



CRM-M-13290-2026

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

CRM-M-13290-2026

Date of Decision:- 12.03.2026

Kashmir Singh

.... Petitioner

VERSUS

State of Punjab and another

.... Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Roja Agnihotri, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

AMARJOT BHATTI, J.

1. Petitioner Kashmir Singh has filed present petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (Section 482 Cr.P.C.) for quashing of impugned judgment dated 30.01.2026 passed by learned Sessions Judge, Faridkot (Annexure P-8) vide which criminal revision preferred by petitioner against order dated 18.11.2025 passed by learned Sub Divisional Judicial Magistrate, Jaitu (Annexure P-6) on application under Section 319 Cr.P.C. (Section 358 BNSS, 2023) for summoning present petitioner as additional accused in FIR No. 98 dated 13.07.2022 under Section 452, 323, 294, 354, 354-B, 506 and 34 IPC (under Section 333, 117, 296, 74, 76, 351 and 3(5) of BNS, 2023) at Police Station Jaitu, Faridkot, has been dismissed.

2. As per the facts narrated in challan report under Section 173 Cr.P.C. (Annexure P-3), FIR is lodged on the statement of victim 'N', who stated that she is a married lady having daughter about nine months old.



Gurnaib Singh was residing opposite to their house. About eight months ago, her husband helped Gurnaib Singh to purchase a washing machine by using his card. Family of Gurnaib Singh paid seven installments but they were not paying one installment due to which interest was charged. Her husband requested Gurnaib Singh through Panchayat but he was not resolving the matter. On the date of occurrence, at about 07:45 am, Gurnaib Singh along with his sons Kashmir Singh and Hardeep Singh forcibly entered her house. Gurnaib Singh raised *lalkara* that Manpreet Singh should be taught a lesson for defaming them in village. Hardeep Singh caught hold of her husband from his arms while Gurnaib Singh and Kashmir Singh started beating him by giving punch blows. She intervened to rescue her husband and they assaulted her and she fell on ground. Hardeep Singh kicked her in her abdomen. He had torn her clothes with intent to outrage her modesty. He used foul language for her. She raised alarm for help. In the meantime, family members and neighbours started gathering there and aforesaid assailants fled away from the spot.

3. Learned counsel for petitioner argued that petitioner is serving in Indian Army. Matter was thoroughly investigated and statements of independent respectables of village including ex-Sarpanch Jasmal Singh and Jaswinder Singh were recorded by police, which are Annexures P-1 and P-2 respectively. It was found that present petitioner was not present on the spot. In fact petitioner had come home on leave and was sleeping inside the house at the relevant time. Petitioner was declared innocent and at the time of presentation of challan (Annexure P-3), he was kept in



Column No. 2. During the course of trial, prosecution examined official witnesses and complainant 'N' as PW3 (Annexure P-4). On the basis of her statement, prosecution moved application under Section 319 Cr.P.C. (Annexure P-5). Without proper appreciation of the aforesaid factual position, learned Sub Divisional Judicial Magistrate passed order dated 18.11.2025 (Annexure P-6) vide which petitioner was summoned on application under Section 319 Cr.P.C. to face trial along with other accused. Learned trial Court was required to invoke extraordinary power under Section 319 Cr.P.C. by considering the facts and surrounding circumstances. During inquiry, present petitioner was rightly declared innocent. Revision preferred by petitioner against order dated 18.11.2025 (Annexure P-6) was wrongly declined vide impugned judgment dated 30.01.2026 (Annexure P-8). Earlier CRM-M-10356-2026 filed under Section 528 of BNSS, 2023 was dismissed as withdrawn with liberty to file fresh with better particulars by the order of this Court dated 23.02.2026 (Annexure P-9). Present petitioner is wrongly summoned under the provisions of Section 319 Cr.P.C. Therefore, order dated 18.11.2025 (Annexure P-6) passed by learned Sub Divisional Judicial Magistrate, Jaitu, upheld by learned Sessions Judge, Faridkot vide impugned judgment dated 30.01.2026 (Annexure P-8) may kindly be set aside by accepting present petition.

4. Learned counsel representing petitioner has annexed all relevant documents for disposal of present petition on merits. Therefore, no purpose would be served by issuing notice to respondent No. 2.



On advance notice, Mr. Jasjit Singh Rattu, DAG, Punjab appeared on behalf of respondent-State of Punjab, who has confirmed the aforesaid factual position.

