



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

102-III

CRR-2802-2017

Date of decision: 27.03.2026

Satbir Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present : Mr. Raj Kapoor Malik, Advocate
for the petitioner.

Ms. Shweta Nahata, DAG, Haryana.

Mr. Gunjan Mehta, Advocate
for respondent No.2.

Mr. Dinesh Arora, Advocate
for respondent No.3.

AARADHNA SAWHNEY, J.

1. Challenge in the present petition is to order dated 01.08.2017 passed by the then Ld. Additional Sessions Judge, Kaithal vide which an application u/s 319 Cr.P.C moved by the prosecution, for summoning Roshan Lal and Ranbir @ Tini to face trial as additional accused, in case FIR No.25 dated 04.03.2017 u/s 148/149/302/323/342/356 IPC, PS Sadar Kaithal, Distt. Kaithal, was dismissed.

2. Relevant facts as emerging from documents on record be noticed hereinbelow:-

On 04.03.2017 a telephonic message was received in police station vide which the police authorities were intimated that a Brahman family of village Padla have murdered a young boy named Pardeep S/o Satbir Singh R/o Dillowali as also that another young boy namely Mohit S/o Randhir Singh R/o Malkheri, has been mercilessly thrashed by them. It also came



to the notice of police authorities that dead body of Pardeep and injured Mohit have both been rushed to Govt. Hospital, Kaithal. Immediately thereafter, S.I. Subash along with other police officials reached hospital, collected ruqa and after seeking permission from the doctor on duty recorded the statement of Mohit, aged about 15-16 years, studying in class 9th and resident of village Malkheri. As per complainant on 03.03.2017, he along with his friend Pardeep (since deceased) S/o Satbir R/o village Dillowali were visiting village Sangan to attend wedding ceremony of elder brother of their friend Raju. He reached village Sangan at about 02:00 in the afternoon on the motorcycle bearing registration No.HR08W-8002 (make Splendor). One of friends of Pardeep, who was not known to him(c) was also attending the wedding. After attending the marriage ceremony in the late evening, on the asking of his friend Pardeep (since deceased), they headed for village Padla at about 11:000 p.m. as they had to leave Pardeep's friend. The motorcycle was being driven by Pardeep, whose friend was dropped at his village at about 11:30 p.m. Thereafter, they halted in a street in front of the house of Neha. Pardeep who was on friendly terms called Neha, who came out of her house. While these two were exchanging notes with each other, suddenly Neha told Pardeep to leave quickly as she had noticed her paternal uncle Muni Ram coming towards them. Before they could react, Muni Ram ran up to them and also called other members of his family namely Binder, Shri Bhagwan, Sanjiv, Tini, and Roshan (sought to be summoned as co-accused) etc. Immediately all the persons armed with dandas, lathis, etc. arrived at the spot and questioned them as to why they were talking with their daughter Neha. Before they could answer and explain themselves, the motorcycle was thrown down. He and Pardeep were dragged inside the house, where they were tied with ropes and later dragged to cattle shed opposite the house. They were mercilessly thrashed. Both, he and Pardeep begged for mercy and requested to pardon them, but no heed was paid. As a result of onslaught unleashed by the above named persons, Pardeep breathed his last at the site. His body was picked up and kept on a cart in the courtyard. At about 6-7 in the morning his and family members of Pardeep namely Sh. Satbir Singh (father of Pardeep), his father Sh. Randhir Singh and others arrived. They untied him and Pardeep. He was rushed to Govt. Hospital, Kaithal. Dead body of Pardeep was also taken to Govt. Hospital, Kaithal. He was examined by doctor on duty. Medical treatment was provided. Complainant Mohit further pointed out that his friend Pardeep died due to merciless beatings given by the above mentioned persons i.e. Binder, Shri Bhagwan, Teeni, Sanjiv and Roshan etc. He further pointed out that these persons also tried to kill him but he was saved on account of some divine intervention.



Request was made to police authorities to catch hold of the assailants as also to initiate appropriate legal proceedings against them.

