-M-53191 of 2025 (O&M)
Reserved on :19.09.2025
Pronounced on:22.09.2025.**

Baljinder Kaur and another

.....Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Argued by:Mr. Jitender Singh Dadwal, Advocate for the petitioners.

Mr. Eklavya Darshi, DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

Challenge in this petition under Section 528 of BNSS 2023, is the order dated 28.08.2025 whereby the Court of learned Additional Sessions Judge Jalandhar, hereinafter being referred to as trial Court only, has exercised its jurisdiction vested in it by virtue of Section 358 of BNSS and summoned the petitioner as additional accused.

2. In nutshell, the facts emerging from the record are that one FIR, i.e. FIR No.101 dated 13.11.2023, was lodged in Police Station Lohian, District Jalandhar, for the commission of offence Punishable under Sections 302, 307, 323, 324, 325, 148 and 149 of IPC.

3. The above mentioned FIR was an outcome of a complaint submitted by Balwinder Kaur, wherein she had stated that her husband who was residing in Italy had come to India two months ago for the marriage of their son and that in the afternoon of 11.11.2023 at about 3.00-4.00 P.M. her



husband Sanotkh Singh, had gone to the fields to plant mustard crop. According to above named complainant thereafter she heard some noise in the fields and, therefore, she, along with her son Sarabjit Singh, rushed to the field where they saw that Manpreet Singh, Kulwant Singh, Karnail Singh, Gurmail Singh, Bakshish Kaur, Mandeep Kaur, Baljinder Kaur, Amarjit Kaur and Sarabjit Kaur were present in the field. According to complainant, Manpreet Singh, Kulwant Singh, Karnail Singh and Bakshish Kaur and Amandeep Kaur were armed with dangs (sticks, a blunt weapon), Bakshish Kaur and Mandeep Kaur with dandas (sticks, a blunt weapon) Baljinder Kaur and Amarjit Kaur with 'sota' (baton, a blunt weapon) and Gurmail Singh with gandasi (chopper) and they attacked her husband Santokh Singh with the help of their respective weapons.

4. It is the case of the prosecution that on the basis of above mentioned statement formal FIR of this case was lodged and the investigation taken up. As per prosecution during the course of investigation it was found that petitioners Baljinder Kaur and Sarabjit Kaur were not involved in the commission of offence and, therefore, both of them were not prosecuted and the final report, under section 173 Cr.P.C, was filed against remaining accused only.

5. It shall not be out of place to mention there that once the trial commenced against other accused, during the course of trial, after framing of charge the deposition of complainant Balwinder Kaur has been recorded, as PW-1, and in her deposition the PW-1 has reproduced the story stated by her before the police. However, before her cross-examination an application under Section 319 Cr.P.C., was moved by the prosecution, which led to passing of



impugned order.

6. The above mentioned impugned order has been challenged by the petitioners on the ground that against the settled cannons of law the learned trial Court has erroneously passed the above mentioned order. According to petitioners once the petitioners were already exonerated by the Investigating Agency, which found that the petitioners were not present at the spot at the time of occurrence, there was no occasion for the learned trial Court to summon the accused-petitioners as additional accused.

7. Heard.

8. It has been argued by learned counsel for the petitioners that without applying its judicial mind the learned trial Court has wrongly concluded that any ground for summoning of petitioners, as additional accused, is made out. It has also been contended by learned counsel for the petitioners that the impugned order is an outcome of erroneous interpretation of evidence available on record vis-a-vis wrong interpretation of relevant legal provisions and, therefore, there is need for intervention and indulgence of extraordinary jurisdiction of this Court.

9. It has also been argued by learned counsel for the petitioners that in the present case the learned trial Court ignored the fact that except the bare examination-in-chief of PW-1, there was no other evidence on record to prove, even prima facie, that the petitioners had participated in the commission of crime. As per learned counsel for the petitioners since the examination-in-chief of PW-1 is identical to the statement made by the petitioners before the police, which served as foundation for the FIR, and the same was found to be false qua the involvement of petitioners, the learned trial Court should have



believed the findings recorded by the Investigating Agency and the not unreliable testimony of PW-1.

10. While referring to the principles of law laid down by the Supreme Court of India in the case of **Juhru and others Vs. Karim and another (2023) 5 SCC 406**, the learned counsel for the petitioners has argued that in the present case the legal parameters prescribed for the exercise of jurisdiction enshrined under Section 319 Cr.P.C., have not been met and, therefore, the impugned order deserves to be set aside.

11. It has also been argued by learned counsel for the petitioners that this Court itself in the case of **Ram Kumar and Ors Vs. State of Punjab and another 2024(3) RCR (Criminal) 748** and **Nikhil Dudeja Vs. State of Haryana, Law Finder Doc ID # 2020847**, has observed that if there was no additional material available with the trial Court, without proper evaluation of material against the persons sought to be summoned, the discretion under Section 319 Cr.P.C. ought not be invoked. During the course of his argument, learned counsel for the petitioners has also referred to the findings of Instigating Agency with regard to the fact that as per CCTV footage at the time of occurrence the petitioners were not present on the spot.

