



**CRR-1940-2023 and another connected matter**

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**204 (02 Cases)**

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

**Date of Decision:- 19.05.2025**

**(1)**

**CRR-1940-2023**

Naveen and another

.... Petitioners

VERSUS

State of Haryana and another

.... Respondents

**(2)**

**CRR-2320-2023**

Pawan

.... Petitioner

VERSUS

State of Haryana and another

.... Respondents

**CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI**

Present:- Mr. Akashdeep Singh, Advocate  
for the petitioner(s) in both cases.

Ms. Aditi Girdhar, AAG, Haryana.

Mr. Sandeep Singal, Advocate  
for respondent No. 2 in both cases.

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**AMARJOT BHATTI, J.(Oral)**

1. Both criminal revisions as referred above arising out of common order dated 01.07.2023 are taken up together for disposal.
2. Petitioners Naveen and Shivam have filed common criminal revision i.e. CRR-1940-2023, whereas, petitioner Pawan has filed separate criminal revision i.e. CRR-2320-2023 against common impugned order

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dated 01.07.2023 passed by learned Additional Sessions Judge (POCSO Court), Rohtak, whereby application under Section 319 Cr.P.C. was allowed and aforesaid petitioners were summoned to face trial in FIR No. 116 dated 25.09.2022 under Section 376-D, 376(2)(n), 377, 120-B, 506 read with Section 34 of IPC and Section 6 of POCSO Act, alongwith main accused Deepak.

3. Brief facts of the case are prosecutrix gave her statement that she was born on 30.01.2006 and was student of 11<sup>th</sup> class in Government Girls Senior Secondary School, Old Bus Stand, Rohtak. Meghna was her class fellow. On 12.09.2022, Meghna asked her to accompany her to Mansarovar park, where a boy namely Deepak met Meghna whom she already knew. He misbehaved with her and out of anger she slapped him. On the next day, she did not go to school. Next time when she went to school her friend told her that Deepak and Meghna were looking for her for last two days. On 15.09.2022, Deepak and Meghna met her at school gate and took her to Food Studio Restaurant near Mansarovar where Deepak committed forcible rape with her and also indulged in unnatural sex, in a cabin on 4<sup>th</sup> floor. Again on 16.09.2022, Deepak again committed wrongful act with her in that restaurant. On 21.09.2022, he did wrongful act with her in a room of 3<sup>rd</sup> floor of hotel Golden Sky near Civil Hospital. Said Deepak was accompanied by his friends Naveen, Meghna, Pawan and Shivam. Out of them, Pawan molested her with bad intention. With these allegations, present FIR has been registered.

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4. In the aforesaid FIR, on completion of investigation challan (Annexure P-5) was presented against Deepak alone. After framing of charge-sheet, statement of victim was recorded as PW-1 (Annexure P-6). Thereafter, application was filed under Section 319 Cr.P.C. which was allowed vide impugned order dated 01.07.2023 passed by learned Additional Sessions Judge (POCSO Court), Rohtak and accordingly, Meghna, Pawan, Shivam and Naveen were summoned as accused to face trial alongwith main accused Deepak.

5. Learned counsel representing Naveen and Shivam in CRR-1940-2023 argued that they are falsely implicated in this case. Their names were not referred by prosecutrix on the earlier dates mentioned in FIR. On 21.09.2022, they had gone to attend birthday party of Meghna. Therefore, they were present by chance. No role is attributed to them regarding commission of said offence. During investigation, they were found innocent and were not challaned. Subsequently, they are summoned by passing impugned order dated 01.07.2023 passed by learned Additional Sessions Judge (POCSO Court), Rohtak on application under Section 319 Cr.P.C. Impugned order passed by learned Additional Sessions Judge (POCSO Court), Rohtak is not on sound footing, therefore, same may be set aside by accepting present revision.

6. Learned counsel representing petitioner Pawan in CRR-2320-2023 argued that allegations of rape were only against Deepak. Petitioner was present there to attend birthday party of his friend Meghna alongwith other friends. Investigating Agency had looked into the CCTV footage and

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on that basis he alongwith others were found to be innocent. Sole testimony of prosecutrix is not sufficient to establish the allegations levelled against petitioner. She has tried to give improved version. It was prosecutrix who was suffering from depression and had gone to Civil Hospital, Rohtak for treatment. There is statement of Doctor dated 24.11.2022 which is Annexure P-2 and OPD card of prosecutrix is Annexure P-3. Earlier she was levelling allegations against her stepfather. Petitioner Pawan has nothing to do with prosecutrix. He is summoned by learned trial Court without proper appreciation of the facts and documents on record. Therefore, revision preferred by petitioner Pawan may be accepted and impugned order dated 01.07.2023 passed against him on application under Section 319 Cr.P.C. may kindly be set aside.

