



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

125

CRM-M-12091-2016 (O&M)

Surinder Kumar and others

. . . Petitioner(s)

Versus

State of Punjab and another

. . . Respondent(s)

1.	Date when the judgment was reserved	01.04.2026
2.	Date when the judgment is pronounced	10.04.2026
3.	Date when the judgment is uploaded on the website	10.04.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof.	Not applicable.

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Abhinav Gupta, Advocate
for the petitioner(s).

Mr. Neeraj Madaan, Sr. DAG, Punjab.

SANJAY VASHISTH, J.

1. Instant petition has been filed under Section 482 Cr.P.C. for quashing of order dated 23.09.2014 passed by learned JMIC, Jagraon (Annexure P-5) and judgment dated 04.11.2015 passed by learned Additional Sessions Judge, Ludhiana (Annexure P-7), whereby petitioners have been summoned as additional accused No.5 to 9 under Section 319 Cr.P.C. in cross case DDR dated 03.02.2012 arising out of FIR No.11 dated 03.02.2012, registered under Sections 323, 341, 294, 506 read with Section 149 IPC at Police Station Raikot, to face trial.

2. Exercising the power under Section 319 Cr.P.C., vide order



dated 23.09.2014, Court of learned JMIC, Jagraon (trial Court) summoned the additional accused, namely, (i) Surinder Kumar, (ii) Raman Kumar, (iii) Manohar Lal @ Laddi, (iv) Gagan Singh, and (v) Shakti Kumar, in the cross-version case, registered as DDR No.32 dated 03.02.2012, arising from FIR No.11 dated 03.02.2012, under Sections 323, 341, 294, 506, 149 of the Indian Penal Code (IPC), registered at Police Station Raikot (Jagraon), District Ludhiana.

On assailing the summoning order passed by the learned trial Court, Court of learned Additional Sessions Judge, Ludhiana (Revisional Court), also maintained the said order. Hence, instant petition has been filed by the said summoned accused under Section 482 Cr.P.C. for quashing of the summoning order(s).

3. For the occurrence of an incident on 02.02.2012, initially, petitioner party got registered the aforementioned FIR No.11 (supra) against respondent No.2 and other co-accused. Complaint in that regard was submitted by Sushil Kumar (son of petitioner No.1 – Surinder Kumar). During the course of investigation, respondent No.2 – Bharat Bhushan s/o Panni Lal got recorded a cross-version, which reads as under:-

“ Stated that, I am resident of above mentioned address and am running a Jewelry shop at Committee Bazar, Raikot. Yesterday dated 2.2.12, I on my motor cycle LML Freedom bearing No. PB-56A-4972 for the polishing of gold ornaments had gone to Kutba Bazar Raikot. But, due to close of the Polishing shop, I was coming toward my shop through Committee Bazar. When I was just passing in front of the shop of Sushil Kumar son of Surinder Kumar resident of Jalotian Raikot who is running Readymade Garment shop in Committee Bazar, who was standing out side his shop, then it was about 7.20 PM, that Sushil Kumar came in front of my motor cycle and encircled me, upon which



I stopped my motor cycle and I told him that what is the matter, why you have encircled my motor cycle, then he started saying that you are gazing towards my father showing him eyes, today lesson is being taught to you. In the meantime, Rohit son of Vipin Kumar resident of Mohalla Jalotian Raikot whose sister is married to my younger brother Varinder Kumar, came from behind me, after sitting on my motor cycle, gave fist blow in my head and I along with my motor cycle fell in the bazaar. In the meantime, Sanjiv Verma and his brother Sonu sons of Chaman Lal, residents of Mohalla Jand Wala Raikot and Shakti son of Rakesh Kumar who is running Bakery shop in Committee Bazar came out of the shop of above mentioned Sushil Kumar and 4 other unknown persons, if come before me I could have identify them, also reached at the spot. Then, while I was lying on the ground, Sushil Kumar gave fist blow on my right eye and Sanjiv Verma gave kick blow of his boot on the backside my elbow of right arm and Sonu gave fist blows on my back side and Shakti gave kick blows in my head and while I was lying on the ground, unknown persons gave me fist and kick blows continuously and Rohit took out my Grey colour purse out of my pocket containing Rs.4500/- and my Driving Licence and Gold Set lying in front pocket of my pant containing Necklace and Ear Rings weighing about 28.500 Miligram, which was put in the Ornament Purse also took out by Rohit. I started raising raula BACHAO-BACHAO, then in the meantime on hearing my noise, my father Panni Lal and my wife, who were coming towards Committee Bazar also reached at the spot. When my father came forward to rescue me then all these persons also gave beatings to my father. People started gathering in the bazaar then all these persons after hurling filthy abuses to me and giving threats to kill with the saying that in case Varinder Kumar failed to rehabilitate his wife then they will kill all of them, ran away from the spot. Cause of grudge is that the cases are pending in the court between my brother Varinder Kumar with Sunanda Verma sister of above mentioned Rohit, who is related to me as Bharjai, she after leaving my brother is living at her parental house. Due to this grudge, the above mentioned Rohit Verma with the connivance of these persons, inflicted injuries to us. Because we received injuries and was feeling pain badly. Due to which, Surinder son of my Uncle got us admitted in Civil Hospital Raikot for treatment, where we are under treatment. We are



