

Judgment reserved on:08.04.2026
Judgment delivered on:-06.05.2026

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Revision No.211 of 2025

Rakesh Mittal

.....Revisionist

Versus

C.B.I. and others

.....Respondents

Presence:-

Mr. Ambrish Kumar, Mr. Raveendra Singh Bisht and Mr. Rajendra Singh Azad (though video conferencing), learned counsel for the revisionist.

Mr. Nikhil Sabri, learned counsel holding brief of Mr. Piyush Garg, learned counsel for respondent no.1.

Dr. Aman Rab, learned counsel for respondent no.2, through video conferencing.

Mr. P.B. Suresh, learned Senior Advocate, through video conferencing, assisted by Ms. Mamta Bisht, learned counsel for respondent no.3.

Mr. B.S. Adhikari, learned counsel for respondent no.4.

Hon'ble Pankaj Purohit, J.

This criminal revision has been filed for setting aside the judgment and order dated 30.01.2025, passed by learned Special Judge, Anti Corruption C.B.I. Dehradun in C.B.I. Case No.3 of 2006, C.B.I. Vs. Prem Dutt Raturi and another, under Section 120-B r/w Sections 420, 467, 471, 468 of IPC and Section 13(2) r/w Section 13(1)(d) of Prevention of Corruption Act, 1988, and for allowing the application under Section 319 (Paper No.1177B) of Cr.P.C. which was rejected and further to direct the learned trial court to summon Shree Alok Bihari Lal (respondent no.2 hereinafter referred to as "Shree A.B. Lal") and Shree. Ganesh Chand Pant (respondent no.3) as accused to face the trial.

2. Facts of the case, in brief, are that in the year

2001 Government of Uttarakhand under signature of the then Principal Secretary Home-Shree S.K. Das issued one Office Memorandum dated 16.12.2001 for recruitment of Sub-Inspectors in Uttarakhand Police. Shree S.K. Das informed the then D.G.P. that 253 posts of Sub-Inspector are sanctioned by the Government. I.I.T Roorkee was given a task to prepare question papers and evaluation of the answer sheets. I.I.T. Roorkee entrusted the aforesaid task to one Professor Dev Dutt Das. The tabulation committee was thereafter constituted to prepare the final results at the Police Headquarters. The Chairman of the aforesaid Committee was Shree Rakesh Mittal, the then A.D.G., and the members were Shree K.R. Negi, then I.G.P., L.P. Mishra, the then D.I.G. Garhwal Division, Shree Anil Raturi, the then D.I.G., personnel Police Headquarters. After the publication of the final results writ petitions were filed before this Court whereby it was revealed that there were discrepancies in the marks of written examination of seven candidates. Revisionist along with other persons was charge sheeted with the aforesaid crime. The revisionist during the trial moved an application under Section 319 of Cr.P.C. to summon two other accused persons which was rejected by the impugned judgment and order. Hence, this criminal revision.

3. Learned counsel for the revisionist submits that there was a criminal conspiracy between Shree A.B. Lal (respondent no.2), Shree P.D. Raturi (respondent no.4) and Shree G.C. Pant (respondent no.3) to cook a false criminal case against Shree Rakesh Mittal, so that Shree A.B. Lal might be elevated to the post of D.G.P. of the State of Uttarakhand instead of Shree Rakesh Mittal. Shree S.K. Das, the then Principal Sectary Home had provided his assistance to the aforesaid conspirators for their success.

