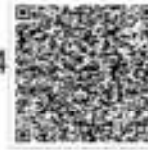


2026:PHHC:083834



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

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CRR 500 of 2020

Reserved on 09.04.2026

Date of Decision: 27.05.2026

Ikran Mohd

...Petitioner (s)

Vs.

State of Haryana and others

...Respondent(s)

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

Present : Mr. Akshit Aggarwal, Advocate
(through video conferencing) for petitioner.

Mr. Rajinder Kumar Banku, Senior DAG, Haryana.

Mr. Nitin Goswami, Advocate for
Mr. Namit Khurana, Advocate
for respondents no.2 to 4.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition against the impugned order dated 10.01.2020 passed by the Court of Sessions Judge, Yamunanagar at Jagadhari, whereby, the application under Section 319 Cr.P.C. moved by the prosecution for summoning of Maksood, Nusrut and Julia, respondents No. 2 to 4, was ordered to be dismissed.

2. Learned counsel for the petitioner submitted that the FIR No. 75 dated 13.05.2019 under Sections 302 and 342 read with Section 34 of IPC, Police Station Sadhaura (Annexure P-1) was got registered by him against Sadodeen, Nassar and Naseema and respondents No.2 to 4 and the same has been reproduced below:-

“Statement of Ikran Mohd. Son of Umardeen Gujar Mussalman, resident of village Bana Bahadurpur, P.S. Sadhaura, District Yamunanagar aged 30 years stated that I am resident of above stated address. We are three brother and one sister. I am elder and younger to me is Imran and younger to Imran is Mustaquien and youngest is my sister. My younger brother, Imran age 24 years used to visit the house of Sadhudeen son of Salamudeen caste Gujar resident of Bana Bahadurpur for past few years on account of which Nassar son of Salamudeen and Sadhodeen son of Salamudeen and their family members were annoyed as to why Imran used to visit their house so often. Regarding this, Panchayats were also convened many times and we also tried to convince Imran, but he was reluctant. Nassar and Sadhodeen were having an impression in their mind that Imran is having illicit relation with Naseema wife of Nassar. Today on dated 13.05.2019 appx. At 03.00 a.m. in the morning Ami Chand husband of Sarpanch came to our house and informed us that family members of Nassar told him that their son Imran has been tied up by Nassar son of Salamudeen, Sadodeen son of Salamudeen, Julia wife of Deen Mohd., Nusrut wife of Sadodeen, Naseema wife of Nassar and Maksood resident of Beed Majra in their house. My father Umardeen and Mustaq son of Naseerudeen, Ami Chand husband of Sarpanch (Kalyanpur Antari) and I reached Nassar's house and saw that Imran was tied with burji with heavy rope (bed) and blood was oozing out from his head and there were injuries all over his body and his legs and fingers of the feet were tied up. Then my father Umardeen son of Jeemudeen and I untied Imran, however, he had already died by then. My brother has been murdered by causing multiple injuries with stick blows (dandas) by Nassar son of Salamudeen, Sadodeen son of Salamudeen, Julia wife of Deen Mohd., Nusrut wife of Sadodeen,

Naseema wife of Nassar and Maksood, resident of Beed Majra by deceiving him and calling him to their house seeking revenge. Strict legal action be taken against them. Sd/- attested SHO P.S. Sadhaura dated 13.05.2019”.

3. He further submitted that during the course of investigation, the police only *challaned* Sadodeen, Nassar and Naseema, whereas respondents No. 2 to 4 were found to be innocent. Thereafter, during the course of trial, the statement of the petitioner was recorded as PW1 and, thereafter, the present application under Section 319 Cr.P.C. was moved by the prosecution, which has been wrongly dismissed by the trial Court. He further submitted that in fact, the trial Court failed to appreciate that respondents No. 2 to 4 were innocent persons and had been wrongly kept in column No. 2. However, while appearing as a witness, the petitioner had specifically named all of them and the respondents are liable to be summoned by this Court under Section 319 Cr.P.C.

4. Learned State counsel submitted that the respondents No. 2 to 4 were not found present at the place of occurrence and had been declared innocent by the police.

5. Learned counsel appearing on behalf of respondents No. 2 to 4 had referred to the impugned order in detail and submitted that the evidence on record before the trial Court was not sufficient for summoning respondents No. 2 to 4 as additional accused in the present case.

6. I have heard learned counsel for the parties and produced the record very carefully.

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

8. Before proceeding any further, it would be appropriate to reproduce the provisions of Section 319 Cr.P.C., which is as under:-

"319. Power to proceed against other persons appearing to be guilty of offence.

(1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed."

9. From a bare reading of the above-said provisions, it appears that the provision enables a criminal Court which is seized of the matter to bring before it any individual whose complicity becomes apparent from the evidence that emerges in the Court. It is an exception recognized by law that the accused stands trial only upon charge-sheet and committal, and the object of this provision is to ensure that the trial have proceeded without an accused, but on the material now available, appears to share criminal liability. The power, no doubt, is extraordinary and has to be exercised with circumspection, yet, once live evidence proves a *prima facie* case stronger than mere suspicious, the Court is bound to act on such evidence. The Constitutional Bench of Hon'ble Supreme Court in the matter of "Hardeep Singh Vs. State of Punjab", (2014) 3 SCC 92", wherein, it has been held that there has to be more than a *prima facie* evidence to summon a person as an additional accused to face trial, while dealing with an application under Section

319 Cr.P.C. The relevant extract of the said judgment has been reproduced below:-

“57. Thus, the application of the provisions of Section 319 CrPC, at the stage of inquiry is to be understood in its correct perspective. The power under Section 319 CrPC can be exercised only on the basis of the evidence adduced before the court during a trial. So far as its application during the course of inquiry is concerned, it remains limited as referred to herein above, adding a person as an accused, whose name has been mentioned in Column 2 of the charge-sheet or any other person who might be an accomplice.”

“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."

10. The Hon'ble Supreme Court of India has held in the matter of ***Juhru and others Vs. Karim and another (2023) 5 Supreme Court Cases 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".

11. Undoubtedly, in the present case, the respondents No. 2 to 4 were added as accused on the strength of the statement made by the present petitioner in the FIR. However, thereafter, the investigation was held, and it was found that only Sadodeen, Nassar and Naseema were involved in the crime and the rest of the accused were declared

innocent by the police. Now, during the course of trial, only the statement of the petitioner/complainant, was again recorded as PW1 and he again named the respondents No. 2 to 4 without assigning any specific roles to all of them. Even PW1, Ikran Mohammed, complainant/petitioner, was not even an eyewitness of the occurrence and, apparently, he had named the respondents No. 2 to 4 also only on the basis of the suspicion by them. In fact, the law is well settled that summoning of an additional accused under Section 319 Cr.P.C. is a serious step and evidence must be strong and cogent rather than mere suspicion. Even, the summoning of respondents No. 2 to 4 cannot be ordered on the ground that the petitioner-complainant entertained some doubt about their involvement. Even otherwise, the power under Section 319 Cr.P.C. is an extraordinary power and has to be exercised sparingly and with circumspection. Consequently, the trial Court has rightly declined to exercise the jurisdiction under Section 319 Cr.P.C. and the impugned order dated 10.01.2020 passed by the Court of Sessions Judge, Yamunanagar at Jagadhari, is upheld.

12. As a consequence of above discussion, the present petition fails and is ordered to be dismissed.

13. All pending applications, if any, are disposed off, accordingly.

27.05.2026
amit rana

(N.S.SHEKHAWAT)
JUDGE

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