7. Learned counsel representing State filed status report. Factual position is not disputed that present petitioners were found innocent during investigation and they were not challaned. Only accused Deepak was challaned against whom charge-sheet was framed on 02.09.2023 under Section 376(2)(n), 377, 376-D, 506, 34, 120-B of IPC and Section 6 of POCSO Act. Prosecutrix was examined and thereafter, on application under Section 319 Cr.P.C, accused Meghna, Pawan, Shivam and Naveen were summoned as additional accused vide order dated 01.07.2023. It is alleged that regarding the birthday party, CCTV footage was seen during investigation. Impugned order has been passed by learned Additional Sessions Judge, (POCSO Court), Rohtak on the basis of evidence and record available on file.

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8. Learned counsel representing prosecutrix/respondent No. 2 also opposed both revisions filed by petitioners. It is pointed out that version of prosecutrix is consistent right from the beginning. Statement of prosecutrix was recorded under Section 164 Cr.P.C. (Annexure P-4). Thereafter, she has also stepped into the witness box as PW-1 (Annexure P-6) and she has consistently narrated the facts of different dates as it actually happened with her. Therefore, learned trial Court rightly considered the testimony of prosecutrix and summoned additional accused i.e. petitioners and Meghna to face trial with main accused Deepak. Order passed by the trial Court is fully justified and same does not require any interference.

9. I have considered the arguments advanced by learned counsel for petitioners in both cases as well as learned State counsel and learned counsel representing prosecutrix/respondent No. 2 in both cases and have also carefully perused documents annexed with present case. Learned trial Court has allowed application under Section 319 Cr.P.C. Provisions of Section 319 Cr.P.C. runs as under:-

**“319. Power to proceed against other persons appearing to be guilty of offence.**

(1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.

(2) Where such person is not attending the Court, he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.

(3) Any person attending the Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of the

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inquiry into, or trial of, the offence which he appears to have committed.

(4) Where the Court proceeds against any person under sub-section (1), then

(a) the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard;

(b) subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced.”

Therefore, during the proceedings of the trial, application can be moved under Section 319 Cr.P.C. for summoning of additional accused. There is landmark judgment of **Hon’ble Supreme Court of India** cited in **[Law Finder Doc Id # 514451] 2014 (1) R.C.R. (Criminal) 623 “Hardeep Singh Vs. State of Punjab and others”**, where broad principles were laid down for summoning of accused under the provision of Section 319 Cr.P.C. There is another judgment of **Hon’ble Supreme Court of India** cited in ***Criminal Appeal No.549 of 2023***, case titled **“Juhru & Ors. Vs. Karim and Another”** decided on **21.02.2023**, where again it was elaborated that the power under Section 319 Cr.P.C is discretionary and extraordinary power. It has to be exercised sparingly and only in those cases where the circumstances of the case so warrant. Unlike criteria for framing of charges, here evidence must be stronger than prima facie case and short of satisfaction that the evidence if unrebutted would lead to conviction. The principles laid down in the aforesaid judgments are to be applied to the facts and circumstances of the case.

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10. In the case in hand, FIR has been lodged on 25.09.2022 on the statement of prosecutrix. She has narrated incident of 12.09.2022, 15.09.2022 and 16.09.2022 when she was sexually exploited by main accused Deepak and in this friend of prosecutrix Meghna also played active role. Thereafter, there is incident of 21.09.2022, when prosecutrix along with her sister attended birthday party of Meghna in Hotel Golden Sky near Civil Hospital, where main accused Deepak along with Naveen, Pawan and Shivam also came to attend birthday party of Meghna. Prosecutrix again narrated the occurrence when Pawan allegedly slapped her and molested her with bad intention, whereas, main accused Deepak allegedly committed repeated forcible rape with her in presence of her sister. Version of prosecutrix in her statement under Section 164 Cr.P.C. (Annexure P-4 in CRR-1940-2023) as well as before Court as PW-1 (Annexure P-6 in CRR-1940-2023) has been considered.

Facts indicate that Naveen and Shivam, though, came to attend birthday party were not attributed any specific role regarding commission of forcible rape or threats extended to prosecutrix. For the purpose of summoning of additional accused on application under Section 319 Cr.P.C, specific role of petitioners Naveen and Shivam has to be considered. Therefore, in the absence of any specific attribution to petitioners Naveen and Shivam, their summoning on application under Section 319 Cr.P.C. is not justified. Therefore, **present revision i.e. CRR-1940-2023 filed by petitioners Naveen and Shivam is, accordingly, allowed** and impugned order dated 01.07.2023 passed by learned Additional Sessions Judge

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(POCSO Court), Rohtak qua them is, accordingly, set aside.

11. Petitioner Pawan is specifically named by prosecutrix and specific role is also attributed to him. Infact, version put forward by prosecutrix indicate that he supported and helped main accused for commission of alleged offence. Therefore, impugned order dated 01.07.2023 passed by learned Additional Sessions Judge (POCSO Court), Rohtak qua petitioner Pawan does not require any interference. Resultantly, **criminal revision i.e. CRR-2320-2023 filed by petitioner Pawan is, accordingly, dismissed.**

12. Pending miscellaneous application(s), if any, in both cases, stand disposed of accordingly as well.

13. A photocopy of this order be placed on the file of connected case mentioned above.

19.05.2025

*lalit***(AMARJOT BHATTI)  
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No