



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

**124**

**CRR-1129-2024 (O&M)**

**Date of decision: 09.02.2026**

Pxxxxxxx

...Petitioner

VERSUS

State of Haryana and others

...Respondents

**CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ**

Present :- Mr. Kushagra Beniwal, Advocate  
for the petitioner.

Ms. Chhavi Sharma, Astt. AG, Haryana.

Mr. Ashit Malik, Senior Advocate assisted by  
Mr. Abhinav Kansal, Advocate for respondents No.2 to 4.

\*\*\*\*\*

**VINOD S. BHARDWAJ, J. (Oral)**

The instant petition has been filed against the order dated 18.03.2024 passed by the Additional Sessions Judge, Kurukshetra, whereby application under Section 319 Cr.P.C. filed by the petitioner had been dismissed.

2. Learned counsel for the petitioner submits that the present FIR was registered on the complaint filed by the petitioner for offences under Sections 148, 149, 323, 235, 427, 504 and 506 of the Indian Penal Code, 1860. After investigation, the police filed its final report and charges were later framed against the respondent-accused. He further submits that, as per the FIR, there are two separate incidents. The first incident took place on 09.04.2019 at about 7:30 P.M., when the petitioner's son was playing in the Asharam. At that time, Pardeep @ Deepu, son of Bansilal, allegedly came there and removed the lower undergarment of the child. The complainant

and his family members objected to this act on the same day and made the accused aware of his misconduct.

3. According to the petitioner, this led to bitterness and enmity between the parties. The second incident took place on 12.04.2019 at about 9:00–9:30 P.M., when the accused persons allegedly entered the bara (courtyard) of the petitioner and assaulted the petitioner's family members. It is alleged that Pawan, Rajpal (father of the petitioner), Jaswant and Reshma (mother of the petitioner) sustained injuries. All four injured persons were taken to CHC, Mathana, where their medico-legal reports (MLRs) were prepared. It is further submitted that although eight persons were initially named as accused in the FIR, the final report was filed only against five accused, namely, Pardeep @ Deepu, Bansi, Master Rakam Singh, Sheeshpal and Zile Singh, while the remaining three were not sent up for trial. Learned counsel also submits that during the trial, the prosecution examined its witnesses, including PW-3 Dr. Pardeep Kumar, ASMO, who proved the deposition sheet. In his statement, the doctor acknowledged that on the same day, he had also conducted medico-legal examination of Sheeshpal, Zile Singh and Bansi Lal, and their MLRs were exhibited as Ex.D1/PW3 to Ex.D3/PW3.

4. Learned counsel appearing on behalf of the petitioner submits that as many as four persons on the side of the petitioner sustained injuries in the occurrence in question and the fact that the medical officer conducted medico-legal examination of three persons, namely, Sheeshpal, Zile Singh and Bansi Lal, on the very same day lends credence to the occurrence and substantiates the prosecution version. It is thus contended that Kashmir

Singh @ Kashmiri, Binu and Roshan Lal too ought to have been summoned as additional accused as specific overt acts have been attributed to them.

5. Insofar as Kashmir Singh @ Kashmiri is concerned, he is alleged to have inflicted two injuries with a gandasi, one each upon Rajpal and Jaswant. Accused Binu, son of Kashmir Singh @ Kashmiri, is alleged to have delivered a lathi blow on the back of Pawan, while Roshan Lal is stated to have accompanied the aforesaid persons during the incident. Learned counsel further contends that the fact that Zile Singh, Sheeshpal and Bansi Lal also sustained injuries clearly establishes the occurrence of the incident and demonstrates the participation of those persons who were not sent up for trial by the investigating agency. It is, therefore, submitted that the application under Section 319 Cr.P.C. seeking summoning of the said persons as additional accused ought to have been allowed by the learned Trial Court.

6. Learned counsel appearing for the State, as well as learned counsel for the private respondents submit that a detailed investigation had already been conducted by the investigating agency. Upon such investigation, it was found that the private respondents had merely arrived at the spot to intervene and assist the injured persons and were not participants in the assault. It is on this basis that they were exonerated during the course of investigation. It is further contended that the mere occurrence of an incident does not, by itself, establish the participation of a person in the commission of an offence. Learned counsel submit that the allegations levelled in the FIR by the petitioner, insofar as they pertain to the private

respondents, were not found to be corroborated during investigation and there is no material on record to demonstrate that any of the injured persons sustained injuries caused by a gandasi. The injuries are primarily in the nature of lacerations and the weapons found to be used in the commission of the offence have been recovered from the co-accused who have already been sent up for trial.

