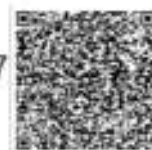


2026:PHHC:086837



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

102 (2 cases)

CRR 246 of 2020 (O&M)

Reserved on:-19.03.2026

Date of Decision:08.06.2026

Kamal and another

...Petitioner (s)

Vs.

State of Haryana and another

...Respondent(s)

CRR 1264 of 2023 (O&M)

Parveen Kumar

...Petitioner (s)

Vs.

State of Haryana and another

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Dr. Anmol Rattan, Sr. Advocate with
Mr. Pratham Sethi, Advocate
Ms. Surekha, Advocate
for the petitioners in CRR-246-2020.

Mr. S.K Garg Narwana, Sr. Advocate with
Mr. Ankur Lal, Advocate
Mr. Mukul Ahuja, Advocate
for the petitioner in CRR-1264-2023.

Mr. Rajiv Sidhu, Sr.DAG, Haryana.

Ms. Harmanjeet Kaur, Advocate with
Mr. R.S Mamli, Advocate
for the complainant.

N.S.SHEKHAWAT, J. (Oral)

1. This order shall dispose of two petitions, i.e., **CRR 246 of 2020** titled as “**Kamal Kumar and another Vs. State of Haryana and another**” and **CRR 1264 of 2023** titled as “**Parveen Kumar Vs. State**”

of Haryana and another”, whereby, the petitioners in both the petitions have challenged the common impugned order dated 06.01.2020 passed by the Court of Sessions Judge, Bhiwani, whereby, the petitioners have been summoned as additional accused under Section 319 Cr.P.C. and have been ordered to face trial along with the already arraigned accused.

2. Learned counsel for the petitioner in CRR 246 of 2020 vehemently argued that the FIR in the present case was registered on the basis of the statement made by Pawan and the same has been reproduced below:-

“Statement of Pawan Kumar S/o Jagdish Chander Caste Chamar R/o Ward No. 9 Bagdi Mohalla Tosham aged 32 years 9728617671 stated that I am resident of above mentioned address and we have a confectionery shop at Tosham at Main Chowk. Yesterday on 17.06.2016 me and my younger brother Vinod Kumar were closing our shop at around 10.30 PM. At that time Kamal S/o Rai Singh, Sanjay S/o Barthar, Ramavtar S/o Bishambar and Parveen Kumar S/o Puran Chand Caste Chamar Residents of Tosham came and as soon as they came Kamal caught hold of my brother, Sanjay caught him from his back and Ramavtar caught left hand of my brother, Parveen Kumar was carrying knife in his hand, who hit the same upon the chest of my brother. My brother got himself rescued from them and ran towards the street. I also ran behind him. My brother fell in the street, Parveen again attacked my brother with the knife in the street my brother had died on the spot itself. Puran Chand S/o Nand Lal, Rai Singh S/o Nand Lal, Bishambar S/o Nand Lal caste Chamar Residents of Tosham, who were carrying batons in their hands and Joginder S/o Bishambar, Bittu S/o Om Parkash residents of Tosham were carrying knives in their hands, Mukesh S/o Puran Chand R/o Tosham

was also carrying baton in his hand. All of them inflicted injuries to my brother with their weapons while he was lying down. I raised clamour of “save-save” then Vakil S/o Om parkash R/o Aryenagar and Darshana w/o Dalip Singh and many other people reached the spot. Upon seeing them the assailants fled from the spot along with their respective weapons. Then, I took my brother for treatment to CHC Tosham. On the way itself my brother collapsed. I have seen the entire incident with my own eyes. Legal action may be initiated against the above named Kamal, Sanjay, Ramavtar, Parveen, Puran, Rai Singh, Bishambar, Joginder, Bittu and Mukesh. The cause of altercation is grudge. Around 2 years back murder of their one person had taken place, due to the same grudge all of them have committed murder of my brother. I have recorded my statement, listened to it and it is correct. SD/- Pawan Kumar.”