In furtherance of the above criminal conspiracy Shree A.B. Lal and Shree G.C. Pant were unauthorizedly present at I.I.T. Roorkee at the time of evaluation of the O.M.R. Sheets, they also illegally prepared a floppy containing odd/fake marks in written examination of some candidates and on 19.04.2002 unofficially bought aforesaid floppy from I.I.T. Roorkee and Shree A.B. Lal had kept this floppy in his unauthorized personal custody till 23.07.2002. He submits that revisionist-Shree Rakesh Mittal joined the State of Uttarakhand in the month of January 2002 and was not associated with the recruitment process till 23.07.2002 and it was Shree A.B. Lal who was very actively participating in the process of recruitment from the beginning of the process and surprisingly after handing over the floppy he deserted himself from the further process of recruitment. Revisionist did not know that odd marks could not be given to any candidate in the written examination and the aforesaid fact was concealed from Shree Rakesh Mittal by Shree S.K. Das, Shree P.D. Raturi, Shree A.B. Lal and Shree Anil Raturi. He further submits that learned trial court in spite of cogent evidence rejected the application under Section 319 of Cr.P.C. by committing gross factual and legal mistake in overlooking the relevant evidence of the concerned prosecution witnesses. He states that Shree A.B. Lal and Shree G.C. Pant were present in I.I.T. Roorkee without any authority at the time of preparation of result. Both these persons created such circumstances that Professor D.D. Das of I.I.T. Roorkee had to call them at the time of preparation of written test result, thereafter Shree A.B. Lal without being authorized took the floppy containing written test marks of the candidates and this floppy was in the personal custody of Shree A.B. Lal till 23.07.2002 and only on 23.07.2022 he handed-over the floppy to Shree Rakesh Mittal. He submits that unauthorized presence in I.I.T. Roorkee and

illegal and unauthorized custody of floppy for four days in itself shows that Shree A.B. Lal and Shree G.C. Pant conspired to implicate the revisionist. He submits that in spite of cogent evidence and *prima facie* case against respondent nos.2 and 3 the learned trial court rejected the application under Section 319 of Cr.P.C. which is against the established principles of law. He relied on the cases of *Ashok Debbarma alias Achak Debbarma Vs. State of Tripura*, reported in (2014) 4 SCC 747 and *Raghuveer Sharan Vs. District Sahakari Krishi Gramin Vikas Bank and another* reported in (2024) SCC Online SC 2489.

4. Learned counsel for the C.B.I./respondent no.1 submits that the bare perusal of the impugned order dated 30.01.2025 clearly demonstrates that the impugned order is well reasoned and based on proper appreciation of evidence and the C.B.I. only after conducting a fair and impartial and scientific investigation filed the charge sheet before the learned Special Court (C.B.I.) Dehradun against Shree B.D. Raturi and the revisionist Shree Rakesh Mittal. He submits that the charge sheet is based on cogent oral documentary and scientific evidence collected during investigation. He further submits that the main thrust of arguments of the revisionist is that the floppy brought by Shree A.B. Lal along with Shree G.C. Pant contained tampered marks is wholly untenable and stands contradicted by the scientific evidence on record as per the expert opinion contained in F.S.L. Report states that the data from floppy was copied for the first time on 24.07.2002 i.e., after it was handed over to the revisionist. Moreover the laptop of revisionist contained both original as well as altered marks. From the official communications it is also well established that Shree A.B. Lal had no role whatsoever in physical test or interview. The fact that marks of certain candidates were increased only

marginally, just enough to secure the selection, clearly reveals that it could only be done by a person who had the custody of both the written as well as interview marks. The allegation that conspiracy was hatched against the revisionist so as to Shree A.B. Lal could be promoted as D.G.P. of State Police is also untenable as multiple prosecution witnesses state that Shree Rakesh Mittal was not the only person senior to Shree A.B. Lal and as there were other persons senior in rank to Shree A.B. Lal therefore even if Shree Rakesh Mittal was convicted he had no opportunity of becoming the next D.G.P. He relied upon the case of *Hardeep Singh Vs. State of Punjab* reported in (2014) 3 SCC 92.

