

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

CRR-2003-2025 (O&M)

Date of Reserved: 11.02.2026

Date of Pronouncement: 18.03.2026.

Kavita

...Petitioner.

Versus

State of Haryana and another

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Argued by: Mr. Rajesh Bansal, Advocate and
Mr. Anuj Mahla, Advocate and
Mr. Jaswant Singh, Advocate
for the petitioner.

Mr. R.K. Singla, Addl. A.G., Haryana.

Mr. Divya Singh, Advocate
for respondent No.2.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 06.05.2025 passed by learned Additional Sessions Judge, vide which the petitioner has been summoned as an additional accused under Section 319 Cr.P.C. and against the impugned order dated 18.07.2025, vide which charges under Section 420, 447 of IPC and Section 3 of SC/ST Act were framed against the petitioner.

2. The brief facts relevant for the adjudication of the present revision petition are that the petitioner got registered FIR No.83 dated 09.07.2020, under Sections 420, 447, 506, 34 IPC and Section 3 of Sc/ST

Act registered against the petitioner and her husband Bijender Singh alleging that she belongs to Balmiki (Scheduled Caste) whereas accused belongs to Jaat Caste, who often used to come to meet complainant's husband. He asked the complainant and her husband to take loan from the bank for setting up fish farm and offered to give his land on concessional price for the fish farm. Complainant purchased 2 kanal 2 marlas land from agricultural land of accused/ Bijender on 04.02.2019 for Rs.8,27,000/-. Complainant is the sole proprietor of her firm and she moved application in the Bank of India, Kutani Branch for taking loan for fisheries in the name of her firm M/s Nima Enterprise village Nimbri post office Risalu, District Panipat. Bank sanctioned CC limit of Rs.20,00,000/- and term loan of Rs.10,00,000/- for fisheries in the name of aforesaid firm. Land of accused was adjacent to the above said plot and he told the complainant and her husband to expand the work of fisheries and gave assurance that whatever amount would be invested in the business for expansion, in the same ratio the income from the business would be distributed. Complainant gave complete detail of expenses of Rs.30,00,000/- to the accused. Accused deposited only four installments of Rs.30,000/- and one installment of Rs.80,000/- of the bank loan and after some days took possession of the complete business of complainant and illegally ousted the complainant and her husband Manoj from the fish farm. Accused had set up their new firm Panipat Fishring parallel to her firm and started doing whole transaction of above mentioned firm from their firm. On 19.03.2020, complainant and her husband received notice from Bank of India regarding non payment of installments and non maintaining the account and when they told the

accused regarding the same he did not listen to them and insulted the complainant and her husband in the village publically by abusing them by caste and forcibly ousted them from the entire business as they belong to poor Scheduled Caste. On 10.06.2020 at about 8:30 A.M. complainant and her son Himanshu went to the house of the accused to talk about this matter, but accused and his wife ousted the complainant and his son from the house by abusing them by caste and when complainant and her son came in the street then also accused Bijender and his wife came in the street and abused them by caste while threatening them asked them to run away otherwise, they would be killed. In the meantime, husband of complainant Manoj and many persons of the village came at the spot and then also accused and his wife insulted the complainant and the husband of complainant and their son Himanshu by abusing them by their caste. On the basis of the aforesaid facts the present FIR was registered.

3. After registration of the FIR the investigation proceedings were initiated. During investigation, the petitioner was found to be innocent and she was not challaned and she was placed in column No.2 of the challan report and challan was presented only against accused Bijender.

4. During trial complainant appeared as PW1 before the trial Court and after her examination-in-chief recorded on 18.09.2023 complainant moved an application under Section 319 Cr.P.C. for summoning of petitioner as an additional accused. Learned trial Court vide impugned order dated 06.05.2025 summoned the petitioner as an additional accused to face trial along with accused Bijender and subsequently framed charges against the petitioner vide order dated 18.07.2025.

