



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

128

CRR-1318-2026 (O&M)

Date of decision : 18.05.2026

Ismail & Anr.

..... Petitioners

VERSUS

State of Haryana & Anr.

..... Respondents

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present: Mr. Sahil Gupta, Advocate for the petitioners.

Mr. Ramender Singh Chauhan, AAG Haryana.

SURYA PARTAP SINGH, J. (Oral)

The challenge in this revision petition filed by the petitioners is to the order dated 09.04.2026, hereinafter being referred to as 'impugned order' only, passed by the Court of learned Sessions Judge Nuh, hereinafter being referred to as 'trial Court' only.

2. In nut-shell, the facts emerging from record are that, that for the commission of offence punishable under Sections 148, 149, 323, 452, 506 of Indian Penal Code, vide FIR No.333 dated 04.06.2018, Police Station Sadar Nuh, District Nuh, a trial is in progress in the learned trial Court. In the abovementioned trial, an application under Section 319 Criminal Procedure Code was filed by the prosecution, seeking for summoning of additional accused, namely 'Ismail', 'Smt. Mubeena' and 'Smt. Samma'. However, the learned trial Court partly allowed the abovementioned application qua 'Ismail' and 'Samma' only. The above-named two persons, namely 'Ismail' and 'Samma', who have been summoned as additional accused, are aggrieved of the abovementioned order. Hence, the present petition.



3. Heard.

4. **Notice of motion qua respondent No.1 only.**

5. Mr. Ramender Singh Chauhan, AAG Haryana appears on behalf of respondent-State. Hence service of notice upon the State is hereby dispensed with

6. It has been contended by learned counsel for the petitioners that instant case is a case of version and cross-version, and that at the initial stage itself, by concocting a false story, the complainant had mentioned the name of the petitioners in the FIR, but a fair investigation was conducted by the Investigating Agency and it was found that the allegations of complainant with regard to involvement of petitioners and 'Smt. Mubeena' were false and thus, the Investigating Agency did not prosecute the petitioners and 'Smt. Mubeena', but during the course of trial, once the statement of eye-witness/ complainant was recorded, an application under Section 319 CrPC was moved by the prosecution for summoning of petitioners and 'Smt. Mubeena' as additional accused.

7. It has also been contended by learned counsel for the petitioners that at the stage, when the application under Section 319 CrPC was moved, the learned trial Court was not inclined to exercise the discretion, rather on that day, the decision on the abovementioned application was deferred till the recording of statement of Investigating Officer. According to learned counsel for the petitioners, after the recording of statement of Investigating Officer, the abovementioned application was considered and partly allowed.



8. With regard to abovementioned order, it has been contended by learned counsel for the petitioners that the impugned order has been passed without application of judicial mind, and without looking into the fact that the roles attributed to all the three persons, who were sought to be summoned as additional accused, were similar, but out of three only two have been summoned as additional accused.

9. It has also been contended by learned counsel for the petitioners that on the basis of sole testimony of the complainant, the learned trial Court was not inclined to allow the application under Section 319 CrPC, and that is why, it deferred the consideration on the application till the recording of statement of Investigating Officer. As per learned counsel for the petitioner, in the statement of Investigating Officer, no new material had come on record and thus, there was no occasion for the learned trial Court to summon petitioners as additional accused. It has also been contended by learned counsel for the petitioners that the learned trial Court has also ignored the fact that in the fair investigating, the Investigating Agency had exonerated the present petitioners including 'Smt. Mubeena'. According to learned counsel for the petitioners, the petitioner No.1 'Ismail' is 81-year-old person, whereas the petitioner No.2 'Smt. Samma' at the time of alleged offence was eight-month pregnant, and therefore, active participation of petitioners were not practically possible.

10. It has also been contended by learned counsel for the petitioners that the relevant law has not been taken into consideration and the learned trial Court has ignored this principle of law, that unless some additional material is brought on record, the discretion to summon additional accused



under Section 319 CrPC should not be exercised. In view of above, it has been argued by learned counsel for the petitioners that there was no additional material available with the learned trial Court at the time of allowing the abovementioned application and therefore, the impugned order is not in conformity with law. As per learned counsel for the petitioners, there is need for indulgence and interference in the impugned order.

11. In view of abovementioned arguments, the learned counsel for the petitioners has sought for accepting the present petition and set aside the impugned order.

