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

**CRR No.2185 of 2025 (O&M)  
Date of Decision: 30.01.2026**

Roshan Lal

... Petitioner

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Nikhil Ghai, Advocate,  
for the petitioner.

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**MANISHA BATRA, J. (Oral)**

1. The prayer in this revision petition has been made by the petitioner for quashing the order dated 06.06.2025 passed by the Court of learned Additional Sessions Judge, Panipat in case arising out of FIR No.165 dated 08.04.2022 registered under Sections 148, 149, 302, 307, 323 and 34 of IPC and Sections 25 and 27 of Arms Act, 1959 at Police Station Industrial Sector-29, Panipat, District Panipat, whereby an application filed by him for summoning ten persons as named in the application as additional accused, has been dismissed.

2. Brief facts relevant for the purpose of this petition are that the aforementioned FIR had been registered on the basis of a complaint submitted by the petitioner-complainant on 07.04.2022 alleging that on the same evening, he along with his younger brother Sandeep was going

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to water his Shimla Gujranwala fields and when they reached near the house of one Teelu, they noticed that his younger brother Sonu was going towards his house in a tractor trolley and accused Ritik was going in a tractor towards the fields. A verbal altercation took place between Sonu and Ritik. Within the presence of the complainant, accused Ritik made a call on his phone to his father Brahampal and shortly thereafter, the accused Brahampal along with several other persons reached at the spot. He was carrying a licensed pistol and fired a shot with the same thereby hitting the chest of his younger brother Sandeep. Accused Sachin also fired a shot with intent to kill the complainant. Ompal also fired a shot with a firearm upon Sandeep. Pardeep and Parveen were armed with countrymade pistols and fired in the air. The remaining assailants accompanying the above accused were also armed with various weapons and they caused injuries on the person of family members of the complainant. Sandeep succumbed to the injuries sustained by him and had died. After registration of FIR, investigation proceedings were initiated. Usha, Pinki, Monika, Ompal, Pardeep and Satish who were named by the complainant were, however, found to be innocent as they were not present at the spot at the time of occurrence whereas accused Ritik, Mahipal and Brahampal were arrested. After completion of investigation, challan was presented against them.

3. As revealed from the record, during the course of trial, the complainant Roshan appeared as PW-1. Thereafter application had been filed by the petitioner/state for summoning ten persons namely, Ompal,

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Naresh, Pardeep, Parveen, Sachin, Anita, Usha, Saroj, Pinki and Monika as additional accused. This application had been dismissed by the Court of learned Additional Sessions Judge, Panipat vide order dated 06.06.2025. Feeling aggrieved, the present petition has been filed.

4. It is argued by learned counsel for the petitioner that the impugned order as passed by the learned trial Court is not sustainable in the eyes of law as while passing the same, the learned trial Court did not appreciate the material available on record in a proper manner. The fact that the proposed accused were named in the FIR and there were direct allegations against them, had not been considered. The allegations in the FIR have been corroborated by the sworn deposition of the petitioner as recorded in the Court. The learned trial Court did not apply its judicious mind. It is, therefore, argued that the impugned order is liable to be set aside, the present petition deserves to be allowed and the application filed by the petitioner under Section 319 of Cr.P.C. also deserves to be allowed.

5. This Court has heard learned counsel for the petitioner at considerable length and has gone through the material placed on record carefully.

6. Section 319 of Cr.P.C. empowers the Court to add any person, not being the accused before it, but against whom there appears during trial sufficient evidence indicating his involvement in the offence, as an accused and direct him to be tried along with other accused. The principle of law with reference to exercise of jurisdiction under this Section has been well

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settled by the Constitution Bench of Hon'ble Supreme Court in a celebrated pronouncement cited as **Hardeep Singh and others Vs. State of Punjab and others**, (2014) 3 SCC 92, wherein it was observed that the power under Section 319 Cr.P.C. is discretionary and an extraordinary power. 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 material placed before the Court that such power should be exercised and not in a casual and cavalier manner. It was also observed 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 strong evidence than mere probability of his complicity. The test that has to be applied is one which is more than prima facie case as has been established 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 of Cr.P.C.

