



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

CRR-674-2021(O&M)

Reserved on: 16.04.2026.

Date of Pronouncement:08.06.2026.

Uploaded on: 09.06.2026.

Darshan Kaur

...Petitioner

vs.

State of Punjab and others

...Respondents

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

Present : Mr. Pradeep Virk, Sr. Advocate with
 Mr. Ajay Sharma, Advocate
 Mr. Karnail Jindal, Advocate and
 Mr. Amandeep Singh Punia, Advocate
 for the petitioner.

Mr. M.S.Bajwa, DAG, Punjab.

Mr. Naveen Batra, Advocate
for respondents No.3 and 5 to 8.

N.S.Shekhawat J.

1. The petitioner has filed the present petition against the impugned order dated 26.02.2021 passed by the Court of Sessions Judge, Hoshiarpur, whereby the application filed by the petitioner to summon respondents No.4 to 8 as additional accused, by exercising the power under Section 319 Cr.P.C., was dismissed.

2. Learned Senior counsel for the petitioner contends that the FIR in the present case was registered on the basis of the statement made by Darshan Kaur, petitioner and the same has been reproduced below:-



“Statement of Darshan Kaur wife of Kamaljit Singh, caste of Ramgarhia, resident of Tihara, Police Station Dasuya, District Hoshiarpur, age about 48 years, Mobile Number 84278-91060. It is stated that I am the resident of the above said address and is doing the domestic work of house. I have three boys. My youngest son Lovepreet Singh son of Kamaljit Singh, who was studying in +1 class in the Little Flower Public Senior Secondary School, Dasuya. That on dated 17.01.2018, he had spoken to me that he was going to his maternal uncles at Pathankot and at around 8.00 a.m. sitting in a Rocky Bus, he had come to Dasuya. Then at about 12:30 p.m. five unidentified persons came to Government Elementary School, Tihara near the house of Sham Lal. Asha Rani wife of Sham Lal called me from the school because I made bread for the children in the Elementary School. Then, on her statement, I went to the house of Sham Lal. Then they showed me the photograph of my son Lovepreet Singh on their mobile and said that; Is he your boy. After watching photograph, I said that this is the photograph of my son and they further said that we are 33 brothers, sisters, uncles and greater uncles. If any one of us is dies, then we have no fear. Then they went away after threatening. Thereafter my son Manjit Singh made a telephonic call on the mobile number 97790-77979, but the mobile number was switched off. On dated 18.01.2018, on mobile number 84278-91060 of my son Manjit Singh received a telephonic call from mobile number 97791-67889, where a girl told him that on 17.01.2018, at about 10.00 a.m. Lovepreet Singh had jumped into the Uchhi Bassi Canal. Thereafter, we started a search for our boy, but no clue has been found. I am fully assured that the mobile holder No. 97791-67889 girl Navjot Kaur daughter of Sarabjit Singh, Caste Jat, resident of Ghogra and five unidentified persons have kidnapped and hidden my son Lovepreet Singh with the intention to kill him.



*Legal action may kindly be taken against them. Sd/- in Punjabi.
Darshan Kaur.”*

3. Learned Senior counsel submits that Lovepreet Singh, since deceased, was studying with Navjot Kaur, daughter of Sarabjit Singh, who was also a student of Class XII in Little Flower Senior Secondary School, Dasuya and both were friends. Sarabjit Singh, respondent No.3 is the father of Navjot Kaur. Manjit Singh, respondent No.5 is uncle of Navjot Kaur, whereas, Tarlochan Singh, Talwinder Singh and Balbir Singh i.e. respondents No.6 to 8 are relatives of Navjot Kaur. The friendship between Navjot Kaur, main accused and Lovepreet Singh, deceased was not acceptable to her parents and relatives. Learned Senior counsel further submits that at about 8 a.m., on 17.01.2018, the deceased had left home and did not return thereafter. At about 12 O' clock on the same day, respondents No.3 and 5 to 8 came to the petitioner in her school and by showing the photograph of Lovepreet Singh, they stated that they would kill her and it was a strong circumstantial evidence against respondents No.3 and 5 to 8. Even thereafter, on 18.01.2018, the petitioner found the call recording in the mobile of her son, wherein respondents No.3 and 5 to 8 had threatened him and the deceased was heard saying in the recording that in case anything happens to him, they would be responsible for his death. Further, Navjot Kaur was also in touch with the brother and other family members of Lovepreet Singh, deceased and Navjot Kaur had informed Manjit Singh, brother of the deceased about the death of the deceased. Learned Senior counsel further submits that the circumstantial evidence in the present case pin pointed the finger against the private respondents and their involvement in the crime



was proved beyond any reasonable doubt. However, in the present case, the police only proceeded against Navjot Kaur and it was shown to be a case of suicide by Lovepreet Singh, deceased. However, from the circumstances as well as the documents filed along with the challan, it was apparent that it was a case of murder of Lovepreet Singh by the private respondents and Navjot Kaur. Even during the course of trial, Manjit Singh appeared as PW-2, the petitioner appeared as PW-3, and Asha Rani was examined as PW-4. After the statements of all the three witnesses, the present application was moved under Section 319 Cr.P.C. for summoning the private respondents in the present case. However, the said application was wrongly declined by the trial Court by passing a non-speaking order. The trial Court failed to appreciate that the local police had colluded with the private respondents and their names were wrongly kept in column No.2.

4. On the other hand, learned State counsel submits that in the present case, only Navjot Kaur, daughter of Sarabjit Singh was found involved in the crime and challan under Section 306 of IPC has already been presented against her. Even charge under Section 306 of IPC has been framed against Navjot Kaur @ Jyoti on 07.08.2018. Further, the postmortem on the dead body of Lovepreet Singh was got conducted through Board of Doctors. As per the opinion of the Board of Doctors, no poison was detected in the viscera of the deceased and Lovepreet Singh had died only because of drowning. Consequently, it was a case of suicide by him and there is no evidence to show that the deceased was murdered by the private respondents. Learned State counsel further submits that even the investigation has also been conducted by



DSP, Sub-Division, Dasuya, District Hoshiarpur and ultimately, the enquiry report was approved by SSP, Hoshiarpur.

5. Still further, learned counsel appearing on behalf of private respondents No.3 and 5 to 8 has vehemently opposed the submissions made by the petitioner on the ground that the trial Court had recorded detailed reasons, while declining the prayer made by learned counsel for the petitioner and the impugned order is liable to be upheld by this Court. In fact, it was a case of suicide by Lovepreet Singh and Navjot Kaur is already facing prosecution in the present case.

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

7. While interpreting the power of the trial Court to summon additional accused under Section 319 Cr.P.C., the Hon'ble Supreme Court has held in the matter of ***"Brijendra Singh and others Vs. State of Rajasthan"*** **2017(3) RCR(Criminal) 374**, as under:-

"9. Powers of the Court to proceed under Section 319 Cr.P.C. even against those persons who are not arraigned as accused, cannot be disputed. This provision is meant to achieve the objective that real culprit should not get away unpunished. A Constitution Bench of this Court in Hardeep Singh v. State of Punjab & Ors., 2014(1) RCR (Criminal) 623 : 2014(1) Recent Apex Judgments (R.A.J.) 384 : (2014) 3 SCC 92, explained the aforesaid purpose behind this provision in the following manner:

"8. The constitutional mandate under Articles 20 and 21 of the Constitution of India provides a protective umbrella for the smooth administration of justice making adequate provisions to ensure a fair and efficacious trial so that the



accused does not get prejudiced after the law has been put into motion to try him for the offence but at the same time also gives equal protection to victims and to society at large to ensure that the guilty does not get away from the clutches of law. For the empowerment of the courts to ensure that the criminal administration of justice works properly, the law was appropriately codified and modified by the legislature under Cr.P.C indicating as to how the courts should proceed in order to ultimately find out the truth so that an innocent does not get punished but at the same time, the guilty are brought to book under the law. It is these ideals as enshrined under the Constitution and our laws that have led to several decisions, whereby innovating methods and progressive tools have been forged to find out the real truth and to ensure that the guilty does not go unpunished.

