

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

CRR-2754-2025 (O&M)

Reserved on : 28.11.2025

Pronounced and uploaded on : 29.11.2025

Tarjeet Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Aman Pal, Sr. Advocate
Ms. Neha Rani, Advocate for the petitioner

Ms. Gagandeep Kaur, DAG Punjab

Mr. P.S. Ahluwalia, Sr. Advocate with
Ms. Kadambari Bhan, Advocate for the complainant

AMAN CHAUDHARY, J.

1. Petitioner aggrieved by impugned order dated 22.09.2025 passed by learned Additional Sessions Judge, Patiala whereby he has been summoned under Section 319 of Code of Criminal Procedure ('CrPC' in short), is before this Court and learned Senior counsel on either side buttressed their arguments by referring to the law as would be discussed in the succeeding paragraphs.

2. The criminal machinery was set into motion by complainant-Gurbhej Singh, who was present at the spot and FIR No.29, dated 16.04.2023, under Sections 323, 341, 506, 308, 34 of IPC at Police Station City Samana, District Patiala, was registered, relevant portion whereof reads thus:

“Yesterday, on 15.04.2023 it was at about 5:30 PM when I and my brother Resham Singh were standing on the road in front of the gate of my house, when my uncle Gurdiyal Singh, his elder son Tarjeet Singh who was holding a gandasa and his younger son Tasveer Singh was also holding a gandasa in his hand came to us. At that time, **Tarjeet Singh** and Tasveer Singh were

drunk. Then Gurdiyal Singh raised Lalkara and stated they be not spared today. In the meantime, Tasveer Singh hit my brother Resham Singh on the right side of his forehead with gandasā tied in his hand. When my brother and I started running away, then Tarjeet Singh surrounded my brother Resham Singh from the front side and hit him with gandasā tied in his hand on the upper side of his head. Then, Tasveer Singh gave two fist blows on left and right eye of my brother Resham Singh one after the other and Tarjeet Singh gave a strong blow on the nose of my brother Resham Singh. Thereafter, Tarjeet Singh gave blow from reverse side of gandasā tied in his hand towards the head of safety and reverse side of Gandasā fell on his left elbow. Thereafter, my brother Resham Singh fell down on the ground upon which my uncle Gurdiyal Singh gave leg blow to Resham Singh while he was lying down...”

3. The first prong of the argument of learned Senior counsel for the petitioner, was elucidated by him by referring to the enquiry report/s of the DSP, as verified and approved by the SP and SSP, respectively, wherein he was found not involved in the occurrence, which was emphatically rebutted by learned Senior counsel for the complainant on the ground that the fight having ensued right at their gate, Mark A, as per the site plan produced, it was but natural for him to have come out of the house to side with his brother, which was clarified that as a matter of fact, it was not during the said incident, but thereafter, as at that moment he was inside, along with others, who had been called for tea. To substantiate this version, it was contended that statements of his father, co-accused-Gurdiyal Singh, Sukhwinder Singh-brother of his father-in-law, a milkman-Sandeep Singh, and one-Aranpreet Singh, were duly recorded, which formed the basis of the above report/s, which would best, be left, to be evaluated during the course of trial, particularly in wake of there being the categorical statement of an eye witness ascribing him a specific role, a view taken by Hon’ble the Supreme Court in **Sartaj Singh vs. State of Haryana**¹, that, “At this stage, it is required to be noted

¹ (2021) 5 SCC 337

that right from the beginning the appellant herein-injured eyewitness, who was the first informant, disclosed the names of private respondents herein and specifically named them in the FIR. But on the basis of some enquiry by the DSP they were not charge-sheeted. What will be the evidentiary value of the enquiry report submitted by the DSP is another question.”

4. The injuries attributed to both, the petitioner and his brother-Tasveer Singh, by way of ocular version of the eye-witness account, stand corroborated from the MLR, Annexure P-6, relevant of which reads thus:

- “1. Lacerated wound of size 5 X 1 cm is obliquely placed on right side of forehead 5 cm from lateral aspect of right eyebrow. Clotted blood present. Underlying muscles exposed. Suturing done. ASD done, General Surgeon opinion. CT head/CT face.
2. Lacerated wound of size 6 X 0.6 cm is present on left parietal region, 3 cm from sagittal suture, suturing done. ASD done. General surgery opinion. CT head.
3. Purplish discolouration with swelling of left eye, advice ophthalmologist opinion. CT face.
4. Purplish discolouration with swelling on right eye, advice ophthalmology opinion. CT face
5. Pain and swelling over nose. Nasal bleed present. Advice ENT opinion and xray nasal bones.
6. Swelling with pain and abrasion left forearm, advice xray left elbow with forearm, AP and lateral.” (emphasis supplied)

5. In the supplementary challan, it has been stated that SI Ashok Kumar obtained a report no. MLX/CT/PV/2023/29 from Dr. Prakhar Vaidya, Junior Resident RHP PMC 5748 and the injuries mentioned therein, read thus:

- On bone window linear undisplaced fracture of left parietal bone extending to involve squamous part of left temporal bone and left greater wing of sphenoid
- Fracture of left zygomatic arch seen.
- Linear undisplaced fracture of frontal bone on right side extending to involve roof of right orbit seen.
- Comminuted fracture of all walls of left maxillary sinus seen.