apprehending danger from their hands. Rohit Verma while leaving the place took away by stealing my money purse and gold ornaments. Legal action may be taken against them. I have got recorded my statement to you, heard and admitted to be correct.”

Challan in cross-version case was submitted against – Sushil Kumar, Rohit Kumar, Sanjiv Verma, Charanjiv Verma @ Sonu.

4. During the proceedings of trial in cross-version case, respondent No.2 – Bharat Bhushan was examined as witness on 17.03.2014, wherein, he deposed as under:-

“ Statement of Bharat Bhushan son Panni Lal Verma, r/o Committee Bazaar, Raikot, Distt. Ludhiana on SA.

That on 2.2.2012, I was coming on my motorcycle bearing registration No. PB-56A- 4972 from Kutuba Bazaar towards Committee Bazaar, Raikot. When I reached near Hind General Store in Committee Bazaar, Raikot, then Sushil Kumar and Shakti Kumar wrongfully restraining me and they started hurling abuses to me. I the mean time Rohit Kumar, Charanjiv Kumar Verma and Sanjiv Verma along with 4-5 unidentified persons later on I came to know their names as Surinder Kumar son of Lekh Raj, Raman Kumar son of Surinder Kumar, Manohar Lal @ Laddi son of Khazan Chand, Gagan son of Jaspal Singh all residents of Raikot came there. Rohit Kumar gave a fist blow on my head with the result, I fell down on the road. Thereafter, the other accused starting giving fist and kicks blows to me. Sushil Kumar gave a fist blow on my right eye. Sanjiv Verma gave a kick blow on the back side of my right arm. Charanjiv gave a fist blow on my back and Shakti Kumar gave kicks blow on my head. Rohit Kumar had taken out one gold set from the front pocket of my pent and purse containing currency of Rs.4500/- and DL and other documents. I raised hue and cry and the peoples gathered there and I was rescued from the accused. I was taken to police station firstly. Thereafter, I was admitted in Civil Hospital, Raikot. I got recorded my statement Ex. PA to the police on which I identify my signatures. I identified the accused present in the court. Other accused are not present in the court as they have not challenged by the police. The motive behind the occurrence



was that my brother Varinder Kumar is married with the Sunanda Verma sister of accused Rohit Kumar and there is family dispute between them and due to which they had caused injuries to me.

Xxxxxxx deferred by Ld. Counsel for accused.

RO & AC

Amandeep/JMIC/17.3.2014”

5. On the basis of the aforementioned deposition before the trial Court, complainant moved an application under Section 319 Cr.P.C. for summoning of the petitioners herein, which was allowed firstly by the trial Court and thereafter maintained by the Revisional Court.

6. Mr. Abhinav Gupta, learned counsel for the petitioner, argues that both the sides, i.e., the petitioners herein and respondent No.2 (complainant in cross-version case), have been running their shops in the same locality. As per the description given in the cross-version case, none of the accused is attributed with possession of any weapon in their hands. Nor is there any allegation of causing any serious injury to anyone. Except for bald and oral statements, no other corroborative evidence for confirmation of the allegations, as deposed before the Court, is available with the summoning Court for adequate exercise of its power vested under Section 319 Cr.P.C.

Further, it is argued that nothing substantial has been discussed in the summoning order passed by the trial Court. In fact, the summoning order has been passed in a casual manner and without following the basic principles as per the law settled by the Hon'ble Apex Court. Rather, the impugned summoning order dated 23.09.2014, and even the impugned order dated 04.11.2015 passed by the Revisional Court, are without assigning any



reasons. In none of the orders, there is any discussion regarding evidence on record, sufficient to summon the presence of the additional accused (petitioners herein).

