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

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CRM-M-28796-2023 (O&M)

Date of decision : 22.04.2026

Sunita

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM : HON'BLE MR. JUSTICE H.S.GREWAL

Present:- Mr. Shivansh Malik, Advocate and
Ms. Nisha Kanojia, Advocate for the petitioner.

Mr. Rakesh Kumar Jangra, AAG, Haryana.

Mr. Ajay K. Yadav, Advocate for respondent No.2.

H.S. Grewal, J.(Oral)

1. This petition has been filed under Section 482 of the Code of Criminal Procedure (now Section 528 of BNSS, 2023) seeking quashing of the order dated 17.01.2022 (Annexure P-8) passed by the learned Sub-Divisional Judicial Magistrate, Narwana, vide which the petitioner has been summoned to face trial while exercising its powers under Section 319 of Cr.P.C. in case F.I.R. No. 55 dated 13.04.2015 (Annexure P-1) under Sections 285, 323, 336 of the Indian Penal Code, 1860 and Section 27 of the Arms Act (Sections 338, 325, 326, 34, 324 of I.P.C. and Section 25/54/59 of Arms Act have been added later on), registered at Police Station Uchana, District Jind and to further set aside the impugned order dated 03.04.2023 (Annexure P-9) passed by the Ld. Additional Sessions Judge, Jind, which upheld the impugned order dated



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17.01.2022 of the Ld. Sub Divisional Judicial Magistrate, Narwana in its revisional jurisdiction.

2. The case of the prosecution is that initially, a complaint was filed by Pardeep Kumar, who is the son of the present petitioner against Shobha Ram and others. It is alleged that on 11.04.2015 at about 05:30 PM, Pardeep along with his brothers Manjeet @ Amardeep and Kuldeep was cutting the wheat crop. During that period, Shobha Ram, who is the real uncle of the complainant, arrived there while carrying firearms and had fired towards the machinery. However, Pardeep managed to save himself from the gunshots. Subsequently, Pardeep along with others had attacked on Shobha Ram with wooden sticks in order to save themselves. The said information was brought to the knowledge of the police on the basis of which aforesaid FIR was registered.

3. Thereafter on 14.04.2015, the concerned police received one medical rukka regarding injured-Shobha Ram being hospitalized at Sapra Hospital, Hisar. On the basis thereof, the investigating agency had reached the said hospital and recorded the version of Shobha Ram to the effect that Pardeep (initial complainant), Amardeep, Sunita (petitioner) and others had attacked upon him, claiming that the land on which the wheat was being cut was in his possession. He further alleged that he came to know that the aforesaid persons were harvesting the crops on his land, whereupon he(Shobha Ram) went to the said land with his firearms. It is alleged that he was beaten with wooden sticks.

4. On the basis of aforesaid version, the investigating agency enquired into the matter and concluded the present matter by presenting the report under Section 173(2) of Cr.P.C. against Pardeep and Manjeet. Initially,



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the present petitioner was found innocent and was kept in Column No.2 of the final report. After framing of the charges, the trial proceeded for recording the statement of the prosecution witnesses. PW1 Shobha Ram stepped into the witness box and reiterated the version as mentioned in the complaint. Subsequently, Shobha Ram moved an application under Section 319 of Cr.P.C. (Annexure P-6) before the trial court seeking summoning of the present petitioner. During the pendency of the said application, one rectification application was also moved on behalf of Shobha Ram on 04.12.2018(Annexure P-7).

5. The learned trial Court, while deciding the application under Section 319 of Cr.P.C., summoned the petitioner to face trial, vide its order dated 17.01.2022(Annexure P-8). Feeling aggrieved thereagainst, revision petition was filed before the Ld. Additional Sessions Judge, Jind, which was dismissed vide order dated 03.04.2023 (Annexure P-9).

6. Learned counsel for the petitioner submits that it is a case of version and cross-version and the aforesaid FIR is an outcome of a land dispute amongst family members. It is submitted that the petitioner has been falsely implicated in the present case, as she was not present at the place of occurrence. It is further submitted that the learned trial Court erred in summoning the petitioner, as the investigating agency had initially found her innocent and kept her in Column No. 2 of the final report under Section 173(2) of Cr.P.C. Moreover, the allegation levelled by Shobha Ram that the petitioner attacked his right hand with a wooden stick is false and she has been dragged into the matter with an ulterior motive.