5. Aggrieved of the said decisions, the petitioner has approached this Court by way of present Revision Petition.

6. Learned counsel for the petitioner contended that the investigating agency had found the petitioner to be innocent. In the course of the trial, no such material came on record, which could justify summoning of the petitioner as an additional accused and to link the petitioner with the alleged incident. He further contended that the complainant just reiterated her earlier version given at the time of registration of FIR and no new material came on record to summon the petitioner. He argued that there is civil dispute between the parties and the complainant with an intention to avoid payment of Rs.11,78,338 to the husband of the petitioner falsely got registered this case. The present FIR against the petitioner and her husband is a counter blast to the legal notice dated 21.01.2020 and complaint dated 21.01.2020 just to pressurize and to harass the petitioner and her husband, so that her husband would not ask for Rs.11,78,338/- and they could grab 2 kanals 2 marlas of land of the petitioner without paying any sale consideration to the husband of the petitioner. In support of his contentions, he placed reliance upon **Daljeet Singh Vs. State of Punjab, 2016(2), Law Herald (P&H), 1434; Smt. Sushil Soni Vs. State of Haryana and others, 2016(2), Law Herald (P&H), 1409; Babubhai Bhimabhai Bokhiria and another Vs. State of Gujarat and others, 2014(2) Law Herald (SC), 1197 and Jain Singh Vs. State of Haryana and others, 2016(2) Law Herald (P&H), 1459.** He urged that as the impugned orders suffer from material irregularity and illegality, so the aforesaid orders be set aside.

7. Per contra, learned State counsel assisted by counsel for

complainant/ respondent No.2 contended that there is no illegality or infirmity in the impugned orders. Statement of the complainant recorded in the trial Court is sufficient to connect the petitioner with the offence in the present case. In support of his contentions, he placed reliance upon **Saeeda Khatoon Arshi Vs. State of U.P. and another, 2020(2) SCC 323; S. Mohammed Ispahani Vs. Yogendra Chandak and others, 2017(16) SCC 226** and **Y. Saraba Reddy Vs. Puthur Rami Reddy and another, 2007(2), R.C.R (Criminal) 1014**. He submitted that the present petition is devoid of any merits and is liable to be dismissed.

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

8. It is clear from Section 319 Cr.P.C., that power under Section 319 Cr.P.C. can be exercised by the trial Court at any stage, during trial to summon any person as an accused to face the trial, if it appears from the evidence that such person has committed any offence for which such person could be tried together with the accused.

9. Illuminating the scope of Section 319 Cr.P.C., the Constitution Bench of this Court in **Hardeep Singh Vs. State of Punjab (2014) 3 SCC 92**, laid down that:-

*“105. Power under **Section 319** Cr.P.C. is a discretionary and an extra- ordinary 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 unrebutted, 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 Cr.P.C.](#) to form any opinion as to the guilt of the accused.”

10. Recently in **Sukhpal Singh Khaira Vs. The State of Punjab (2023) 1 SCC 289**, Hon'ble Supreme Court ruled that:-

(i) if the competent court finds evidence or if application under Section 319 Cr.P.C. is filed, regarding involvement of any other person in committing the offence based on evidence “recorded at any stage in the trial” before passing of the order on acquittal or sentence, it shall pause the trial at that stage and the Court shall proceed to decide the fate of the application under Section 319 Cr.P.C.;

(ii) if the Court decides to summon an accused under Section 319 Cr.P.C., such summoning order shall be passed before proceeding further with the trial in the main case and depending upon the stage at which the order is passed, the Trial Court shall apply its mind to the fact as to whether such summoned accused is to be

tried along with other accused or separately; and

(iii) if the power under Section 319 Cr.P.C. is not invoked or exercised in the main trial till its conclusion and if there is a split-up case, such power can be invoked or exercised only if there is evidence to that effect, pointing to the involvement of the additional accused to be summoned in the split-up (bifurcated trial).”

11. Thus, it has been held by Hon'ble Apex Court that the power under Section 319 Cr.P.C., is to be exercised by the Court if there is strong and cogent evidence against a person. This power cannot be exercised in a casual and cavalier manner and the test to be applied is one which is more than prima facie case which is applied at the time of framing of charges, but short of satisfaction to an extent that the evidence, if goes unrebutted, would lead to conviction.