7. Reference can also have made to another pronouncement of Hon'ble Supreme Court cited as **Sagar Vs. State of UP and another**, (2022) 6 SCC 389 wherein it was observed as under:-

*“ The Constitution Bench has given a caution that power under Section 319 of the Code is a discretionary and extraordinary power which should be exercised sparingly and only in those cases where*

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*the circumstances of the case so warrant and the crucial test as noticed above 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....”*

8. It is also well settled proposition of law that an order under Section 319 of the Cr.P.C. should not be passed only because the first informant or one of the witnesses seeks to implicate other person(s). Sufficient and cogent reasons are required to be assigned by the Court so as to satisfy the ingredients of the provisions. Mere ipse dixit would not serve the purpose. The evidence must be convincing one at least for the purpose of exercise of the extraordinary jurisdiction and for this purpose, the Courts are required to apply stringent tests, one of such tests being whether evidence on record is such which would reasonably lead to conviction of the person sought to be summoned.

9. On applying the principles of law as laid down in above cited cases to the peculiar facts of this case, it is found that the petitioner has placed on record Annexure P-3 a photocopy of sworn deposition recorded by the petitioner-complainant before the trial Court as PW-1. On a perusal of the same, it is undoubtedly revealed that he has deposed about the presence of the proposed accused at the time of occurrence and has also stated that the proposed accused Ompal had fired a shot with a dogra pistol upon him. The proposed accused Pardeep and Parveen were having countrymade pistols and the other proposed accused were having gandasas, swords and cutters.

He is also shown to have stated that the members of the accused party

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caused injuries to his uncle Rakam Singh, his cousin brother Sonu, Satbir and himself. His cross-examination is also shown to have been conducted on 11.08.2023 wherein he is shown to have admitted that the proposed accused Ompal, Pardeep and Parveen did not fire any shot from the weapon carried by them, the shot fired with a pistol by Sachin had not hit anyone and is also shown to have admitted that no one received any firearm injury. The learned trial Court after considering the fact coupled with the reason that the medico legal reports of the members of the victim party also did not show any injury sustained by any sharp edged weapon on their person, had observed that this fact was sufficient to suspect the presence of the proposed accused at the time of occurrence. On perusal of the sworn deposition of the petitioner, it is apparent that the facts as mentioned in the complaint were not in consonance with the medico legal report and the statement recorded by this witness attributing specific overt acts to the proposed accused and about their presence at the spot. On perusal of sworn deposition of the petitioner, it is explicit that from the evidence produced by him on record, no reasonable possibility of complicity of the proposed accused in the commission of subject offences had been made out what to say about some stronger evidence. The evidence so led by him cannot be considered to be cogent and strong evidence.

10. Mere reference about presence of the proposed accused at the spot at the time of occurrence would not justify taking cognizance against them. The proposed accused had been found to be innocent after conducting

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thorough investigation by the police and their names were kept in column No.2 of the challan report. No evidence what to say some stronger evidence of such nature has come on record in the form of testimony of the petitioner on the basis of which possibility of complicity of the proposed accused for commission of subject offences can be presumed. The allegations as levelled against them in the FIR and in the examination-in-chief of the petitioner stands contradicted during the course of his own cross-examination.

11. The material available on record would not justify taking cognizance against the proposed accused in the opinion of this Court especially in view of the fact that in such like matters, there is tendency to involve all members of family of the accused by the side of the victim. In the absence of any specific instances of involvement of accused in the crime for which the accused already arraigned are facing trial, this Court finds no reason to take a view other than the one that had been taken by the learned trial Court. Accordingly, finding no ground to interfere, the petition is dismissed.

12. Miscellaneous application(s), if any, also stand disposed of.

30.01.2026  
manju

(MANISHA BATRA)  
JUDGE

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No