On the basis of the said complaint, medico-legal report which indicated that complainant Mohit had suffered 13 injuries, a formal case vide FIR No.25 dated 04.03.2017 u/s 148/149/302/307/323/342/365 IPC, PS Sadar Kaithal, Distt. Kaithal, was registered. Inquest proceedings were conducted, special report was sent to the Illaqa Magistrate. Postmortem examination of the body of deceased Pardeep was got conducted from Civil Hospital, Kaithal.

A parcel of clothes worn by deceased bearing seal of the doctors as also sample seal were taken into police possession converted into separate parcels. The Board of doctors opined that the deceased died due to injuries to his vital organs i.e. brain and lungs which are ante-mortem in nature.

I.O. recorded statements of the witnesses, inspected site, collecting incriminating material found lying there and took into possession.

Co-accused Shri Bhagwan, Subhash, Devendra @ Binder and Muni Sharma @ Muni Ram, all sons of Parshu Ram, were arrested on 04.03.2017. Ranbir @ Tini was also arrested on the same day. During interrogation, all the above mentioned persons apart from mentioning the sequence of events that led to the incident specifically pointed out that Roshan S/o Banwari, Sanjiv S/o Krishan, Ranbir @ Tini S/o Ram Kumar, had arrived at the site later after hearing the loud noises and had abused the boys. Ranbir @ Tini denied having participated in the incident. Admittedly, nothing was recovered at his instance.

Based on the medical opinion given by the doctor, who had examined injured Mohit, Section 307 IPC was deleted.

Supplementary statement of complainant was recorded on 27.03.2017, who stated that Roshan Lal son of Banwari Lal, Ranbir @ Tini son of Ram Kumar, had left the place of occurrence. Facts of the case were verified by the then DSP (HQ), Kaithal, who also was of the opinion that Roshan Lal, Renu, Daya and Tiny did not participate in the incident.

On culmination of investigation, challan was filed. The same was committed to the Court of Sessions. Accused were charge-sheeted u/s 148, 149, 323, 342, 365, 302 IPC.

Complainant/injured Mohit son of Randhir Singh, resident of Malkheri, at whose behest criminal proceedings were initiated, while appearing in the witness box as PW-2, reiterated the contents of complaint Ex.P8 and narrated the



manner in which the incident occurred. According to him in the evening of 03.03.2017, he and his friend late Pradeep had gone to attend marriage in Village Sanghan. One friend of Pradeep, whose name he was not able to recollect also attended the wedding ceremony. On the request of Pradeep, they all headed for Village Padla on his motorcycle to drop the said friend of Pradeep. At about 11-11:30 PM, Pradeep dropped his friend in the Village Padla. The two of them were going through the streets of Village Padla when Pradeep stopped motorcycle near a house and called for Neha who came out of her house. While the two of them i.e. Neha and Pradeep were talking, the girl asked Pradeep to run away as she saw her uncle Mani Ram coming towards them. Before they could start the motorcycle, Mani Ram caught hold of them and called his other family members by the name of Binder, Sanjeev, Tini, Shri Bhagwan, Subhash and Roshan. Both of them were caught and dragged inside the house, their hands and legs were tied, mobile phones were snatched and were mercilessly thrashed. After little while Pradeep succumbed to his injuries. His dead body was placed on a cot in a room constructed in the Bara. In the morning, his parents and parents of Pradeep arrived. He was rushed to the Hospital whereafter some time he lodged a complaint. Complainant Mohit pointed out the names of assailants as Sanjeev, Binder, Subhash, Shri Bhagwan and Mani Ram, Roshan Lal and Tini.

Based on the names of the assailants so mentioned by complainant in his first version i.e. complaint Ex.P8 given to the police authorities and his stand in the examination-in-chief recorded on oath in the Court, when he had appeared as PW2, an application u/s 319 Cr.P.C. was moved by the learned PP praying therein that Roshan Lal, son of Banwari Lal and Ranbir @ Tini son of Ram Kumar, who were named in the complaint and who had participated in the incident, were deliberately not arrayed as accused by the Investigating Officer, and thus both of them be also summoned as additional accused, to face trial u/s 148, 149, 323, 342, 365, 302 IPC alongwith other accused.

