



2025:PHHC:146295



CRR-767-2021

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

CRR-767-2021

Date of decision:27.10.2025

Vijay Kumar

....Petitioner

V/s

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. D.S. Virk, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG Haryana.

Mr. Ankit Bishnoi, Advocate for respondent Nos.2 to 4.

SUMEET GOEL, J.

1. The present criminal revision petition has been filed by the petitioner-complainant seeking setting aside of the impugned order dated 07.04.2021, passed by the learned Sessions Judge, Sirsa, whereby the application filed under Section 319 Cr.P.C. moved by the prosecution for summoning the private respondents No.2 to 4, namely Baldev Singh son of Mani Ram, Vinod Kumar and Naresh Kumar sons of Om Parkash (respondent Nos.2 to 4 herein), to face the trial, has been dismissed.

2. Shorn of non-essential details, the relevant factual matrix of the *lis* in hand reads thus:

(i). FIR No.175 dated 17.07.2018 was registered at Police Station Ellenabad, District Sirsa, under Sections 323, 325, 326, 341, 367, 506 read with Section 34 IPC on the statement of the petitioner/complainant/injured



namely Vijay Singh. In the said FIR, apart from the accused persons namely Surender Kumar, Rajender Kumar and Om Parkash, the names of the private respondents (respondent Nos.2 to 4 herein), were also find mentioned.

(ii). Thereafter, upon completion of the investigation, the Investigating Officer found respondent Nos.2 to 4 (herein) innocent and placed their names in column No.2 of the final report (challan) while submitting the same against the other three aforesaid accused.

(iii). During the course of trial, the petitioner-complainant appeared as PW-1 on 20.02.2021 and reiterated the allegations against the private respondents, assigning them specific roles in the alleged assault. On the basis of this testimony, the prosecution moved an application under Section 319 Cr.P.C. seeking summoning of respondents No.2 to 4 as additional accused.

(iv). Vide impugned order dated 07.04.2021, the learned Sessions Judge, Sirsa, after hearing the parties, dismissed the said application. Aggrieved against the said order, the present criminal revision petition has been preferred by the complainant/injured.

3. Learned counsel for the petitioner has iterated that the Court below has failed to appreciate the evidence in its correct perspective. Learned counsel has further iterated that the statement of the complainant/injured witness (petitioner herein), who stepped into the witness box as PW-1, specifically attributes distinct injuries to each of the proposed accused (respondent Nos.2 to 4 herein), which sufficiently



establishes their complicity in the commission of the offence. To buttress his arguments, learned counsel for the petitioner has placed reliance on the dicta of the judgment of the Hon'ble Supreme Court titled as ***Hardeep Singh v. State of Punjab & Ors., (2014) 3 SCC 92***, to contend that the degree of satisfaction required under Section 319 Cr.P.C. is equivalent to that required at the stage of framing of charge and the testimony of an injured eye-witness should ordinarily be treated as trustworthy unless contradicted by strong evidence. On the strength of above submissions, learned counsel for the petitioner has canvassed for grant of the petition in hand.

4. Learned State counsel, while raising submission in tandem with the averments made in the petition, has submitted that during the course of evidence, the complainant, while deposing as PW-1, has categorically attributed causing of injuries by the private respondents by attributing specific and distinct injuries roles to each of them and there exists sufficient evidence to implead them as additional accused. This fact also stands duly corroborated in his complaint dated 09.07.2018 recorded by the Police.

5. *Per contra*, learned counsel appearing for the respondent Nos.2 to 4 have submitted that the Court below has passed a well reasoned order after due appreciation of the material on record and there was no fresh evidence warranting the summoning of the proposed accused (i.e. respondent Nos.2 to 4 herein). Learned counsel has further contended that the mere reiteration of allegations already investigated and found unsubstantiated cannot form the basis of invoking the extraordinary power



under Section 319 Cr.P.C. On the strength of these submissions, the dismissal of the petition in hand is entreated for.

6. I have heard learned counsel for the rival parties and have perused the record carefully with their able assistance.

7. Indubitably, Section 319 of the Cr.P.C. empowers a Court to arraign any person, as an additional accused in an ongoing trial, who is not already an accused before it, if the evidence suggests that such person has committed the offence, which is the subject matter of that trial, and should be tried with accused persons already facing trial. The jurisprudential bedrock of Section 319 Cr.P.C., 1973 finds its resonance in the immutable legal maxim *Judex Damnatur Cum Nocens Absolvitur*—the judge is condemned when the guilty is acquitted. This provision vests immense discretionary authority in the trial court to summon any person, other than originally arraigned accused, to face trial as an additional accused. However, as has been enunciated and settled by way of a lineage of authoritative judicial pronouncements, the power under Section 319 of Cr.P.C, 1973 is inherently extraordinary, and its invocation is mandated to be scrupulously judicious and sparing. It is not to be exercised casually or cavalierly, nor merely on the subjective opinion of the trial court judge that another individual may also be complicit in the offence. Rather, this exceptional authority must only be utilized where compelling circumstances necessitate such action and where evidence before the court is sufficiently strong and cogent. The evidentiary standard required for a court to exercise its discretion under Section 319 Cr.P.C., 1973 for summoning an additional



accused, is significantly higher than the *prima facie* threshold applicable at the stage of framing charges; the Court must achieve a degree of satisfaction amounting to an assurance that evidence, if remaining unrebutted and uncontroverted, would ultimately culminate in the conviction of individual proposed to be summoned as additional accused. Consequently, the court is obligated to keep all relevant factors in consideration, avoiding any mechanical application of power merely because some implicatory evidence has surfaced on record. The scope of Section 319 Cr.P.C., concerning the summoning of additional accused was examined in **Hardeep Singh** case (supra), wherein the Hon'ble Supreme Court has framed five questions to lay down the guiding principles which are as under:

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

Question Nos. I & III

Q.I What is the stage at which power under Section 319 Cr.P.C. can be exercised?

