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

CRR-827-2023**Date of Decision:24.03.2026**

Meena Devi and Anr.

...Petitioners

Vs.

State of Haryana and Anr.

...Respondents

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

Present: Mr. Partap Singh Gill, Advocate
for the petitioners.

Mr. Parmod Kumar, AAG, Haryana.

Mr. Raj Kapoor Malik, Advocate
for the complainant.

N.S.Shekhawat J.

1. The petitioners have filed the present revision petition against the impugned order dated 16.02.2023, passed by the Court of Additional Sessions Judge, Kaithal, whereby, the application under Section 319 Cr.P.C filed by the prosecution has been allowed and the petitioners have been summoned as an additional accused to face trial for the commission of offences punishable under Sections 148,149,307,323,506,325 of IPC.
2. The F.I.R (Annexure P-1) in the present case was registered on the basis of the statement made by Falish son of Jai Bhagwan and the same has been reproduced below:-

“Statement of Falish son of Jai Bhagwan, aged 21 years, resident of Bhaini Majra, PS Sadar Kaithal mobile no. 87084-55852. Stated that I am a resident of the above-mentioned address and working as an agriculturist. On



24.06.2021, we were going to our fields from our village on our bullock cart. Field of Balbir son of Duni Chand comes on the way, and due to the narrow passage nearby, the tire of our bullock cart trampled over the sown paddy in his field. On which Balbir asked how the tire of the bullock cart entered his field. Due to this a verbal altercation took place between us. Keeping a grudge in this regard, on 25.06.2021, when I, my brother Sumit and my father Jai Bhagwan had gone to our fields to sow Jawar, at about 5:15pm, when we were standing in front of our kotha, when three cars, one santro, one Zen and the third, whose make cannot be identified but bearing no. HR-70D-4949 along with two motorcycles came to a stop in our field, in which Meena D/o Balbir (Petitioner no.1), Yogita D/o Balbir (Petitioner no.2). Balbir s/o Duni Chand, son-in-law of BalbirBillu resident of Baba Ladani along with 10-15 people armed with lathis, dandas, and rod were present. When they came near us to attack us, to save our lives, we ran towards village Bhaini Majra. They caught us at a little distance and Billu gave two blows with his iron rod to my father and one of them hit my father on his head. Balbir gave lathi blows on hands and legs of my brother. Billu gave iron rod blows on my feet and the other 10-15 people also gave injuries with their dandas and lathis to me, my father and my brother. On being hit on the head, my father fell down unconscious. Both of us brothers also fell on the ground due to being injured. On seeing us fallen on the ground, Meena dio Balbir, Yogita d/o Balbir, Balbir s/o Duni Chand r/o Bhaini Majra and Billu r/o Baba Ladana and 10-15 other unknown people left the spot along with their weapons and while leaving, they threatened that today you have been spared but in case the tire of your bullock cart enters our field again, you shall be killed. On getting to know of the altercation, Ashok Sharma



s/o Ganaga Bishan rio Manayapuri Colony ward no. 18, Street no. 2, house no. 976/8 took us to G.H, Kaithal by arranging a private vehicle. Due to being injured severely, my father was referred to PGI Chandigarh by the Doctor. Ashok only got my father admitted at PGI Sector 12 Chandigarh. That due to keeping grudge of our tire entering their field, the above people have caused injuries to us. Legal action be taken against them. I have got my statement recorded. I have read it and understood it, which is correct. SD/- Falish. Attested Ramesh Kumar S.I P.S Sadar Kaithal, dated 26.06.2021.