3. The said application was dismissed by the then learned Additional Sessions Judge, Kaithal vide order dated 01.08.2017. Aggrieved of which, the present petition has been filed.
4. Learned counsel for the petitioner contends that the learned trial Court erred in dismissing the application filed u/s 319 Cr.P.C. moved by the prosecution to summon Roshan Lal and Tini as additional accused.



Reasoning put forth in the impugned order is against the spirit of Section 319 Cr.P.C. Findings of the trial Court that since complainant did not level any specific allegations against the persons sought to be summoned as accused, as also that in his (C) supplementary statement, he(C) clarified that the above 2 persons had left the spot, no case for summoning them u/s 319 Cr.P.C., is made out, more so when no fresh evidence was collected indicating their involvement, are legally unsustainable. Continuing further, learned counsel contends that complainant-injured Mohit in his first statement given to the police authorities specifically mentioned the names of all the assailants (including Roshan Lal and Ranbir @ Tini), who had brutally assaulted him and his friend Pardeep. He reiterated his stand, when he appeared in the witness-box as PW2. Further, assailants being several family members of the girl, the incident having occurred at about 11:30-11:40 PM in a Village street, it was not humanly possible for complainant to specify the role played by each of the assailants. That apart, complainant specifically disowned his supplementary statement said to have been recorded by the Investigating Officer, thus clearly indicating biased approach and tainted investigation. In such a scenario, especially there being nothing on record to doubt the consistent stand of complainant, dismissal of the application u/s 319 Cr.P.C. was most uncalled for. Impugned order being legally unsustainable deserves to be set aside. In support of his submission, learned counsel for the petitioner has placed reliance upon the following judgments:-

***1. Neeraj Kumar @ Neeraj Yadav Vs. State of U.P. and others,
(Arising out of SLP(Crl.) No.7518 of 2025), decided on 04.12.2025.***



***2. Yadwinder Singh Vs. Lakhi alias Lakhwinder Singh and others,
(Arising out of SLP (Crl.) Nos.14822-14829 of 2024), decided on
26.03.2025.***

5. It needs to be pointed out that in terms of order dated 22.08.2017 passed by this Court notice was also issued to respondents No. 2 and 3, i.e. Roshan Lal son of Banwari Lal and Tiny @ Ranbir son of Ram Kumar.

6. *Per contra*, while defending the impugned order, learned counsel for respondents No.2 and 3 contends that after the FIR was lodged on the basis of complaint Ex.P8 given by complainant-injured Mohit, facts were verified and inquired into by a senior police officer of the rank of DSP (HQ), Kaithal. During the course of investigation, it was found that Roshan Lal, Renu, Daya and Ranbir @ Tini did not participate in the incident. They were only present at the spot as bystanders. Further, complainant also suffered a supplementary statement pointing therein that Roshan Lal son of Banwari Lal and Ranbir @ Tini son of Ram Kumar did not actually participate in the incident.

It is further the submission of learned counsel that respondent No.2 namely Roshan Lal, then aged about 67/68 years, had been suffering from Asthma for quite some time and was in a very delicate medical condition, thus the question of him joining hands with the accused already facing trial and assaulting complainant-injured and Pradeep (since deceased) even otherwise does not seem plausible. Insofar as Tini is concerned, he like other neighbours rushed to the site after hearing commotion in the street, in the late night hours and in fact requested Mani Ram etc. to hand over the boys to the police authorities rather than detaining them in the house and



assaulting them. Requests made by both Roshan Lal and Ranbir @ Tini were not taken note by Mani Ram etc. who continued with their assault. No new evidence was brought on record indicating possible involvement of the respondents sought to be prosecuted. The plea now being taken by complainant that he did not suffer any supplementary statement is nothing but a clever tactic adopted by the prosecution complainant party to falsely drag the respondents in an incident, in which they did not participate at also to mentally harass them. Towards the end, learned counsel contends that powers u/s 319 Cr.P.C. are to be exercised sparingly only if the evidence very clearly points out existence of more than prima facie case against persons sought to be summoned as accused, which in the case in hand does not exist.

