

2026:PHHC:088319



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

101

CRR 1800 of 2021 (O&M)**Reserved on:-22.04.2026****Date of Decision:01.07.2026****Uploaded on:-03.07.2026**

Rajbir Singh and others

...Petitioner (s)

Vs.

State of Haryana and another

...Respondent(s)

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

Present: Mr. Sunil Panwar, Senior Advocate with
Mr. Dhruv Singh, Advocate and
Ms. Tejaswini, Advocate
for petitioners.

Mr. Rajinder Kumar Banku, Senior DAG, Haryana.

Mr. Pranav Chadha, Advocate (Legal Aid Counsel) and
Mr. J.S. Virk, Advocate
for respondent No.2 .

N.S.SHEKHAWAT, J. (Oral)

1. The petitioners have filed the present revision petition challenging the impugned order dated 20.08.2021 passed by the Court of Additional Sessions Judge, Panipat, whereby the application filed by respondent No.2/complainant under Section 319 Cr.P.C. was allowed and the petitioners were summoned as additional accused to face trial for the offence punishable under Section 304 IPC.

2. Learned senior counsel appearing on behalf of the petitioners submitted that the FIR in the present case was registered on the basis of a written complaint submitted by Kawaljeet Singh,

respondent No.2, who is the brother of Amarjit Singh (since deceased).

The said complaint has been reproduced below:-

*“To the Superintendent of Police, District Panipat.
Subject:- Complaint for taking strict legal action against
accused policemen, Sajjan Singh, Sandeep Singh and two
other policemen for having killed my brother Amarjit Singh
by giving merciless beating, without reason. Sir, it is
submitted that I, Kawaljeet S/o Sh. Dhoop Singh am
permanent resident of Rajiv Colony, Street No.6, Panipat. I
reside at the above address alongwith my brother Amarjit,
his wife Laltesh and other members of my family. Today, on
14.09.11, at about 3.00 PM, some hot exchanges took place
between my brother Amarjit and his wife Laltesh on some
domestic affairs, whereupon my sister-in-law Laltesh, to
create drama for my brother Amarjit, made a phone call at
Police Control Room No.100 and consequently two
policemen came to my house at Rajiv Colony after some
time. Their names are Sajjan Singh and Sandeep. Those
policemen, without asking anything from my brother
Amarjit, forcibly held his hands behind and started giving
merciless beatings by kick and fist blows, in our presence.
This occurrence has been witnessed by me and my sister-in-
law Laltesh with our own eyes. Policeman Sajjan Singh did
not stop beating my brother Amarjit in spite of our repeated
requests to stop doing so. After this, both the above
mentioned policemen Sajjan and Sandeep made phone call
and called two other unknown policemen to our house, who
can be identified by me upon being produced before me
again. All those four policemen gave beating to my brother
Amarjit. Thereafter, all the above policemen took my
brother Amarjit on their motorcycle to the Police Post
Quila. I and my sister-in-law Laltesh followed them to the
Police Post Quila, to enquire about Amarjit, where all the*

above policemen and other police officials, whom I can recognise on being brought before me, in our sight and despite our stopping them, gave beating to my brother Amarjit. Policeman Sajjan Singh gave two three forcible kick blows on the private parts of my brother Amarjit, within our sight. After this, on account of the condition of my brother Amarjit having become serious, the police persons, to protect themselves, forcibly made my sister-in-law Laltesh to sit in Police Post Quila and sign an application and also obtained her signatures on some other blank papers. After this, policemen Sajjan, Sandeep took my brother Amarjit, within our sight, to Civil Hospital Panipat. We also reached Civil Hospital along with them, where the doctors of emergency ward of Civil Hospital declared my brother Amarjit to have been brought dead. Abovementioned policemen Sajjan Singh, Sandeep and other unknown policemen of Police Post Quila have killed my brother Amarjit by keeping him in illegal detention, without any reason. Therefore, you are requested that a case be registered against the policemen responsible for the death of my brother Amarjit and they be got awarded the strictest punishment. We have full faith that the accused policemen, by colluding with the officials/ doctors of Civil Hospital, Panipat, may conceal or destroy the real reasons of death, in the post mortem report. Therefore, you are also requested that the post mortem of my deceased brother Amarjit Singh be got conducted from the panel/ board of doctors of PGI Rohtak so that the real cause of death of my brother Amarjit Singh may become known so that the accused may get the strictest punishment. Dated 14.09.11 Complainant Kawaljeet S/o Dhoop Singh, Rajiv Colony, Panipat.”