AND

Q.III Whether the word "evidence" used in Section 319(1) Cr.P.C. 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 Cr.P.C. and the Sessions Judge need not wait till 'evidence' under Section 319 Cr.P.C. becomes available for summoning an additional accused? Section 319 Cr.P.C., 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 Cr.P.C.; and under Section 398 Cr.P.C. are



species of the inquiry contemplated by Section 319 Cr.P.C. 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 Cr.P.C., and also to add an accused whose name has been shown in Column 2 of the charge-sheet. In view of the above position the word 'evidence' in Section 319 Cr.P.C. has to be broadly understood and not literally i.e. as evidence brought during a trial.

Q.II Whether the word "evidence" used in Section 319(1) Cr.P.C. 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 Cr.P.C. a person against whom material is disclosed is only summoned to face the trial and in such an event under Section 319(4) Cr.P.C. 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.

Q. IV What is the nature of the satisfaction required to invoke the power under Section 319 Cr.P.C. to arraign an accused? Whether the power under Section 319 (1) Cr.P.C. 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) Cr.P.C. 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 Cr.P.C. 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 Cr.P.C. 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 charge-sheeted or a person who has been discharged can be summoned under Section 319 Cr.P.C. 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 Cr.P.C. has to be complied with before he can be summoned afresh. The matters be placed before the appropriate Bench for final disposal in accordance with law explained hereinabove.”

8. The power under Section 319 Cr.P.C. is discretionary and extraordinary which is to be exercised sparingly and only when strong and cogent evidence comes before the Court indicating that the person sought to be summoned has committed the offence, rather than on mere probability of his complicity. The Hon'ble Supreme Court in **Hardeep Singh** (supra) as also in subsequent judgments has reiterated that such power should not be exercised in a routine manner merely on the basis of suspicion or earlier allegations rejected during investigation. Having ruminated upon the scope and ambit of power vested by virtue of Section 319 Cr.P.C., 1973, this Court shall delve into the factual *milieu* of the case in hand in light of afore-discussed guiding principles.

9. In the present case, it is undisputed that the name of respondents No.2 to 4 was mentioned in the FIR, but during the course of investigation, the police, after examining the material and statements on record, found them innocent and placed them in column No.2. When the petitioner stepped into the witness box as PW-1 during trial, his statement



was largely a repetition of the version contained in the FIR. In the considered opinion of this Court, no new or independent material has been brought on record which could justify the exercise of powers under Section 319 Cr.P.C. A profitable reference in this regard can be made to the *dicta* passed by the Hon'ble Supreme Court in a case titled as '**Sarabjit Singh and Another Vs. State of Punjab and Another, 2009 AIR Supreme Court 2792**, relevant whereof reads thus:

"17.An order under Section 319 of the Code, therefore, should not be passed only because the first informant or one of the witnesses seeks to implicate other person(s). Sufficient and cogent reasons are required to be assigned by the court so as to satisfy the ingredients of the provisions. Mere ipse dixit would not serve the purpose. Such an evidence must be convincing one at least for the purpose of exercise of the extraordinary jurisdiction"

Moreover, the Court below has noted this aspect and found that the deposition of the petitioner does not bring forth any additional evidence or circumstance which could *prima facie* establish the active participation of the private respondents in the alleged occurrence. The Court below further observed that there was considerable delay in lodging the FIR as the occurrence has taken place on 07.07.2018 whereas the FIR was registered on 17.07.2018 which raised doubts regarding the veracity of the subsequent allegations against the proposed accused.

10. This Court; therefore, finds no perversity or illegality in the reasoning of the learned Sessions Judge. The reliance placed by the petitioner on the judgment titled as **Hardeep Singh** case (supra) is misplaced as the said judgment emphasizes that the satisfaction under



Section 319 Cr.P.C. must be based on evidence stronger than mere probability and not on mere reiteration of earlier allegations which were found to be unsubstantiated. For the foregoing reasons, this Court does not find any error in the impugned order passed by the Court below. In the contemplated opinion of this Court, the trial Court has appropriately dealt with the application in question by dismissing the same. The complainant while roping in total 5 persons as accused in the case, attributed separate weapon as well as separate specific pinpointed injury on distinct body parts with accurate precision, out of which 4 injuries are superficial being swelling and tenderness on separate parts of body. It does not meet the test of prudence that 5 armed individuals, while attacking the complainant would only inflict one such injury each, just to register their presence in the offence. In view of these accentuating facts, exaggeration of involvement of number of accused persons cannot altogether be ruled out.

Pertinently, this Court is very well cognizant of the sociological reality that frequently attends the initiation of criminal proceedings, manifesting as a demonstrable tendency on part of the informant/complainant to amplify the array of accused beyond the principal perpetrators. This pattern often results in the over-implication of peripheral individuals—particularly the relatives, family members, or close associates of the main accused—risking the conversion of the criminal process into an instrument of coercion or harassment against tangentially connected parties.

11. In view of the prevenient ratiocination, it is ordained thus:



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- (i) The impugned order dated 07.04.2021 passed by the Sessions Judge, Sirsa, does not call for any interference and thus, instant revision petition deserves dismissal. Ordered accordingly.
- (ii) Any observations made and/or submissions noted hereinabove shall not have any effect on the merits of the case and the Court below shall proceed further, in accordance with law, without being influenced therefrom.
- (iii) Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

October 27, 2025
Ajay

Whether speaking/reasoned:	Yes
Whether reportable:	Yes