



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

06

CRR No.2554 of 2023 (O&M)

Reserved on: 19.02.2026

Pronounced on: 25.02.2026

Chamkaur Singh

.....Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Santpal Singh Sidhu, Sr. Advocate with
Mr. Deepdaman Singh Maan, Advocate
for the petitioner.

Mr. Eklavya Darshi, DAG, Punjab.

Mr. Gurinder Singh Brar, Advocate
for the respondent No.2.

SURYA PARTAP SINGH, J. (Oral):

1. This is a revision petition, whereby the order dated 09.11.2023 passed by the learned Additional Sessions Judge Sri Muktsar Sahib, hereinafter being referred to as 'trial Court' only, has been impugned. The above mentioned order has been passed on an application moved by the prosecution under Section 319 Cr.P.C., in a trial pertaining to commission of offence punishable under Sections 302, 297, 201, 34 IPC and Sections 25/27/54/59 of Arms Act.

2. In nut-shell the facts emerging from record are that, that for the commission of above mentioned offence the FIR No.21 dated 31.01.2020 was lodged in Police Station Kotbhai, District Sri Muktsar Sahib, at the instance of



‘Parminder Singh’, hereinafter being referred to as ‘complainant’ only. It was stated by the complainant before the police that on 31.01.2020 he along with his uncle ‘Sukhchain Singh’ and ‘Baljinder Singh’ was levelling earth for an under construction house nearby ‘*dhani*’ (Small Hamlet) of his uncle ‘Rajveer Singh’. As per complainant when his father ‘Jaswinder Singh’ and mother ‘Sukhpal Kaur’ were going towards the above mentioned spot on a motorcycle, on the way, in front of house of ‘Rajveer Singh’, they were waylaid by ‘Rajveer Singh’ armed with revolver, ‘Dalour Singh’ armed with 12 bore gun, his sons ‘Chamkaur Singh’ and ‘Balkaur Singh’ and wife ‘Ranjit Kaur’. It was further stated by the complainant the first of all ‘Rajveer Singh’ fired a gun shot hitting the head of ‘Jaswinder Singh’ and when he fell down ‘Sukhpal Kaur’ tried to run away, but ‘Chamkaur Singh’ picked up the revolver from ‘Rajveer Singh’ and fired a gun shot on the back of ‘Sukhpal Kaur’ and therefore, she, too, fell down in the fields. According to above-named complainant, thereafter ‘Balkaur Singh’ took revolver from ‘Chamkaur Singh’ and fired gun shot on the chest and head of ‘Sukhpal Kaur’ and thereafter ‘Dalour Singh’ fired gun shots in the air. It was also stated by the complainant that Ranjit Kaur had exhorted to teach them a lesson, and that on account of above mentioned injuries his parents ‘Jaswinder Singh’ and ‘Sukhpal Kaur’, both, died on the spot itself.

3. A perusal of record shows that on the basis of above mentioned statement once the FIR was lodged and the investigation taken up, the Investigating Agency observed that allegations with regard to involvement of ‘Chamkaur Singh’ and ‘Dalour Singh’ were not true, and therefore, the challan



was not filed against the above named two accused. Once the challan was filed and the trial commenced against three other accused, during the course of trial the statement of complainant 'Parminder Singh' was recorded as PW-1. In view of contents of above-mentioned statement an application under Section 319 Cr.P.C. was filed by the prosecution, seeking for summoning of 'Chamkaur Singh' and 'Dalour Singh' as additional accused.

4. The learned trial Court considered the above mentioned application and allowed the same vide order dated 07.10.2021. As a result of above-mentioned order 'Chamkaur Singh' and 'Dalour Singh' were summoned as additional accused. The order dated 07.10.2021 was challenged by the above-named two additional accused by filing a revision petition, i.e. CRR-1384-2021. The above mentioned revision petition was allowed by this Court vide order dated 15.11.2022 in the following words:-

"Therefore, in view of the aforesaid facts and circumstances, this Court deems it fit and proper to set aside the order passed by the learned Sessions Judge, Sri Muktsar Sahib dated 07.10.2021 and the learned Sessions Judge, Sri Muktsar Sahib is directed to pass a fresh order on the application moved by the prosecution under Section 319 Cr.P.C. in the light of law laid down by the Hon'ble Supreme Court in Hardeep Singh's Case (supra). The fresh order shall be passed as expeditiously as possible and in accordance with law. It is made clear that while passing the fresh order the learned Sessions Court would not be influenced by any observation made in the earlier order passed



on 07.10.2022 and the orders passed by this Court in the present case.”

5. While arriving at the above mentioned conclusion following observations were also recorded by this Court:-

“Whenever, a person is to be summoned as an additional accused then it has to be bagged by strong and cogent reasons. However, perusal of the impugned order would show that no proper reason has been assigned and it has been so observed that evidence which has come up till now which is more than prima facie evidence and sufficient for summoning the petitioners as additional accused. However, the evidence with regard to the investigation of the police pertaining to plea of alibi was not considered and taken into consideration and in fact the entire totality has to be seen before arriving at a conclusion as to whether a person is to be summoned as an additional accused or not.”

