

2025:PHHC:086714



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

**CRR-1602-2025  
Date of Decision:04.07.2025**

Ravinder Singh ...Petitioner

Versus

State of Punjab and others ...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

**Present:** Mr. Ankush Rampal, Advocate  
for the petitioner(s).

Ms. Simran Gorla, AAG, Punjab.

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**RAJESH BHARDWAJ, J. (ORAL)**

1. The instant revision petition has been filed challenging the impugned order dated 03.04.2025 passed by the Ld. Additional Sessions Judge, Bathinda vide which an application filed by the petitioner under Section 319 Cr.PC for summoning of additional accused namely Lovish Kumar son of Arjan Kumar and Makhan Kumar @ Babbi i.e. respondent Nos.2 and 3, in case FIR No.199 dated 02.09.2020 under Section 306 of IPC, registered at Police Station Maur, District Bathinda, has been dismissed.

2. Succinctly, facts of the case are that the petitioner before this Court is the complainant of above said FIR, wherein he alleged that his younger brother was Sukhwinder Singh (deceased). Sahil Kumar @ Shelly and Simpa Johar had fraudulently transferred a house in the name of Arjun Kumar's son (Lovish Kumar). His brother Sukhwinder Singh was deeply distressed due to the same. These three persons i.e. Sahil Kumar @ Shelly and

Simpa Johar and Arjun Kumar used to threat his brother to vacate the house and forcibly throw him out of the house. On account of the threatening given by these three persons, his brother Sukhwinder Singh committed suicide by hanging himself. It was alleged that all these three persons were responsible for the suicide committed by his brother and thus, the legal action be taken against them. On registration of the FIR, the investigation commenced. On completion of the investigation, challan was presented and the learned trial Court after framing of charges, commenced the trial. During trial, Nirmala Devi i.e. mother of the deceased was examined as PW4, wherein she deposed against respondent Nos.2 and 3 namely Lovish Kumar and Makhan Kumar @ Babbi and alleged that they were also responsible for the death of her son, in addition to three accused already facing the trial. Thus, an application under Section 319 Cr.PC was filed for summoning both these accused. However, after hearing both the sides, the trial Court declined the same vide its impugned order dated 03.04.2025. Hence, aggrieved by the same, the petitioner has approached this Court by way of filing the present revision petition.

3. Learned counsel for the petitioner has vehemently argued that impugned order is illegal and unsustainable in the eyes of law, thus, deserves to be set aside. He submits that Nirmala Devi (mother of the deceased) had been examined as PW4, wherein the specific allegation has been made against both respondent Nos.2 and 3 and thus, their complicity has been established. He submits that the deceased left a suicide note, which is part of the challan, however, the learned trial Court failed to appreciate the same. He further submits that as per law settled, degree of satisfaction was sufficient qua both respondent Nos.2 and 3 and thus, they were liable to be summoned under Section 319 Cr.PC to face the trial along with other accused persons. However,

the learned trial Court has drawn the conclusion, which is violative of the law settled and thus, the impugned order being unsustainable in the eyes of law deserves to be set aside.

4. This Court heard the learned counsel for the petitioner and perused the record. Admittedly, petitioner is the author of the FIR and levelled allegations against three accused in the FIR. There was no whisper of any allegations against both respondent Nos.2 and 3. However, they have been alleged to be accused for the first time in the deposition of the witnesses Nirmala Devi-PW4 before the trial Court. As observed by the trial Court, though the suicide note is also part of the challan filed by the investigating agency, however, in the suicide note as well, allegation were found to be levelled by the deceased against both respondent Nos.2 and 3. Wife of the deceased namely Paramjit Kaur had been examined as PW1, who has also not levelled any allegation against both the respondents.

5. To understand the controversy in hand, the statutory provisions of Section 319 Cr.P.C. is necessary to be considered, which reproduced 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 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.”

6. For invoking the power under Section 319 Cr.P.C., Hon'ble the Supreme Court in ***Hardeep Singh Vs. State of Punjab and others, 2014(1) RCR (Criminal) 623*** has held as under:-

“98. Power under Section 319 Cr.P.C. is a discretionary and an extraordinary 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.”

8. It has been held by the Hon'ble Supreme Court that summoning

under Section 319 Cr.P.C. is an extraordinary power which cannot be used in a cavalier manner and the same has to be used sparingly. In all its humility, there is no dispute regarding the judgment relied upon by counsel for the petitioner. However, in the facts and circumstances of the same, the same is distinguishable. As per the judgment relied upon by the petitioner, Hon'ble the Supreme Court had laid down the guidelines for invoking the power under Section 319 Cr.P.C. There is no dispute regarding the power of jurisdiction of Court invoking its powers under Section 319 Cr.P.C. however, the same is subject to the fulfillment of the requisite parameters which the petitioner has failed to qualify.

9. Thus, weighing the facts and circumstances of the case on the anvil of the law settled by the Hon'ble Supreme Court in ***Hardeep Singh*** case (supra), this Court finds that the view taken by the learned Additional Sessions Judge, Bathinda vide order dated 03.04.2025 suffers from no infirmity and hence, the petition being devoid of any merits is hereby dismissed. Pending application, if any also stands dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

**04.07.2025**

*Parveen kumar*

**(RAJESH BHARDWAJ)**  
**JUDGE**

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