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7. Learned counsel also submits that the alleged incident took place on 11.04.2015 and the complaint filed by Shobha Ram is an afterthought as his statement was recorded on 14.04.2015. He, therefore, prays for setting aside the summoning order dated 17.01.2022 (Annexure P-8) passed by the learned Sub-Divisional Judicial Magistrate, Narwana and the order dated 03.04.2023 (Annexure P-9) passed by the learned Additional Sessions Judge, Jind. In support of his submissions, he has relied upon the judgment of Hon'ble the Supreme Court in the case of **Brijendra Singh vs. State of Rajasthan, 2017(3) RCR (Criminal) 374** and the judgments of this Court in the cases of **Kuldeep Singh vs. State of Punjab**, bearing CRR-849 of 2018, decided on 02.02.2023 and **Sunil @ Sunil Kumar vs. State of Haryana**, bearing CRR No.552 of 2023, decided on 20.01.2024.

8. *Per contra*, learned State counsel, while referring to the reply filed by way of an affidavit of Sh. Amit Bhatia, Deputy Superintendent of Police, Narwana, District Jind, submits that during the trial of the cross-case, PW-1 Shobha Ram levelled specific allegations against the petitioner to the effect that she inflicted an injury on his right hand with a danda. It is further submitted that the said version stands fully corroborated by the medical evidence. Dr. Mahender Singh, who appeared as PW-2, stated that there was an injury on the right hand of the complainant and had advised an X-ray examination. He, therefore, prays for dismissal of this petition.

9. On the other hand, learned counsel for respondent No.2 vehemently opposes the prayer of the petitioner and submits that the petitioner was specifically named by injured Shobha Ram in his statement recorded



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during investigation as well as in his deposition before the trial Court. It is submitted that the petitioner actively participated in the occurrence and caused injury on the right hand of the complainant with a danda. He further submits that merely because the petitioner was kept in Column No.2 of the report under Section 173(2) Cr.P.C., it does not mean that she cannot be summoned later, as the trial Court is fully empowered under Section 319 Cr.P.C. to summon any person against whom strong and cogent evidence comes during trial.

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

11. It is evident that the present FIR arose out of a dispute regarding possession and cultivation of agricultural land between close family members. It is also admitted that both sides lodged cases against each other. Initially, the FIR was registered on the statement of Pardeep Kumar, son of the present petitioner, alleging that Shobha Ram had fired at them. After three days of the incident, the statement of injured Shobha Ram was recorded in the hospital, wherein allegations were levelled against the petitioner and others.

12. Furthermore, during investigation, the police did not find sufficient evidence against the present petitioner and her name was kept in Column No.2 of the challan. Later, she was summoned mainly on the basis of the statement of PW-1 Shobha Ram, who stated in his deposition before the trial Court that she caused injury on his right hand with a danda. However, there is no separate or independent evidence to show her active involvement in the occurrence.



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13. More importantly, a bare reading of FIR No.55 shows that according to Pardeep Kumar, Shobha Ram fired two rounds from his 12 bore gun and in order to save himself, he struck Shobha Ram on the hand with a wooden log. The FIR does not mention the presence of the petitioner-Sunita at the spot and the petitioner had taken a specific plea that she was not present at the time of the incident.

14. Admittedly, the powers under Section 319 Cr.P.C. are extraordinary in nature but it should be used only when strong and convincing evidence comes before the Court during trial. A person who was found innocent during investigation cannot be summoned merely on repetition of earlier allegations, unless some fresh and stronger evidence comes on record.

15. Hon'ble the Supreme Court in the case of **Brijendra Singh vs. State of Rajasthan(supra)**, while deciding the similar issue, has held as under:-

