



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1935 OF 2024

- 1] **Rukminbai Vishnu Karad**
Age : 65 yrs. Occ. : Household
R/o. Rameshwar, Tq. Latur
District : Latur
- 2] **Pallavi Bharat Karad**
Age : 40 yrs. Occ. : Household
R/o. Rameshwar, Tq. Latur
District : Latur
- 3] **Vijay Shahaji Gambhire**
Age : 48 yrs. Occ. : Agriculture
R/o. Hanuman Nagar, Ambajogai
Tq. Ambajogai, District : Beed.

...Petitioners

VERSUS

- 1] **The State Of Maharashtra**
Through the Police Inspector
Gategao Police Station,
Tq. and Dist. Latur.
- 2] **Vinayak Shripati Karad**
Age : 50 yrs. Occ. Agriculture
R/o. Rameshwar, Tq. Latur
District : Latur.

...Respondents

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- Dr. R. R. Deshpande, Advocate h/f. Ms. Priyanka Ramesh Deshpande, Advocate for the Petitioners
- Mr. A. S. Shinde, APP for Respondent No. 1 - State
- Mr. H. D. Deshmukh, Advocate for Respondent No. 2

...

WITH
CRIMINAL WRIT PETITION NO. 91 OF 2025

1] **Vinayak Shripati Karad,**
Age : 50 years, Occ: Agri.,
R/o. Rameshwar, Tq. & Dist. Latur. *...Petitioner*

VERSUS

1] **The State Of Maharashtra**
Through Investigating Officer,
Gategaon Police Station, Dist. Latur. *...Respondent*

...

- Mr. Himmatsinh D. Deshmukh, Advocate for the Petitioner
- Mr. A. S. Shinde, APP for Respondent - State

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CORAM : MEHROZ K. PATHAN, J.

RESERVED ON : 03.02.2026

PRONOUNCED ON : 20.02.2026

JUDGMENT :

1. Rule. Rule made returnable forthwith.
2. Criminal Writ Petition No. 1935 of 2024 is filed by the applicants – Rukminbai Vishnu Karad, Pallavi Bharat Karad and Vijay Shahaji Gambhire, thereby challenging the order dated 23.09.2024 passed below Exhibit 50 under Section 319 of the Code of Criminal Procedure in Sessions Case No. 18 of 2021 by the Court of the learned Additional Sessions Judge-3, Latur, whereby the present applicants were directed to be added as accused in the said crime and to be tried together with the charge-sheeted accused.

3. Criminal Writ Petition No. 91 of 2025 is filed by the complainant – Vinayak Shripati Karad, thereby challenging the very same order dated 23.09.2024 passed below Exhibit 50 under Section 319 of the Code of Criminal Procedure in Sessions Case No. 18 of 2021, whereby the application dated 30.08.2023 filed by him seeking addition of five accused persons came to be partly allowed by directing addition of accused namely Rukminbai Vishnu Karad, Pallavi Bharat Karad and Vijay Shahaji Gambhire and rejecting the prayer insofar as addition of Vishwanath Dadarao Karad and Ramesh Kashinath Karad.

4. Since both the writ petitions arise out of the common order dated 23.09.2024, they are heard and decided together by this common order.

5. Learned counsel for the petitioners, Dr. R. R. Deshpande, Advocate h/f. Ms. Priyanka Ramesh Deshpande, Advocate, in Criminal Writ Petition No. 1935 of 2024, vehemently submits that the incident occurred on 01.05.2020 and the FIR came to be lodged on 03.05.2020. It is further submitted that a perusal of the FIR would show that three (03) incidents are mentioned, all of which allegedly took place on the date of the incident, i.e. 01.05.2020. The first incident is stated to have occurred at about 05:00 p.m., the second incident allegedly at about 05:30 p.m., and the third incident allegedly at about 08:30 p.m. on the same date. Learned counsel for the petitioners further submits that the First Information Report itself would show that, right from the beginning and

