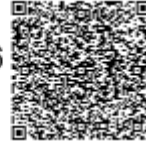


IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2026:PHHC:048476



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CRR-764-2026 (O&M)
Date of decision:27.03.2026

Sukhpreet Singh

... Petitioner

Vs.

State of Punjab & another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Mohinder Kumar, Advocate for the petitioner.

Mr. Roshandep Singh, AAG, Punjab.

...

Manisha Batra, J. (Oral).

CRM-12623-2026:

Application is allowed subject to all just exceptions and the documents annexed with the application are ordered to be placed on record as annexures P-1 to P-8 respectively.

Main case:

1. The instant revision petition has been filed by the petitioner, challenging the order dated 17.02.2026, passed by the Court of learned Additional Sessions Judge, Amritsar in Sessions Case No.SC/712/2019, titled as '*State of Punjab vs. Gurpreet Singh & others*', arising out of FIR No.60, dated 22.05.2019, registered under Sections 307, 323, 324, 326, 148, 149 IPC, at Police Station Sultanwind, District Amritsar, whereby an

application filed by the respondent No.2/complainant under Section 358 of the BNS which is corresponding to Section 319 of the Code of Criminal Procedure (*for short 'the Code'*) had been allowed and the petitioner had been ordered to be summoned as an additional accused along with accused already facing trial.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a statement recorded by complainant – Gurpreet Singh @ Gopi, alleging therein that he along with his family members was engaged in the business of dairy farming and also agriculture. They used to supply milk to the inhabitants of the village including the present petitioner. The petitioner was to pay an amount of Rs.7000/- to the complainant on account of purchase of milk but had not been paying the same, due to which they had stopped supplying milk to him. The petitioner was insisting that he would make payment only on restoration of supply of milk and was delaying payment on one pretext or the other. He started having a grudge against the complainant and his family. On the night of 09.05.2019, when the complainant was passing through the house of the petitioner, he, accompanied by 6-7 persons unknown to him, intercepted him. Co-accused, Gurpreet Singh and Harmandeep Singh made exhortations to teach a lesson to the complainant for demanding money. The petitioner – Sukhpreet Singh and his brother struck blows with a *datar*. The blow struck by the petitioner had injured his left hand whereas accused Gurpreet Singh caused injuries on his head. Thereafter all of them opened assault upon the complainant. On clamour being raised, brother of the complainant, namely, Duryodhan Singh and one

Karanjit Singh @ Karan reached there and then the assailants had fled away. After registration of the FIR, investigation proceedings were initiated. During investigation, the petitioner was found to be innocent and has not been arrested and challaned. His name was kept in column No.2 of the challan report.

3. As per allegations, during the course of trial, complainant – Gurpreet Singh @ Gopi appeared as PW1 and recorded his statement in chief. Thereafter, an application was moved under Section 358 of the BNS (Section 319 IPC) for summoning the petitioner as an additional accused, which was allowed vide order dated 17.02.2026 by the learned trial Court by observing that there were sufficient grounds to proceed against the petitioner as an additional accused. Feeling aggrieved with the same, the present revision petition has been filed by the petitioner.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. It is a case of version and cross-version since a cross case has been registered against respondent No.2/complainant as well. Thorough investigation was conducted in the matter and the petitioner had rightly been found to be innocent since it had come during investigation that he was not present at the spot of occurrence at the relevant time and rather was present at Akhara Bhagtanwala and was doing practice with one Vijay Kumar @ Billa. The statement of said Vijay Kumar @ Billa and other persons had been recorded by the Inquiry Officer of the rank of Assistant Commissioner of Police (South), Amritsar City and an inquiry report was given in this regard on 12.12.2019. It is submitted that while passing the impugned order the learned trial Magistrate did not take this fact

into consideration and has passed an erroneous and illegal order without due application of mind. It is further argued that no case for summoning the petitioner for commission of the aforementioned offences was made out. With these broad submissions, it is urged that the impugned order is liable to be set aside and the revision petition deserves to be accepted.

5. Notice of motion.

6. Learned Assistant Advocate General, Punjab, who has advance notice of the petition and is ready to argue the matter, has submitted that there is no illegality or infirmity in the impugned order as a detailed and speaking order has been passed by the learned trial Court. Therefore, the petition is liable to be dismissed.

7. This Court has heard the rival submissions made by learned counsel for the parties.

8. At the outset, it would be proper to refer to the provisions of Section 319 of the Cr.P.C. which read 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 witnesses reheard; (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."

9. Having noted the abovementioned provision, it is amply clear that the power bestowed on the Court is to the effect that in the course of an inquiry into, or trial of an offence, based on the evidence tendered before the Court, if it appears to the Court that such evidence points to any person other than the accused who are being tried before the Court, to have committed any offence and such accused has been excluded in the charge sheet or in the process of trial till such time, could still be summoned and tried together with the accused, for the offence which appears to have been committed by such persons summoned as additional accused.

10. The issue relating to the powers to be exercised under Section 319 of Cr.P.C. had arisen for detailed consideration in ***Hardeep Singh v. State of Punjab, (2014) 3 SCC 92***, wherein the scope, procedure and the stage at which such power was to be exercised was considered and summarized. It was observed by Hon'ble Supreme Court that the power under Section 319 Cr.P.C. is discretionary and an extraordinary power. It has to be exercised sparingly and only in those cases where the circumstances of the case so warrants. 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 material placed before the Court that such power should be exercised and not in a casual and cavalier manner. It was also observed 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 strong evidence than mere probability of his complicity. The test that has to be applied is one which is more than *prima facie* case as has been established 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. In the absence of such satisfaction, the Court should refrain from exercising power under Section 319 of Cr.P.C.