7. I have heard the learned counsel for the parties and have gone through the documents on record.

8. Before proceeding further, it would be appropriate if the scope and ambit of section 319 Cr.P.C. is carefully looked into, which reads as under:-

“Power to proceed against other persons appearing to be guilty of offence.—319(1) Where, in the course of any enquiry 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 subsection (1) then –



(a) the proceedings in respect of such person shall be commenced afresh, and witnesses re-heard;

(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.”

A careful perusal of section 319 Code of Criminal Procedure, 1973, goes to show that the same vests the Court with the power to proceed against any person who is not an accused in a case before it, for also having committed the offence under trial.

Five Judges Bench of Hon'ble Supreme Court of India in case titled as Hardeep Singh Vs. State of Punjab and others, 2014 (1) Recent Criminal Reports 623, while discussing the scope and ambit of this provision of law, held that where the investigating agency for any reason does not array one of the real culprit as accused, the Court is not powerless in calling the said accused to face the trial. It was held that power under section 319 Code of Criminal Procedure, 1973 is discretionary and extra ordinary power, which has to be exercised sparingly and only in those cases where the circumstances of the case so warrant. It was held that word 'evidence' used in section 319 Cr.P.C. has to be broadly understood and not literally i.e. as evidence brought during a trial and also that Court need not wait for the evidence against the accused proposed to be summoned to be tested by cross-examination. It was also held that though under section 319 (4) (b) Cr.P.C. the accused subsequently impleaded is to be treated as if he had been an accused when the Court initially took cognizance of the offence, the degree of satisfaction that will be required for summoning a person under section 319 Cr.P.C. would be the same as for framing a charge. The difference in the degree of satisfaction for summoning the original accused and a subsequent accused is on account of the fact that the trial may have



already commenced against the original accused and it is in the course of such trial that materials are disclosed against the newly summoned accused. Fresh summoning of an accused will result in delay of the trial, therefore, the degree of satisfaction for summoning the accused (original and subsequent) has to be different.'

In ***Sukhpal Singh Khaira Vs. State of Punjab, 2023 (1) SCC 289***, Hon'ble Supreme Court, while explaining the powers bestowed on the Court u/s 319 Cr.PC held as under:-

“15. At the outset, having noted the 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.”

Recently, Hon'ble Supreme Court in ***Neeraj Kumar @ Neeraj Yadav Vs. State of U.P. (SLP(Crl.) No.7518 of 2025)***, decided on 04.12.2025 held as under:-

*“6. The law governing the summoning of an additional accused under Section 319 CrPC is now well settled. The provision is an enabling one, empowering the Court, during the course of an inquiry or trial, to proceed against any person not already arraigned as an accused, if, from the evidence adduced before it, such person appears to have committed an offence. Its object is to ensure that no guilty person escapes the process of law, thereby giving effect to the maxim *judex damnatur cum nocens absolvitur* (Judge is condemned when guilty is acquitted). It casts a duty upon the Court to ensure that the real offender does not go unpunished, for only then can the concept of fair and complete trial be realised.*



7. It is no longer res integra that the power conferred under this Section is extraordinary and discretionary in nature, intended to be exercised sparingly and with due circumspection. While invoking it, the Court must be satisfied that the evidence appearing against the person sought to be summoned is such that it prima facie necessitates bringing such person to face trial. The degree of satisfaction required is higher than that warranted at the stage of framing of charge, yet short of the satisfaction necessary to record a conviction. Such satisfaction must rest on cogent and credible material brought on record during the trial, and not based on conjectures or speculations. In this regard, reference to a few judicial pronouncements of this Court would be apposite.”