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12. Section 319 Cr.P.C. springs out of the doctrine judex damnatur cum nocens absolvitur (Judge is condemned when guilty is acquitted) and this doctrine must be used as a beacon light while explaining the ambit and the spirit underlying the enactment of Section 319 Cr.P.C.

13. It is the duty of the court to do justice by punishing the real culprit. Where the investigating agency for any reason does not array one of the real culprits as an accused, the court is not powerless in calling the said accused to face trial. The question remains under what circumstances and at what stage should the court exercise its power as contemplated in Section 319 Cr.P.C.?

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19. The court is the sole repository of justice and a duty is cast upon it to uphold the rule of law and, therefore, it will be inappropriate to deny the existence of such powers with



the courts in our criminal justice system where it is not uncommon that the real accused, at times, get away by manipulating the investigating and/or the prosecuting agency. The desire to avoid trial is so strong that an accused makes efforts at times to get himself absolved even at the stage of investigation or inquiry even though he may be connected with the commission of the offence."

10. It also goes without saying that Section 319 Cr.P.C., which is an enabling provision empowering the Court to take appropriate steps for proceeding against any person, not being an accused, can be exercised at any time after the charge-sheet is filed and before the pronouncement of the judgment, except during the stage of Section 207/208 Cr.P.C., the committal etc., which is only a pre-trial stage intended to put the process into motion.

11. In Hardeep Singh's case, the Constitution Bench has also settled the controversy on the issue as to whether the word 'evidence' used in Section 319(1) Cr.P.C. has been used in a comprehensive sense and indicates the evidence collected during investigation or the word 'evidence' is limited to the evidence recorded during trial. It is held that it is that material, after cognizance is taken by the Court, that is available to it while making an inquiry into or trying an offence, which the court can utilise or take into consideration for supporting reasons to summon any person on the basis of evidence adduced before the Court. The word 'evidence' has to be understood in its wider sense, both at the stage of trial and even at the stage of inquiry. It means that the power to proceed against any person after summoning him can be exercised on the basis of any such material as brought forth before it. At the same time, this Court cautioned that the duty and obligation of the Court becomes more onerous to invoke such powers consciously on such material after evidence has been led during trial. The Court also clarified that 'evidence' under Section



319 Cr.P.C. could even be examination-in-chief and the Court is not required to wait till such evidence is tested on cross-examination, as it is the satisfaction of the Court which can be gathered from the reasons recorded by the Court in respect of complicity of some other person(s) not facing trial in the offence.

12. The moot question, however, is the degree of satisfaction that is required for invoking the powers under Section 319 Cr.P.C. and the related question is as to in what situations this power should be exercised in respect of a person named in the FIR but not charge-sheeted. These two aspects were also specifically dealt with by the Constitution Bench in Hardeep Singh's case and answered in the following manner:

*"95. At the time of taking cognizance, the court has to see whether a prima facie case is made out to proceed against the accused. Under Section 319 Cr.P.C., though the test of prima facie case is the same, the degree of satisfaction that is required is much stricter. A two-Judge Bench of this Court in *Vikas v. State of Rajasthan* [2013(4) RCR (Criminal) 948 : 2013(6) Recent Apex Judgments (R.A.J.) 356 : (2014) 3 SCC 321], held that on the objective satisfaction of the court a person may be "arrested" or "summoned", as the circumstances of the case may require, if it appears from the evidence that any such person not being the accused has committed an offence for which such person could be tried together with the already arraigned accused persons.*

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105. 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.

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 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.

