



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

(131-2)

CRM-M-4874-2026

Date of Decision: 23.04.2026

POOJA KUMARI

.....Petitioner

Versus

STATE OF HARYANA AND ANOTHER

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Ravinder Singh Randhawa, Sr. Advocate with
Ms. Deepinder Kaur, Advocate and
Mr. Vinay Saron, Advocate
for the petitioner.

Ms. Saumya Ahluwalia, Sr. DAG, Haryana.

KIRTI SINGH, J. (ORAL)

1. The challenge in the present petition is to the impugned order order dated 18.07.2025 (Annexure P-1) passed by the learned Judicial Magistrate First Class, Gurugram whereby the application filed by the petitioner under Section 319 Cr.P.C. for summoning Dr. Abha Bansal as an additional accused has been dismissed in FIR No. 148 dated 27.05.2017 under Sections 313, 323, 342, 406, 427, 498-A, 506 and 509 of IPC, registered at Police Station Women, Gurugram; and the order dated 27.11.2025 passed by the learned Additional Sessions Judge, Gurugram (Annexure P-2) in revision against the said order.

2. Status report by way of affidavit of Surinder Kaur, HPS, Assistant Commissioner of Police, CAW East & West, Gurugram has been filed by the State, which is taken on record. A copy thereof has been furnished to the learned counsel for the petitioner.



3. The brief factual matrix, as borne out from the case record, reveals that the present FIR came to be registered on the basis of a complaint filed by the petitioner/complainant, alleging therein about acts of cruelty, physical assault and a forcible abortion purportedly carried out at the instance of her husband and in-laws. During the course of investigation, a consent form for medical termination of pregnancy (Ex. PW3/B), purportedly signed by the uncle of the complainant and *prima facie* proved by the concerned doctor was taken on record, relying on which the investigating agency submitted its final report dated 29.06.2017, wherein offence under Section 313 IPC was found not to be made out, and the case was proceeded with only under Sections 498-A, 406, 323 and 506 IPC against the husband. Subsequently, the complainant during the course of the trial sought to assail the authenticity of the aforesaid consent form by contending that the same was forged and fabricated, and also moved an application under Section 319 CrPC for summoning the doctor, who had been examined as PW-3, as an additional accused on allegations of complicity in the alleged forced abortion. The said application under section 319 Cr.P.C was dismissed by the learned trial Court vide order dated 18.07.2025. The revision petition preferred against the said order also came to be dismissed, with the Revisional Court observing that there was no patent illegality or perversity warranting interference, and reiterating the limited scope of revisional jurisdiction. Aggrieved thereby, the petitioner has invoked the inherent jurisdiction of this Court seeking quashing of the impugned orders.



4. Learned counsel for the petitioner submits that the impugned order passed by the learned trial Court suffers from a patent infirmities, inasmuch as it fails to appreciate that the material on record disclosed more than prima facie case of active involvement of Dr. Abha Bansal in the alleged offence of forced termination of pregnancy. It is submitted that the consent of the complainant, as is the mandatory requirement under the relevant statute, was not obtained in the present case. Furthermore, the existence of two contradictory consent documents, namely Ex. PW3/B and Mark A, coupled with the categorical admission of the doctor during cross-examination that Mark A does not form part of official hospital records, raises serious doubts regarding the authenticity and legality of the alleged medical procedure, particularly in the absence of supporting medical records such as admission details, discharge summary, billing documents etc. It is further submitted that ground of delay, as attributed to the complainant, cannot be made the sole ground to deny substantive justice, especially given the gravity of the alleged offences in the present case. It is thus submitted that in view of the specific role attributed by the complainant to the doctor in facilitating the alleged act, which stands corroborated by evidence on record, she is liable to be summoned to face trial as an additional accused. In support of his submissions, learned counsel has placed reliance on the judgment passed by the Hon'ble Supreme Court in ***Criminal Appeal No.1184 of 2025 titled as Jamin and Anr. Vs. State of Uttar Pradesh.***

5. Learned State counsel, after reiterating the facts of the case as contained hereinabove, submits that the impugned orders were passed by the



respective learned Courts after due appreciation of the facts and the material on record, and also in accordance with the settled proposition of law.

6. Heard learned counsel and perused the judicial record.

7. Before proceeding further, it is pertinent to discuss the observations made by the Hon'ble Supreme Court in some of its recent judgments. Discussing the scope of Section 319 Cr.P.C., the Constitution Bench of Hon'ble Supreme Court in ***Hardeep Singh V/s State of Punjab, 2014 (3) SCC 92*** has laid down that:

“105. 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.

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 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.”