6. In view of the directions issued above, the impugned order has been passed. By virtue of impugned order the learned trial Court agreed to summon ‘Chamkaur Singh’ as additional, accused but did not agree to summon ‘Dalour Singh’.

7. Aggrieved of the above-mentioned order the present petition has been filed by ‘Chamkaur Singh’, hereinafter being referred to as petitioner only, who has been summoned to face the above-mentioned trial as an accused.

It has been alleged by the petitioner that without appreciation of material



available on record, the learned trial Court has passed the summoning order which is in absolute violation of laid down law and also the directions issued by this Court by virtue of order dated 15.11.2022. According to petitioner merely on the basis of conjectures and surmises the learned trial Court has believed the false and unreliable testimony of complainant (PW-1) and ignored the ample evidence collected by the Investigating Agency, proving that possibility of presence of petitioner on the spot at the time to occurrence was an absolute impossibility. While alleging that an error of judgment has been committed by the learned trial Court while issuing a direction for summoning of the petitioner, as additional accused, the petitioner has requested that by exercising the revisional jurisdiction the impugned order with regard to summoning of petitioner, as an additional accused, be set aside.

8. Heard.

9. It has been contended by learned counsel for the petitioner that summoning of a person as an additional accused, in the exercise of jurisdiction under Section 319 Cr.P.C. is a serious business, and that the above-mentioned jurisdiction should be exercised by the Court, only when there is sufficient evidence to convince the Court that there is enough material against the additional accused to call him to stand the trial.

10. The learned counsel for the petitioner in support of his arguments has referred to the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Hardeep Singh. Vs. State of Punjab' AIR 2014 SC 1400.

11. According to learned counsel for the petitioner in the present case



a situation had arisen wherein on one hand there is the statement on oath of PW-1 i.e. the complainant (respondent No.2) and on the other hand there is satisfaction recorded by the Investigating Agency on the basis of irrefutable evidence that there was no possibility of presence of petitioner on the spot at the time of occurrence. According to learned counsel for the petitioner in such a circumstance a heavy duty was cast upon the learned trial Court to weigh both the evidence and then draw a conclusion.

12. With regard to above, the learned counsel for the petitioner has contended that it is settled principles of law that the man may lie but the circumstances not, and that in the present case the PW-1 (respondent No.2) being son of deceased is an interested witness and therefore, his testimony without any corroboration should not be believed, and that on the other hand there is evidence of three different independent sources, coupled with the documentary evidence. As per learned counsel for the petitioner the learned trial Court committed an error of judgment when it ignored the evidence collected by the Investigating Agency and simply by relying upon the testimony on oath of an interested witness passed the summoning order.

13. In addition to above, it has also been contended by learned counsel for the petitioner that on the basis of same evidence earlier also, the order for summoning of the petitioner, as additional accused, was passed but when the above mentioned order was challenged before this Court, in CRR-1384-2021, this Court set aside the above-said order and asked the learned trial Court to look into the material/evidence collected by the investigating Agency also, and not to form its opinion on the basis of evidence of the petitioner only.



According to learned counsel for the petitioner the above mentioned directions issued by this Court have been misinterpreted by the learned trial Court and that without any basis merely on the basis of assumptions it has been observed by the learned trial Court that there is sufficient evidence for summoning of the petitioner, as additional accused.

14. It has also been contended by learned counsel for the petitioner that one of the strange thing in the present case is that the evidence available on record, against the petitioner is exactly the same which is available against co-accused 'Dalaur Singh', but the learned trial Court without there being any distinguishable component, has taken a diagonally opposite view qua the petitioner. As per learned counsel for the petitioner, in view of wrong interpretation, the petitioner has been summoned to face the trial as an additional accused, but the Dalaur Singh has been exonerated on the ground of lack of evidence. While claiming that an error of judgment has been committed by the learned trial Court, the learned counsel for the petitioner has sought for the intervention of this Court, and requested for setting aside of impugned order.

15. The learned counsel for the petitioner in support of his arguments has referred to the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Brijendra Singh and Ors. Vs. State of Rajasthan' 2017(3) RCR (Criminal) 374, wherein it has been observed that if during investigation on the basis of documents it is found by the investigating agency that the accused were away to a distant place on the day of occurrence, and did not file charge-sheet against them, the trial Court cannot summon the above



said person on the basis of examination-in-chief of the complainant and his witnesses.

16. The learned counsel for the respondent No.2 has controverted the above mentioned arguments. According to learned counsel for the respondent No.2 in the present case on 07.10.2021 the order for summoning of petitioner, as an accused was passed but the same did not find favour of this Court, and therefore, this Court, vide order dated 15.11.2022, had set aside the above mentioned order. As per learned counsel for the respondent No.2 in view of directions issued by this Court vide order dated 15.11.2022 the evidence and the factual matrix of the instant case have been re-appreciated by the learned trial Court and a right view has been drawn, while holding that there is sufficient evidence to proceed against the petitioner. While claiming that there is no scope for indulgence and interference in the impugned order the learned counsel for the respondent No.2 has contended that the present petition is devoid of merit and deserve dismissal.