from the first alleged incident mentioned therein, only seven (07) accused persons, who are charge-sheeted, were named as assailants who had allegedly assaulted the complainant / respondent No. 2 and the other injured witnesses and not the applicants. The complainant, Vinayak Shripati Karad, was undergoing medical treatment after the alleged assault and his statement was recorded in the presence of a Medical Officer, who had certified his fitness. The version put forth by the complainant later on that the present applicants were also involved in the assault stands falsified by the fact that no complaint was made by the complainant at the relevant time regarding non-inclusion of the applicants as accused by the police authorities. The first such complaint was made by the complainant only on 22.06.2020 before the Superintendent of Police, Latur, alleging non-inclusion of the names of the present applicants as accused, which, according to the learned counsel, was with an intention to create a basis to wreak vengeance against all the family members of the main accused. It is further submitted that the statement of the complainant under Section 164 of the Code of Criminal Procedure came to be recorded after about one and a half months of the incident, i.e. on 26.06.2020, and for the first time, the names of the present applicants were disclosed as assailants in the said statement of the complainant, Vinayak Karad. The said conduct on the part of the complainant, according to the learned counsel, clearly

falsifies the claim that there exists any credible evidence to prosecute the applicants in the said crime.

6. It is further submitted by the learned counsel for the petitioners in Criminal Writ Petition No. 1935 of 2024 that the statements of the witnesses, namely Madan Jadhavar, Babasaheb Karad, Vilas Karad, Pravin Karad and Shripati Karad, recorded by the prosecution and forming part of the charge-sheet, would clearly show that the present applicants were never named by any of the aforesaid eye-witnesses as assailants who had assaulted the complainant on the date of the incident. It is further submitted that amongst the aforesaid witnesses, some are injured eye-witnesses, whose evidence carry greater evidentiary value in law, and the omission of the names of the present applicants / petitioners from their statements, by itself, falsifies the case of the complainant insofar as the attempt to implicate the present petitioners in the present crime is concerned.

7. The said act on the part of the complainant in including the names of the lady members of the family of the accused persons is stated to be an attempt to counter the allegations made in the counter FIR No. 67 of 2020, wherein Gaulanbai, the mother of the complainant Vinayak Karad, is also arrayed as an accused. It is, therefore, submitted that with a view to include the family members of the accused, the petitioners Rukminbai Karad and Pallavi Karad have been deliberately arrayed as accused. It is

further submitted that the medical certificates of the victim would show that the victim had suffered only simple injuries and, as such, the silence on the part of the complainant and his injured family members in not naming the present petitioners as accused in the initial statements recorded by the police authorities clearly indicates the intention of the complainant to somehow falsely implicate the petitioners, who are family members of the main accused.

8. It is further submitted by the learned counsel that the learned Trial Court has relied upon the testimony of PW-1, i.e. the complainant Vinayak Karad, and on the basis of the examination-in-chief of the said complainant, has allowed the application filed by the complainant seeking addition of the present applicants as accused. It is submitted that the deposition of prosecution witness No.1, namely the complainant Vinayak Karad, was insufficient to arrive at the degree of satisfaction required for addition of the applicants as accused in the present crime. The learned Trial Court ought to have waited for the testimony of other material witnesses to establish that the applicants were actually present at the spot and had assaulted the victim / complainant. A perusal of the statements of the eye-witnesses clearly falsifies the case sought to be made out against the applicants and, therefore, the satisfaction arrived at by the learned Trial Court stands vitiated. Consequently, the impugned order directing the applicants to be added as accused and to be tried in

the aforesaid offences is liable to be interfered with by setting aside the impugned order dated 23.09.2024.

9. Learned counsel for the petitioners in Criminal Writ Petition No. 1935 of 2024, Mr. Deshpande, further relied upon the judgment of *Hardeep Singh Vs. State of Punjab and Others*, reported in AIR 2014 SC 1400, to submit that the Constitution Bench of the Hon'ble Supreme Court has laid down guiding principles to be considered before adding any person as an accused during the course of trial, as contemplated under Section 319 of the Code of Criminal Procedure. The learned counsel submits that the Constitution Bench framed five questions with regard to the exercise of powers under Section 319 of the Code of Criminal Procedure by the learned Trial Court. The Constitution Bench framed Question No. IV as under:—

“IV. What is the degree of satisfaction required for invoking the powers under Section 319 of Cr.P.C. to arraying as accused?”