7. It is also contended that the testimony of the medical officer also does not indicate the involvement of respondents No. 2 to 4 in the commission of the offence. The said medical evidence falls short of establishing even a prima facie case of participation against the said respondents so as to warrant their summoning as additional accused.

8. I have heard learned counsel for the respective parties and have gone through the documents appended alongwith the present petition.

9. It needs no reiteration that a person can be called upon to undergo criminal prosecution only when there exists specific material indicating his overt act and participation in the commission of the alleged offence. The mere fact that an incident has occurred does not, by itself, justify the presumption that each and every individual present at or near the scene of crime was a participant in the occurrence.

10. The reliance placed by the petitioner upon the injuries sustained by Sheeshpal, Zile Singh and Bansilal, and the corresponding medico-legal reports, may at best be relevant to ascertain whether the incident in question did, in fact, take place. However, such material, in and by itself, does not suffice to establish that the private respondents namely Kashmiri @ Kashmiri, Bansilal and Roshan Lal participated in the assault upon the

petitioner's side or that any specific injury is attributable to them. It is also not in dispute that the said three persons, who sustained injuries i.e. Zile Singh, Sheeshpal and Bansi Lal have already been nominated as accused and that a chargesheet has been filed against them. The argument advanced on behalf of the petitioner would have assumed greater significance had the investigating agency exonerated the said persons and omitted them from the array of accused. In the present factual matrix, however, the said contention does not advance the petitioner's case.

11. It is further evident from the record that while adjudicating the petitioner's application under Section 319 Cr.P.C., the Trial Court took due note of the settled principles laid down by the Hon'ble Supreme Court governing the exercise of power under the said provision and drew a conclusion that the standard required for summoning a person as an additional accused is higher than the mere existence of a prima facie case; there must be strong and cogent evidence indicating involvement in the commission of the offence. A mere suspicion, possibility or probability of participation does not satisfy the threshold mandated by law.

12. It is also an undisputed position that no recovery of any weapon or incriminating material has been effected from the private respondents, nor is there material on record to prima facie indicate that they were armed or that any specific injury is attributable to them. The present case, at best, is being built upon broad probabilities that once the occurrence is established, it must necessarily follow that all persons named by him were active participants. Such an approach, however, is not in consonance with the parameters laid down by the Hon'ble Supreme Court for invoking the power

under Section 319 Cr.P.C. It is further significant that the petitioner did not challenge the investigation conducted by the State or the final report submitted pursuant thereto. No objection was raised alleging that the investigation was tainted. In the absence of such challenge at the relevant stage, the petitioner would not now impugn the investigation and allege that material evidence was not collected, to the advantage of the private respondents. Such a plea, raised belatedly, would not form a valid basis for summoning additional accused in the absence of compelling evidence on record.

13. The legal threshold prescribed for summoning an additional accused under Section 319 Cr.P.C. is undoubtedly higher than the mere existence of a prima facie case on the basis of allegations alone. The submissions advanced on behalf of the petitioner, however, rest predominantly on conjecture, probability and suspicion arising out of surrounding circumstances. Such material does not meet the rigorous standard mandated by law. I am also unable to accept the contention advanced by learned counsel for the petitioner, for the reason that the parameters authoritatively laid down by the Hon'ble Supreme Court would not be diluted only to accommodate subjective satisfaction or perceived grievance. The exercise of power under Section 319 Cr.P.C. should be founded upon evidence indicative of participation in the offence, and not upon speculative inferences or broad probabilities.

14. Finding no illegality, perversity or propriety in the order dated 18.03.2024 passed by the Additional Sessions Judge, Kurukshetra while dealing with the application under Section 319 Cr.P.C., the present petition

is accordingly *dismissed*.

15. Pending application(s), if any, shall stand disposed of.

09.02.2026

Sumit Gusain

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(VINOD S. BHARDWAJ)

JUDGE