



102

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

CRM-M-5552-2023**Date of Reserve:20.04.2026****Date of Decision:08.06.2026**

Badan Singh

...Petitioner

Vs.

State of Haryana and Ors.

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Rajesh Goyal, Advocate
for the petitioner.

Mr. Rajinder Kumar Banku, Sr.DAG, Haryana.

Mr. Rahul Vats, Advocate
for respondents No.2 to 5.

N.S.Shekhawat J.

1. The petitioner has filed the present petition under Section 482 Cr.P.C with a prayer to quash the order dated 10.07.2019 (Annexure P-4), passed by the Court of Chief Judicial Magistrate, Panipat and order dated 22.11.2021 (Annexure P-6), passed by the Court of Additional Sessions Judge, Panipat, whereby, the application filed by the petitioner under Section 319 Cr.P.C was ordered to be dismissed in a case arising out of FIR No.445, dated 26.03.2014, under Sections 148,149,323,325,341,120-B of IPC and 25/54/59 of Arms Act.

2. Learned counsel for the petitioner submits that the F.I.R was initially registered against respondents No.2 to 5 as well as six other accused, who are already facing the prosecution. However, the police had wrongly declared respondents No.2 to 5 innocent during investigation and even no facts



were mentioned in the challan in this regard. He further submits that in his initial complaint, the petitioner had levelled specific allegations regarding the involvement of respondents No.2 to 5 and the same statement was reiterated by him, while appearing in the witness box. Even, not only the presence of respondents No.2 to 5 was there, but specific roles were also assigned to them. However, while overlooking the statements of witnesses, the application under Section 319 Cr.P.C was wrongly dismissed by the Trial Court as well as the Revisional Court.

3. On the other hand, learned State counsel submitted that a detailed investigation was conducted and during investigation, respondents No.2 to 5 had also appeared before the I.O of the case. Sanjay, respondent No.2 stated that he was B-Pharmacy qualified and was working as a wholeseller of medicines. He used to supply the medicines in Panipat to various persons including the petitioner. Even at the time of occurrence, he was present at his house and came to know about the incident on next day. Even his name had been mentioned in the F.I.R as the petitioner had been interfering in his married life, as he was having an evil eye on his wife. Thereafter, he had stopped providing medicines to him and also restrained his wife from visiting the shop of the petitioner. Apart from that, the police recorded the statements of Rajender Singh, Vijay Pal Singh, Mahipal, Dharampal, Karan Singh, Kapoor Singh and Kuldeep and they stated that the petitioner was having an evil eye on the wife of respondent No.2 and there was a dispute between them. Apart from that, lie detector test of respondent No.2 was got conducted from FSL, Madhuban and the respondent No.2 was declared innocent in the present case. Joginder, respondent No.3 was working as Laboratory Technician and was



present at his house at the time of incident. Even his wife Babli Devi was infused blood as she was suffering from low blood pressure at the time of incident and he came to know about the incident on next day. Even he had undergone lie detector test at FSL, Madhuban and his submissions were found to be correct. The police also recorded the statements of Anil Kumar, Kartar Singh, Kanta Devi, Jagdish, Krishan Kumar, Sanjay and Joginder, who stated that the respondent No.3 was not involved in the crime. Still further, it was found that the respondent No.4, Devender Chauhan was not present at the place of occurrence. Jitender, respondent No.5 was working in Police Department, C.I.D Unit, Bhiwani and he was on duty at the time of incident. He was also forwarding the headlines and breaking news of T.V channels through his mobile phone to his superior officers and he had been falsely involved in the incident as respondent No.2 was his brother-in-law (Jija). The police had obtained the call details and tower locations of the mobile phones of respondents No.2 to 5 and it was found that they were not present at the relevant time and had no role to play in the entire crime. Consequently, respondents No.2 to 5 were declared innocent by the police.

4. On the other hand, learned counsel appearing on behalf of respondents No.2 to 5 also supported the submissions made by learned State counsel and prayed for dismissal of the present petition.