5. I have considered the arguments and have gone through the record carefully. Petitioner has filed present petition against impugned judgment dated 30.01.2026 passed by learned Sessions Judge, Faridkot, upholding the order dated 18.11.2025 passed by learned Sub Divisional Judicial Magistrate, Jaitu (Annexure P-6), vide which he was summoned to face trial for the offence punishable under Section 452, 323, 506, 509, 354, 354-B, 294 IPC read with Section 34 of IPC along with other accused. As per facts narrated in challan report (Annexure P-3), present petitioner Kashmir Singh is specifically named along with co-accused Gurnaib Singh and Hardeep Singh. In this occurrence, victim 'N' had received injuries and on receiving this information ASI Sukhwinder Singh went to Civil Hospital, Jaitu, where statement of complainant/victim was recorded. At the time of lodging FIR, specific role was attributed to petitioner. However, during investigation present petitioner was kept in Column No. 2, whereas Gurnaib Singh and Hardeep Singh were challaned by prosecution. After framing of charges, statement of victim was recorded as PW3 (Annexure P-4), where she again confirmed her version. After recording of statement in examination-in-chief in part, application was filed under Section 319 Cr.P.C. (Annexure P-5), which was allowed by trial Court by passing order dated 18.11.2025 (Annexure P-6). Provisions of Section 319 Cr.P.C. runs 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.
- (2) Where such person is not attending the Court, he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.
- (3) Any person attending the Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.
- (4) Where the Court proceeds against any person under sub-section (1), then
 - (a) the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard;
 - (b) subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced.”

In order to summon additional accused under Section 319 Cr.P.C, prosecution is required to bring on record relevant evidence which is more than *prima facie* case. No doubt application under Section 319 Cr.P.C. can be filed at any stage but at the same time facts of case and evidence led on record has to be perused carefully. Gainful reference can be made to the judgment of **Hon’ble Supreme Court of India** in case titled **“Hardeep Singh Versus State of Punjab and others”** along with **other connected cases**, cited in **2014(3) SCC 92**. Relevant paragraphs No. 98 and 99 runs as under :-

“98. 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.

99. 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 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."

There is another judgment of **Hon'ble Supreme Court of India** cited in **2021(4) R.C.R.(Criminal) 219**, case titled "**Ramesh Chandra Srivastava Versus State Of U.P. & Anr.**", where again in para No. 8 it was observed as under :-

"8. We say this for the following reason:

The test as laid down by the Constitution Bench of this Court for invoking power under Section 319 Cr.P.C. inter alia includes the principle that only when strong and cogent evidence occurs against a person from the evidence the power under Section 319 Cr.P.C. should be exercised. The power cannot be exercised in a casual and cavalier manner. The test to be applied, as laid down by this Court, is one which is more than prima facie case which is applied at the time of framing of charges."



To support this argument, gainful reference can be made to the recent judgment of **Supreme Court of India cited in 2025 AIR Supreme Court 721**, case titled **“Omi @ Omkar Rathore & Anr. Versus The State of Madhya Pradesh & Anr.”**, Special Leave Petition (Crl.) No(S). 17781 of 2024, decided on 03.01.2025, where in para no. 13, it was observed as under :-

“13. The test as laid down by the Constitution Bench of this Court for invoking the powers under Section 319 CrPC inter alia includes the principle that only when strong and cogent evidence occurs against a person from the evidence the power under Section 319 CrPC should be exercised. The power cannot be exercised in a casual and cavalier manner. The test to be applied, as laid down by this Court, is one which is more than prima facie which is applied at the time of framing of charges. It will all depend upon the evidence which is tendered in a given case as to whether there is a strong ground within the meaning of para 105 of Hardeep Singh (supra) referred to above.”

6. Keeping in mind the settled proposition of law, facts involved in present case are considered. As per contents of petition, it is admitted that Kashmir Singh who is an Army personnel had visited his house on leave. It is claimed that at the time of alleged occurrence, he was sleeping in house. Furthermore, petitioner is also relying upon the statement of one Jasmail Singh former Sarpanch (Annexure P-1) and statement of Jaswinder Singh (Annexure P-2). There is no valid reason to ignore the consistent statement of victim recorded immediately after occurrence. So far as stand taken by petitioner is concerned, it is matter of trial.

Considering the aforesaid factual position, I do not find any reason to interfere in impugned judgment dated 30.01.2026 passed by



learned Sessions Judge, Faridkot (Annexure P-8), upholding the order dated 18.11.2025 passed by learned Sub Divisional Judicial Magistrate, Jaitu (Annexure P-6). Consequently, petition preferred by petitioner is, accordingly dismissed.

7. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

12.03.2026

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No