7. In support of his submissions, learned counsel relies upon the following judgments:-

- (i) Kailash v. State of Rajasthan & Anr., 2008(2) RCR (Criminal) 200 : Law Finder Doc Id # 139303;
- (ii) Hardeep Singh v. State of PUnjab and others, 2014(3) SCC 92 : Law Finder Doc Id # 514451;
- (iii) Brijendra Singh & Ors. v. State of Rajasthan, 2017(3) RCR (Criminal) 374 : Law Finder Doc Id # 851765;
- (iv) Nagar-A, Pali v. The State of Rajasthan, 2017(4) Crl. L.R. (Raj.) 1992 : Law Finder Doc Id # 942459;
- (v) Shiv Prakash Mishra v. State of Uttar Pradesh and another, 2019(5) RCR (Criminal) 946 : Law Finder Doc Id # 1543345;
- (vi) Harjap Singh v. State of Punjab and another, 2020(4) RCR (Criminal) 505 : Law Finder Doc Id # 1716220;
- (vii) Juhru & Ors v. Karim & Anr., 2023 AIR (SC) 1160 : Law Finder Doc Id # 2134545;
- (viii) Varinder Singh v. State of Punjab and another, 2024(1) RCR (Criminal) 118 : Law Finder Doc Id # 2405203;
- (ix) Geeta Devi and another v. State of PUnjab and another, (CRR-4871-2017, Pronounced on: 05.01.2024) : 2024:PHHC:000708; and
- (x) N. Manogar & Anr. v. The Inspector of Police & Ors., [Arising out of SLP(Crl.) No(s).8696 of 2021, D.O.D.:16.02.2024]

In view of above, learned counsel prays for setting aside of the impugned orders and allowing of the present petition.



8. On the other hand, learned State counsel submits that although, as per investigation conducted by the Investigating Agency, no fault was found in the conduct of the petitioners, however, once they have been summoned by the Courts below, let the charges be framed and the authenticity of the allegations qua the role attributed to the petitioners, along with the already challaned accused, be decided by the trial Court itself after having the complete set of evidence before it. Merely by summoning the petitioners, no prejudice is being caused to them, and if in future it is found that no such evidence is proved by the prosecution/complainant, an appropriate order of acquittal can be passed by the learned trial Court at the relevant stage. Thus, while defending the impugned orders, learned State counsel prays for dismissal of the instant petition.

9. It is worth noticing that in the earlier proceedings of the present petition, learned State counsel has been appearing throughout and Ms. Sukhpreet Kaur, Advocate and Mr. Jagtar Singh, Advocate, had been appearing to represent respondent No.2. However, today there is no representation on their behalf.

10. I have heard learned counsel for the parties and perused the relevant material on record.

11. In the cross-version case, as recorded by Bharat Bhushan (respondent No.2 herein), the accused who were assigned an active role, namely, Sushil Kumar, Rohit Kumar, Sanjiv Verma, and Charanjiv Verma @ Sonu, already stand challaned and are facing proceedings before the Court. In the said version, except for the name of accused Shakti Kumar (petitioner No.5 herein), no other name is mentioned. Names of the remaining persons



were disclosed by respondent No.2 while deposing before the Court. Even at the time of registration of the cross-version, nothing substantial had been alleged against the summoned accused. However, petitioner No.5 – Shakti Kumar was attributed with a kick blow on the head of respondent No.2, while he was lying on the ground. Qua other unknown persons, it has been alleged that they gave fist and kick blows to the complainant. Thus, in the initial version of respondent No.2, neither the names of petitioner No.1 to 4 were disclosed, nor any specific role of causing injury on any particular part was detailed. Even in the statement dated 17.03.2014, no specific attribution or even suffering of any specific injury has been alleged by the complainant, except mentioning that the names of 4-5 unidentified persons, about whom he came to know later.

12. On perusal of the impugned summoning order dated 23.09.2014 passed by the trial Court, and even of the Revisional Court order, none of the aforesaid aspects have been noticed while exercising powers under Section 319 Cr.P.C. or under Section 397 Cr.P.C.

13. In this regard, in ***Kailash's case*** (supra), the Apex Court observed as under:-

“A glance at these provisions would suggest that during the trial it has to appear from the evidence that a person not being an accused has committed any offence for which such person could be tried together with the accused who are also being tried. The key words in this Section are "it appears from the evidence"...."any person"...."has committed any offence". It is not, therefore, that merely because some witnesses have mentioned the name of such person or that there is some material against that person, the discretion under Section 319 Criminal Procedure Code would be used by the court. This is apart from the fact that such person against whom such discretion is used, should be a



person who could be tried together with the accused against whom the trial is already going on. This Court has, time and again, declared that the discretion under Section 319 Criminal Procedure Code has to be exercised very sparingly and with caution and only when the concerned court is satisfied that some offence has been committed by such person. This power has to be essentially exercised only on the basis of the evidence. It could, therefore, be used only after the legal evidence comes on record and from that evidence it appears that the concerned person has committed an offence. The words "it appears" are not to be read lightly. In that the court would have to be circumspect while exercising this power and would have to apply the caution which the language of the Section demands."

