



CRR-47-2024(O&M)

1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
CRR-47-2024(O&M)

Ramwati

.....Petitioner

Versus

State of Haryana and another

..... Respondents

1.	Date when Order was reserved	08.05.2026
2.	Pronouncement of Order	25.05.2026
3.	Date of uploading Order	26.05.2026
4.	Whether operative part or full Order is pronounced	Full
5.	Delay, if any, in pronouncing of full order, and reasons thereof	Not Applicable

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. G.C. Shahpuri, Advocate for the petitioner.

Mr. P.K. Jhanda, Sr. DAG, Haryana.

Mr. Divyansh Shukla, Advocate for
Mr. R.K. Choudhary, Advocate for respondent No.2.

SANJAY VASHISTH, J.

CRM-1254-2024

i) Present application has been filed under Section 5 of the Limitation Act seeking condonation of delay of 136 days in filing the accompanying revision petition.

**CRR-47-2024(O&M)****2**

ii) For the reasons enumerated in the application, same is allowed and delay of 136 days in filing the accompanying revision petition is hereby condoned.

iii) Application stands disposed of.

CRR-47-2024(O&M)

1. Petitioner, Ramwati, aged 72 years, has filed the present revision petition challenging the order dated 26.05.2023 passed by the learned Additional Sessions Judge, Palwal (hereinafter referred to as the “Ld. Trial Court”), whereby the application filed under Section 319 Cr.P.C. (corresponding to Section 358 of BNSS) by the petitioner for summoning an additional accused, namely Lalit s/o Sunder, was dismissed.

2. On the statement of complainant-Ramwati, the following was recorded in the FIR:

“I Ramwati wife of Sher Singh, Caste Jat, am resident of Janacholi. I have two sons and one daughter. My husband Sher Singh had gone to Haridwar for the purpose of Kavar. My elder son Sunil is in Army and has come on leave and had gone to meet relatives. I and my younger son Anil Kumar were present at home. I was busy in house chores and my son Anil Kumar was lying in the courtyard on cot. Yesterday i.e. 27.07.2019 at about 7:00, three armed persons came by running and after reaching they fired about 20-25 shots upon my son Anil Kumar. The fire struck on the body of Anil Kumar and smeared with blood and they went back while firing. Out of them, one boy Mandhak @ Om Parkash s/o Tej Pal, caste Jat, Village Janacholi to whom I have recognized. With whom two other



boys were there and who were carrying weapons in their hands and while came running and reached my son Anil Kumar and they started firing upon Anil Kumar and while going away one boy told his name as Ankit Pandit resident of Dhamka and one another boy was standing at the door of my house to whom also I have recognized whose name is Lalit s/o Sunder, resident of Janacholi. All the four boys after firing went in a white colour vehicle which was parked near the school. My son Anil Kumar was taken to the hospital by my other family members namely Pappu @ Kamal s/o Hari Chand, Ashok Kumar son of Hari Singh and Ashok Kumar and Ghwasi Ram in their car. This incident has occurred within a short span of time and this incident has been witnessed by me. My son Anil Kumar has been declared dead by the doctors. Mandhak @ Om Parkash s/o Tej Pal, resident of Janacholi, Ankit Pandit resident of Dhamka along with other companion have committed the murder of my son Anil Kumar, whose name I do not know and these persons have committed the murder with their respective vehicle Lalit son of Sunder resident of Janacholi have also committed the murder of my son while standing on the gate of my house by watching. After registration of the case against these persons, a strict legal action be taken against them. Yesterday on 27.07.2019, I was not in a position to make a statement and today, I have been made a complaint to you in Civil Hospital, Palwal. Applicant Ramwati w/o Sher Singh.”

From the FIR, it emerges that the incident of murder of the complainant's son, Anil Kumar, took place in the courtyard of her house. Three accused persons were specifically named and identified by her, namely: (i) Manthak @ Om Prakash, (ii) Ankit Pandit, and (iii) Lalit.



Injured-Anil Kumar, was taken to the hospital by family members, namely Pappu @ Kamal, Ashok Kumar, and Ghwasi Ram, in their car.

3. As per the allegations, respondent No. 2-Lalit, was standing at the door of the complainant's house. A total of six accused persons were challaned and charge-sheeted before the Court, namely: (i) Ankit, (ii) Ankush, (iii) Sunil, (iv) Ravi @ Mintu, (v) Om Prakash @ Mantak, and (vi) Bhagat Singh.