10. In the case of ***Hardeep Singh*** (Supra), the constitution bench of the Hon'ble Supreme Court has observed as under :-

“89. In ***Rajendra Singh (Supra)***, the Court observed :
*“Be it noted, **the court need not be satisfied that he has committed an offence.** It need only appear to it that he has committed an offence. In other words, from the evidence it need only appear to it that someone else has committed an offence, to exercise jurisdiction under Section 319 of the Code. Even then, it has a discretion not to proceed, since the expression used is “may” and not “shall”. The legislature apparently wanted to leave that discretion to the trial court so as to enable it to exercise its jurisdiction*

under this section. The expression “appears” indicates an application of mind by the court to the evidence that has come before it and then taking a decision to proceed under Section 319 of the Code or not.”

90. In **Mohd. Shafi (Supra)**, this Court held that it is evident that before a court exercises its discretionary jurisdiction in terms of Section 319 Cr.P.C., it must arrive at a satisfaction that there exists a possibility that the accused so **summoned in all likelihood would be convicted**.

91. In **Sarabjit Singh & Anr. Vs. State of Punjab & Anr.**, AIR 2009 SC 2792, while explaining the scope of Section 319 Cr.P.C., a two-Judge Bench of this Court observed :

“.....For the aforementioned purpose, the courts are required to apply stringent tests; one of the tests being whether evidence on record is such which would reasonably lead to conviction of the person sought to be summoned.....Whereas the test of prima facie case may be sufficient for taking cognizance of an offence at the stage of framing of charge, the court must be satisfied that there exists a strong suspicion. While framing charge in terms of Section 227 of the Code, the court must consider the entire materials on record to form an opinion that the evidence if unrebutted would lead to a judgment of conviction. Whether a higher standard be set up for the purpose of invoking the jurisdiction under Section 319 of the Code is the question. The answer to these questions should be rendered in the affirmative. Unless a higher standard for the purpose of forming an opinion to summon a person as an additional accused is laid down, the ingredients thereof viz. (i) an extraordinary case, and (ii) a case for sparingly (sicsparing) exercise of jurisdiction, would not be satisfied.”

(Emphasis added)”

11. Learned counsel further relies upon the aforesaid Constitution Bench judgment to submit that the satisfaction required to be recorded by the Trial Court must be founded on much stronger evidence than mere probability of the complicity of the accused. The test to be applied

is one which is higher than the standard of a prima facie case as exercised at the stage of framing of charge. In the absence of such satisfaction, the Court ought to refrain from exercising its powers under Section 319 of the Code of Criminal Procedure. It is further submitted that while answering Question No. IV, the Constitution Bench has held that the degree of satisfaction required for summoning a person as an accused under Section 319 of the Code of Criminal Procedure is distinct and higher than that required at the stage of taking cognizance or framing of charge.

12. The learned counsel for the petitioner Mr. Deshpande further relied upon the judgment of the Hon'ble Supreme Court in ***Hetram @ Babli Vs. State of Rajasthan & Another; Criminal Appeal No. 4656 of 2024 (Arising out of S.L.P (Criminal) No. 4253 of 2023)***, wherein this Court has observed as under :-

“7. This Court in the case of Hardeep Singh(2014) 3 SCC 92 has observed that the test to be applied for dealing with the application under Section 319 of the CRPC is of more than a prima facie which is required to be considered at the time of framing of the charge. The test to be applied is that if the evidence goes unrebutted, whether it would lead to conviction. The Court has to record satisfaction in such terms and if such satisfaction cannot be recorded, the Court should refrain from exercising power under Section 319 of the CRPC.

8.