3. Learned senior counsel appearing on behalf of the petitioners argued that, in fact, on receipt of a telephonic information in Police Control Room, Panipat, Police Post, Quila, Panipat, was informed that a dispute had taken place between Mrs. Laltesh, complainant, and her husband, Amarjit Singh. Amarjit Singh had been taking liquor since morning and was beating up his wife and two minor daughters and was also violently throwing domestic articles. At 04.15 p.m. on 14.09.2011, in the *roznamcha* in Police Post, Quila, EHC, Sajjan Singh and Constable Sandeep Kumar reached at the spot. They found Amarjit Singh under the influence of liquor and he was very violent and they were not able to control him also. Consequently, in order to shift him to the police post, two more policemen, namely, Constable Rajender Kumar and EHC Suresh Kumar, were also called from the police post for help. In the meantime, Amarjit Singh not only caused injuries to the above two policemen, but he became more aggressive, and the four policemen took him to the police post. However, on account of his deteriorating condition, he was taken to Civil Hospital, Panipat, where he was declared brought dead at 06:40 p.m. on 14th September, 2011.

4. Learned senior counsel further submitted that initially the FIR was ordered to be registered against the above said four police officials. However, later the investigation was transferred to State Crime Branch, Haryana, Madhuban, and the statements of Smt. Laltesh, wife of deceased, and the neighbourers present at the spot were also recorded. After collecting the evidence and material during investigation, an untrace report was filed by the police in the present case. However,

respondent No.2 filed a protest petition, which was treated as a complaint in the present case. During the preliminary evidence, the respondent No.2 appeared as CW1 and also examined 20 other witnesses, including the doctors. However, vide the impugned order dated 12th March 2018 (Annexure P-2), the Court of Judicial Magistrate First Class only summoned EHC Sajjan Singh, Constable Sandeep Kumar, EHC Suresh Kumar, Constable Rajender Kumar and SI Prem Singh to face trial under Sections 304 and 34 IPC, and dismissed the complaint against the present petitioners, who were also arrayed as accused in the complaint by respondent No.2.

5. Learned senior counsel further submitted that thereafter, the complaint remained pending before the trial Court and the charge was ordered to be framed against four other summoned accused. During the course of trial, the statements of PW-1 Kamaljeet Singh, respondent No. 2, was recorded and, thereafter, present application under Section 319 C.r.P.C. was moved to summon the petitioners as additional accused in the present case. Vide the impugned summoning order dated 20.08.2021, the application was allowed wrongly and the petitioners were also summoned as additional accused to face trial before the trial Court. Learned senior counsel further vehemently argued that even in the initial complaint filed by respondent No.2, he had prayed for taking legal action against EHC Sajjan Singh, Constable Sandeep Kumar, EHC Suresh Kumar and Constable Rajender Kumar and no allegation was levelled against the present petitioners. Even, the matter was investigated by State Crime Branch, Madhuban, and the involvement of

the petitioners was not found in any manner. Apart from that, even, it was not found that the petitioners were present at the spot. The police had also recorded the statements of Smt. Laltesh, wife of the deceased, neighbourers, and the doctors, and the allegations against the petitioners were found to be false. Ultimately, an untrace report was presented before the Court of Judicial Magistrate, and the respondent No. 2 filed a protest petition. Even, during the course of preliminary evidence, the respondent No. 2 examined 21 witnesses and produced on record voluminous documentary evidence. However, even the Court of Judicial Magistrate First Class Panipat took into consideration the entire facts, evidence led by respondent No. 2, final report prepared by State Crime Branch Madhuban, preliminary evidence of 21 witnesses, and it was found that the petitioners had no concern with the alleged crime, and the complaint qua them was ordered to be dismissed. Consequently, during initial scrutiny by Judicial Magistrate First Class as well as during investigation, the respondent No. 2 could not lead any cogent evidence to prove the complicity of the petitioners in the crime.