4. As per the status report, in regard to respondent No. 2, certain inquiries were conducted by the Investigating Officer from respectable members of the society. On the basis of affidavits furnished by them on oath regarding the false implication of Lalit, he was declared innocent and was placed in Column No. 2 of the challan/final report submitted under Section 193 of BNSS, 2023.

5. Complainant-Ramwati, while appearing in the witness box as PW-1, deposed in her examination-in-chief as under:

“ Stated that on 27.07.2019 at about 7:00 P.M., I was present in my house. My son Anil was also there in the house. My husband had gone to Haridwar for taking Kavar and other son Sunil Kumar, who had come on leave from Army, had gone out of station., Thus, I and Anil were alone in the house. My son Anil was lying in a room on a cot and I was in the other room. Then four persons came there. One of them was Mantak whom I recognize and two others were with him and all of them started firing indiscriminately. 25-30 shots were fired and I came immediately outside. Mantak and two others were holding fire arms and firing. Then I further noticed that one Lalit son of Sunder of village Janacholi was standing outside the gate and he was



holding a weapon. While running from our house, one of the shooters out of four proclaimed that he was Ankit Pandit of Dhamaka. Then all four of them escaped in a white colour car which was parked at a distance of about half killa. I then came near Anil and found him seriously injured. I started crying by saying that my son was taken to hospital, where he was declared dead. I did not lodge any complaint on that date as I was seriously perturbed. I lodged complaint next day n 28.06.2019 which is Ex.PW1/A which bears my thumb impression. Today accused Ankit and Mantak are present in the Court and I identify them. I cannot say whether any other assailant is present in the court or not. Accused Lalit is not present in the Court. I do not know whether he was arrested by the police or not.”

6. While dealing with the application, apart from the statement of complainant-Ramwati, Court also noticed the disclosure statements made by the accused, namely Ankush (Ex. PW2/A), Ankit (Ex. PW2/B), and Sunil Kheera (Ex. PW2/C), as well as the supplementary disclosure statements of accused Ankush (Ex. PW2/G), Ankit (Ex. PW2/H), Sunil @ Kheera (Ex. PW2/I), and Ravi @ Mintu (Ex. PW2/J and Ex. PW2/L).

From the said disclosure statements, Court noticed that there were a total of five accused persons, namely: (i) Ankit, (ii) Ankush, (iii) Sunil @ Kheera, (iv) Parveen @ Jadugar, and (v) Ravi @ Mintu.

It was further observed that, as per the disclosure statements, Ravi @ Mintu was driving the car and remained seated in the vehicle, while the remaining four accused went inside the house of Anil to shoot him. However, none of the said exhibited documents prepared during the investigation refer to any specific role attributed to the proposed accused



Lalit. At the same time, learned Trial Court noticed another document, i.e., a disclosure statement dated 18.10.2019 of accused-Ankit, which forms part of the challan but was not exhibited, wherein the role of Lalit, as described by the complainant (PW-1), is stated to have been corroborated.

Even Investigating Officer-SI Shahid Ahmed, **who appeared as PW-2**, did not prove the disclosure statement of accused Ankit recorded on 18.10.2019 during his testimony before the Court.

On the aforesaid basis, Trial Court concluded that there was no convincing material except the statement of the complainant (PW-1) and accordingly dismissed the application.

7. Claiming the order to be illegal and against the settled principles of law, learned counsel for the petitioner argues that learned Trial Court erred in not summoning the additional accused by exercising its extraordinary power to summon and thereafter try Lalit for the alleged offences.

It is further contended that once the disclosure statement dated 18.10.2019 of accused-Ankit formed part of the challan, learned Trial Court itself ought to have taken cognizance of such an important document, especially in view of the conduct of the Investigating Officer, who deliberately did not prove the said document to bring out the truth, nor stated that no such disclosure statement of accused-Ankit dated 18.10.2019 was recorded. Therefore, it is argued that the conduct of the Investigating Officer, while deposing as a prosecution witness, does not appear to be fair.



8. Learned counsel for the petitioner relies upon the judgments of the Hon'ble Supreme Court in '*Manjeet Singh vs. State of Haryana and others*' 2021(4) RCR(Criminal)25, Law Finder Doc ID #1871151; '*Yadwinder Singh vs. Lakhi @ Lakhwinder Singh and another*' 2025(2) RCR (Criminal) 426, Law Finder Doc ID #2713864; and the Constitution Bench judgment of the Hon'ble Supreme Court in '*Sukhpal Singh Khaira vs. State of Punjab*', 2023 (1) SCC 289, Law Finder Doc ID #2080153.