12. The abovementioned arguments have been controverted by the learned State Counsel. It has been contended by learned State Counsel that the impugned order is a well-reasoned order, passed by the learned trial Court after appreciating all the facts and circumstances. According to learned State Counsel, a bare perusal of impugned order shows that the learned trial Court has duly appreciated this fact, that not only the statements recorded by the Investigating Agency under Section 161 CrPC, but also in the statement recorded before the learned trial Court, it has been specifically stated/deposed by the complainant that the petitioners were involved in the commission of crime.

13. As per learned State Counsel, since on proper appreciation of evidence a right conclusion has been drawn by the learned trial Court, there is no scope for indulgence and interference in the impugned order. According to learned State Counsel, the present petition is devoid of merit and deserves dismissal.



14. The record has been perused carefully.

15. At the very outset, it is pertinent to mention here that the jurisdiction vested under Section 319 CrPC has been invoked by the learned trial Court at the stage when the case was fixed for prosecution evidence. At the time of disposal of abovementioned application, the statements recorded by the Investigating Officer during the course of investigation as well as during the course of trial have been considered. Precisely speaking the following observations were recorded by the learned trial Court:-

“From the evidence on record, it emerges that specific overt acts have been attributed to accused Ismail and Samma. Their involvement is duly corroborated by the medico-legal reports (MRs) of injured persons, namely Sabnam and Abdul Rajjak. The testimonies of PW-8 and PW-9 inspire confidence at this stage and provide substantive support to the allegations against the said persons.

In view of the settled legal position governing the exercise of powers for summoning additional accused, and applying the ratio of the relevant judicial precedents, this Court is satisfied that there exists sufficient material on record, which is more than a mere prima facie case, to proceed against Samma wife of Noman and Ismail son of Ibrahim. Accordingly, both are ordered to be summoned as additional accused for the commission of offences punishable under Sections 323, 452, 326, 506 read with Section 34 of the Indian Penal Code.

However, with regard to Mubeena wife of Usman, a different conclusion is warranted. Though the complainant in complaint Ex. P-1 has alleged that Mubeena, along with Samma, inflicted lathi and stone blows upon her daughter Sabnam, the said allegation does not find support from the subsequent evidence.



Notably, Sabnam, in her statement recorded under Section 161 Cr.P.C., as well as in her deposition before the Court, has not attributed any injury or overt act to Mubeena. On the contrary, she has specifically stated that the stone blow on her right hand was inflicted by Samma alone. In the absence of any corroboration or specific attribution of injury to Mubeena in the material evidence available on record, this Court finds that there is no sufficient ground to summon Mubeena as an additional accused at this stage.

16. Here it shall not be out of place to mention that the guiding principles for summoning of additional accused by invoking jurisdiction under Section 319 CrPC have been laid down by the Hon'ble Supreme Court of India in the case of 'Hardeep Singh V/s State of Punjab & Ors.' 2014(1) RCR (Crl) 623. In the abovementioned case, it has been observed that 'a person not named in the FIR or a person though named in the FIR has not been charge sheeted or a person who has been discharged, can be summoned under Section 319 CrPC, provided from the evidence it appears that such person can be tried along with accused already facing trial. It was also held that 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 the different. The Hon'ble Supreme Court also held that there must be prima facie evidence against such persons to summon them as additional accused'.

17. With regard to present case, the principles laid down in the case of 'Sukhpal Singh Khaira V/s State of Punjab' (2023) 1 SCC 289, are relevant. In the abovementioned case, it has been observed that 'the power bestowed on the court is to the effect that in the course of an inquiry into, or



the 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’.

18. Similarly in the case of ‘Babubhai Bhimabhia Bokhiria & Anr. V/s State of Gujarat & Anr.’ 2014(2) RCR (CrI) 915, the Hon’ble Supreme Court of India has observed that ‘a person can be summoned under Section 319 CrPC only where there is strong and cogent evidence against such person led before the Court. 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’.

19. A perusal of record shows that by deep analysis of the material available on record, a proper conclusion has been drawn by the learned trial Court qua the fact that there is sufficient evidence to draw an inference that the petitioners are involved in the commission of crime and therefore, they should be summoned to face the trial.

20. In view of the fact that a discretion vested in the Court has been rightly exercised in a proper and judicious manner, it is hereby observed that there is no scope for indulgence and interference in the impugned order and the present revision petition is devoid of merit.

21. Accordingly, finding no merit, the present petition is hereby ***dismissed***, accordingly.



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

(SURYA PARTAP SINGH)
JUDGE

18.05.2026

Gaurav Thakur

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No