

2026:PHHC:044937



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

SR. NO.103

**CRR-1300-2019 (O&M)
DATE OF DECISION:12.03.2026**

VIPIN GOEL

...PETITIONER(S)

VERSUS

STATE OF HARYANA AND ANOTHER

...RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present: Mr. Sunil Panwar, Senior Advocate with
Mr. Dhruv Saini, Advocate and
Ms. Tejaswini, Advocate
for the petitioner.

Mr. Rajinder Kumar Banku, Sr. DAG, Haryana.

Mr. Rohit, Advocate for
Ms. Ramnish Puri, Advocate
for respondent No.2.

N.S. SHEKHAWAT, J.

1. The petitioner has filed the present revision petition against the impugned order dated 30.01.2019 passed by the learned Sessions Judge, Mewat, whereby an application under Section 319 Cr.P.C. for summoning the petitioner as an additional accused, was allowed.
2. The FIR in the present case was registered on the basis of a statement made by Rajat Jadon resident of Vasant Vihar, Alwar (Rajasthan),

step-brother of the deceased, namely, Madhusudan @ Moni and the FIR has been reproduced below:-

"Statement of Rajat Jadon, son of Late Sh. Jagdish Jadon, resident of House No.120, Scheme 3, Vasant Vihar, Police Station City Kotwali, District Alwar, Rajasthan, aged 24 years, M.7014862695. Stated that I am resident of the above address and a driver by profession. We are four brothers and one sister. My brothers Jaikishan and Madhusudan @ Moni are married and all others are unmarried. Madhusudan @ Moni is married with Payal daughter of Charan Singh and out of that wedlock they have one son and one daughter aged about 8 years and 6 years. He is running a cosmetics shop at Tauru, the place of his in-laws for about past 3 years and resides on rent in Tauru town. My brother and his wife were having some dispute between them since the last about 6 months. On 20.05.2018, my brother and his wife came to us at Alwar and yesterday morning, on 23.05.2018, they went back to Tauru. Today, on 24.05.2018 at about 3:09, a telephonic call was received on mobile no.9252903082 of Kishan Kumar son of Late Sh. Satyaprakash, resident of Sardar Colony, Aerodrome Road, Daudpur Fatak, Alwar, House No.9/518, informing that Madhusudan was ill and he was taken to hospital. Charan Singh made repeated calls on phone of Kishan Kumar and Kishan told me about this. On this, I and my family members took a car and reached Tauru. The dead body of my brother was lying in the house of Charan Singh and he was in dead condition. We have suspicion that my brother has been killed by his wife Payal and Vipin Goel resident of Tauru, jointly. Statement got recorded, heard, read and is correct. Sd/- Rajat Jadon. Attested Deepchand PP City Tauru Dt.24.05.18."

3. Learned Senior counsel for the petitioner has vehemently argued that after the registration of the case, the investigation was thoroughly conducted by the police. Even the facts were verified by the SHO, Police Station, Tauru as well as the concerned DSP. He further

submitted that as per the investigation/verification reports and the evidence

collected during the course of investigation, which included the statements of the house owner where the alleged occurrence took place, call details of the phone number of the accused, reports of scene of crime team and forensic examination and CCTV footage, the petitioner was declared innocent in the present case.

4. Learned Senior Counsel next submitted that the statements of Manjubala, Rimpi and Chirag Garg, the house owners as well as the residents of the same house in Tauru where the deceased and his wife Payal, the main accused, were residing on rent, were recorded. All the aforementioned three witnesses, who are independent witnesses and were residing in the same house, categorically stated that at the time of occurrence, only Payal was at home with her husband (since deceased). Further, the police had also collected the call details of the petitioner and it was found that no call was made between the petitioner and co-accused Payal during the last three months. Moreover, the CCTV footage of the spot was also collected by the police and it clearly ruled out the involvement of the petitioner in the alleged crime. Apart from that, the police also collected scientific evidence in the shape of reports of scene of crime team and forensic examination and no evidence was forthcoming to indicate the involvement of the petitioner in the alleged crime. After a detailed investigation, the police filed the challan under Section 173 Cr.P.C., declaring the petitioner to be innocent.

5. Learned Senior Counsel further argued that during the course of trial, the statements of three witnesses PW-1 Rajat/complainant (Annexure P-5), PW-2 Krishan Kumar (Annexure P-6) and PW-4 Hunny (Annexure P-7) were recorded, which were interested witnesses. He pointed

out that PW-1 and PW-4 are step-brothers of the deceased and were having strained relations with the deceased and his real brother Jai Kishan and all of them were residing in Alwar (Rajasthan), whereas the occurrence had taken place in Tauru, District Nuh (Haryana), Even PW-2 Krishan Kumar was a close friend of PW-1 Rajat. On the basis of the statements of the aforesaid witnesses, the petitioner has been wrongly summoned as an additional accused, without any incriminating evidence against him. Learned Senior Counsel next submitted that even the petitioner has been summoned on the basis of statements of such witnesses, who were already having strained relations with the deceased and his wife Payal (main accused) and had no occasion to witness the occurrence.

6. Learned counsel next submitted that Madhusudan @ Moni (since deceased) was having a share in the joint property and other assets and all the said witnesses wanted to defame Payal, the main accused/wife of the deceased, so that she may not claim her heritable share. He further submitted that the trial Court also assumed that it was highly improbable that a lady would be able to kill a person alone, and this casts doubt on the involvement of the petitioner in the alleged crime. In fact the law is well settled that a person who has been found innocent after a detailed investigation, cannot be summoned only on the ground of suspicion regarding his involvement in the crime and thus, the impugned order is liable to be set aside only on this ground alone.