3. During the course of investigation, the petitioners and six others were declared innocent by the investigating agency. During the course of trial, the testimony of Pawan Kumar, the complainant was recorded as PW3 and the relevant extract of his testimony has been reproduced below:-

“Stated that Vinod Kumar since deceased was my brother. We had a confectionery shop at main chowk Tosham. On 17.06.2016 at about 10.30 p.m., all of a sudden four persons namely Kamal son of Ram Singh, Sanjay son of Bharta Ram, Ram Avtar son of Bishambar and Parveen son of Puran Singh came and Kamal caught my brother from back side and Sanjay caught my brother Vinod from the side. Ram Avtar caught hold of the left hand of my brother. Parveen son of Puran Chand gave knife blow in the chest of my brother Vinod. Thereafter my brother freed himself from the clutches of the abovesaid persons and started running

towards the street. All the above named persons chased my brother. I also run behind those persons. Puran son of Nand Lal, Ram Singh son of Nand Lal and Bishambar son of Nand Lal were already present in pre-planned manner and all were armed with lathis. Jogender son of Bishambar, Bittu son of Om Parkash were armed with knives. Mukesh son of Puran Chand was armed with lathi. All the above named person started causing injuries to my brother Vinod with the respective weapons. My brother Vinod fell down. All the above named persons were causing injuries to my brother when he was lying in the street. I raised rescue calls, 'Bachao-bachao'. On hearing my rescue calls, Darshna wife of Dalip Singh, Vakil son of Om Parkash reached the spot and on seeing them, accused fled the spot with their respective weapons towards their houses. Many persons from the neighbourhood gathered at the spot. I arranged a vehicle immediately and shifted my brother to G.H., Tosham where my brother Vinod was declared brought dead by the doctor. Police reached in the hospital at Tosham and the dead body of my brother was sent to G.H., Bhiwani for post mortem examination. Police recorded my statement at Bhiwani on 18.06.2016. My statement is Ex.PB which bears my signatures at point 'A'. Accused Ram Avtar and Sanjay are present in the court but accused Kamal, Parveen, Puran, Bishambar, Ram Singh, Jogender, Bittu and Mukesh are not present in the court, who were also involved in the murder of my brother Vinod. The reason behind the murder of my brother was that one person namely Deepak of the family of accused was murdered and in that murder case, the complainant party of that case had been suspecting my brother as companion of those persons”.

4. After the examination of PW3 Pawan Kumar, the prosecution moved an application under Section 319 Cr.P.C. and vide the impugned orders, the petitioners in both the petitions were ordered to face trial along with the already arraigned accused. Learned counsel further submitted that while summoning the petitioners, the trial Court had completely overlooked the law laid down by the Hon'ble Supreme Court in the matter of *"Labhui Amratji Thakor and Others Versus State of Gujarat and Another, 2018 SCC Online SC 2547"*, whereby, the parameters as laid down by the Hon'ble Constitutional Bench of the Hon'ble Supreme Court of India in the case titled as *"Hardeep Singh Versus State of Punjab & Ors., 2014 (3) SCC 92"* have been upheld. Further, even the investigation was conducted by senior police officers up to the rank of DSP and no incriminating evidence was found against them.

5. Learned counsel appearing on behalf of the petitioner in CRR 1264 of 2023 has also raised similar arguments and submitted that in the present case, Sanjay and Ram Avtar were arrested by the police and all the incriminating evidence was recovered from them. Apart from that, even after the detailed investigation, no complicity of both petitioners was found by the IO of the present case. Additionally, the disclosure statement of Sanjay, co-accused, was recorded and he got recovered the blood-stained knife also. The blood-stained clothes, which were worn by Sanjay co-accused at the time of the incident were also recovered from him by the police and were sent to FSL, Madhuban for analysis. Moreover, the complainant had prior intimacy with the

petitioners as cousin of the petitioners, namely, Deepak was murdered by Mukesh and Anil, who are cousins of the complainant. Even Mukesh, the real brother of Parveen Kumar, petitioner, being an eyewitness of the occurrence, had appeared in witness box as PW3 and the cousins of the complainant were convicted by the trial Court. Apart from that, even both the petitioners were not even present at the place of occurrence. The law is well settled that the power under Section 319 Cr.P.C. was not to be exercised in routine manner and the Court invoking the jurisdiction has to satisfy itself with regard to the existence of a more than prima facie case which is a *sine qua non* to summon any individual as an additional accused. Thus, both the petitions deserve to be allowed by this Court.