9. *In the facts of the case, the occasion for considering the application under Section 319 of the CRPC arose after the cross-examination of the only eye witnesses was recorded. Therefore, while deciding an application under Section 319 of the CRPC, the Court must consider the cross-examination as well. If an application under Section*

319 of the CRPC is made after the cross-examination of witnesses, it will be unjust to ignore the same. The power under Section 319 of the CRPC cannot be exercised when there is no case made out against the persons sought to be implicated. In view of the omissions which are material and which amount to contradiction, obviously no Court could have recorded a satisfaction which is contemplated by Section 319 of the CRPC. It is impossible to record a finding that even a prima facie case of involvement of the appellant has been made out.”

13. Thus, taking into consideration the aforesaid pronouncements of the Hon’ble Supreme Court, it is vehemently submitted by the learned counsel for the petitioners in Criminal Writ Petition No. 1935 of 2024 that there is sufficient material on record to indicate that the examination-in-chief of the prosecution witnesses, if subjected to cross-examination by the proposed accused, would have resulted in omissions which are material in nature and which could have amounted to contradictions. Consequently, the satisfaction required to be recorded in terms of the law laid down by the Constitution Bench could not have been arrived at, thereby rendering the exercise of power under Section 319 of the Code of Criminal Procedure for addition of the applicants as accused as vitiated. The learned counsel for the petitioners, therefore, submits that the omission on the part of the complainant to name the present applicants as accused initially in the FIR and also in the statements of the eye-witnesses would clearly demonstrate that the examination-in-chief of prosecution witness No.1, namely the complainant Vinayak Karad, itself constitutes an improvement which

could have turned into a omission upon cross-examination. As such, the said evidence does not satisfy the requirements laid down by the Constitution Bench for exercising powers under Section 319 of the Code of Criminal Procedure for addition of the accused / petitioners. Learned counsel, therefore, submits that the impugned order is illegal, contrary to the requirements and guidelines laid down by the Hon'ble Supreme Court in various judgments, and is thus liable to be set aside.

14. As against this, learned counsel Mr. Deshmukh appearing for the petitioner in Criminal Writ Petition No. 91 of 2025 and for respondent No.2 – the complainant in Criminal Writ Petition No. 1935 of 2024, vehemently opposes Criminal Writ Petition No. 1935 of 2024 filed by the petitioners and supports the impugned order dated 23.09.2024. Learned counsel Mr. Deshmukh further submits that the learned Trial Court has duly applied its mind to the fact that the complainant had already moved an application to the Superintendent of Police, Latur, making a grievance regarding non-inclusion of the present applicants and other two persons as accused in the FIR, by submitting a complaint dated 22.06.2020. It is further submitted that not only had such a complaint been made to the Superintendent of Police, but the complainant / petitioner in Criminal Writ Petition No. 91 of 2025 had also recorded his statement under Section 164 of the Code of Criminal Procedure on 26.06.2020, wherein he specifically implicated the present applicants as accused along with

two persons not added by the Trial Court as accused. The deposition of the petitioner herein, namely the complainant Vinayak Karad, clearly sets out the role attributed to the petitioners in Criminal Writ Petition No. 1935 of 2024 as assailants, while attributing the role of conspiracy to the other two persons, in respect of the assault committed on the complainant on 01.05.2020. Thus, taking into consideration the deposition of the complainant Vinayak Karad in his examination-in-chief, the complaint dated 22.06.2020 addressed to the Superintendent of Police, Latur, as well as the statement of the complainant recorded under Section 164 of the Code of Criminal Procedure on 26.06.2020 by the learned Judicial Magistrate First Class, the learned Trial Court recorded the requisite satisfaction that the petitioners in Criminal Writ Petition No. 1935 of 2024 are required to be charge-sheeted and tried for the aforesaid offences along with the already charge-sheeted accused.