11. The legal position on the scope and ambit of powers of the Court under Section 319 of Cr.P.C. has also been summarized by Hon'ble Apex Court in the case cited as ***Manjeet Singh v. State of Haryana and others, (2021) 18 Supreme Court Cases 321***, wherein it was observed as under:-

“(i) That while exercising the powers under section 319 CrPC and to summon the persons not charge-sheeted, the entire effort is not to allow the real perpetrator of an offence to get away unpunished.

(ii) For the empowerment of the courts to ensure that the criminal administration of justice works properly.

(iii) The law has been properly codified and modified by the legislature under CrPC indicating as to how the courts should proceed to ultimately find out the truth so that the innocent does not get punished but at the same time, the guilty are brought to book under the law.

(iv) To discharge duty of the court to find out the real truth and to ensure that the guilty does not go unpunished.

(v) 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.

(vi) Section 319 CrPC allows the court to proceed against any person who is not an accused in a case before it.

(vii) 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.

(viii) Section 319 CrPC is an enabling provision empowering the court to take appropriate steps for proceeding against any person not being an accused for also having committed the offence under trial.

(ix) The power under section 319(1) CrPC can be exercised at any stage after the charge-sheet is filed and before the pronouncement of judgment, except during the stage of Sections 207/208 CrPC, committal, etc. which is only a pretrial stage intended to put the process into motion.

(x) The court can exercise the power under section 319 CrPC only after the trial proceeds and commences with the recording of the evidence.

(xi) The word "evidence" in section 319 CrPC means only such evidence as is made before the court, in relation to statements, and as produced before the court, in relation to documents.

(xii) It is only such evidence that can be taken into account by the Magistrate or the court to decide whether the power under section 319 CrPC is to be exercised and not on the basis of material collected during the investigation.

(xiii) If the Magistrate/court is convinced even on the

basis of evidence appearing in examination-in-chief, it can exercise the power under section 319 CrPC and can proceed against such other person(s).

(xiv) That the Magistrate/court is convinced even on the basis of evidence appearing in examination-in-chief, powers under section 319 CrPC can be exercised.

(xv) That power under section 319 CrPC can be exercised even at the stage of completion of examination-in-chief and the court need not to wait till the said evidence is tested on cross-examination.

(xvi) Even in a case where the stage of giving opportunity to the complainant to file a protest petition urging upon the trial court to summon other persons as well who were named in FIR but not implicated in the charge-sheet has gone, in that case also, the Court is still not powerless by virtue of section 319 CrPC and even those persons named in FIR but not implicated in the charge-sheet can be summoned to face the trial, provided during the trial some evidence surfaces against the proposed accused (may be in the form of examination-in-chief of the prosecution witnesses).

(xvii) While exercising the powers under section 319 CrPC the Court is not required and/or justified in appreciating the deposition/evidence of the prosecution witnesses on merits which is required to be done during the trial.”

12. On applying the above discussed principles of law to the peculiar facts of the present case, this Court is of the considered opinion that there is no illegality or infirmity in the impugned order passed by the learned trial Court. The name of the petitioner was specifically mentioned in the FIR and specific overt act had also been attributed to him. During the course of

inquiry/investigation, an inquiry had been conducted by the Assistant Commissioner of Police (South), City Amritsar, who had given a report that after recording statements of certain witnesses, it was found that at the time of occurrence, the petitioner was doing practice with one Vijay Kumar @ Billa at Akhara Bhagtanwala and his mobile phone was at home. Therefore, it was reported that he was innocent. However, the contents of the FIR as well as the evidence which has come on record in the form of testimony of respondent No.2/complainant, it has been revealed that he had attributed specific injuries on his person at the hands of the petitioner. The evidence so produced *prima facie* is sufficient to prove the complicity of the petitioner in commission of the subject crime and therefore, in the considered opinion of this Court, it cannot be stated at this stage that prosecution of the petitioner would amount to abuse of process of Court or there is no likelihood of his conviction.

13. It is well settled proposition of law that the provisions of Section 319 of the Code, being salutary one, the same cannot be diluted by importing within its scope the principles of natural justice which in any case would be followed during the trial. It is the duty of the Court to give further effect to the words used by the Legislature in Section 319 of the Code, so as to encompass any situation which the Court may have to deal with while proceeding to try an offence and not to allow the person, who deserved to be tried, to go scot free by not being summoned for the commission of crime which can be gathered from the material presented by the prosecution. 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. The evidence produced on record by the prosecution in the form of testimony of the complainant is prima facie sufficient to prove the complicity of the accused and it is this evidence that has to be taken into consideration. Reference in this regard can be made to the observations made by Hon'ble Supreme Court in *Saeeda Khatoon Arshi vs. State of U.P. and another : (2020) Supreme Court Cases 323* and *Suman vs. State of Rajasthan and another : 2010 AIR (Supreme Court) 518*.

14. In view of the discussion as made above, no illegality or infirmity is found in the impugned order, as the same has been passed by the learned trial Court after analyzing the facts of the case in a proper perspective. Accordingly, finding no merit in the petition, the same is dismissed.

15. However, it is made clear that any observation made herein above shall have no bearing on the merits of the case as the same are only for the purpose of deciding the present petition.

27.03.2026

harjeet

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No

**(MANISHA BATRA)
JUDGE**