9. In the light of the settled law on the subject in issue, let us revert back to the facts of the case in hand. As noted above, criminal proceedings were initiated on the statement (Ex.P8) of Mohit S/o Randhir Singh, who mentioned therein the sequence of events leading to the incident, as also highlighted the names of the assailants, who had mercilessly thrashed him and his friend Pardeep (since deceased). In his first version given to the police authorities, Mohit pointed out that after attending the wedding ceremony at village Sangan in the late hours of 03.03.2017, they dropped Pardeep's friend at village Padla. At about 11:30 p.m., both he and Pardeep halted in a street in front of house of Neha (friend of Pardeep). While Pardeep and Neha were exchanging notes with each other, suddenly Neha cautioned Pardeep to leave quickly as she had noticed her paternal uncle Muni Ram coming towards them. But before they could react, Muni Ram ran up and caught hold of them at the same time, he (Muni Ram) called the other members of his family namely Binder, Shri Bhagwan, Tini and Roshan (sought to be summoned as an accused). All the above persons arrived at the spot, questioned them as to why they were talking to Neha and



before hearing their explanation, the motorcycle was thrown down, they were dragged inside the house and were mercilessly assaulted. Unfortunately, Pardeep breathed his last at the spot, whereas he suffered serious injuries. After being intimated, his and Pardeep's family members arrived and rushed them to the hospital, where he was medico-legally examined and medical treatment was provided. On the basis of the said complaint the above mentioned FIR was registered. Investigation were set into motion during which the police authorities visited the site, collected the incriminating material from the spot and took it into possession, also recorded statements of various witnesses. During preliminary investigation, the I.O. arrived at the conclusion that Roshan Lal S/o Banwari Lal, 67 years old man suffering from acute Asthma, had reached at the site, after hearing loud noises, as also that he was mere bystander and did not actually participate in the incident, thus was not arrayed as an accused. Persons who were named in the complaint were arrested including Ranbir @ Tini, who when questioned also took the plea that he did not assault either Mohit or Pardeep (since deceased). He had also arrived much later at the site and had in fact requested Mani Ram etc. not to thrash the young boys. Rather, told them to seek police help. It is further the case of the prosecution that no weapon of offence was recovered.

From the copy of challan that has been placed on record, it can also be inferred that the investigation of the present case was conducted under the aegis of the then Deputy Superintendent of Police (Kaithal), who had questioned several eyewitnesses, as in, Dev Kumar S/o Sant Lal, Garja Ram S/o Ramdiya, Passa Ram S/o Thatu Ram, (their names find mention in the police zimni), who all in one voice stated that both Ranbir @ Tini and



Roshan Lal S/o Banwari Lal did not participate in the incident. Resultantly, challan was not filed against them.

It would be pertinent to point out here that the supplementary statement of complainant Mohit was recorded on 04.03.2017, wherein he himself clarified that though Roshan S/o Banwari and Ranbir @ Tini had arrived later at the site but they did not actually participate in the incident. Though, when he had appeared in the witness box as PW2, he changed his stance and reiterated his first version given to the police authorities and deposed that Ranbir @ Tini as also Roshan had joined hands with Mani Ram etc. and had thrashed him and Pardeep (since deceased).

It is in the light of the facts mentioned hereinabove that the learned trial Court rightly arrived at the conclusion that since no fresh/new incriminating evidence/material had come on record specifically indicating/establishing involvement of Ranbir @ Tini and Roshan Lal in the incident, no ground exists to summon the above mentioned two persons as accused. Contradictory stand of the complainant, his plea that he did not suffer any supplementary statement on 04.03.2017 appears to be last minute effort on his part to falsely drag Ranbir @ Tini and Roshan Lal in the present case.

It would be most appropriate to remind ourselves that the power u/s 319 Cr.PC can be exercised only when the material on record establishes existence of more than a *prima facie* case against persons sought to be summoned as an accused and cannot be exercised in a routine mechanical manner.



In view of the discussion made hereinabove, finding no illegality in the impugned order dated 01.08.2017, the same is upheld. Resultantly, the revision petition is dismissed.

(AARADHNA SAWHNEY)
JUDGE

27.03.2026
Hemant

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