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

6. The Hon'ble Supreme Court, while discussing the powers under Section 319 Cr.P.C held in the matter of "**Hardeep Singh Vs.State of Punjab, (2014) 3 SCC 92**" as follows:-



“105. Power under Section 319 Cr.PC 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 unrebutted, would lead to conviction. In the absence of such satisfaction, the court should refrain from exercising power under Section 319 CrPC. In Section 319 CrPC 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 CrPC to form any opinion as to the guilt of the accused."

7. Still further, the Hon'ble Supreme Court has held in the matter of **“Omi @ Omkar Rathore & Anr. Vs.State of Madhya Pradesh & Anr., SLP (Crl.) No.(s) 17781 of 2024** held that the powers under Section 319 Cr.P.C empowers the trial court to summon persons to face trial, even they were not named in the charge-sheet, however, this power has to be exercised



extraordinarily and must be exercised sparingly and not in a casual manner and held as follows:-

“21.The principles of law as regards Section 319 of the Cr.P.C may be summarised as under:

a. On a careful reading of Section 319 of the CrPC as well as the aforesaid two decisions, it becomes clear that the trial court has undoubted jurisdiction to add any person not being the accused before it to face the trial along with other accused persons, if the Court is satisfied at any stage of the proceedings on the evidence adduced that the persons who have not been arrayed as accused should face the trial. It is further evident that such person even though had initially been named in the F.I.R. as an accused, but not charge sheeted, can also be added to face the trial.

b. The trial court can take such a step to add such persons as accused only on the basis of evidence adduced before it and not on the basis of materials available in the chargesheet or the case diary, because such materials contained in the charge sheet or the case diary do not constitute evidence.

c. The power of the court under Section 319 of the CrPC is not controlled or governed by naming or not naming of the person concerned in the FIR. Nor the same is dependent upon submission of the chargesheet by the police against the person concerned. As regards the contention that the phrase 'any person not being the accused' occurred in Section 319 excludes from its operation an accused who has been released by the police under Section 169 of the Code and has been shown in column No. 2 of the charge sheet, the contention has merely to be stated to be rejected. The said expression clearly covers any person who is not being tried already by the Court and the very purpose of enacting such a provision like Section 319(1) clearly shows that even persons who have been dropped by the police during investigation but against



whom evidence showing their involvement in the offence comes before the Criminal Court are included in the said expression.

d. It would not be proper for the trial court to reject the application for addition of new accused by considering records of the Investigating Officer. When the evidence of complainant is found to be worthy of acceptance then the satisfaction of the Investigating Officer hardly matters. If satisfaction of Investigating Officer is to be treated as determinative then the purpose of Section 319 would be frustrated”.

8. In the present case, it is also apparent that during the course of investigation, the police had conducted detailed and thorough investigation and it was found that the respondents No.2 to 5 were not present at the place of occurrence. Apart from that, in the present case, for causing injuries to two persons, six accused are already facing prosecution. However, during the course of trial, the statement of the injured was recorded and on the basis of the same, application was moved by the prosecution for summoning the respondents No.2 to 5 in the present case. However, except the bald statement of the injured in the present case, there was no other fresh evidence for issuance of summons against respondents No. 2 to 5. Even otherwise, the statement of the injured was already before the police during the course of investigation and was found to be false, so far as the role of the respondents No.2 to 5 is concerned. Except the statement of the injured, there was no other evidence, which could show the involvement of the respondents No.2 to 5 in the alleged crime. Even otherwise, the law is well settled that the powers under Section 319 Cr.P.C should be used very sparingly and only when there is some evidence such a person, from which it appears that he is guilty of the offence. In the present case, there was no other



material to show that respondents No.2 to 5 are liable to be summoned by the Trial Court under Section 319 Cr.P.C. Even otherwise, both the Courts have recorded detailed findings, declaring respondents No.2 to 5 as innocent and there was no ground to interfere with the same.

9. In view of the above discussion, the present petition is ordered to be dismissed.

10. Ordered accordingly.

08.06.2026
hitesh

(N.S.SHEKHAWAT)
JUDGE

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