



103 (01 case)

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

CRR-314-2020 (O&M)**Date of Decision:17.03.2026**

Nirvail Singh

...Petitioner

Vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. G.S Sandhu, Advocate,
for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S.Shekhawat J.

1. The petitioner has filed the present revision petition against the impugned order dated 28.08.2019, passed by the Court of Additional Sessions Judge, Tarn Taran, whereby, the petitioner has been ordered to be summoned under Section 319 Cr.P.C as additional accused to face trial in a case arising out of FIR No.65, dated 20.07.2017, registered under Sections 302,307,148,149 of IPC, Police Station Khalara, District Tarn Taran (Annexure P-1).

2. The FIR in the present case was registered on the basis of the statement made by Karaj Singh son of Joginder Singh and the same has been reproduced below:-

*“Statement of Karaj Singh S/o Joginder Singh Jatt
resident of Mari Kamboke aged about year. Mobile number 98142-
82825 Stated that I doing agricultural work and we have been
three brothers. I am younger than Baaj Singh who has died. We all
brothers have joint land and the passage going to the land belongs
to all of us. The passage had been having low level and due to that
it was always damaged and last year, we had raised its level by*



putting earth our own. Day before yesterday the said passage was damaged by them and water was drained towards our land which was taken by us on lease. That Sukhchain Singh son of Rattan Singh caste Jatt Mari Kamboke, Daljit Singh@ Beeta Singh son of Jasbir Singh, Ranjit Singh@ Rana son of Jasbir Singh, Harman Singh son of Sukhchain Singh, Sukhraj Singh son of Sukhchain Singh and Sarabjit Singh and Nirvair Singh sons of Bohar Singh jatt resident of Mari Kamboke curved out khal in the passage to turn the water towards our land and when today we went to our fields and we again put earth there. Today on 20.07.2017 at time about 01:00pm, Sukhchain Singh and all of above mentioned person, alongwith the brother-in-law Lakha and two nephews one from Valtoha and other from Bhani Masa Singh of Sukhchain Singh came on two tractor Mahindra international alongwith the "Haal and Karaha" and one car marked swift and scooter activa both of colour white, all of them came on it and they started digging the land of the passage with the help of tractor and even started with the other tractor again lowering the level of our passage. We saw them from our home and I alongwith Sukhbir Singh son of Baaj Singh, Harpreet Singh son of Pargat Singh and Nishan Singh went towards them. On that after seeing us my sister-in-law Jasbir Kaur wife of Pargat Singh and daughter-in-law of Manjinder Kaur also followed us. When we reached at the passage then we saw that Sukhraj Singh armed with 12 Bore double barrel gun, Sukhchain Singh was armed with 12 Bore single barrel gun, Sarabjit Singh armed with pistol, brother-in-law of Sukhchain Singh named Lakha Singh armed with rifle 315 Bore, Daljit Singh armed with Datar, Ranjit Singh armed with Kirpan, Harman Singh armed with Datar, nephews of Sukhchain Singh some armed with country made pistol, Nirvail Singh came there alongwith unidentified persons. Thereafter after seeing us, Nirvail Singh raised Lalkara that catch hold them and taught a lesson for stopping the water by giving fire shots and kill them. In the



meanwhile Sukhraj Singh fired a shot towards Sukhbir Singh which Hit in his abdomen and he fell down, Sukhchain Singh fired a direct gunshot from his SBBL towards Nishan Singh which hit the lower part of abdomen. Thereafter Daljit Singh gave a dattar blow upon Harpreet Singh which hit his head, then Ranjeet Singh gave a Kirpan blow upon Harpreet Singh which again hit his head. Then firing took place. My younger brother Pargat Singh also fell down being injured. Then I raised loud cries and even laid down on the ground and even my sister-in-law and daughter-in-law also saved themselves by lying on the ground, after seeing the people started gathering there, the accused person ran away from the spot alongwith their weapons but they left behind one tractor International 'Haal' and Scooter Activa colour white. Bhagwant Singh Ex Chairman market committee came on the spot on his vehicle marked Innova and took us for treatment at Dhawan Hospital, Bhikiwind, but Sukhbir Singh was brought dead while lying on the stretcher. All the injured person were admitted. Due to serious injuries doctors referred them to Amritsar. Pargat Singh, Nishan Singh along with Harpreet Singh are under the treatment. After taking information, you came on the spot. Legal action be taken. LTI Karaj Singh Attested by Sd/- Gurcharan Singh SI PS Khalra.

3. Learned counsel appearing on behalf of petitioner submits that initially the petitioner was named in the FIR and except for exhortation, no other role was attributed to him. Even, no motive was alleged against him and after detailed and thorough investigation, it was found that at the time of occurrence, the petitioner was present in the school. Learned counsel next contends that even the CCTV footage or nearby places were examined and the petitioner was found absent at the place of occurrence. Still further, the occurrence had taken place in the present case due to alleged land dispute



between the parties. However, the petitioner neither has any land adjacent to the disputed land nor had any concern with the land in dispute. Learned counsel further submits that in fact, the petitioner had not played any role in the occurrence, still, it was wrongly shown that the petitioner had exhorted all other accused to cause injuries to the injured/deceased in the present case. Apart from that, no other overt act has been attributed to the petitioner. Even, the said role of the petitioner was investigated by the police and he was declared innocent in the present case.

4. On the other hand learned State counsel also admitted that in the present case except *lalkara*, no other role has been attributed to the petitioner.

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

6. The Hon'ble Supreme Court, while discussing the powers under Section 319 Cr.P.C held in the matter of "**Hardeep Singh Vs.State of Punjab, (2014) 3 SCC 92**" as follows:-

"105. Power under Section 319 Cr.PC 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 unrebutted, would lead to conviction. In the absence of such satisfaction, the court should refrain from exercising power under Section 319 CrPC. In Section 319 CrPC 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. Vs.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 CrPC 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 CrPC 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”.

8. Now, after appreciating the facts of the present case in the light of the abovestated principles of law, this Court has no hesitation to hold that the present petition deserves to be allowed by this Court. In the present case, the



only role attributed to the petitioner is that the he had exhorted all other accused to cause injuries to the injured/deceased in the present case. Even, apart from that, no other role has been attributed to him. Even, the said allegation was levelled by the complainant in the FIR itself, however, after detailed investigation, the allegation was found to be false and it was found that the petitioner was not even present at the place of occurrence. Now, statement of the complainant, Karaj Singh has been recorded as PW-1 and he has reiterated the same allegations and there is no fresh material available on file, which would warrant the summoning of the petitioner as an additional accused in the present case.

9. Thus, the present revision petition succeeds and the application under Section 319 Cr.P.C was wrongly allowed by the Trial Court and the same is ordered to be dismissed by this Court.

10. Ordered accordingly.

11. Pending application(s), if any, stand(s), disposed of, accordingly.

(N.S.SHEKHAWAT)
JUDGE

17.03.2026
hitesh

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