6. For the relentless plea that in the absence of any additional material before the trial Court other than examination-in-chief of the complainant,

summoning of the petitioner to face trial was uncalled for, a profitable reference can be made to **Sartaj Singh** (supra), wherein Hon'ble the Supreme Court, while affirming the order passed by the trial Court summoning the private respondents therein, had observed that High Court materially erred in quashing and setting aside the same, as what was required to be considered at the stage of exercising powers under Section 319 CrPC, was whether there was any prima facie case and not whether on basis of such material the proposed accused is likely to be convicted or not and/or whatever is stated by the injured eye-witness in his examination in chief is exaggeration or not. The aforesaid aspects are required to be considered during the trial and while appreciating the entire evidence on record, it was held that, "Applying the law laid down by this Court in the aforesaid decisions to the case of the accused on hand, we are of the opinion that the learned trial court was justified in summoning the private respondents herein to face the trial as accused on the basis of the deposition of the appellant—injured eyewitness. As held by this Court in the aforesaid decisions, the accused can be summoned on the basis of even examination-in-chief of the witness and the court need not wait till his cross-examination. If on the basis of the examination-in-chief of the witness the court is satisfied that there is a prima facie case against the proposed accused, the court may in exercise of powers under Section 319 CrPC array such a person as accused and summon him to face the trial. ... It is not that the investigating officer did not find the case against the private respondents herein and therefore they were not charge-sheeted. In any case, in the examination-in-chief of the appellant-injured eyewitness, the names of the private respondents herein are disclosed. It might be that whatever is stated in the examination-in-chief is the same which was stated in the FIR. The same is bound to be there and ultimately the appellant herein-injured eyewitness is the first

informant and he is bound to again state what was stated in the FIR, otherwise he would be accused of contradictions in the FIR and the statement before the court. Therefore, as such, the learned trial court was justified in directing to issue summons against the private respondents herein to face the trial.” In a somewhat similar set of facts, this Court in **Amar Nath Dhawan and others vs. State of Haryana**², against which SLP was dismissed on 03.11.2023, had observed that, “A perusal of the FIR would show that specific allegations have been levelled against all the accused persons, who have been mentioned in the FIR including the present four petitioners in which it has been so specifically stated that the beatings were given by all the accused. Thereafter, during the course of trial in the evidence when the complainant and his father, who was injured, they also deposed as PW-2 and PW-1, respectively and after their examination-in- chief, the prosecution moved an application under Section 319 Cr.P.C. for summoning the present four petitioners as additional accused. The presence of the present four petitioners is not in dispute nor the same has been disputed by the learned counsel for the petitioners. Rather a perusal of Para No.2(v) of the present petition, it has been so stated by the petitioners themselves that when the inquiry was conducted by the Police, it has been found that petitioners though were present at the spot yet have no role to play in the alleged occurrence. Therefore, so far as per the presence of the petitioners on the spot is concerned, the same has not been disputed as per the inquiry conducted by the police.” Further that, “However, the learned counsel for the respondent have referred to the aforesaid judgments passed by the Hon'ble the Supreme Court in Sandeep Kumar's case (Supra) and Manjeet Singh's case (supra) to contend that even when in those cases, where no overt act has been attributable to any of the co-accused and they are part of the unlawful assembly, still it cannot be said that no offence has been committed by them. In the present case, the

² CRR-2773-2019, decided on 05.09.2023

contents of both the FIR and the statements PW-1 and PW-2 would show that rather direct attribution has been made to the present petitioners qua beatings and their presence as per the inquiry of the Police itself is not disputed. ... Therefore, even if the learned trial Court has not stated so in express terms that there is a prima facie satisfaction but from the discussion, the trial Court has come to the conclusion that it appears that the petitioners have committed the offence along with the other accused. Therefore, this Court is of the view that the test laid down by the Hon'ble Supreme Court in Hardeep Singh's case (Supra) remains satisfied.”