(emphasis supplied)"

13. In order to answer the question, some of the principles enunciated in Hardeep Singh's case may be recapitulated:

Power under Section 319 Cr.P.C. can be exercised by the trial court at any stage during the trial, i.e., before the conclusion of trial, to summon any person as an accused and face the trial in the ongoing case, once the trial court finds that there is some 'evidence' against such a person on the basis of which evidence it can be gathered that he appears to be guilty of offence. The 'evidence' herein means



the material that is brought before the Court during trial. Insofar as the material/evidence collected by the IO at the stage of inquiry is concerned, it can be utilised for corroboration and to support the evidence recorded by the Court to invoke the power under Section 319 Cr.P.C. No doubt, such evidence that has surfaced in examination-in-chief, without cross-examination of witnesses, can also be taken into consideration. However, since it is a discretionary power given to the Court under Section 319 Cr.P.C. and is also an extraordinary one, same has to be exercised sparingly and only in those cases where the circumstances of the case so warrants. The degree of satisfaction is more than the degree which is warranted at the time of framing of the charges against others in respect of whom charge sheet was filed. Only where strong and cogent evidence occurs against a person from the evidence led before the Court that such power should be exercised. It is not to be exercised in a casual or a cavalier manner. The prima facie opinion which is to be formed requires stronger evidence than mere probability of his complicity.”

8. In the present case also, it is an admitted fact that Lovepreet Singh, since deceased was having love affair with Navjot Kaur @ Jyoti, daughter of Sarabjit Singh. Even, the postmortem on the dead body of Lovepreet Singh was conducted and as per the opinion of the Board of Doctors, no poison could be detected in the viscera and cause of death in the present case was held to be drowning. Now, by moving the instant application, the prosecution is sought to summon respondents No.3 and 5 to 8 as additional accused in the present case. In fact, respondent No.3 is father and respondent No.5 is the uncle of Navjot



Kaur, main accused. Apart from that respondents No. 6 to 8 are also related to Navjot Kaur. Further, during the course of arguments, learned Senior counsel for the petitioner has projected before this Court that respondents No.3 and 5 to 8 were highly inimical towards the deceased and had repeatedly extended threats to the deceased also and there was documentary as well as electronic evidence to substantiate the said argument.

9. However, I find no force in the said argument raised by learned senior counsel for the petitioner. In fact, it appears that Lovepreet Singh was having love affair with Navjot Kaur and obviously, being the family members of Navjot Kaur, the private respondents were objecting to the relationship. Even, it is accepted that they had extended threats to kill Lovepreet Singh. Still the complicity of respondents No.3 and 5 to 8 cannot be inferred in the present case as it has been held to be a case of suicide, during the course of investigation. Thus, the trial Court has rightly declined the prayer made by the petitioner to summon respondents No.3 and 5 to 8 as additional accused in the present case.

10. Apart from that, the law is well-settled that the power under Section 319 Cr.P.C. is a discretionary in nature and the same has to be exercised sparingly and only in those cases, where the circumstances of the case so warrant. In such cases, the degree of satisfaction is more than the degree, which is warranted at the time of framing of charge against others in respect of whom, charge-sheet was filed. Only where strong and cogent evidence occurs against a person from the evidence led before the Court that such power should be



exercised. In fact, much stronger evidence is required, than mere probability of the complicity of an accused in a crime.

11. In the present case also, from a perusal of the statements of PW-2, Manjit Singh, PW-3, Darshan Kaur and PW-4 Asha Rani, it stands established that they had merely raised suspicion in their respective statements with regard to involvement of respondents No.3 and 5 to 8. Consequently, it would be unfair to summon respondents No.3 and 5 to 8 on the basis of the statements made by aforesaid three witnesses.

12. As a sequel to above-said discussion, the present petition fails and is ordered to be dismissed.

13. Pending application, if any, stands also disposed of.

(N.S.SHEKHAWAT)
JUDGE

08.06.2026

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