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**In the High Court for the States of Punjab and Haryana at
Chandigarh**

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Date of Decision:- 27.01.2026

KAMAL

... Petitioner

Versus

STATE OF HARYANA AND ANOTHER

... Respondents

CORAM: HON'BLE MR. JUSTICE SUBHAS MEHLA

Present:- Mr. Y.D. Kaushik, Advocate
for the petitioner.

Mr. Karan Veer Singh, Sr. DAG, Haryana.

SUBHAS MEHLA, J. (Oral)

1. This is a revision petition for setting aside the impugned order dated 27.10.2025 passed by the learned Additional Sessions Judge, Faridabad, whereby application filed by complainant/respondent No.2, under Section 319 Cr.P.C. was allowed and petitioner was thereby summoned to face trial.

2. Learned counsel for the petitioner submitted that the learned trial Court has committed an error in allowing the application filed by the complainant without appreciating the fact that during investigation the petitioner was not found at the spot at the time of alleged occurrence. He further submitted that no fresh material or any other evidence is brought on record as complainant has mere reiterated the same version in his statement which he had earlier given to police.



3. On behalf of the respondent, learned State Counsel, Mr. Karan Veer Singh, DAG, Haryana, has appeared and contended that the name of the present petitioner is specifically mentioned in the FIR as on of the assailants, he further submitted that complainant has also specifically alleged the involvement of petitioner in his testimony before the learned trial Court.

4. After hearing the contention of the learned counsel for the parties and perusing the paper-book, this Court finds no merit in the present revision petition as learned trial Court has passed a well reasoned order while allowing an application filed by the complainant, under Section 319 Cr.P.C, seeking to summon the petitioner as an additional accused. The present case in hand is a case of eye witness account and is not based on the circumstantial evidence. It is evident from the record available on the paper-book that name of the petitioner is surfaced on the very initial complaint made by the complainant to the police as well as in his examination-in-chief, as PW-1, before learned trial Court, relevant content of which is reproduced as under:

CONTENTS OF FIR:

“.....12. First Information contents:

To SHO Sahib, Police Station Saran Faridabad, I request that
1. Neeraj, son of Shri Virendra Yadav, resident of house
no.82/106, street no. 24, Jawahar Colony, Block B, have
opened a shop in the name of Pihu Confectionary near the
main 60 feet road, near Jan Seva Hospital. On 19/4/2024, I
was at my shop. My friend Harkesh, son of Gulab Singh,
resident of Chand Haat, had also come to the shop. My elder
brother Satya Prakash, age 32, had also come. At around



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*11.30 PM, Gaurav, son of Samayveer, resident of Saran, whom I already know, came to the shop with his two friends in a white colored Desire taxi no. He had already consumed alcohol. We had some altercation lor 1.5 months ago, due to which he had a grudge over the same matter and would come to the shop and abuse our mother and sister, when I, my brother and friend opposed him, Gaurav called his other friends on phone, 5-6 boys who came riding on two bikes, who were carrying iron rods and sticks in their hands, Gaurav also took out the rod from the vehicle and attacked my brother Satya Prakash and my friend Harkesh with the rod, hitting my brother Satya Prakash on his head and other body parts with the rod taken by Gaurav and was asking others to attack by taking names, he was telling Kalu, **Kamal** and Chiku to kill these bastards so that they do not survive, they attacked us with sticks and rods in their hands, when we raised an alarm (maar dia, maar dia). They threatened to kill us and fled. The police admitted us in an injured condition to BK Hospital. My brother had died before reaching the hospital, who were Gaurav, Kalu, **Kamal**, Chiku. My brother Satya Prakash has been killed by the attack with rod and stick and I and my friend Harkesh have attacked with the intention to kill. Strict legal action should be taken against them. SD Neeraj S/O Shri Birender Yadav H.NO 82/106 Gali No 24 Jawahar Colony -B Fbd 7678331993.....”*

PW-1 while appearing before the trial Court stated the following version in his examination-in-chief:

“.....Accused Gaurav called telephonically his other companions (co-accused) at the spot and they also reached at the spot armed with rods, lathis and dandas and in the



*meantime accused Gaurav also took out an iron rod from his car and, Gaurav, **Kamal** Kalu, Salman & Chiku attacked me, Satyparkash who was my brother (since deceased) and Harkesh. Gaurav gave an iron rod blow on the head of my brother Satyaparkash and exclaimed and provoked his associates named above ie. **Kamal**, Kalu, Salman & Chiku, to kill all of us and that nobody should be spared. Salman, took the same rod used by Gaurav, and gave a blow on my shoulder and left hand, while I was keen to attend my brother Satparkash, fallen on the ground due to the attack. At that time my brother Satparkash was given a blow on his chest by the iron rod by Salman. I was again given beatings while I was attending my brother. We raised hue and cry and, in the meantime they fled from the spot while extending threat to kill whenever they got an opportunity, to do so.....”*

Considering the contents of the FIR as well as contents of the version of the PW-1 in his testimony before the trial Court as mentioned above infers that the petitioner has played active role in the occurrence but investigating agency has not given any plausible explanation for not forwarding petitioner to face trial despite having his name mentioned specifically in the FIR. Hon’ble apex court in **Hardeep Singh vs. State of Punjab and others (2014 AIR Supreme Court 1400)** observed that the object of the provision under section 319 Cr.P.C., which springs out of the doctrine “*judex damnatur cum nocens absolvitur*”(*Judge is condemned when guilty is acquitted*), is to empower the courts to ensure that that real perpetrator of an offence be not allowed to get away unpunished. 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 un rebutted, would lead to conviction. The present case withstands the aforesaid test and thus petitioner has been rightly summoned to face trial .

5. Finding of this Court will not affect the merits of the case and the trial Court will proceed evidence before that and decide the matter brought on behalf of the parties.

6. Keeping in view the above contention of learned counsel(s) for the parties, this Court finds no merit in this petition.

7. In view of the reasons mentioned in the application, the same is dismissed.

January 27, 2026
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(SUBHAS MEHLA)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No