15. Learned counsel Mr. Deshmukh further submits that two persons, namely Vishwanath Dadarao Karad and Ramesh Kashiram Karad, were also shown as conspirators in the offence and that they were wielding political influence and financial power and were, in fact, the persons behind the assault. It is submitted that their names were specifically mentioned not only in the complaint dated 22.06.2020 made to the Superintendent of Police, Latur, but also in the statement of the complainant recorded under Section 164 of the Code of Criminal

Procedure on 26.06.2020. The deposition of the complainant further reveals that the informant has categorically stated that on account of a civil dispute, the aforesaid proposed accused Vishwanath Dadarao Karad and Ramesh Kashiram Karad had given “supari” and hired assailants with an intention to kill the complainant, which ultimately resulted in the incident dated 01.05.2020, wherein the charge-sheeted accused allegedly carried out the assault.

16. It is therefore submitted that the impugned order dated 23.09.2024, insofar as it partly allowed the application filed under Section 319 of the Code of Criminal Procedure but refused to add Vishwanath Dadarao Karad and Ramesh Kashiram Karad as accused in the aforesaid crime, is liable to be set aside to that extent. Learned counsel Mr. Deshmukh further submits that the names of the aforesaid two proposed accused were consistently mentioned in the complaint dated 22.06.2020, in the statement of the complainant recorded under Section 164 of the Code of Criminal Procedure on 26.06.2020, as well as in the deposition of the complainant recorded before the learned Trial Court. According to the learned counsel, the impugned order is therefore misconceived insofar as the role attributed to the aforesaid two proposed accused is concerned and is liable to be interfered with by directing that Vishwanath Dadarao Karad and Ramesh Kashiram Karad also be prosecuted for the aforesaid offences.

17. The learned counsel appearing for the petitioner in Criminal Writ Petition No. 91 of 2025 has relied upon the following judgments in opposition to the petition filed by the newly added accused, contending that no separate or prior hearing is required to be afforded to the proposed accused at the stage of exercise of powers under Section 319 of the Code of Criminal Procedure.

- *Jamin Vs. State of Uttar Pradesh; Criminal Appeal No. 1184 of 2025 (Arising out of SLP (Cri.) No. 6320 of 2024)*
- *Yashodhan Singh and Others Vs. State of Uttar Pradesh and Another; 2023 (9) SCC 108*
- *Omi @ Omkar Rathod and Another Vs. State of Madhya Pradesh and Another; 2025 SCC OnLine SC 27*
- *Sandeep Kumar Vs. State of Haryana and Another; 2023 AIR (SC) 3648*
- *Jitendra Nath Mishra Vs. State of Uttar Pradesh and Another; 2023 AIR (SC) 2757*

18. I have carefully gone through the evidence of Vinayak Karad recorded by the learned Trial Court on 08.08.2023. I have also perused the application dated 30.08.2023 filed by the petitioner Vinayak Karad before the Trial Court seeking addition of five persons as accused in the aforesaid crime in exercise of powers under Section 319 of the Code of Criminal Procedure, as well as the impugned order dated 23.09.2024 passed by the learned Trial Court.

19. On perusal of the judgment of the Hon'ble Supreme Court in *Hardeep Singh Vs. State of Punjab and Others*, AIR 2014 SC 1400, it is evident that the Constitution Bench, after considering and relying upon earlier judgments of the Hon'ble Supreme Court in *Rajendra Singh Vs. State of U.P. and Another*, AIR 2007 SC 2786; *Mohd. Shafi Vs. Mohd. Rafiq and Another*, AIR 2007 SC 1899; and *Sarabjit Singh and Another Vs. State of Punjab and Another*, AIR 2009 SC 2792, has crystallised the legal position governing the exercise of powers under Section 319 of the Code of Criminal Procedure. The following paragraphs of the aforesaid judgments are relevant for the present controversy:

“98. Power under Section 319 Cr.P.C. is a discretionary and an extraordinary power. It is to be exercised sparingly and only in those cases where the circumstances of the case so warrant. It is not to be exercised because the Magistrate or the Sessions Judge is of the opinion that some other person may also be guilty of committing that offence. Only where strong and cogent evidence occurs against a person from the evidence led before the court that such power should be exercised and not in a casual and cavalier manner.

*99. 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 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.PC. to form any opinion as to the guilt of the accused.”

