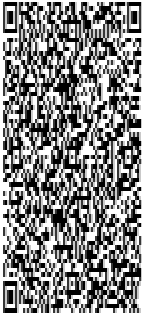


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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.18709 of 2026

Ramanjit Kaur @ Alka Rani ... Petitioner

Versus

State of Punjab ... Respondent

1.	The date when the judgment is reserved	08.05.2026
2.	The date when the judgment is pronounced	12.05.2026
3.	The date when the judgment is uploaded on the website	12.05.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Amandeep Singh Rai, Advocate,
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab,
for the respondent-State.

MANISHA BATRA, J.

1. The instant petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) making prayer for quashing of order dated 18.09.2025 passed by the Court of learned Judicial Magistrate 1st Class, Khanna in case arising out of FIR

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No.08 dated 21.01.2020 registered under Sections 420, 406, 120-B and 201 of IPC and Section 24 of Immigration Act at Police Station Sadar Khanna, whereby an application filed under Section 319 of the Code of Criminal Procedure (*For short 'the Code'*) (which is *pari materia* with Section 358 of BNSS) had been partly allowed and the present petitioner had been ordered to be summoned as an additional accused.

2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint jointly submitted by the victims Sukhchain Singh, Sarabjit Singh and Harinder Singh by alleging that they were interested to settle abroad. They were introduced with accused Amrit Singh Sohal @ Sukha through Baldev Singh, relative of victim Sarabjit Singh. Accused Amrit Singh Sohal along with his family members visited the house of Baldev Singh where the victims were also present and had assured to send them to Canada on work visa by demanding a sum of Rs.16 lakhs per person. It was settled that they will give amount of Rs.8 lakhs each in advance and the remaining amount would be given on reaching Canada. In March 2019, an amount of Rs.2 lakhs each was given by the victims Sukhchain Singh and Sarabjit Singh to accused Amrit Singh Sohal and his family members. Accused Amrit Singh Sohal also procured six blank stamp papers from the victims Sukhchain Singh and Sarabjit Singh after securing their signatures on the same.

Sometime thereafter, on demand of the accused Amrit Singh Sohal, another

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sum of Rs.2 lakhs each was given by the victims Sarabjit Singh and Sukhchain Singh whereas an amount of Rs.5 lakhs was given by the victim Harinder Singh. In October 2019, another amount of Rs.5 lakhs each was extracted from them by assuring that their flight for Canada had been booked for 12.11.2019. The accused Amrit Singh Sohal accompanied by the petitioner and accused Baldev Singh, Daljit Kaur and Prabhjot Singh also secured signatures of victim Harinder Singh on some blank papers. The victims were, however, neither sent abroad nor their money was given back. After registration of FIR, investigation proceeding were initiated. The accused Amrit Singh Sohal @ Sukha was arrested during the course of investigation. The present petitioner as well as Daljit Kaur and Prabhjot Singh named in the FIR were found to be innocent and had not been arrested and challaned. Their names were kept in column No.2 of the challan report. After completion of investigation, challan was presented against the co-accused Amrit Singh Sohal, Kulwinder Singh and Baldev Singh and they are facing trial for commission of aforementioned offences. As reflected from the record, during the course of trial, an application under Section 319 of the Code was moved by the prosecution for summoning the present petitioner and the above named Daljit Kaur and Prabhjot Singh as additional accused. The said application had been partly allowed by the learned trial Court and the present petitioner has been ordered to be summoned as such.

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filed.

4. It is argued by learned counsel for the petitioner that the impugned order is not sustainable in the eyes of law as while passing the same, the learned Magistrate ignored the fact that thorough and proper inquiry had been conducted against the petitioner and an inquiry report had been filed recommending registration of FIR against the accused already facing trial and not as against the petitioner who had been exonerated. The petitioner had not been attributed any specific role in this case. She had been made a scapegoat just for the purpose of harassment and she is mother of the accused Amrit Singh Sohal. There is no material to connect her with the subject offences. The learned Judicial Magistrate did not apply her judicious mind. With these broad submissions, it is argued that the impugned order is liable to be set aside, the present petition deserves to be accepted and further that the application under Section 319 of the Code is liable to be dismissed.

5. Learned State counsel, on the other hand, has argued that there is no illegality or infirmity in the impugned order as the same is well reasoned. The victims Sukhchain Singh and Sarabjit Singh while appearing as witnesses before the trial Court has categorically deposed that the present petitioner along with the co-accused had raised demand of money from them and they had handed over a sum of Rs.2 lakhs each in cash to the accused Amritpal Singh who had handed over the same to the present petitioner within their presence. They have also categorically deposed that the

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petitioner along with the co-accused had raised demand of Rs.16 lakhs from each of the victims. The evidence produced on record during trial has made out a prima facie case showing involvement of the petitioner in commission of the subject offences and, therefore, it is urged that the petition does not warrant any interference.

6. This Court has considered the rival submissions.

7. At the outset, it would be proper to refer to the provisions of Section 319 of the Code, 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

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accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced."

8. 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.

9. The issue relating to the powers to be exercised under Section 319 of the Code 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 of the Code 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

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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 unrebutted, would lead to conviction. In the absence of such satisfaction, the Court should refrain from exercising power under Section 319 of the Code.

10. The legal position on the scope and ambit of powers of the Court under Section 319 of the Code 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.

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(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

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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-

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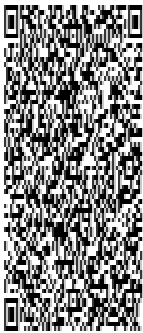


chief of the prosecution witnesses).

(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.”

11. On applying the aforementioned proposition of law to the peculiar facts and circumstances of the present case, it has been noticed that the petitioner was specifically named in the FIR and it was specifically mentioned therein that she along with the co-accused had raised demand of sum of Rs.16 lakhs from each of the victims Sukhchain Singh, Sarabjit Singh and Harinder Singh for the purpose of making arrangement for sending them abroad. Mere fact that during investigation, she was found innocent and was placed in column No.2 of the challan report cannot be treated as conclusive and binding on the Court. It is settled position of law that the opinion of the investigating agency is only tentative and the Court is not denuded of its statutory powers to summon any person who appears, from the evidence recorded during trial, to have committed an offence. In the present case, during the course of trial, the victims Sukhchain Singh and Sarabjit Singh, while appearing as a prosecution witnesses, categorically deposed about the presence and active participation of the petitioner in the alleged incident. Their testimonies have disclosed specific allegations of demanding of money from the victims on the pretext of sending them

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abroad. Such evidence, recorded before the Court in examination-in-chief has constituted “evidence” within the meaning of Section 319 of the Code and was sufficient to prima facie indicate the petitioner’s complicity in the commission of the offences. The contention raised on behalf of the petitioner that there is no specific or overt act attributed to her is misconceived. At the stage of exercising power under Section 319 of the Code, the Court is not required to meticulously appreciate or weigh the evidence as would be done at the stage of final adjudication. What is required is the existence of strong and cogent material emerging from the evidence on record which goes beyond mere suspicion and indicates the involvement of the person sought to be summoned. The depositions of the victims Sukhchain Singh, Sarabjit Singh and Harinder Singh satisfy this threshold. The learned trial Court while appreciating the evidence so produced had rightly summoned the petitioner as additional accused and this Court sees no reason to come to a different conclusion. Accordingly, finding no merit in the petition, the same is dismissed.

12.05.2026
manju

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No