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**(135) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRR-2512-2025 (O&M)
Date of decision : 24.03.2026**

SUDESH

... Petitioner

Versus

STATE OF HARYANA & OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sunil Goswami, Advocate
for the petitioner.

Mr. Viney Phogat, DAG, Haryana.

Mr. DPS Bajwa, Advocate
for respondent Nos.2 to 14.

JASJIT SINGH BEDI, J.

The prayer in the present petition is for setting aside the order dated 14.08.2025 passed by the Addl. Sessions Judge, Jind in FIR No.131 dated 09.10.2024 registered under Sections 103(1), 109(1), 115(2), 127(2), 140(1) and 3(5) of BNS, 2023 at Police Station Alewa whereby the application of the petitioner/complainant under Section 358 of BNSS, 2023 (Section 319 of Cr.P.C.) for summoning the private respondents as additional accused has been dismissed.

2. The brief facts of the case are that the aforementioned FIR No.131 dated 09.10.2024 under Sections 103(1), 109(1), 115(2), 127(2), 140(1) and 3(5) of BNS, 2023 Police Station Alewa came to be

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registered at the instance of Sudesh W/o late Kartar Singh and the same reads as under:-

Statement of Sudesh wife of Late Kartar Singh caste Jat r/o Pegan, age 44 years Mobile No. 7357726993, Stated that I am a resident of the above address. I am a widow. My husband died about three and a half months ago due to heart failure. I have 6 children. Five girls and one boy. The eldest daughter is Sonia, younger than her is Monia, younger than her is Bunty, younger than her is Joniya, younger than her is Tantu, the youngest is Mannu. The three elder girls are married and the boy and the two younger girls are unmarried. On 06.10.2024, my son Bunty went to sleep in the Gher/enclosure after having dinner in the evening. On waking up in the morning, Bunty's motorcycle was found parked in front of the Gher/enclosure and Bunty was found kidnapped from in front of the Gher/enclosure and my brother-in-law Jasbir son of Ramkuwar Jat resident of Pegan received a call on his mobile number 99968-35951 from Salendra son of Rajpal resident of Pegan from his mobile number 98126-55786 at around 05.02 AM that your nephew Bunty son of Kartar has been beaten up inside house of Sandeep alias Shinda son of Raghubir resident of Pegha and he has been taken to Alewa by the dial 112, Bunty was taken from Alewa and he was referred to the Government Hospital, Jind. We then reached the Government Hospital, Jind. We found Bunty on a stretcher in the new building with Manjeet, son of Raghubir. We asked Manjeet what had happened to Bunty. Manjeet said that we the entire family collectively had beaten him up badly. After this, he ran away. Bunty was then brought to Jindal Hospital, Hisar. We have confirmed that Manjeet, son of Raghubir Jagbir son of Bharthu, Gurmel son of Shamsher, Sumit son of Wazir, Vinay, son of Darshan, Sandeep's wife, Mahavir's wife, Darshan's wife, Gurmel's wife, Jagbir's wife, residents of Pega, and wife of Randhir, had kidnapped and held him captive. Wazir son of

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Bharthu, and wife of Wazir, by kidnapping and captive, assaulted him with the intent to kill. Apart from this, 5-7 others were also involved in causing injuries. Legal action should be taken against them. The statement has been written, I have heard it and understood it, it is correct. SD-RTI Sudesh.”

3. On an investigation being conducted Manjeet Singh S/o Raghbir Singh, Jagbir S/o Bharthu alias Bharat Singh and Gurmel Singh S/o Shamsheer Singh were found to be the accused. The remaining persons named as accused were placed in column No.2 when the challan was submitted in Court.

4. During the course of the Trial, the statement of Sudesh (complainant) was recorded as PW1. She reiterated the contents of the FIR. An application was moved to summon those persons who had been found to be innocent as additional accused. The said application was dismissed vide order dated 14.08.2025 passed by the Addl. Sessions Judge, Jind.

5. It is this order which is under challenge in the present petition.

6. The learned counsel for the petitioner/complainant (hereinafter referred to as the petitioner) contends that the impugned order has been passed on the basis of the conjectures and surmises. Manjeet (accused) categorically disclosed to the complainant and others that he and his entire family had beaten up the deceased. This statement would amount to an extra-judicial confession. Sudesh (complainant) reiterated this version during the course of the trial when she was



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erroneously dismissed the application to summon the remaining persons as additional accused. He, therefore prays that the impugned order be set aside and the private respondents be summoned to face trial as additional accused along with the three accused already facing trial.

7. I have heard the learned counsel for the petitioner.

8. A perusal of the FIR and the deposition in Court would reveal that the statement of the petitioner to the effect that Manjeet (accused) had disclosed to her that he and his entire family had beaten up the deceased is a completely self-serving statement of the complainant and cannot be taken to be the gospel truth. Further, the statement of the petitioner to the effect that she had come to know the names of the other accused would amount to 'hearsay evidence' which is inadmissible. In fact, it is a case where other than the oral assertion of the petitioner, there is no other evidence available on record. Therefore, the investigation carried out by not only the Jind Police but also by CIA Hansi cannot be faulted.

9. The Hon'ble Supreme Court in the case of **Michael Machado & Anr. Vs. Central Bureau of Investigation & Anr. 2000(2) RCR(Criminal) 75**, held as under:-

"11. The basic requirements for invoking the above section is that it should appear to the Court from the evidence collected during trial or in the inquiry that some other person, who is not arraigned as an accused in that case, has committed an offence for which that person could be tried together with the accused already arraigned. It is not enough that the Court entertained some doubt, from the evidence, about the involvement of another person in the offence. In other words,



the Court must have reasonable satisfaction from the evidence already collected regarding two aspects. First is that the other person has committed an offence. Second is that for such offence that other person could as well as tried along with the already arraigned accused.