20. The perusal of the aforesaid observations of the Constitution Bench in **Hardeep Singh** (supra) as well as in **Hetram @ Babli** (supra) would show that the standard required to be applied while dealing with an application under Section 319 of the Code of Criminal Procedure is higher than the mere existence of a prima facie case, as is required at the stage of framing of charge. The test to be applied is whether the evidence on record, if left unrebutted, would be sufficient to lead to the conviction of the proposed accused. The Court is therefore required to record its satisfaction in those terms, and if such satisfaction cannot be arrived at on the basis of the material on record, the Court ought to refrain from exercising powers under Section 319 of the Code of Criminal Procedure.

21. The Hon’ble Supreme Court in the case of **Hetram @ Babli** (Supra) was pleased to observe as under :-

“8. The learned counsel appearing for the respondent – State relied upon the first sentence of paragraph 106 of the aforesaid judgment. In a given case, if power under Section 319 is sought to be exercised before cross-examination of material witnesses, the Court cannot postpone the consideration of the prayer under Section 319 of the CRPC on the ground that the cross-examination of the witnesses is yet to be recorded.”

22. The submissions advanced by the learned counsel for the petitioners, Mr. Deshpande, in Criminal Writ Petition No. 1935 of 2024, therefore, cannot be accepted to the extent that the consideration of the

application under Section 319 of the Code of Criminal Procedure ought to have been deferred till the completion of cross-examination of the prosecution witnesses in view of the law laid down by the Hon'ble Supreme Court in the case of *Hetram @ Babli* (supra). The learned Trial Court was not required to mechanically defer consideration of the application merely because the cross-examination of the prosecution witnesses was yet to be conducted. However, upon taking into consideration the material placed on record, which formed part of the charge-sheet, and as rightly noticed, the discrepancies between the contents of the FIR and the statements of the witnesses, who had not even named the present petitioners as assailants assume significance. These discrepancies indicate that there was a serious error in the exercise of discretionary powers by the Trial Court.

23. It is not a case where the petitioners were initially arrayed as accused in the crime and subsequently dropped at the stage of filing of the charge-sheet. The petitioners were not arrayed as accused when the FIR was lodged and when the statements of the witnesses were initially recorded. It was only upon recording of the statement of the first informant under Section 164 of the Code of Criminal Procedure that the present petitioners were, for the first time, named as assailants and the two respondents in Criminal Writ Petition No. 91 of 2025 were alleged to be conspirators in the said crime. Even thereafter, the prosecution did

not deem it appropriate to array them as accused in the charge-sheet. Consequently, the charge-sheet came to be filed against other accused persons and not against the three petitioners in Criminal Writ Petition No. 1935 of 2024 and the two respondents in Criminal Writ Petition No. 91 of 2025.

24. The perusal of the statements of the injured eye-witnesses recorded under Section 161 of the Code of Criminal Procedure reveals that the names of the petitioners in Criminal Writ Petition No. 1935 of 2024 were not mentioned therein. Similarly, the omission on the part of the complainant to name the aforesaid petitioners as assailants in the First Information Report is a relevant circumstance, which ought to have been duly considered by the learned Trial Court before deciding the application under Section 319 of the Code of Criminal Procedure.

25. On the basis of the examination-in-chief of the complainant, wherein the complainant attributed specific roles to the present petitioners as assailants, the learned Trial Court proceeded to allow the application under Section 319 of the Code of Criminal Procedure without recording the degree of satisfaction as mandated in *Hardeep Singh* (supra).

26. For instance, the deposition of the complainant Vinayak Karad attributes a role to Rukminbai and Pallavi of catching hold of witness Pravin while accused Santosh assaulted Pravin with a stick on his head

with an intention to kill. However, the statement of witness Pravin recorded under Section 161 of the Code of Criminal Procedure does not disclose any such role attributed to Rukminbai, Pallavi, or Vijay, either in assaulting Pravin or in catching hold of him during the alleged incident.

27. In view of these omissions, which go to the root of the matter, the satisfaction recorded by the learned Trial Court while adding the petitioners in Criminal Writ Petition No. 1935 of 2024 as accused stands vitiated, as it does not meet the test laid down by the Hon'ble Supreme Court in *Hardeep Singh* (supra) and reiterated in *Hetram @ Babli* (supra).