3. Learned counsel appearing on behalf of the petitioners submit that after concluding the investigation, the final report under Section 173 Cr.P.C was filed against seven accused namely Balbir, Naseeb @ Siba, Sahil, Kuldeep @ Billu, Sunil @ Sonu, Harbhagwan @ Angu and Hardeep, whereas, the supplementary challan was also filed against Anil and Sikander. However, it was found that the petitioners, who are daughters of Balbir Singh, co-accused were not present at the place of occurrence and had been falsely involved in the present case. Even, though the petitioners were named in the FIR, but still no overt or direct act had been attributed to both the petitioners and they were simply shown to be present along with other accused. However, after more than 50 days, Jai Bhagwan, father of the complainant made a statement under Section 161 Cr.P.C (Annexure P-4) and it was alleged that the petitioners had given blows with *danda* on his feet. However, from a perusal of MLR dated 26.06.2021 (Annexure P-5) of Jai Bhagwan, only three injuries were mentioned in his M.L.R and no other injury on his feet was found.

4. Learned counsel for the petitioners further submit that even the



petitioners had been attributed an injury, which is not even corroborated by the medical evidence. Still further, even while deciding the application under Section 319 Cr.P.C, the Trial Court only held that there was a prima facie case against Meena and Yogita, both petitioners regarding their active involvement in the commission of the offences and summoned them to face trial along with the co-accused. In fact, deciding the application under Section 319 Cr.P.C, the Trial Court had completely overlooked the law laid by the Hon'ble Supreme Court in the matter of "**Hardeep Singh and Ors. Vs.State of Punjab and Ors., (2014) 3 SCC 92,,** wherein, the Hon'ble Supreme Court held as follows:-

“The power under section 319 Cr.P.C. ought to be exercised sparingly and would require much stronger evidence than near probability of the accused person's complicity. The test elucidated by the Constitution Bench is as under:-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.” It is thus submitted that the evidence, as has been brought on record before the Ld. Trial Court does not meet the benchmark as set down by the Constitution Bench of the Hon'ble Supreme Court of India in its Hardeep Singh (supra) and the impugned order deserves to be set aside”.

5. Learned counsel further submits that on the date of alleged occurrence, the petitioner No.2 Yogita was aged about 17 years as her date of birth was 15.02.2004 and had not even attained majority. Even, Meena Devi, petitioner No.1 daughter of Balbir Singh co-accused was also arrayed as an accused and even, Kuldeep @ Billu, her husband was not spared by the complainant. Even, both the petitioners were named in the present case as they



happened to be daughters of Balbir Singh, main accused and almost all family members of Balbir Singh had been named as an accused in the present case.

6. On the other hand, learned State counsel submitted that both the petitioners had been found innocent, by the police and it was found that, they were not present at the place of alleged occurrence.

7. On the other hand, learned counsel appearing on behalf of the respondent No.2/complainant has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that both the petitioners were named in the F.I.R as well as in the statement of PW-1 Falish. Even, Jai Bhagwan, injured had clearly stated that the petitioners gave *danda* blows on his feet and both the petitioners have been rightly summoned by the Trial Court.

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

9. 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”.



10. In the present case, it is apparent that 09 accused including Balbir Singh, father of the petitioners are facing trial in the present case. Even other family members of Balbir Singh are also facing trial and even, Kuldeep @ Billu, son-in-law of Balbir Singh has not been spared by the complainant. Still further, both the petitioners were even though named in the FIR, but no specific role was assigned to them. Even, the statement of Jai Bhagwan, injured was recorded after more than six weeks, wherein, he alleged that both the petitioners had caused injuries on his legs with *danda*. However, from a perusal of the MLR (Annexure P-5) of Jai Bhagwan, it is apparent that the statement of injured was not corroborated by the medical evidence. Apart from that, statement of Jai Bhagwan, injured and the complainant regarding the presence of both the petitioners at the spot had already been investigated by the police and the version was found to be incorrect. Now, during the course of trial, no other fresh evidence has been led by the prosecution, to show the complicity of the petitioners in the crime

11. In view of the above discussion, the present revision petition succeeds and the impugned order dated 16.02.2023, passed by the Court of Additional Sessions Judge, Kaithal is ordered to be set aside by this Court, qua the petitioners only.

12. Ordered accordingly.

(N.S.SHEKHAWAT)
JUDGE

24.03.2026
hitesh

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