7. On the other hand, learned State counsel submitted that the police had conducted the investigation fairly and the petitioner was found innocent during the course of investigation.

8. Learned counsel for the complainant/respondent No.2 has vehemently opposed the submissions made by the learned counsel for the petitioner on the ground that PW-1, PW-2 and PW-4 had assigned specific role to the petitioner and he was having extramarital affair with Payal and they both had collectively killed Madhusudan @ Moni. Thus, the impugned order is liable to be upheld by this Court.

9. I have heard the learned counsel for the parties and perused the case file minutely.

10. Hon'ble the Supreme Court in the matter of ***Babubhai Bhimbhai Bokhiria and another Vs State of Gujarat and others***, (2014) 5 SCC 568, while discussing the scope of powers of under Section 319 Cr.P.C., has held as under:-

“7. Before we proceed to deal with the evidence against the appellant and address whether in light of the evidence available, power under Section 319 of the Code was validly exercised, it would be expedient to understand the position of law in this regard. The issue regarding the scope and extent of powers of the court to arraign any person as an accused during the course of inquiry or trial in exercise of power under Section 319 of the Code has been set at rest by a Constitution Bench of this court in the case of Hardeep Singh v. State of Punjab, 2014(1) RCR (Criminal) 623 : 2014(1) Recent Apex Judgments (R.A.J.) 384 : JT 2014 (1) SC 412. On a review of the authorities, this Court summarised the legal position in the following words :

“105 Power under Section 319 Cr.P.C. is a discretionary and an extra-ordinary 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 un rebutted, would lead to conviction. In the absence of such satisfaction, the court should refrain from exercising power under Section 319 Cr.P.C."

8. Section 319 of the Code confers power on the trial court to find out whether a person who ought to have been added as an accused has erroneously been omitted or has deliberately been excluded by the investigating agency and that satisfaction has to be arrived at on the basis of the evidence so led during the trial. On the degree of satisfaction for invoking power under Section 319 of the Code, this Court observed that though the test of prima facie case being made out is same as that when the cognizance of the offence is taken and process issued, the degree of satisfaction under Section 319 of the Code is much higher."

11. Still further, Hon'ble the Supreme Court in the matter of **Juhru & Ors. Vs Karim & Anr.** (Criminal Appeal No.549 of 2023) decided on 21.02.2023, has observed as under:-

"17. It is, thus, manifested from a conjoint reading of the cited decisions that power of summoning under Section 319 Cr.P.C., 1973 is not to be exercised routinely and the existence of more than a prima facie case is sine quo non to summon an additional accused. We may hasten to add that with a view to

prevent the frequent misuse of power to summon additional accused under Section 319 Cr.P.C., 1973 and in conformity with the binding judicial dictums referred to above, the procedural safeguard can be that ordinarily the summoning of a person at the very threshold of the trial may be discouraged and the trial court must evaluate the evidence against the persons sought to be summoned and then adjudge whether such material is, more or less, carry the same weightage and value as has been testified against those who are already facing trial. In the absence of any credible evidence, the power under Section 319 Cr.P.C., 1973 ought not to be invoked.

12. Now, I would proceed to examine the facts of the present case in the light of the above-said principles enunciated by Hon'ble the Supreme Court and find that the application under Section 319 Cr.P.C. filed by the complainant ought to have been dismissed by the trial Court. In fact, during the course of investigation, the police had recorded the statements of Manjubala, Rimpi and Chirag Garg, the house owner as well as the residents of the same house in Tauru where the deceased and his wife Payal were residing on rent and all of them had categorically stated that only Payal was present at the house at the time of alleged occurrence and they were the best witnesses to depose the facts with regard to the actual happening in the house at Tauru, District Nuh (Haryana), whereas the trial Court had relied upon the statements of PW-1 Rajat, PW-2 Krishan Kumar and PW-4 Hunny. In fact all the three witnesses were admittedly resident of District Alwar (Rajasthan) and had no reason to witness the occurrence. Even admittedly, they were not present at the place of occurrence and from the perusal of their respective testimonies, it is apparent that they had even improved their statements and exaggerated their version. Apart from that, PW-1 and PW-4

are step-brothers of deceased and there is every possibility that they were

having some dispute over property with the deceased. Moreover, Manjubala, Rimpi and Chirag Garg had already been examined by the police and the facts were verified by the DSP also. After verification of the facts and on the basis of evidence collected during the course of investigation, which included the statements of the house owner, call details of the phone number of the accused and the reports of scene of crime and forensic examination and CCTV footage, the petitioner was declared innocent. There is no fresh evidence on record, which may impel the Court to summon the petitioner as an additional accused in the present case by exercising the powers under Section 319 Cr.P.C. Even the trial Court itself observed that there was doubt regarding the involvement of Vipin Goel, the petitioner, in the commission of crime and a person cannot be summoned under Section 319 Cr.P.C. only on the basis of suspicion. In fact, summoning of a person as an additional accused is a serious matter and such orders cannot be passed in a casual manner.

13. In view of the aforesaid discussion, the present petition is allowed. Consequently, the impugned order dated 30.01.2019 passed by the learned Sessions Judge, Mewat is set aside. Pending application(s), if any, shall also stand disposed off, accordingly.

12.03.2026
mks

(N.S.SHEKHAWAT)
JUDGE

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO