



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Criminal Revision Petition No. 1414/2025

Narendra Kumar S/o Shri Sumer Singh, Aged About 36 Years,
R/o Village Dhani Gatganvada Tan Banethi Tehsil Kotputli District
Kotputli Behror (Raj.)

-----Petitioner

Versus

1. State Of Rajasthan, Through P.p.
2. Jaipal Singh S/o Shri Birju Singh, R/o Village Benethi,
Police Station Paniyala, District Kotputli-Behror.
3. Manmohan @ Monu S/o Shri Pawan Singh, R/o Village
Benethi, Police Station Paniyala, District Kotputli-Behror.
4. Himmat Singh S/o Shri Pawan Singh, R/o Village Benethi,
Police Station Paniyala, District Kotputli-Behror.

-----Respondents

For Petitioner(s)	:	Mr.Rajendra Singh Raghav
For Respondent(s)	:	Mr.Amit Punia, Addl.GA-cum-PP

JUSTICE ANOOP KUMAR DHAND

Order

06/10/2025

1. By way of filing this petition, a challenge has been led to the impugned order dated 28.07.2025 passed by the Additional Sessions Judge No.4 Kotputli, District Kotputli Behror in Session Case No.11/2023 by which the application submitted by the petitioner under Section 319 Cr.P.C. for taking cognizance against the respondents has been rejected.
2. Learned counsel for the petitioner submits that on 07.09.2022, the accused-respondents along-with co-accused Pawan Singh and Satpal assaulted the injured Vikram Singh and inflicted several injuries on his person for which the F.I.R. No.227/2022 was registered with Police Station Paniyala for the offences under Sections 143, 341 and 323 of I.P.C.



3. Counsel submits that when the injured Vikram was medically examined certain injuries were found and in the X-Ray report, various fractures in the ribs were found, but upon completion of investigation, charge-sheet dated 08.12.2022 has been filed by the Police only against two accused Pawan Singh and Satpal for the offences punishable under Sections 307, 323, 341 read with Section 34 I.P.C.

4. Counsel submits that when trial commenced against the co-accused persons, statements of the injured Vikram Singh and the complainant and other eye-witnesses were recorded, who have categorically levelled allegations against the accused-respondents which indicates their active participation in the aforesaid incident with the injured Vikram Singh, hence, under these circumstances, prima facie evidence is available against the accused-respondents for proceeding against them. Counsel submits that under these circumstances, an application under Section 319 Cr.PC. was submitted by the petitioner for taking cognizance against the left out accused-respondents which has been erroneously rejected by the Court below by way of the impugned order, hence, interference of this Court is warranted.

5. Per contra, learned Public Prosecutor opposes the prayer and submits that after the occurrence, when the statements of the injured Vikram Singh were recorded, he has levelled allegations only against two persons, namely, Pawan Singh and Satpal and he has not levelled any allegation against the accused-respondents. Counsel submits that under these circumstances, there is no prima facie case to initiate proceedings or for taking cognizance against the accused-respondents.



6. Heard and considered the submissions made at the Bar and perused the material available on record.

7. Perusal of the statement of the injured Vikram Singh recorded during the course of investigation under Section 161 Cr.P.C. clearly indicates that the accused-respondents have not even been named as assailants and the name of only two accused, i.e., Pawan Singh and Satpal have been recorded, against whom allegations have been levelled and perusal of the injury report of Vikram Singh also indicates that he suffered only two injuries including the fractures of certain ribs.

8. Considering the overall facts and circumstances of the case, the charge-sheet was submitted against only two accused persons who were named in the statement of the injured.

9. When the injured is silent about the involvement and role of the accused-respondents, then under these circumstances, the statements of other witnesses hardly makes any difference.

10. The powers contained under Section 319 Cr.P.C. are discretionary in nature, therefore, the discretion exercised by the Trial Court cannot be lightly interfered with unless it is shown that the order refusing to implead the persons as accused has been made mechanically or it is arbitrary or perverse. The trial court, while refusing to take cognizance against the respondents, has taken into account every aspect of the matter and the entire material placed before it and more particularly the chance of conviction of the respondents who have been sought to be impleaded as accused.

11. The Constitutional Bench of the Hon'ble Apex Court in the case of **Hardeep Singh Vs. State of Punjab** reported in **(2014)**





1 CrI.L.R (SC) 310 while discussing the powers of the Court after taking into account the judgment propounded by the Hon'ble Apex Court in the case of **Dharam Pal Vs. State of Haryana** reported in **(2014) 3 SCC 306** concluded as under:

"110. We accordingly sum up our conclusions as follows:

Question Nos. 1 & III

Q.1 What is the stage at which power under Section 319 Code of Criminal Procedure can be exercised?

AND

Q. III Whether the word "evidence" used in Section 319(1) Code of Criminal Procedure has been used in a comprehensive sense and includes the evidence collected during investigation or the word "evidence" is limited to the evidence recorded during trial?

A. In Dharam Pal's case, the Constitution Bench has already held that after committal, cognizance of an offence can be taken against a person not named as an accused but against whom materials are available from the papers filed by the police after completion of investigation. Such cognizance can be taken under Section 193 Code of Criminal Procedure and the Sessions Judge need not wait till 'evidence' under Section 319 Code of Criminal Procedure becomes available for summoning an additional accused.

Section 319 Code of Criminal Procedure, significantly, uses two expressions that have to be taken note of i.e. (1) Inquiry (2) Trial. As a trial commences after framing of charge, an inquiry can only be understood to be a pre-trial inquiry. Inquiries under Sections 200, 201, 202 Code of Criminal Procedure; and under Section 398 Code of Criminal Procedure are species of the inquiry contemplated by Section 319 Code of Criminal Procedure. Materials coming before the Court in course of such enquiries can be used for corroboration of the evidence recorded in the court after the trial commences, for the exercise of power under Section 319 Code of Criminal Procedure, and also to add an accused whose name has been shown in Column 2 of the chargesheet.





In view of the above position the word 'evidence' in Section 319 Code of Criminal Procedure has to be broadly understood and not literally i.e. as evidence brought during a trial.

Question No. II

Q. II Whether the word "evidence" used in Section 319(1) Code of Criminal Procedure could only mean evidence tested by cross-examination or the court can exercise the power under the said provision even on the basis of the statement made in the examination-in-chief of the witness concerned?

A. Considering the fact that under Section 319 Code of Criminal Procedure a person against whom material is disclosed is only summoned to face the trial and in such an event under Section 319(4) Code of Criminal Procedure the proceeding against such person is to commence from the stage of taking of cognizance, the Court need not wait for the evidence against the accused proposed to be summoned to be tested by cross-examination.

Question No. IV

Q. IV What is the nature of the satisfaction required to invoke the power under Section 319 Code of Criminal Procedure to arraign an accused? Whether the power under Section 319(1) Code of Criminal Procedure can be exercised only if the court is satisfied that the accused summoned will in all likelihood be convicted?

A. Though under Section 319(4)(b) Code of Criminal Procedure the accused subsequently impleaded is to be treated as if he had been an accused when the Court initially took cognizance of the offence, the degree of satisfaction that will be required for summoning a person under Section 319 Code of Criminal Procedure would be the same as for framing a charge. The difference in the degree of satisfaction for summoning the original accused and a subsequent accused is on account of the fact that the trial may have already commenced against the original accused and it is in the course of such trial that materials are disclosed against the newly summoned accused. Fresh summoning of an accused will result in delay of the trial-therefore the degree of satisfaction for summoning the accused (original and subsequent) has to be different.

Question No. V





Q. V Does the power under Section 319 Code of Criminal Procedure extend to persons not named in the FIR or named in the FIR but not charge-sheeted or who have been discharged?

A. A person not named in the FIR or a person though named in the FIR but has not been chargesheeted or a person who has been discharged can be summoned under Section 319 Code of Criminal Procedure provided from the evidence it appears that such person can be tried along with the accused already facing trial. However, in so far as an accused who has been discharged is concerned the requirement of Sections 300 and 398 Code of Criminal Procedure has to be complied with before he can be summoned afresh."

Considering the proposition of law as propounded by the Hon'ble Apex Court in the case of **Hardeep Singh** (supra) and **Dharam Pal** (supra) and looking to the fact that the discretionary power has been given to the Court under Section 319 Cr.P.C. which being extraordinary one, the same is required to be exercised sparingly and only in those cases where the circumstances of the case so warrant.

12. Only where strong and cogent evidence occurs against a person from the evidence led before the trial Court that such power should be exercised and not in a casual and cavalier manner.

13. Considering the overall facts and circumstances of the case, this Court finds no error in the order passed by the Court below. Accordingly, the instant revision petition stands rejected.

(ANOOP KUMAR DHAND),J

Aayush Sharma /113