12. In **Brijendra Singh and others Vs. State of Rajasthan, 2017(3) R.C.R. (Criminal), 374**, Hon'ble Supreme Court held that:-

“11. In Hardeep Singh’s case, the Constitution Bench has also settled the controversy on the issue as to whether the word ‘evidence’ used in [Section 319\(1\) Cr.P.C.](#) has been used in a comprehensive sense and indicates the evidence collected during investigation or the word ‘evidence’ is limited to the evidence recorded during trial. It is held that it is that material, after cognizance is taken by the Court, that is available to it while making an inquiry into or trying an offence, which the court can utilise or take into consideration for supporting reasons to summon any person on the basis of evidence adduced before the Court. The word ‘evidence’ has to be understood in its wider sense, both at the stage of trial and even at the stage of inquiry. It means that the power to proceed against any person after summoning him can be exercised on

the basis of any such material as brought forth before it. At the same time, this Court cautioned that the duty and obligation of the Court becomes more onerous to invoke such powers consciously on such material after evidence has been led during trial. The Court also clarified that ‘evidence’ under [Section 319 Cr.P.C.](#) could even be examination-in-chief and the Court is not required to wait till such evidence is tested on cross-examination, as it is the satisfaction of the Court which can be gathered from the reasons recorded by the Court in respect of complicity of some other person(s) not facing trial in the offence.”

13. Now adverting to the present case, though the petitioner had been named by the complainant in the FIR by levelling the allegations that she along with her husband abused the complainant, her husband and son by their caste, but during the investigation, she was found to be innocent and as such she was not challaned by the Investigating Officer. In the reply submitted by the State, it has been alleged as under:-

“That the investigation of the case was got conducted in fair and impartial manner exploring every aspect of the incident. During investigation, the facts and circumstances of the case were verified by Sh. Virender Singh, HPS, The then Deputy Superintendent of Police, City, Panipat. Various respectables of the society and persons living around the area were joined in the investigation of case including (i) Satender s/o Sarbir Singh (ii) Amit s/o Ram Kishan (iii) Kuldeep Chauhan s/o Surajbhan (iv) Jagjiwan Ram s/o Prem Singh (v) Rajesh s/o Gulab (vi) Sonu s/o Dalel Singh (vii) Surjeet Singh s/o Jagir Singh (viii) Deepak S/o Rajbir (ix) Neeraj s/o Balbir Singh (x) Anil s/o Prem Singh and their statement under Section 161 Cr.P.C. were recorded. They also tendered their duly sworn affidavits in this regard. They got recorded their statement in unison that Kavita (petitioner) is innocent, she is not involved in the incident in

any manner and that the accused persons had not used any caste based abuses for the complainant. Hence, the present petitioner was found to be innocent in the present case.”

14. After investigation no further evidence or material is available on record to link the petitioner with the alleged incident. The complainant while suffering statement before the trial Court has reiterated her earlier version made at the time of registration of the FIR. Summoning order of the petitioner is solely based on the deposition of the complainant. Mere disclosing the name of the petitioner by the complainant cannot be said to be a strong and cogent evidence to make her stand trial. The trial Court went only by deposition of complainant in her examination-in-chief, with no other material to support her verbal/ ocular version, thus the evidence recorded during trial was nothing more than the statement which was already there under Section 161 Cr.P.C., recorded at the initial stage of the investigation. Undoubtedly, the trial Court would be competent to exercise its power even on the basis of such statements recorded before it in examination-in-chief. However, in a case like the present where elaborate evidence was collected by the Investigating Officer, during investigation and recorded statement of several persons before finding the petitioner innocent, the trial Court was also to look into the same while forming prima facie opinion and to see as to whether much stronger evidence than mere possibility of petitioner's complicity has come on record. No such satisfaction has been recorded by the trial Court.

15. Thus, merely for the reason that the petitioner has been named by the complainant, the power under Section 319 Cr.P.C. cannot be exercised and the evidence on record not satisfies test of more than prima

facie case.

16. In view of above, this Court is of the considered opinion that the impugned order, whereby the petitioner had been summoned to face trial as an additional accused under Section 319 Cr.P.C. is liable to be set aside. Accordingly, the present petition is allowed. The impugned summoning order along with all subsequent proceedings are hereby set aside.

17. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

18.03.2026.

komal

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