“13. In order to answer the question, some of the principles enunciated in Hardeep Singh's case may be recapitulated:- Power under [Section 319](#) Cr.P.C. can be exercised by the trial court at any stage during the trial, i.e., before the conclusion of trial, to summon any person as an accused and face the trial in the ongoing case, once the trial court finds that there is some 'evidence' against such a person on the basis of which evidence it can be gathered that he appears to be guilty of offence. The 'evidence' herein means the material that is brought before the Court during trial. Insofar as the material/evidence collected by the IO at the stage of inquiry is concerned, it can be utilised for corroboration and to support the evidence recorded by the Court to invoke the power under [Section 319](#) Cr.P.C. No doubt, such evidence that has surfaced in examination-in-chief, without cross-examination of witnesses, can also be taken into consideration. However, since it is a discretionary power given to the Court under [Section 319](#) Cr.P.C. and is also an extraordinary one, same has to be exercised sparingly and only in those cases where the



circumstances of the case so warrants. The degree of satisfaction is more than the degree which is warranted at the time of framing of the charges against others in respect of whom chargesheet was filed. Only where strong and cogent evidence occurs against a person from the evidence led before the Court that such power should be exercised. It is not to be exercised in a casual or a cavalier manner. The prima facie opinion which is to be formed requires stronger evidence than mere probability of his complicity.

14. When we translate the aforesaid principles with their application to the facts of this case, we gather an impression that the trial court acted in a casual and cavalier manner in passing the summoning order against the appellants. The appellants were named in the FIR. Investigation was carried out by the police. On the basis of material collected during investigation, which has been referred to by us above, the IO found that these appellants were in Jaipur city when the incident took place in Kanaur, at a distance of 175 kms. The complainant and others who supported the version in the FIR regarding alleged presence of the appellants at the place of incident had also made statements under [Section 161 Cr.P.C.](#) to the same effect. Notwithstanding the same, the police investigation revealed that the statements of these persons regarding the presence of the appellants at the place of occurrence was doubtful and did not inspire confidence, in view of the documentary and other evidence collected during the investigation, which depicted another story and clinchingly showed that appellants plea of alibi was correct.

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.”

16. Similarly, this Court in the case of **Sunil @ Sunil Kumar vs. State of Haryana** (supra) has observed as under:-

*“7. The FIR is not supposed to be an encyclopedia of the entire events and cannot contain the minute details of the events. Mere statement of the complainant reiterating the contents of FIR/complaint not substantiated by any credible material, cannot be a ground to invoke the discretionary and extraordinary power of this Court to summon an additional accused under Section 319 Cr.P.C. In the absence of any material suggesting existence of more than prima facie case available during the course of trial of an offence, courts ought to refrain themselves from exercising its discretionary and extraordinary power under Section 319 Cr.P.C. The Constitution Bench of the Hon’ble Supreme of India in **Hardeep Singh’s cae** (supra) has held that the power under Section 319 Cr.P.C. is a discretionary and an extraordinary power. It is to be exercised only on the basis of the material available before the Court during a trial and not because the Magistrate or the Sessions Judge is of the opinion that some other accused/person may also be guilty of committing that offence.*

8. The trial Court must evaluate the material against the persons sought to be summoned and then adjudge whether such material, 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 material, the power under Section 319



*Cr.P.C. ought not to be invoked. A two Judge Bench of the Hon'ble Supreme Court in **Juhru and others Vs. Karim and another (2023) 5 SCC 406** speaking through Justice Surya Kant, while relying upon **Hardeep Singh's case** (supra) has held as under:-*

“16. It is, thus, manifested from a conjoint reading of the cited decision that power of summoning under Section 319 CrPC is not to be exercised routinely and the existence of more than prima facie case is sine qua 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 CrPC, 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, 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 CrPC ought not to be invoked.”

17. In light of the above, this Court is of the considered view that the summoning order (Annexure P-8) against the petitioner is unsustainable and liable to be set aside.

18. Consequently, this petition is allowed and the summoning order dated 17.01.2022 (Annexure P-8) passed by the learned Sub-Divisional Judicial Magistrate, Narwana against the petitioner in case FIR No. 55 dated 13.04.2015 (Annexure P-1) under Sections 285, 323, 336 of the Indian Penal Code, 1860 and Section 27 of the Arms Act (Sections 338, 325, 326, 34, 324 of



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IPC and Section 25/54/59 of Arms Act have been added later on), registered at Police Station Uchana, District Jind as well as the order dated 03.04.2023 (Annexure P-9) passed by the Ld. Additional Sessions Judge, Jind, are hereby quashed qua the petitioner only.

19. Pending application, if any, shall stand disposed of accordingly.

22.04.2026
A.Kaundal

(H.S.GREWAL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No