17. The learned State counsel has supported the arguments addressed by learned counsel for the respondent No.2.

18. The record has been perused carefully.

19. In the present case, at the very outset, it is pertinent to mention here that one of the most important aspect to be taken into consideration is that, there cannot be any quarrel with regard to the events which have unfolded during the course of trial in the present case. Those are:-

- a) that the FIR of this case came into being at the instance of Praminder Singh on 31.01.2020, the respondent No.2;



- b) that in the above mentioned statement the respondent no.2 had implicated five persons as accused, namely Rajveer Singh, Chamkaur Singh, Dalour Singh, Balkaur Singh and Ranjit Kaur;
- c) that the police had not filed challan against petitioner and Dalour Singh;
- d) that during the course of trial when charges were framed by the learned trial Court, the learned trial Court asked the prosecution to lead evidence. In the prosecution evidence, the complainant, namely Parminder Singh (respondent No.2) appeared before the trial Court and deposed as PW-1. On the basis of above mentioned statement an application under Section 319 Cr.P.C. was moved by the prosecution, whereby summoning of petitioner and Dalour Singh had been sought as additional accused;
- e) that the above mentioned application was allowed, in toto, by the learned trial Court vide order dated 07.10.2021. The order dated 07.10.2021 was challenged by the petitioner and 'Dalour Singh' and the above-said revision petition was allowed by this Court on 15.11.2022;
- f) that vide order dated 15.11.2022 this Court had directed the learned trial Court to re-consider the matter. After reconsideration the learned trial Court vide impugned order has observed that 'Dalour Singh' has been rightly declared innocent



by the Investigating Agency, and that there was sufficient material to proceed against the petitioner;

20. In the light of above mentioned facts and circumstances, if the impugned order is examined, it transpires that one of the plea which has been considered by the Investigating Agency, leading to a conclusion that the petitioner was not involved in the commission of offence, is that on the date of incident the petitioner was not present at the place of occurrence. The Investigating Agency during the course of investigation had examined the veracity of claim of this claim of the petitioner that at the time of occurrence he was present at a far away place, i.e. Jaipur.

21. It is relevant to note here that with regard to role played by the petitioner and 'Dalaur Singh' an inquiry was conducted by the then Deputy Superintendent of Police Gidderbha, who submitted a report to Senior Superintendent of Police, Sri Muktsar Sahib on 17.02.2019. In the above mentioned inquiry report while verifying train tickets, the appointment with the doctor at Jaipur, the video footage captured by the CCTV camera of 'Sawai Maan Singh Hospital Jaipur' and the booking details of the hotel, where Dalour Singh and petitioner had stayed, the above-named enquiry officer concluded that the petitioner and 'Dalour Singh' were innocent. In view of above mentioned report, while appreciating the entire evidences the report under Section 173 Cr.P.C. was filed for the prosecution of three accused only, namely 'Rajveer Singh', 'Balkaur Singh' and 'Ranjit Kaur'.

22. The above mentioned report makes it clear that a plea of *alibi*, was raised by the petitioner & his co-accused 'Dalaur Singh', and the above



mentioned plea was thoroughly examined by a Senior Police Officer and on the basis of convincing and irrefutable evidence, i.e. the details for booking of tickets in the train, the bills issued by the hotel in Jaipur (where the petitioner and Dalaur Singh stayed), the statement of Manager of the hotel, the prescription slip issued by Sawai Maan Singh Hospital Jaipur and the video footage captured by the CCTV camera, qua which the requisite certificate of authenticity was issued by the competent officer of the above mentioned hospital, it was established that this possibility was ruled out that the petitioner might have been present on the spot at the time of occurrence.

23. Although, the above-mentioned evidence was relied upon by the Investigating Agency, yet to belie, the same the prosecution has relied upon the statement of complainant, recorded by the learned trial Court on oath. There cannot be a denial of the fact that the statement of complainant (respondent No.2 herein) before the police prior to registration of FIR and in the Court, as PW-1, are thoroughly consistent with regard to involvement of petitioner in the commission of crime, but while exercising the jurisdiction under Section 319 Cr.P.C as observed by the Hon'ble Supreme Court of India in the case of 'Brijendra Singh and Ors. (supra)', it is the duty of the learned trial Court to find out as to whether the statements on oath of prosecution witnesses are worth reliable or not.

24. In the present case, the irrefutable evidence collected by the Investigating Agency, which is thoroughly consistent, impeaches the credibility of the testimony of PW-1 qua the fact that the petitioner was involved in the commission of crime. Therefore, it is hereby observed that the observations of



the learned trial Court whereby it has summoned the petitioner as additional accused is suffering from illegality & perversity, and therefore, there is need for indulgence and interference of appellate jurisdiction of this Court in the impugned order.

25. As a sequel to above mentioned observations, it is hereby observed that the present petition has got merit and deserve allowed. Hence, the same is hereby allowed, accordingly. As a result thereof, the impugned order whereby the petitioner has been summoned to face trial as additional accused, is hereby set-aside (qua the extent of summoning of petitioner as additional accused).

(SURYA PARTAP SINGH)
JUDGE

25.02.2026
Vipin/Manoj Bhutani

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