6. Learned senior counsel further submitted that even after lodging of the FIR, the respondent No.2 filed a petition under Section 482 Cr.P.C. i.e. CRM-M 1945 of 2012, titled as ***“Kamaljeet Singh versus State of Haryana”***, and did not impute any role to the present petitioners and even did not pray for any action against them. During the pendency of the said petition, the status report was filed by the State of Haryana and the said case was withdrawn vide order dated 07.09.2012. Now, during the course of trial before the Sessions Court, the respondent No.2

appeared as PW1 and made considerable improvements in his own testimony and the petitioners have been wrongly summoned. Learned senior counsel further submitted that even the trial Court completely overlooked that there was sufficient digital and documentary evidence in the present case which clearly ruled out the presence of the petitioners at the place of alleged occurrence. Apart from that, even Amarjit Singh had not died because of the injuries caused in the incident, however, he died due to some other reasons. As per the FSL report, Ex. CW19/F, blood of the deceased was found to contain ethanol alcohol in the strength of 46%, which was itself sufficient to cause fatal consequence. Apart from that, as per the medical opinion, no injuries were found on the private parts of Amarjit Singh, since deceased, and the injuries were found to be of 24 to 40 hours prior to death. Thus, the prosecution case that the deceased had died due to injuries caused by police officials stood falsified in the present case. Apart from that, the trial Court had completely overlooked the law laid down by the Hon'ble Supreme Court while passing the impugned order. Even, the trial Court had wrongly placed reliance on the report prepared by CJM Panipat while summoning the petitioners in the present case. Also, there was insufficient evidence on record to invoke the extraordinary powers under Section 319 Cr.P.C. by the trial Court, and the impugned order is legally unsustainable.

7. On the other hand, learned counsel appearing on behalf of respondent No. 2 vehemently opposed the submissions made by learned counsel for the petitioners and has referred to the evidence led by

respondent No. 2 in detail. Learned counsel referred to the statement of PW1 Kawaljeet Singh (Annexure P-4) to contend that the petitioners had also caused injuries to the deceased and he had died due to injuries caused by the petitioners and their co-accused. Learned counsel further submitted that even the CJM Panipat had conducted the initial inquiry in the matter and had come to the conclusion that deceased had died due to the injuries caused by the police officials and the petitioners have been rightly summoned by the trial Court.

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

9. This Court has held in the matter of **Anita and another versus State of Punjab and another, 2026 NCPHHC 49650**, as under:-

“6.The Hon’ble Supreme Court, while discussing the powers under Section 319 CrPC held in the matter of “Hardeep Singh v. State of Punjab, (2014) 3 SCC 92 as follows:-

“105. Power under Section 319 CrPC is a discretionary and an extraordinary 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. In Section 319 Cr.P.C. the purpose of providing if 'it appears from the evidence that any person not being the accused has committed any offence' is clear from the words 'for which such person could be tried together with the accused'. The words used are not 'for which such person could be convicted'. There is, therefore, no scope for the court acting under Section 319 CrPC to form any opinion as to the guilt of the accused."

7. Still further, the Hon'ble Supreme Court has held in the matter of "Omi @ Omkar Rathore & Anr. v. State of Madhya Pradesh & Anr., SLP (Crl.) No.(s) 17781 of 2024 held that the powers under Section 319 Cr.P.C. empowers the trial court to summon persons to face trial, even they were not named in the charge-sheet, however, this power has to be exercised extraordinarily and must be exercised sparingly and not in a casual manner and held as follows:-

"21. The principles of law as regards Section 319 of the Cr.P.C. may be summarised as under:

a. On a careful reading of Section 319 of the Cr.P.C. as well as the aforesaid two decisions, it becomes clear that the trial court has undoubted jurisdiction to add any person not being the accused before it to face the trial along with other accused persons, if the Court is satisfied at any stage of the proceedings on the evidence adduced that the persons who have not been arrayed as accused should face the trial. It is further evident that such person even though had initially been named in the F.I.R. as an accused, but not charge sheeted, can also be added to face the trial.

b. The trial court can take such a step to add such persons as accused only on the basis of evidence adduced before it and not on the basis of materials available in the chargesheet or the case diary, because such materials contained in the charge sheet or the case diary do not constitute evidence.

c. The power of the court under Section 319 of the Cr.P.C. is not controlled or governed by naming or not naming of the person concerned in the FIR. Nor the same is dependent upon submission of the chargesheet by the police against the person concerned. As regards the contention that the phrase 'any person not being the accused' occurred in Section 319 excludes from its operation an accused who has been released by the police under Section 169 of the Code and has been shown in column No. 2 of the charge sheet, the contention has merely to be stated to be rejected. The said expression clearly covers any person who is not being tried already by the Court and the very purpose of enacting such a provision like Section 319(1) clearly shows that even persons who have been dropped by the police during investigation but against whom evidence showing their involvement in the offence comes before the Criminal Court are included in the said expression.

d. It would not be proper for the trial court to reject the application for addition of new accused by considering records of the Investigating Officer. When the evidence of complainant is found to be worthy of acceptance then the satisfaction of the Investigating Officer hardly matters. If satisfaction of Investigating Officer is to be treated as determinative then the purpose of Section 319 would be frustrated”.

