



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

125

CRM-M-42412-2025

Date of decision: 18.08.2025

Peeya Sharma

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present : Mr. Vinod Ghai, Senior Advocate with
Mr. Arnav Ghai, Advocate and
Ms. Kashish Sahni, Advocate for the petitioner.

AARADHNA SAWHNEY, J.

1. Petitioner is the Principal of Ryan International School, Sector-31, Gurugram, who in exercise of powers under Section 319 Cr.P.C. was summoned as an accused to face trial by the learned Magistrate vide order dated 10.06.2022, which was affirmed by learned Additional Sessions Judge, Gurugram in terms of order dated 29.05.2025.

2. Relevant facts emerging from documents on record be notice hereinbelow:-

Smt. Neetu, wife of Pankaj Juneja, resident of House No.1036, Sector-29, Krishna Colony, Gurugram, set the criminal law in motion by filing a complaint pointing therein that her daughter Jiya (since deceased) is studying in 3rd Class, Ryan International School. At about 02:30 p.m., on 09.05.2016, she (complainant) was waiting at the bus stop to pick up her daughter (Jiya), who was supposed to return home through a school bus (route No.16). On the said day, however, she (complainant) noticed that the school bus had come from the opposite direction, neither any attendant was visible. Driver of the bus, it appeared was new to his job and had probably stopped the bus at the asking of Jiya. The child was dropped on the road and when she tried to cross over, a white coloured car, being driven rashly and negligently, hit her (Jiya). Resultantly, she fell down and became unconscious. With the help of few



persons, who had gathered at the site, the child was picked up and rushed to Aryan Hospital, where first aid was provided and thereafter was got admitted to Medanta Medicity, Gurugram. Unfortunately, however the young child succumbed to her injuries during treatment. With this backdrop, request was made to search for the vehicle and initiate appropriate proceedings against its driver, as also against the school bus. On the basis of the said statement, a formal case vide FIR No. was registered under Sections 279, 337, 337 at Police Station Sector-5, Gurgaon.

3. During the course of investigation, the car which had hit the kid could not be identified, neither could be its driver. When questioned from the school authorities including the present petitioner, it was disclosed that Mrs. Sushma had been deputed as Route incharge on the bus and Mr. Vinod Singh was the driver, as also that the duties and responsibilities of the staff deputed on the bus were also brought to their notice. After due investigation, the investigating agency was of the opinion that the driver of the school bus namely Vinod Singh and the teacher incharge of the bus namely Sushma Singh were guilty of rashness and negligence, as they failed to take requisite care and precaution that was expected of them. Resultantly, the FIR No. 295 dated 13.05.2016 was lodged against them under Sections 279, 337, 304-A IPC. On culmination of investigation, challan was also filed against the aforesaid two persons. Learned Magistrate in terms of order dated 11.07.2017, charge-sheeted them for commission of offence punishable under Section 304-A of the IPC.

The said order was assailed by Smt. Sushma Singh. The learned Additional Sessions Judge, Gurugram ensued of the matter allowed the revision petition filed by Sushma Singh and discharged her vide order dated 08.03.2018.

It can further be inferred that in the course of trial, Neetu



(complainant) appeared as PW7 and apart from narrating the manner in which the tragic incident occurred, deposed that if any attendant conductor would have been deputed on the bus by the school authorities, the accident would not have taken place. The teacher on board, as also the driver did not hand over the child to her (complainant). The child was left at the road and thus alleged that the accident occurred due to negligence on the part of bus driver, the teacher on the bus, school management and unknown vehicle. Resultantly, an application under Section 319 Cr.P.C. was moved, vide which the present petitioner Peeya Sharma, Principal of the school and Ryan Pinto, CEO of the school were sought to be summoned as additional accused.

As noticed above, the said application was allowed by the learned Magistrate vide order dated 10.06.2022, by holding that the school authorities had been negligent in not instructing the bus driver, who being new in his job, had no idea about the bus stops etc. It was further held by the learned Magistrate that **once the children are dropped at the school or picked up by the school bus and till they are dropped back at home/handed over to their authorized guardian, they are supposed to be the responsibility of the school management and authority, who are absolutely responsible for ensuring their safety.**

The aforesaid order was challenged by the present petitioner-Peeya Sharma, as also by Ryan Augustine Pinto, CEO of the school. Learned Additional Sessions Judge vide impugned order dated 29.05.2025, partly set aside the order of learned Magistrate, by allowing the revision filed by Ryan Pinto on the ground that no material was available on the case file pointing at the role/designation/identity of Ryan Pinto in the school. However, insofar as the present petitioner-Peeya Sharma was concerned, learned Additional Sessions Judge was of the opinion that the safety norms adopted for the school transport by Ryan International School were not



adhered to, for during the course of investigation Peeya Sharma had informed the IO that the designated helper on the bus was absent. Her plea that this fact was not intimated to her by the driver and the teacher incharge (Mrs. Sushma) on the bus was not accepted by the learned Additional Sessions Judge on the ground that the Principal was entrusted with the care and protection of the child and that prima facie negligence on her part in not deputing the helper on the bus, for dropping and handing over the child to the parents, was established.

4. Aggrieved of the same, the present petition has been filed for quashing the order dated 29.05.2025 of the learned Additional and Sessions Judge, Gurgaon.