6. On the other hand, learned counsel appearing on behalf of the respondent/complainant has vehemently opposed the submissions made by the learned counsel for the petitioners on the ground that both the petitioners were specifically named in the first version itself, which was lodged by the complainant with the police with promptitude. It was specifically alleged in the FIR itself that at the time of the occurrence, Sanjay and Ram Avtar, who are co-accused as well as Kamal and Parveen Kumar, who are both petitioners had come to the spot together. After reaching the spot, Kamal had caught hold of the deceased and Sanjay also held him tightly. Ram Avtar co-accused caught hold of the left hand of the deceased whereas Praveen Kumar petitioner gave blow with a knife on the chest of the deceased. The deceased tried to rescue himself and rushed towards the street. However, he fell down in the

street and after following him, Parveen Kumar, petitioner, again stabbed him and Vinod Kumar died at the spot. Thus, both the petitioners have been rightly summoned by the trial Court and the petition deserves to be dismissed by this Court.

7. I have heard learned counsel for the parties and perused the record carefully.

8. The Hon'ble Supreme Court of India has held in the matter of *Juhru and others v. Karim and another* (2023) 5 SCC 406 as under:

"16. It is, thus, manifested from a conjoint reading of the cited decisions that power of summoning under Section 319 CrPC is not to be exercised routinely and the existence of more than a prima facie case is sine qua 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 CrPC, 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, 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 CrPC ought not to be invoked".

8. From a bare perusal of the FIR as well as the statement of PW3 Pawan Kumar, it is apparent that on 17.06.2016 at about 10:30 p.m., the complainant and his brother Vinod Kumar were shutting down their shop and in the meantime Ram Avtar and Sanjay, both accused already facing trial as well as Kamal and Parveen Kumar both

petitioners reached at the spot. Kamal had caught hold of the deceased whereas Sanjay grabbed him and Ram Avtar caught hold of his left hand whereas Parveen Kumar petitioner gave a blow with knife on the chest of the deceased and as per the postmortem report, the deceased had died due to the injuries suffered by him in the said incident. Consequently, the trial Court had rightly held that there was specific attribution to both the petitioners and during the course of the trial also sufficient evidence was also led by the prosecution which *prima facie* proved the complicity of both the petitioners in the commission of the crime. Still further, this Court also agrees with the findings recorded by the trial Court that at this stage, strong and cogent evidence has appeared against both the petitioners from the evidence led before the Court, which was sufficient for exercising the power under Section 319 Cr.P.C. Even the test has been laid down by the Hon'ble Supreme Court in the matter of ***Hardeep Singh Vs. State of Punjab, (2014) 3 SCC 92*** for exercising the powers under Section 319 Cr.P.C., which requires much stronger evidence than the mere probability of his complicity. The test that has to be applied is the 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. Keeping in view the evidence led by the prosecution, this Court finds that it is a fit case for exercising the powers under Section 319 Cr.P.C. in the present case and both the petitions deserve to be dismissed by this Court. Even otherwise, I have carefully perused the findings recorded by the trial Court and find no illegality, infirmity or perversity in the same.

9. Consequently, finding no merits, both the petitions are ordered to be dismissed.

10. Pending applications, if any, stand also disposed of, accordingly.

08.06.2026			(N.S.SHEKHAWAT)
amit rana			JUDGE
	Whether reasoned/speaking	:	Yes/No
	Whether reportable	:	Yes/No