7. There has, indeed, been a march of law in **Manjeet Singh vs. State of Haryana**³ and **Sukhpal Singh Khaira vs. State of Punjab**⁴, wherein Hon'ble the Supreme Court, in the latter went to an extent that under the powers bestowed under Section 319 Cr.P.C., the appellant therein, who was initially not even arraigned as an accused was rightly summoned only on the strength of statements of witnesses and in the former, whilst allowing the application filed by the prosecution under Section 319 CrPC, observed that despite the complainant from the very inception of the FIR, levelled the allegations against the persons who were being summoned as additional accused and subsequently too in his deposition, the application came to be dismissed by the Courts. The scope and ambit of powers under the aforesaid provision of law were summarised as below:

“15.1. That while exercising the powers under Section 319CrPC and to summon the persons not charge-sheeted, the entire effort is not to allow the real perpetrator of an offence to get away unpunished.

15.2. For the empowerment of the courts to ensure that the criminal administration of justice works properly.

15.3. The law has been properly codified and modified by the legislature under CrPC indicating as to how the courts should proceed to ultimately find out the truth so that the innocent does not get punished but at the same time, the guilty are brought to book under the law.

³ (2021) 18 SCC 321

⁴ (2023) 1 SCC 289

15.4. To discharge duty of the court to find out the real truth and to ensure that the guilty does not go unpunished.

15.5. Where the investigating agency for any reason does not array one of the real culprits as an accused, the court is not powerless in calling the said accused to face trial.

15.6. Section 319CrPC allows the court to proceed against any person who is not an accused in a case before it.

15.7. The court is the sole repository of justice and a duty is cast upon it to uphold the rule of law and, therefore, it will be inappropriate to deny the existence of such powers with the courts in our criminal justice system where it is not uncommon that the real accused, at times, get away by manipulating the investigating and/or the prosecuting agency.

15.8. Section 319CrPC is an enabling provision empowering the court to take appropriate steps for proceeding against any person not being an accused for also having committed the offence under trial.

15.9. The power under Section 319(1)CrPC can be exercised at any stage after the charge-sheet is filed and before the pronouncement of judgment, except during the stage of Sections 207/208CrPC, committal, etc. which is only a pre-trial stage intended to put the process into motion.

15.10. The court can exercise the power under Section 319CrPC only after the trial proceeds and commences with the recording of the evidence.

15.11. The word “evidence” in Section 319CrPC means only such evidence as is made before the court, in relation to statements, and as produced before the court, in relation to documents.

15.12. It is only such evidence that can be taken into account by the Magistrate or the court to decide whether the power under Section 319CrPC is to be exercised and not on the basis of material collected during the investigation.

15.13. If the Magistrate/court is convinced even on the basis of evidence appearing in examination-in-chief, it can exercise the power under Section 319CrPC and can proceed against such other person(s).

15.14. That if the Magistrate/court is convinced even on the basis of evidence appearing in examination-in-chief, powers under Section 319CrPC can be exercised.

15.15. That power under Section 319CrPC can be exercised even at the stage of completion of examination-in-chief and the court need not to wait till the said evidence is tested on cross-examination.

15.16. Even in a case where the stage of giving opportunity to the complainant to file a protest petition urging upon the trial court to summon other persons as well who were named in FIR but not implicated in the charge-sheet has gone, in that case also, the court is still not powerless by virtue of Section 319CrPC and even those persons named in FIR but not implicated in the charge-sheet can be summoned to face the trial, provided during the trial some evidence surfaces against the proposed accused (may be in the form of examination-in-chief of the prosecution witnesses).

15.17. While exercising the powers under Section 319CrPC the court is not required and/or justified in appreciating the deposition/evidence of the prosecution witnesses on merits which is required to be done during the trial.

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17. Despite the above specific allegations, when the charge-sheet/final report came to be filed only two persons came to be charge-sheeted and the private respondents herein, though named in the FIR, were put/kept in Column 2. It is the case on behalf of the private respondents herein that four different DSPs inquired into the matter and thereafter when no evidence was found against them the private respondents herein were put in Column 2 and therefore the same is to be given much weightage rather than considering/believing the examination-in-chief of the appellant herein. Heavy reliance is placed on Brijendra Singh [Brijendra Singh v. State of Rajasthan, (2017) 7 SCC 706 : (2017) 4 SCC (Cri) 144] .

18. However none of DSPs and/or their reports, if any, are part of the charge-sheet. None of the DSPs are shown as witnesses. None of the DSPs are investigating officer. Even on considering the final report/charge-sheet as a whole there does not appear to be any consideration on the specific allegations qua the accused, the private respondents herein, who are kept in Column 2. Entire discussion in the charge-sheet/final report is against Sartaj Singh only.