8. Hon'ble the Supreme Court in ***Brijendra Singh and Others Vs. State of Rajasthan, (2017) 7 SCC 706***, while summing up the ratio as laid down in Hardeep Singh's case (supra) has held as under:

"Power under Section 319 Cr.P.C. can be exercised by the trial Court at any stage during the trial, i.e., before the conclusion of trial, to summon any person as an accused and face the trial in the ongoing case, once the trial Court finds that there is some 'evidence' against such a person on the basis of which evidence it can be gathered that he appears to be guilty of offence. The 'evidence' herein means the material that is brought before the Court during trial. Insofar as the material/evidence collected by the IO at the stage of inquiry is concerned, it can be utilised for corroboration and to support the evidence recorded by the Court to invoke the power under Section 319 Cr.P.C. No doubt, such evidence that has surfaced in examination-in-chief, without cross examination of witnesses, can also be taken into consideration. However, since it is a discretionary power given to the Court under Section 319 Cr.P.C. and is also an extraordinary one, same has to be exercised sparingly and only in those cases where the circumstances of the case so warrants. The degree of satisfaction is more than the degree which is warranted at the time of framing of the charges against others in respect - of whom charge-sheet was filed. Only where strong and cogent evidence occurs against a person from the evidence led before the Court that such power should be exercised. It is not to be exercised in a casual or a cavalier manner. The prima-facie opinion which is to be formed requires stronger evidence than mere probability of his complicity."

9. Hon'ble the Supreme Court later in 2019 relying on ***Hardeep Singh (supra) held in Periyasami and Others Vs. S.Nallasamy (2019) SCC Online SC 379*** that:

"The additional accused cannot be summoned under Section 319 of the Code in casual and cavalier manner in the absence of



strong and cogent evidence. Under Section 319 of the Code additional accused can be summoned only if there is more than prima facie case as is required at the time of framing of charge but which is less than the satisfaction required at the time of conclusion of the trial convicting the accused."

10. Recently Hon'ble the Supreme Court in case of **Juhru & Ors. Versus Karim & Anr. 2023 AIR (Supreme Court) 1160** observing the scope of section 319 Cr.P.C held that:

"It is, thus, manifested from a conjoint reading of the cited decisions that power of summoning under Section 319 Cr.P.C. is not to be exercised routinely and the existence of more than a prima-facie case is sine quo non to summon an additional accused. We may hasten to add that with a view to prevent the frequent misuse of power to summon additional accused under Section 319 Cr.P.C., and in conformity with the binding judicial dictums referred to above, the procedural safeguard can be that ordinarily the summoning of a person at the very threshold of the trial may be discouraged and the trial Court must evaluate the evidence against the persons sought to be summoned and then adjudge whether such material is, more or less, carry the same weightage and value as has been testified against those who are already facing trial. In the absence of any credible evidence, the power under Section 319 Cr.P.C. ought not to be invoked."

11. The principles of law with reference to exercise of jurisdiction under 319 Cr.P.C. are well settled. As has been opined in a plethora of judgments, it is clear that the objective to invoke the powers under Section 319 Cr.P.C., is to not allow the real perpetrators of an offence to get away unpunished. However, a proposed accused cannot be summoned to face trial under Section 319 Cr.P.C. in a mechanical manner, without due appreciation of the facts of the case and the material on record. The litmus test of more



than a *prima facie* case must be adhered to in letter and spirit.

12. Reverting to the case at hand, upon a careful consideration of the record, this Court finds that the substratum of the present petition rests upon a belated challenge by the petitioner to the alleged consent for medical termination of pregnancy. It is not in dispute that as per the allegations recorded in the present FIR, no direct role was attributed to the doctor in the alleged forcible abortion, which was instead stated to have occurred due to administration of tablets by the family members. Accordingly, inter alia, Section 313 IPC was invoked against the accused, which was subsequently deleted based on the material collected during investigation, including the consent form proved by the concerned medical practitioner, formed the basis of such conclusion. Significantly, the complainant did not prefer to avail any remedy in accordance with law to challenge the deletion of Section 313 IPC at the relevant stage. This prolonged silence, extending over several years, assumes material significance and casts a serious doubt on the *bona fides* of the subsequent allegations sought to be raised during trial.

13. Be that as it may, in the present case, apart from the averments made by the complainant and a denial of signatures by her uncle, no independent or conclusive material has been brought forth to even *prima facie* establish complicity of the concerned witness. The evidence led during trial, including the testimony of the prosecution witnesses, does not disclose any cogent and compelling material as would meet the threshold required for summoning an additional accused. Even the issue relating to the genuineness of the said consent form is a matter for adjudication during trial. Trite to say that mere uncorroborated averments, or the purported existence of



inconsistencies in certain documents, cannot substitute the degree of satisfaction required for invoking powers under Section 319 Cr.P.C.

14. The concurrent findings of the trial Court and the revisional Court reflect due application of mind and conform to the settled principles of law. In the absence of illegality or material irregularity in the impugned orders, coupled with the lack of cogent or compelling material to make out a more than prima facie case against the witness sought to be summoned as an additional accused, this Court is of the considered view that no case for interference is made out.

15. Accordingly, the petition stands dismissed being bereft of any merit.

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

(KIRTI SINGH)
JUDGE

April 23, 2026

Ritika

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