



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

CRM-M-60429-2024

Date of decision: 17th July, 2025

Sumitra

... Petitioner

Versus

State of Haryana & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sanawar Ali and Manoj Tanwar,
Advocates for the petitioner.

MANJARI NEHRU KAUL, J.

1. The present petition has been filed under Section 528 of BNSS by the petitioner/complainant assailing the order dated 18.01.2023 passed by the Court of learned Judicial Magistrate 1st Class, Narnaul, whereby her application under Section 319 Cr.P.C. seeking summoning of respondent No.2 Vikram, respondent No.3 Raj Kumar and respondent No.4 Mamta Devi, as additional accused in FIR No.11 dated 09.01.2016 under Sections 323, 452, 506, 34 IPC registered at Police Station Nangal Chaudhary, District Mahendergarh was dismissed.

2. Learned counsel for the petitioner contended that the impugned order (Annexure P-8) suffers from patent illegality and has resulted in grave miscarriage of justice. It was urged that the petitioner had specifically named the proposed accused persons, i.e. the private respondents, in the FIR (Annexure P-1) and had made clear and

categorical allegations against each of them regarding their participation in the alleged assault.

3. It was further submitted that despite the specific naming and alleged involvement of the private respondents, the police, allegedly acting in connivance with them, chose not to array them as accused and deliberately placed their names in column No.2 of the charge-sheet.

4. Learned counsel further argued that during the proceedings before the trial Court, both the complainant (the petitioner herein) and her injured husband gave detailed testimonies (Annexure P-4 and P-5 respectively), in which they not only reaffirmed the allegations made in the FIR, but also elaborated the roles of the proposed accused/private respondents in the alleged offence. It has been therefore asserted that in the light of the evidence recorded during trial, there is sufficient prima facie evidence which justifies that the trial Court ought to have exercised its powers under Section 319 Cr.P.C. and summoned the private respondents.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. Before delving into the legal analysis, it is apposite to briefly recount the relevant portion of the FIR (Annexure P-1) lodged by the petitioner:

In the FIR, several persons were named, including the private respondents Vikram, Raj Kumar and Mamta Devi, among others. The complainant alleged that on the date of

the incident, some of the named persons were found taking away PVC pipes from her field. When she objected, they abused and threatened her. Later, a group of named persons allegedly entered her house armed with sticks and axes and assaulted both her and her husband. The FIR, however does not assign clear and distinct roles to each of the named individuals; rather, it describes the incident in a general and collective manner with specific roles attributed only to a few persons, notably accused Vikram and Raj Kumar and even those allegations are somewhat broad and lacking in precision.

7. It is well settled that the power under Section 319 Cr.P.C. is to be exercised sparingly and only in those cases where the evidence adduced before the Court during trial clearly points towards the involvement of a person not challaned as an accused. The Hon'ble Supreme Court, in *'Hardeep Singh vs. State of Punjab & others'* AIR 2014 SC (Criminal) 561, laid down that the power under Section 319 Cr.P.C. can be exercised only if 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 evidence must be more than a mere probability of his complicity.

8. In the present case, although the learned counsel for the petitioner has placed reliance upon the depositions of the petitioner and her husband, a careful scrutiny of the FIR viz-a-viz the depositions

recorded during trial reveals notable inconsistencies and improvements. While the FIR merely names the proposed accused/private respondents without any specific attribution of overt acts, the statements made during trial appear to introduce improved and exaggerated versions of the incident, attributing detailed roles and specific acts to the private respondents, which were conspicuously absent from the original version.

9. Such improvements in statements, particularly where they introduce new allegations not found in the FIR, prima facie affect the credibility of the evidence and raise doubts about its reliability for the purpose of invoking Section 319 Cr.P.C./ 358 of BNSS.

10. Furthermore, the law is clear that mere naming of a person in the FIR or during examination-in-chief is not sufficient to summon them under Section 319 Cr.P.C./ 358 of BNSS, unless the Court is satisfied that strong and cogent evidence exists pointing toward their involvement in the commission of the offence.

11. The Hon'ble Supreme Court has consistently cautioned against mechanically invoking Section 319 Cr.P.C. on the basis of inconsistent or doubtful evidence, especially where it appears to be a product of afterthought or aimed at falsely implicating individuals out of vendetta or personal enmity.

12. Upon a holistic consideration of the FIR, the subsequent testimonies, and the settled principles of law governing the exercise of powers under Section 319 Cr.P.C./ 358 of BNSS, this Court does not find any merit in the prayer made by the petitioner as firstly, the FIR

does not disclose any clear, specific or individualized role attributed to the private respondents; the evidence recorded during trial qua the private respondents appears to be an embellishment and a material improvement over the version given in the FIR. Accordingly, the petition stands dismissed. 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

July 17, 2025
rps

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