In the landmark judgment, i.e., **Hardeep Singh's case** (supra), passed by the Constitution Bench of the Apex Court, it was observed as under:-

"98. Power under Section 319 Cr.P.C. is a discretionary and an extra- ordinary 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.

99. 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 un rebutted, would lead to conviction. In the absence of such satisfaction, the court should refrain from exercising power under Section 319 Cr.P.C. In Section 319 Cr.P.C. 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 Cr.P.C. to form any opinion as to the guilt of the accused.”

Further, the Apex Court in ***Brijendra Singh and others’ case*** (supra), observed as under:-

“15. This record was before the trial court. Notwithstanding the same, the trial court went by the deposition of complainant and some other persons in their examination-in-chief, with no other material to support their so-called verbal/ocular version. Thus, the 'evidence' recorded during trial was nothing more than the statements which was already there under Section 161 Cr.P.C. recorded at the time of investigation of the case. No doubt, the trial court would be competent to exercise its power even on the basis of such statements recorded before it in examination-in- chief. However, in a case like the present where plethora of evidence was collected by the IO during investigation which suggested otherwise, the trial court was at least duty bound to look into the same while forming prima facie opinion and to see as to whether 'much stronger evidence than mere possibility of their (i.e. appellants) complicity has come on record. There is no satisfaction of this nature. Even if we presume that the trial court was not apprised of the same at the time when it passed the order (as the appellants were not on the scene at that time), what is more troubling is that even when this material on record was specifically brought to the notice of the High Court in the Revision Petition filed by the appellants, the High Court too blissfully ignored the said material. Except reproducing the discussion contained in the order of the trial court and expressing agreement therewith, nothing more has been done. Such orders cannot stand judicial scrutiny.”

In ***Juhru & others’ case*** (supra), the Apex Court observed as under:-

“17. It is, thus, manifested from a conjoint reading of the cited decisions that power of summoning under Section 319 Cr.P.C., 1973 is not to be exercised routinely and the existence of more than a prima



facie case is sine quo non to summon an additional accused. We may hasten to add that with a view to prevent the frequent misuse of power to summon additional accused under Section 319 Cr.P.C., 1973 and in conformity with the binding judicial dictums referred to above, the procedural safeguard can be that ordinarily the summoning of a person at the very threshold of the trial may be discouraged and the trial court must evaluate the evidence against the persons sought to be summoned and then adjudge whether such material is, more or less, carry the same weightage and value as has been testified against those who are already facing trial. In the absence of any credible evidence, the power under Section 319 Cr.P.C., 1973 ought not to be invoked.”

Lastly, the Apex Court in ***N. Manogar & Another’s case*** (supra), observed as under:-

“10. In our considered view, the approach adopted by the High Court was not in consonance with this Court's opinion in Hardeep Singh (Supra). The High Court failed to appreciate that the discretionary powers under Section 319 of the CrPC ought to have been used sparingly where circumstances of the case so warrant. In the present case, the Trial Court Order was well reasoned and did not suffer from any perversity. Moreover, the materials on record could not be said to have satisfied the threshold envisaged under Hardeep Singh (Supra) i.e., more than a prima facie case, as exercised at the time of framing of charge but short of evidence that if left unrebutted would lead to conviction.”

As discussed here-above, this Court does not find any substance on record, nor from the evidence led by respondent No.2, to meet the threshold required under the spirit of the judgment in Hardeep Singh’s case (supra) and other judgments passed by the Apex Court.

In the absence of such material, this Court is constrained to hold that mere deposition before the Court is not sufficient to put a person to face the entire length of trial.



14. In view of all the aforementioned facts and law, and the observations made and recorded by this Court, guided by the principles of law laid down by the Apex Court, the present petition is allowed. Consequently, the impugned order dated 23.09.2014 passed by the trial Court and the impugned order dated 04.11.2015 passed by the Revisional Court are hereby **set aside**.

Needless to mention here that the application under Section 319 Cr.P.C. stands **dismissed**.

15. Petition stands **disposed of** accordingly.

Pending misc. application(s), if any, also stand disposed of.

(SANJAY VASHISTH)
JUDGE

April 10, 2026
J.Ram

Whether speaking/reasoned: Yes/~~No~~
Whether Reportable: Yes/~~No~~