



103 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1440-2023 (O&M)
Date of decision: 01.04.2026.

Sumit

...Petitioner

VS.

State of Haryana and another

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Aditya Sanghi, Advocate and
Mr. Surender Singh, Advocate
for the petitioner.

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

Mr. Rajesh Gupta, Advocate
for respondent No.2.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present revision petition against the impugned order dated 15.04.2023 passed by the Court of Additional Sessions Judge, Sonapat, whereby, the petitioner has been summoned to face trial for commission of the offences punishable under Sections 449, 323, 324, 302, 34 of IPC, while exercising the powers under Section 319 Cr.P.C.

2. Learned counsel for the petitioner submits that the FIR (Annexure P-2) in the present case was ordered to be registered on the basis of the statement made by Amit Kumar and the same has been reproduced below:-

“To, the S.H.O. Police Station Rai Sonipat. Sir, it is requested that I Amit Kumar S/o Balkishan R/o Rai, that we are three brothers, younger than me is Manish alias Chintu So Balkishan who was working as supplying building material, he had made his office in Asavipur Turn, that yesterday on dated



22.04.2021, he was sitting in his office, then at that time upon the phone Number 9812063618 Gautam Kaushik S/o Ramsarup Kaushik R/o Village called him and asked where are you, my brother said that he is sitting at the stock inside his office, that time at around 12.30 hrs in a day Gautam Kaushik and his brother Sumit and 2-3 other boys to whom I do not know their names, came to the stock/office of my brother, that Gautam Kaushik was carrying knife in his hand and his brother Sumit was carrying in his hand and other boys were also carrying batons, logs, that all of them barged into the office of my brother and assaulted him and Gautam Kaushik attacked my brother with knife upon his left arm and also attacked upon his mouth and Sumit who was armed with baton attacked him upon his head and mouth and other boys attacked my brothers with baton logs upon his head, mouth, hand and upon his waist, that upon getting information I reached the spot, my brother was lying in an injured condition inside his office, to whom I admitted for treatment at Government Hospital Sonipat, that the Doctor gave first aid to my brother and referred him at PGI Rohtak, thereafter I admitted him in Saxena Hospital for treatment, that during treatment due to inflicting of injuries today on dated 23.04.2021, my brother Manish alias Chintu got died. Legal action may be initiated against Gautam Kaushik and his brother and other accomplices. That around 5-6 months ago too my brother had scuffle and arguments with Gautam as a result of which Gautam Kaushik was nurturing grudge with my brother, therefore, with an intention to kill him these persons had launched an attack, now I have submitted an application to you. Sd/-Amit Kumar, MOB. No. 9034051550.”

3. Learned counsel for the petitioner further submits that the petitioner was wrongly named by the complainant in the present case. As per the allegations leveled by the complainant, a telephonic call was made by



Manish, deceased that he had received injury and thereafter, the complainant went there and found that his brother was lying in the office, after receiving injuries. He was shifted to Civil Hospital, Sonapat, but he was taken to Saxena Super-Speciality Hospital, Sonapat itself. In the hospital, the injured succumbed to the injuries. He further submits that in fact, the deceased had not suffered serious injuries, as is apparent from his MLR (Annexure P-4) and the postmortem report (Annexure P-5), still he died because of cardio respiratory collapse and the petitioner had been wrongly summoned. Still further, the deceased had not received any head injury and only some reddish contusion was found present on the eye and face only. Consequently, it could be inferred that the deceased had not died due to the injuries suffered by him in the incident. Even the petitioner had been wrongly mentioned in the present case. Still further, even no specific role had been assigned to him and it was stated that Gautam Kaushik, brother of the petitioner was carrying a knife, while petitioner and other persons were carrying lattis, dandas etc. Thus, there was no specific role of the petitioner and he has been wrongly summoned by the trial Court.

4. On the other hand, learned State counsel as well as learned counsel for respondent No.2 have vehemently opposed the submissions made by the petitioner on the ground that the petitioner was specifically named in the present case and has been rightly summoned by the trial Court.

5. I have heard learned counsel for the parties and perused the record carefully.

6. In fact, the Hon'ble Supreme Court has held in the matter of

“Hardeep Singh versus State of Punjab and others”, 2014(3), SCC 92 that the



power under Section 319 Cr.P.C. is a discretionary power and it has 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. Even the test has to be applied is one, which is more than *prime 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. It requires much stronger evidence than mere probability of his complicity.

7. In the present case, from a bare perusal of the FIR (Annexure P-2), it is apparent that the petitioner and his brother Gautam Kaushik have been named from the very beginning. It has been alleged that Gautam Kaushik was carrying a knife, while Sumit and 2/3 other boys came with sticks, batons etc. Even a specific role has been assigned to the petitioner that the petitioner was armed with danda (stick) in his hand and they all had attacked the deceased. Even, Sumit gave injuries on the head and face of the deceased with a danda (stick) and the said fact also finds corroboration from the medical evidence in the present case. Now, the police had only challaned Gautam Kaushik and the petitioner was kept in column No.2, whereas, from the MLR (Annexure P-4) and the postmortem report (Annexure P-5), it is apparent that the ocular account of the prosecution found corroboration from the medical evidence also. Even the injuries, which were attributed to the petitioner, find corroboration from the medical evidence also. Thus, the trial Court had rightly ordered the summoning



of the petitioner as an additional accused, while exercising the jurisdiction under Section 319 Cr.P.C.

- 8. Finding no merits and the present revision petition is ordered to be dismissed.
- 9. Pending applications, if any, stand also disposed of, accordingly.

01.04.2026
hemlata

(N.S.SHEKHAWAT)
JUDGE

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