It is submitted that once sufficient material is available before the Court in the form of the sworn statement of an eyewitness, proposed accused can be summoned to face trial, as such material constitutes adequate evidence for exercising powers under the law to summon additional accused persons.

9. On the other hand, learned Senior Deputy Advocate General, Haryana, while referring to the stand taken by the State, submits that as per the investigation, respondent No. 2-Lalit, was found innocent and, for that purpose, statements of villagers were also recorded.

10. Mr. R.K. Chaudhary, Advocate, appearing on behalf of respondent No. 2, while defending the impugned order, submits that in her statement complainant did not assign any specific role to the said respondent except alleging his presence at the door of the house. It is further submitted that even in the FIR, it is not mentioned that respondent No. 2 was armed with any weapon; however, while deposing as PW-1 before the Court, she alleged that Lalit was holding a weapon while



standing outside the gate. Thus, there is a contradictory stand in the complainant's version in the FIR and her testimony before the Court.

Accordingly, he submits that there is no merit in the revision petition, that application has been rightly declined, and prays for dismissal of the present revision petition.

11. I have heard learned counsel for the parties and gone through the record available before this Court.

12. After hearing the respective counsel and perusing the record, it emerges as under:—

i) The incident took place on 27.07.2019, and the FIR was registered in respect of the incident on the statement of the deceased's mother, who claims herself to be an eyewitness.

ii) The presence of respondent No. 2 and his identification is mentioned in the FIR; however, there is no allegation that he was carrying any weapon.

iii) While appearing in the witness box, the eyewitness deposed that respondent No. 2 was present outside the gate and was also holding a weapon, though no description of the weapon has been given.

iv) In cross-examination, she clearly stated that except Mantak and Lalit, she was not acquainted with any of the accused prior to the incident. Thus, the identity and prior acquaintance of the witness with respondent No. 2 stand established from her own testimony elicited during cross-examination.



13. It further emerges from the cross-examination of the eyewitness that the assailants were not in muffled faces and that she is an illiterate lady.

In the disclosure statement dated 18.10.2019 of accused-Ankit, it was recorded that respondent No. 2-Lalit, had identified the house of Anil and was present at the scene, and that his information facilitated the commission of the murder of Anil.

It is a matter of surprise that Investigating Officer, while deposing before the Court, did not state anything about the said disclosure statement dated 18.10.2019. Even the Trial Court placed reliance upon other disclosure statements and the facts recorded therein, without any discussion as to whether such facts recorded in disclosure statements have any evidentiary value regarding the manner of commission of the offence.

Since SI Shahid Ahmed is the scribe of the disclosure statement dated 18.10.2019, being an impartial officer, it was expected of him to depose regarding the said disclosure statement of accused Ankit and to state whether the facts recorded therein were found to be true or not.

However, Trial Court has placed greater reliance on the disclosure statements of the accused and the supplementary disclosure statements, including that of accused Ankit, recorded later. In the view of this Court, such disclosure statements cannot carry relevance at this stage as compared to the sworn testimony of the eyewitness, PW-2 Ramwati.



Therefore, it appears that the eyewitness account has been given less weight than the contents of the disclosure statements.

In fact, once the Trial Court had taken note of the disclosure statement dated 18.10.2019 of accused-Ankit as part of the challan, it ought to have sought clarification from SI Shahid Ahmed as to why he remained silent regarding the said disclosure statement, or at least discussed the conduct of the Investigating Officer in the order.

14. Although the proposed accused in the present case is asserted to have shared a common intention by acting as a lookout at the gate rather than being part of a larger unlawful assembly, the overarching legal threshold governing the summoning of an additional accused remains identical. At the stage of Section 319 Cr.P.C., the Court is not permitted to dissect the exact variance in overt physical acts or mini-evaluate changing statements if a strong *prima facie* case of involvement exists. On this point, Paragraph No. 14.2 of the Hon'ble Supreme Court's decision in *Manjeet Singh's* case (supra) directly guides this Court's view:

“14.2 Now so far as the reasoning given by the High Court while dismissing the revision application and confirming the order passed by the Learned trial Court dismissing the application under section 319 CrPC, 1973 is concerned, the High Court itself has observed that PW1 Manjeet Singh is the injured witness and therefore his presence cannot be doubted as he has received fire arm injuries along with the deceased, However, thereafter the High Court has observed that the statement of Manjeet Singh indicates over implication and that no injury has been attributed to either of the respondents except they were



armed with weapons and the concerned injuries are attributed only to Sartaj Singh even for the sake of arguments someone was present with Sartaj Singh it cannot be said that they had any common intention or there was meeting of mind or knew that Sartaj would be firing. The aforesaid reasonings are not sustainable at all. At the stage of exercising the powers under section 319 CrPC, 1973 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 & 149 IPC. The High Court has failed to appreciate the fact that for attracting the offence under Section 149 IPC 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 319 CrPC, 1973.”

Therefore, at this stage, this Court is of the view that the power under Section 319 Cr.P.C. (358 of BNSS) was required to be exercised. Though the factual matrix and circumstances discussed are slightly different, the Trial Court ought to have allowed the application.

16. While examining the impugned order, this Court is conscious of the stage of the trial, as the eyewitness has already been examined with respect to the other challaned accused and has supported the prosecution case. In the event of allowing the application for



summoning respondent No. 2 for a joint trial, witnesses may have to be recalled, and there is a possibility that the accused, now on bail, may influence or pressurise the eyewitness (Ramwati, PW-1). In this regard, reliance is placed upon the Constitution Bench judgment in *Sukhpal Singh Khaira vs. State of Punjab* (supra) as well as the judgment in *Yadwinder Singh vs. Lakhi @ Lakhwinder Singh and another* (supra), which have been followed in recent decisions.

The principles laid down in *Sukhpal Singh Khaira* (supra), particularly paragraph 33(a) to (c) of the judgment, provide guidelines regarding the conduct of trial qua additional accused, contemplating different possible situations during trial. The principle of holding a separate trial was again noticed by the Hon'ble Supreme Court in *Yadwinder Singh* (supra), wherein paragraph 14 refers to paragraph 34 of *Sukhpal Singh Khaira* case supra, which reads as under:---

“34. Though Section 319 CrPC provides that such person summoned as per sub-section (1) thereto could be jointly tried together with the other accused, keeping in view the power available to the court under Section 223 CrPC to hold a joint trial, it would also be open to the learned Sessions Judge at the point of considering the application under Section 319 CrPC and deciding to summon the additional accused, to also take a decision as to whether a joint trial is to be held after summoning such accused by deferring the judgment being passed against the tried accused. If a conclusion is reached that the fresh trial to be conducted against the newly added accused could be separately tried, in such event it would be open for the learned Sessions Judge to order so and proceed to pass the



judgment and conclude the trial insofar as the accused against whom it had originally proceeded and thereafter proceed in the case of the newly added accused. However, what is important is that the decision to summon an additional accused either suo motu by the court or on an application under Section 319 CrPC shall in all eventuality be considered and disposed of before the judgment of conviction and sentence is pronounced, as otherwise, the trial would get concluded and the court will get divested of the power under Section 319 CrPC. Since a power is available to the court to decide as to whether a joint trial is required to be held or not, this Court was justified in holding the phrase, "could be tried together with the accused " as contained in Section 319(1) CrPC, to be directory as held in Shashikant Singh [Shashikant Singh v. Tarkeshwar Singh, (2002) 5 SCC 738: 2002 SCC (Cri) 1203] which in our opinion is the correct view."

17. In view of the aforesaid discussion and the stage of the trial, this Court is of the considered opinion that the impugned order does not sustain and is liable to be set aside. Accordingly, the present revision petition is allowed and the impugned order is hereby set aside.

18. Ordered accordingly.

19. Consequently, the application under Section 319 Cr.P.C. (corresponding to Section 358 of BNSS) seeking summoning of additional accused Lalit (respondent No. 2) is allowed. Trial Court shall proceed further in accordance with law by summoning the said accused and conducting the trial in accordance with the observations made hereinabove as well as the guidelines laid down by the Constitution



CRR-47-2024(O&M)

14

Bench of the Hon’ble Supreme Court in *Sukhpal Singh Khaira vs. State of Punjab*.

(SANJAY VASHISTH)
JUDGE

25.05.2026
Rashmi

Whether Speaking/Reasoned: YES/~~NO~~
Whether Reportable: ~~YES~~/NO