5. Learned counsel for respondent no.2 submits that multiple applications under Section 319 of Cr.P.C. have been filed by the revisionist which have been rejected time and again as sufficient evidence was not available to implicate Shree A.B. Lal (respondent no.2) and Shree G.C. Pant (respondent no.3). He further submits that bare perusal of the official records clearly states that at the relevant point of time Shree A.B. Lal was I.G.P. personnel at Police Headquarters and therefore acted as a competent authority to supervise selection process, it is also very clear that he went to I.I.T. Roorkee as it was directed to him by his superior officials as Professor D.D. Das was not aware about the reservation policy of the State and needed his assistance for preparing the result, in accordance with the reservation policy of the State. He also clarified that after handing over of the written test marks he was not associated with the interview process or with the tabulation process and in fact the revisionist was the Chairman of both the Interview Board and the Tabulation Committee. He also submits that as Shree Rakesh Mittal was not the only person senior to him, therefore, no

occasion arises that on his conviction respondent no.2 could be elevated as D.G.P. of the State. He relied upon the case of *Periyasami and others Vs. S. Nallasami* reported in (2019) 4 SCC 342.

6. Learned counsel for respondent no.3 submits that the application under Section 319 of Cr.P.C. was correctly dismissed after having found no evidence or material on record to call respondent no.3 as an accused. He further submits that the present application under Section 319 of Cr.P.C. is gross abuse of process of law as similar applications filed by the revisionist stood dismissed. He submits that the revisionist has wasted precious time of the court below by filing repeated applications on conjecture and conspiracy having no basis or evidence to support the same. The learned trial court in its order dated 30.01.2025 has rejected the application under Section 319 of Cr.P.C. as he did not find even an iota of evidence against respondent no.3. He further submits that his presence in I.I.T. Roorke was part of his duty as he was complying with the directions of his seniors. There is no evidence or even allegation to suggest that floppy was ever in possession of respondent no.3 and moreover the floppy was sealed with a tape and if any mischief would have been committed with respect to it the signatures on the tape would have been wiped out. He further submits that power vested under Section 319 of Cr.P.C. is a discretionary and extraordinary power which can be used only if the degree of satisfaction is that which is warranted at the time of framing of charges.

7. Having heard the submissions made by learned counsel for the respective parties and after perusal of material available on record, this Court is of the considered opinion that the impugned order does not

suffer from any illegality or any procedural irregularity and is based upon settled principles of law. I have gone through the judgments supplied by learned counsel for the revisionist and am of the opinion that they are of no use to him as they simply enumerate the settled principle of law which is that the powers under Section 319 of Cr.P.C. are discretionary and are only to be used if there exist a *prima facie* case sufficient enough to **frame charges** against the persons sought to be implicated as accused persons. This position of law has been enumerated by Apex Court in the case of Hardeep Singh (supra).

Question (iv)—What is the nature of the satisfaction required to invoke the power under Section 319 CrPC to arraign an accused? Whether the power under Section 319(1) CrPC can be exercised only if the court is satisfied that the accused summoned will in all likelihood be convicted?

Answer

117.5. Though under Section 319(4)(b) CrPC 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 CrPC would be the same as for framing a charge [Ed. : The conclusion of law as stated in para 106, p. 138c-d, may be compared: "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". See also especially in para 100 at p. 136f-g.] . 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.

8. The satisfaction required to accept the application under Section 319 of Cr.P.C. was clearly not met in this case. Moreover the allegations of the revisionist

regarding unauthorized presence and tampering of marks also are merely bald allegations without any factual basis as it is very evident from the statements received by the witnesses that respondent nos.2 and 3 were authorized and were directed by the superior officers to take part in the process of recruitment. Moreover the fact that there were several senior officers between the revisionist and respondent no.2 also makes it clear that even if Shree Rakesh Mittal would not have been promoted as the D.G.P. it will not *per se* make respondent no.2 as D.G.P. of the State, therefore, this Court is satisfied from the appreciation of evidence by the learned trial Judge and considers this case not suitable for interference.

9. Accordingly this criminal revision stands dismissed.

(Pankaj Purohit, J.)
06.05.2026

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