10. From the above referred principles of law, it is clear that power under Section 319 Cr.P.C. is a discretionary and an extraordinary

power. It has to be exercised sparingly and only in those cases where the trial Court is of the opinion that some other person may also be guilty of committing that offence. The power under section 319 Cr.P.C. has to be exercised only when strong and cogent evidence appears against a person who was not arrayed as accused before the trial Court. Still further, the Hon'ble Supreme Court in the matter of ***Hardeep Singh versus State of Punjab***, (supra), categorically held that for exercising the power under Section 319 Cr.P.C., much stronger evidence than mere possibility of complicity is required. The test that has to be applied is one which is more than a *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.

11. In the present case, in the considered opinion of the Court, the trial Court had clearly overlooked the mandate of the law as laid down in the matter of ***Hardeep Singh versus State of Punjab***, (supra). The trial Court clearly failed to appreciate that in the first version itself, the respondent No.2, complainant, had leveled allegations only against four co-accused, namely, EHC Sajjan Singh, Constable Sandeep Kumar, EHC Suresh Kumar and Constable Rajender Kumar, who allegedly reached at the spot and had caused injuries to the deceased. Even, the respondent No.2 filed Criminal Miscellaneous No. CRM-M-1945 of 2012 (Annexure P-1), before this Court seeking fair investigation in the present case and to take action against the aforesaid four police officials only. In the detailed petition (Annexure P-1), filed by respondent No.2, he did not level any allegation against the present petitioners. After the

investigation was concluded, the police prepared an untrace report in the present case. Thereafter, respondent No.2 filed a protest petition and, during preliminary evidence, he produced 21 witnesses and also placed on record several documents. However, even after considering the preliminary evidence, the Judicial Magistrate First Class dismissed the complaint qua the present petitioners and it was found that there was insufficient evidence to even summon the petitioners as accused in the present case. Now, during the course of trial also, the same statement of the complainant, respondent No.2, has been recorded by the Sessions Court, which was already found insufficient for summoning the petitioners as accused in the present case. Apart from that, even while summoning the petitioners as additional accused, the trial Court relied upon the copy of the initial inquiry report prepared by the CJM Panipat on 31.12.2011. In fact, the report prepared by the Chief Judicial Magistrate Panipat was already on record before the Judicial Magistrate First Class as well as the Sessions Court and the CJM again found that Constable Sandeep Singh, EHC Sajjan Singh, Constable Rajender Singh, and EHC Suresh Kumar, and the deceased was given severe beatings by police officials in the presence of Chowki Incharge, i.e., SI Prem Singh. Even, the report prepared by CJM Panipat clearly exonerated the petitioners, and the same report was relied upon by the trial Court to summon the petitioners as additional accused in the present case. Apart from that, even the trial Court had failed to apply the test as propounded by the Hon'ble Supreme Court in the matter of *“Hardeep Singh versus State of Punjab”*, (*supra*), and *Omi alias Omkar Rathore*

and another versus State of Madhya Pradesh and another, (supra), and *Juhru versus Karim*, 2023, 5 SCC 406. Apart from that, even the prosecution has relied upon the statement of PW1, Kawaljeet Singh, and the report of CJM Panipat, which were insufficient to order the summoning of the petitioners during trial. Apart from that, there was no sufficient evidence which could suggest that the petitioners were liable to be summoned by the trial Court while exercising the power under Section 319 Cr.P.C.

12. In view of the above discussion, the present revision petition is allowed and the summoning order dated 20.08.2021 passed by the Additional Sessions Judge, Panipat, is ordered to be set aside qua the petitioners only.

13. Pending applications, if any, stand also disposed of, accordingly.

01.07.2026		(N.S.SHEKHAWAT)
amit rana		JUDGE
	Whether reasoned/speaking	: Yes/No
	Whether reportable	: Yes/No