28. It is a settled principle of law that the Courts must rely upon the intrinsic worth of the evidence and apply the yardstick of probability while avoiding fanciful conjectures. A perusal of the impugned order reveals that although the learned Trial Court rejected the application insofar as it sought to add the two respondents as conspirators, terming it as fanciful, it nevertheless succumbed to a similar fanciful version of the complainant while allowing the application to add petitioner Nos. 1 to 3 in Criminal Writ Petition No. 1935 of 2024 as accused. This was done despite the fact that they were not named as assailants in the FIR nor in the statements of the injured eye-witnesses, whose version would carry greater evidentiary value.

29. The learned Trial Court, though justified in not waiting for the cross-examination of the prosecution witnesses before deciding the application under Section 319 of the Code, was nevertheless required to assess whether the evidence brought on record even at the stage of examination-in-chief was of such quality and credibility that, if left unrebutted, it would reasonably lead to conviction. The examination-in-chief of the complainant, when tested on the anvil of the standard of credible and cogent evidence required for invoking powers under Section 319 of the Code, does not inspire confidence insofar as the alleged role of the present petitioners in the crime is concerned. The material does not disclose strong and cogent evidence warranting their addition as accused. The learned Trial Court, therefore, committed an error in exercising its jurisdiction under Section 319 of the Code by directing addition of the names of the petitioners in Criminal Writ Petition No. 1935 of 2024 as accused. However the learned Trial Court has rightly refused to add Vishwanath Karad and Ramesh Karad as accused in the crime. The impugned order, to that extent, is unsustainable and is liable to be set aside. Summoning of an accused in a criminal case is a serious matter and cannot be treated as a perfunctory exercise. Unless the Court is satisfied to the degree required, as laid down by the Hon'ble Supreme Court in ***Hardeep Singh*** (*Supra*), the learned Trial Court ought not to have added the petitioners in Writ Petition No. 1935 of 2024 as accused.

30. The judgments relied upon by the learned counsel for the petitioner in Criminal Writ Petition No. 91 of 2025 are distinguishable on facts and do not advance his case. In the present matter, the evidence brought on record does not satisfy the degree of satisfaction mandated for exercise of powers under Section 319 of the Code of Criminal Procedure, as laid down by the Hon'ble Supreme Court in **Hardeep Singh** (*supra*) and **Hetram @ Babli** (*supra*). Hence, the reliance placed upon the said authorities is misplaced.

31. Thus, taking into consideration the law laid down by the Hon'ble Supreme Court in **Hardeep Singh** (*supra*) and **Hetram @ Babli** (*supra*), the impugned order dated 23.09.2024 is liable to be interfered with.

32. Hence, the following order:

ORDER

- A) The Writ Petition No. 1935 of 2024 is hereby allowed.
- B) The Writ Petition No. 91 of 2025 is hereby dismissed.
- C) The impugned order dated 23.09.2024 passed below Exhibit 50 in Sessions Case No. 18 of 2021 by the learned Additional Sessions Judge-3, Latur, insofar as it directs addition of the petitioners in Criminal Writ Petition No. 1935 of 2024, namely Rukminbai Vishnu Karad, Pallavi Bharat Karad and Vijay Shahaji Gambhire, as accused in exercise of powers under Section 319 of the Code of Criminal Procedure, is hereby quashed and set aside.

D) The impugned order dated 23.09.2024, insofar as it rejects the prayer for addition of Vishwanath Dadarao Karad and Ramesh Kashiram Karad as accused, is maintained.

33. It is clarified that the observations made herein are prima facie in nature and shall not influence the learned Trial Court while deciding the case on merits against the charge-sheeted accused.

34. Rule is made absolute in Criminal Writ Petition No. 1935 of 2024 and discharged in Criminal Writ Petition No. 91 of 2025.

35. There shall be no order as to costs.

(MEHROZ K. PATHAN)
JUDGE