12. The learned State counsel has controverted the above mentioned arguments. According to learned State counsel the most important aspect to be noted with regard to impugned order is that the learned trial Court at the time of deciding the application under Section 319 Cr.P.C., was supposed to look into the evidence led by the prosecution only. According to learned State counsel since there was an unconverted testimony of PW-1, wherein she had levelled very specific and categorical allegations, specifying the role played by



the petitioners the only and only inference which should have been drawn by the learned trial Court was to hold that a *prima facie* case for summoning of petitioners is made out. According to learned State counsel once the above mentioned discretion has been exercised by the learned trial Court there is no scope for the exercise of extraordinary jurisdiction of this Court, for interference in the impugned order. According to learned State counsel the present petition is devoid of merit and deserves dismissal.

13. The record has been perused carefully.

14. In the present case, at the very outset, it is pertinent to mention here that instant case is a case wherein at the very beginning when the details of incident were reported to the police, the statement of complainant was recorded. And in her above mentioned statement which served as foundation for the FIR, it was specifically and categorical mentioned that both the petitioners were armed with sota and that they had inflicted injuries on the person of Santokh Singh. The above mentioned specific description of the weapons of offence and the seat of injuries on the person of victim add credibility to the stand of the prosecution, with regard to involvement of petitioners in the commission of offence.

15. Here this fact cannot be ignored that the same person when examined before the learned trial Court as prosecution witness No.1 reproduced the same allegations and deposed that the petitioner No.1 Balwinder Kaur had injured her with the help of sota by hitting the same on her back, and that the petitioner No.2 Amarjit Kaur hit sota on the head of her son Sarabjit and thereby injured him. The above mentioned specific reproduction of facts is relevant piece of evidence to determine as to whether



there was involvement of petitioners in the commission of crime or not.

16. It shall not be out of place to mention here that while seeking interference in the impugned order the thrust of arguments of learned counsel for the petitioners has been that the Investigating Agency on the basis of some CCTV footage has arrived at a conclusion that the petitioners were not present on the spot at the time of occurrence. With regard to above mentioned argument it is relevant to mention here that any CCTV footage is not a part of evidence in the present case. Thus, if any such footage is available with the petitioners, unless the same is placed and proved in accordance with law, such footage is not relevant. Since, the stage of defence evidence is yet to arrive in the trial Court, any such piece of evidence, at this stage, cannot be looked into.

17. With regard to exercise of its discretion vested by virtue of Section 319 Cr.P.C., (now Section 358 of BNSS), the guidelines have been laid down by the Hon'ble Supreme Court of India, in the case of **Hardeep Singh Vs. State of Punjab, rendered in Criminal Appeal No.1750 of 2008**. In the above mentioned case, it has been ruled that:- "this would harmonise such material with the word 'evidence' as material that would be supportive in nature to facilitate the exposition of any other accomplice whose complicity in the offence may have either been suppressed or escaped the notice of the court."

18. It has been further held that the word "evidence" therefore has to be understood in its wider sense both at the stage of trial and, as discussed earlier, even at the stage of inquiry, as used under Section 319 Cr.P.C. The Court, therefore, should be understood to have the power to proceed against any person after summoning him on the basis of any such material as brought



forth before it. The duty and obligation of the court becomes more onerous to invoke such powers cautiously on such material after evidence has been led during trial.

19. As per Hon'ble Supreme Court of India from evidence recorded during trial, any material that has been received by the court after cognizance is taken and before the trial commences, can be utilised only for corroboration and to support the evidence recorded by the court to invoke the power under Section 319 Cr.P.C. The 'evidence' is thus, limited to the evidence recorded during trial.

20. In the above mentioned case while dealing with a question with regard to degree of satisfaction required for invoking the power under Section 319 Cr.P.C., the Hon'ble Supreme Court of India held that "the test that 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."

21. If the fact situation emerging in the present case is analysed, in the light of above mentioned observations, it transpires that at this stage, there is uncontroverted testimony of PW-1 wherein specifically and categorically the



name of petitioners finds mentioned. In addition to above, in the above mentioned deposition specific roles have been attributed to the petitioners along with the details of weapons used by them. The most significant fact to be noted in the instant case is that the above mentioned part of the testimony being in consonance with her previous statement, which was recorded before the registration of FIR, lends credibility to this case. Therefore, it is hereby held that the test prescribed by the Hon'ble Supreme Court in the case of **Hardeep Singh (supra)** stand satisfied in the instant case and, therefore, no illegality or infirmity can be found in the verdict of learned trial Court while passing the impugned order.

22. As a sequel to above mentioned observations, it is hereby observed that, at this stage, there is no scope for interference or indulgence in the impugned order, and the present petition being devoid of merit deserves dismissal. Hence, the present petition is hereby dismissed, accordingly.

Pending miscellaneous application(s), if any, also stands disposed of.

(SURYA PARTAP SINGH)
JUDGE

Pronounced on: 22.09.2025

Manoj Bhutani

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