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22. At the stage of exercising the powers under Section 319CrPC, the court is not required to appreciate and/or enter on the merits of the allegations of the case. The High Court has lost sight of the fact that the allegations against all the accused persons right from the very beginning were for the offences under Sections 302, 307, 341, 148 & 149IPC. The High Court

has failed to appreciate the fact that for attracting the offence under Section 149IPC only forming part of unlawful assembly is sufficient and the individual role and/or overt act is immaterial. Therefore, the reasoning given by the High Court that no injury has been attributed to either of the respondents except that they were armed with weapons and therefore, they cannot be added as accused is unsustainable. The learned trial court and the High Court have failed to exercise the jurisdiction and/or powers while exercising the powers under Section 319CrPC.”

8. While reiterating the law laid down in the aforesaid judgments, in **Sandeep Kumar vs. State of Haryana**, 2023 SCC OnLine SC 888, the order of the trial Court allowing the application under Section 319 CrPC had been quashed by the High Court, observing that there was no material on record to summon the petitioner, as an additional accused, he having been found innocent during investigation and it could not even be established on record whether he was attributed any injury. However, Hon’ble The Supreme Court, set aside the same by holding that, “...In our opinion, whereas the trial court was absolutely correct to have summoned the accused based on the evidence of PW-9, the High Court committed a grave error in allowing the revision of the accused. Under the facts and circumstances of the case and on the powers of the Court under Section 319 and based on the evidence of PW-9, it was absolutely necessary for the trial court to have summoned the three accused, including the revisionist. The reasoning given by the High Court, cannot be accepted at the stage of consideration of application under Section 319 Cr.PC. The merits of the evidence has to be appreciated only during the trial, by cross examination of the witnesses and scrutiny of the Court. This is not to be done at the stage of Section 319, though this is precisely what the High Court has done in the present case...” It was further held that, “The entire purpose of criminal trial is to go to the truth of the matter. Once there is satisfaction of the Court that there is evidence before it that an accused has committed an offence, the court can proceed against such a person. At

the stage of summoning an accused, there has to be a prima facie satisfaction of the Court. The evidence which was there before the Court was of an eye witness who has clearly stated before the Court that a crime has been committed, inter alia, by the revisionist. The Court need not cross-examine this witness. It can stop the trial at that stage itself if such application had been moved under Section 319. The detail examination of the witness and other witnesses is a subject matter of the trial which has to begin afresh.”

9. In the celebrated Constitution Bench judgement of **Hardeep Singh vs. State of Punjab and others**⁵, it was held thus:

“12. Section 319 CrPC springs out of the doctrine *judex damnatur cum nocens absolvitur* (Judge is condemned when guilty is acquitted) and this doctrine must be used as a beacon light while explaining the ambit and the spirit underlying the enactment of Section 319 Cr. PC.

13. It is the duty of the court to do justice by punishing the real culprit. Where the investigating agency for any reason does not array one of the real culprits as an accused, the court is not powerless in calling the said accused to face trial.

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95. At the time of taking cognizance, the court has to see whether a prima facie case is made out to proceed against the accused. Under Section 319 CrPC, though the test of prima facie case is the same, the degree of satisfaction that is required is much stricter. A two- Judge Bench of this Court in *Vikas v. State of Rajasthan*, held that on the objective satisfaction of the court a person may be "arrested" or "summoned", as the circumstances of the case may require, if it appears from the evidence that any such person not being the accused has committed an offence for which such person could be tried together with the already arraigned accused persons.

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106. 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 un rebutted, 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

⁵ 2014(3) SCC 92

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.”

10. Despite learned Senior counsel for the petitioner’s assiduous persuasion by heavily relying on the enquiry report/s, for acceptance of his plea to keep him out of the proceedings, this Court finds it to be not of a kind that would tilt the scales in his favour, since, at the very least, it requires evidence to be led, as it would be for the trial Court to evaluate its bearing and credibility.

11. The reliance on **Brijendra Singh vs. State of Rajasthan**⁶ by learned Senior counsel for the petitioner, is of no avail, as therein, it was on the basis of material collected during investigation, that the appellants were found to be in Jaipur city, whereas the incident had taken place at a distance of 175 km in Kanaur and the statements of the complainant and other witnesses, regarding the presence of the appellants at the place of occurrence were found to be doubtful as these did not inspire confidence. So is the judgement in **Sagar vs. State of UP**⁷, distinguishable on bare facts, the FIR being not by the eye-witness.

12. The inexorable sequitur surfacing from the thorough scrutiny of the facts of the case, which when considered in juxtaposition to the afore-referred judicial pronouncements, this Court finds no illegality or perversity in the impugned order, warranting any interference.

13. *Ex-consequenti*, there being no substantive merit in the present petition, the same is hereby dismissed.

14. Nothing herein shall be treated as an expression on the merits of the case and the trial court shall proceed and decide the matter, uninfluenced of any observation made herein, which was only for the purpose of adjudicating the

⁶ (2017) 7 SCC 706

⁷ 2022(6) SCC 389

present petition.

15. Pending applications, if any, stand disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

29.11.2025

gsv

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