12. But even then, what is conferred on the Court is only a discretion as could be discerned from the words "the Court may proceed against such person". The discretionary power so conferred should be exercised only to achieve criminal justice. It is not that the Court should turn against another person whenever it comes across evidence connecting that another person also with the offence. A judicial exercise is called for, keeping a conspectus of the case, including the stage at which the trial has proceeded already and the quantum of evidence collected till then, and also the amount of time which the Court had spent for collecting such evidence. It must be remembered that there is no compelling duty on the Court to proceed against other persons.

13. In Municipal Corporation of Delhi v. Ram Kishan Rohtagi & Ors., 1983(1) RCR (Criminal) 73 : 1983(1) SCC 1 this Court has struck a note of caution, while considering whether prosecution can produce evidence to satisfy the Court that other accused against whom proceedings have been quashed or those who have not been arrayed as accused, have also committed an offence in order to enable the Court to take cognizance against them and try them along with the other accused. This was how learned Judges then cautioned:

"But we would hasten to add that this is really an extraordinary power which is conferred on the Court and should be used very sparingly and only if compelling reasons exist for taking cognizance against the other person against whom action has not been taken."

14. The Court while deciding whether to invoke the power under Section 319 of the Code, must address itself about the other constraints imposed by the first limb of subsection (4),



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that proceedings in respect of newly added persons shall be commenced afresh and the witnesses re-examined. The whole proceedings must be recommenced from the beginning of the trial, summon the witnesses once again and examine them and cross-examine them in order to reach the stage where it had reached earlier. If the witnesses already examined are quite large in number the Court must seriously consider whether the objects sought to be achieved by such exercise is worth wasting the whole labour already undertaken. Unless the Court is hopeful that there is reasonable prospect of the case as against the newly brought accused ending in conviction of the offence concerned we would say that the Court should refrain from adopting such a course of action.

16. The statements of those three witnesses were placed before us. No doubt the statements may create some suspicion against the appellants. But suspicion is not sufficient to hold that there is reasonable prospect of convicting the appellants of the offence of criminal conspiracy.”

(Emphasis supplied)

10. A perusal of the aforementioned judgment would reveal that a person can be summoned as an additional accused only when there are reasonable prospects of his conviction.

11. It would be apposite to peruse the impugned order dated 14.08.2025 and the relevant extract of the same reads as under:-

“8. In view of the above discussion and after careful perusal of the case file, this Court is of the considered opinion that there is no merit in the present application. The Court at this stage does not want to comment upon the merits of the present case lest it may prejudice the case of the either side. However, it is a fact that from the very beginning, the involvement of the proposed accused persons has been



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doubtful. The complainant has named proposed accused persons as participants in the occurrence. However, during course of investigation, the police did not find the involvement of proposed accused persons in the occurrence. The investigation has not only been carried out by Jind police rather it has also been carried out by CIA Hansi also.

9. The summoning of an accused under Section 358 BNSS is a serious affair. The matter in the present case has been investigated many times and every time, even the senior officers of the police have found the proposed accused persons as innocent. Only on the oral statement before the Court, which is not corroborated from any other evidence, the proposed accused persons cannot be summoned when no overt act has been attributed towards them specifically. It is matter of evidence that how there were found nine injuries on the person of the deceased when at the time of his MLR, there were only three injuries on his person. Repetition of the version of complaint by the complainant as PW1 is not such material which is sufficient to order summoning of the proposed accused persons. Hon'ble Punjab and Haryana High Court in Dayanand Singh Versus State of Haryana and another 2012 (3) RCR (Cri.) 105 held that the basic requirement for invoking Section 319 Cr.P.C. is that it must appear to the court from the evidence in any inquiry or trial that some other person who is not arraigned as an accused, has committed an offence for which that person could not tried together with the accused already before the Court. A small suspicion or some doubt would not suffice. A person is not to be summoned as an additional accused to stand trial with others merely for the asking.

Hon'ble Supreme Court of India in Babubhai Bhimabhai Bokhiria and Anothers Vs State of Gujarat and Others 2014(2) RCR(Cri.) 915 on Section 319 of Cr.P.C. held that as a person be summoned only where strong and cogent evidence occurs against a person from the evidence led



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before the court. 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. Though the test of prima-facie case being made out is same as that when the cognizance of the offence is taken and process issued, the degree of satisfaction under Section 319 of the Code of much higher.

In Hardeep Singh vs. State of Punjab and others 2014(3) SCC 92 also the Hon'ble Supreme Court of India has held that the powers under Section 319 Cr.P.C. are extraordinary powers and are required to be exercised sparingly.

10. In the present case, there is only repetition of the allegations by the complainant which were there in his complaint Ex. P1/PW1 before the police. Accordingly, there is no substance in the application filed by the complainant and the evidence on the record is not sufficient to summon the proposed accused persons as additional accused in this case.

11. In view of above discussion, the rulings as relied upon by the learned counsel for the applicant/complainant have no applicability on the facts and circumstances of the present case and this court is of the considered view that application in hand is merit-less and same is hereby dismissed.

Any observation made above shall not have any bearing on the merits of the case.”

12. In view of the fact that the case of the petitioner is based on suspicion and hearsay evidence along with the self-serving version of Manjeet (accused) admitting to have committed the offence along with his other family members, I find no reason to interfere with the well-reasoned impugned order as there are little prospects of the conviction of the remaining accused sought to be summoned.

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13. Keeping in view of the above, I find no merit in the present petition. Therefore, the same is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

24.03.2026
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No