5. Learned Senior counsel contended that the petitioner, who is the Principal of the school fully cooperated in the investigation, right from beginning and had fairly disclosed to the investigating agency that on the ill fated day, one teacher namely Smt. Sushma Singh, had been deputed in the bus as route incharge. Vinod Kumar, who was driver of the bus was also handed over a copy of written instructions regarding his duties and responsibilities. The investigating agency investigated the matter and lodged FIR No.295 dated 13.05.2016 against Sushma and Vinod under Sections 279, 337, 338 IPC. On filing of challan, both the above mentioned were persons charged by the learned Magistrate under Section 304-A IPC. Aggrieved of the said order, Sushma Singh challenged the same and was discharged vide order dated 08.03.2018, wherein it was held as under:-

“Under these circumstances, the only duty of the incharge shall be that if any student or his parents is having any grievance against the driver regarding driving of the vehicle, lefting or getting down the students, timely not reaching the place where the student should be lifted or dropped and if during this process any accident took place due to rash and negligent



driving, incharge cannot be made criminally liable.”

The aforesaid order remains unchallenged. Continuing further, learned Senior counsel submitted that the Principal, who was sitting in her office, was not supposed to or expected to keep track of each and every bus as also whether the driver and the teacher incharge on each and every bus are taking the requisite precautions. Since the lodging of the FIR, not even once any allegation of negligence was levelled by complainant against the Principal of the school. Her statement (Neetu) recorded on oath before the learned trial Court, while appearing as PW7 to the effect that the accident occurred due to negligence on the part of school management, driver of the bus, route incharge of the bus and unknown vehicle was not appreciated in a correct perspective, inasmuch as Prosecution miserably failed to ascribe any specific role to petitioner (Principal), as regards the unfortunate incident. Only general and vague allegations were levelled that too after a period of 3 years. Principal, who is sitting in her office and who had made the teacher incharge aware of all do's and don'ts to be adhered to while picking up the child and dropping them at the bus stop, fully discharged her duties and no negligence can be attributed to her.

Furthermore, learned CJM failed to specify the offences for which petitioner had been summoned to face the trial. In this context, the observation of the learned Additional Sessions Judge in Para 18 of the impugned order dated 28.05.2025 that the trial Court had not summoned the revisionist (Petitioner herein) to face trial under Section 279 or 304-A IPC but had to still apply its mind as to under which provisions of law the trial would proceed further against the petitioner, is patently illegal. Reference made by the learned Additional Sessions Judge, Gurgaon, to Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and to conclude that the Principal of the school, who was managing the affairs of



the school was entrusted with the care, protection and control of the child and in a particular situation like the present one, safe transportation of the child to her home, was her (Petitioner's) responsibility is totally absurd and does not appeal to common sense, for an offence under the aforesaid Section (75 of the Juvenile Justice (Care and Protection of Children) Act, 2015) is made out. The aforesaid provision punishes a person who having actual charge or control over a child, assaults, abundance, abuses or exposes or neglects the child in a manner that it results in mental/physical suffering to the child. It is not applicable in the facts/scenario of the case in hand. With these submissions, it was prayed that the present petition be allowed; order dated 10.06.2022 passed by the learned JMIC, vide which petitioner was summoned as an accused to face trial along with others in FIR in question, as also the order dated 29.05.2025 of learned Additional Sessions Judge, Gurgaon vide which the revision petition of the present petitioner was dismissed, be set aside.

6. Heard. Before expressing any opinion on the merits of the submissions raised by learned Senior counsel for the Petitioner, it would be appropriate to go through the Scope and Ambit of Section 319 Cr.P.C. (358 BNSS).

Hon'ble Supreme Court in ***Omi @ Omkar Rathore & Anr. v. The State of Madhya Pradesh & Anr. [2025] 2 S.C.C.621***, summarized the principles that need to be kept in mind for summoning of additional accused.

“21. The principles of law as regards Section 319 of the CrPC may be summarised as under:

a. On a careful reading of Section 319 of the CrPC as well as the aforesaid two decisions, it becomes clear that the trial court has undoubted jurisdiction to add any person not being the accused before it to face the trial along with other accused persons, if the Court is satisfied at any stage of the proceedings on the evidence adduced that the persons who have not been



arrayed as accused should face the trial. It is further evident that such person even though had initially been named in the F.I.R. as an accused, but not charge sheeted, can also be added to face the trial.

b. The trial court can take such a step to add such persons as accused only on the basis of evidence adduced before it and not on the basis of materials available in the charge-sheet or the case diary, because such materials contained in the charge sheet or the case diary do not constitute evidence.

c. The power of the court under Section 319 of the CrPC is not controlled or governed by naming or not naming of the person concerned in the FIR. Nor the same is dependent upon submission of the chargesheet by the police against the person concerned. As regards the contention that the phrase 'any person not being the accused' occurred in Section 319 excludes from its operation an accused who has been released by the police under Section 169 of the Code and has been shown in column No. 2 of the charge sheet, the contention has merely to be stated to be rejected. The said expression clearly covers any person who is not being tried already by the Court and the very purpose of enacting such a provision like Section 319(1) clearly shows that even persons who have been dropped by the police during investigation but against whom evidence showing their involvement in the offence comes before the Criminal Court are included in the said expression.

c. It would not be proper for the trial court to reject the application for addition of new accused by considering records of the Investigating Officer. When the evidence of complainant is found to be worthy of acceptance then the satisfaction of the Investigating Officer hardly matters. If satisfaction of Investigating Officer is to be treated as determinative then the purpose of Section 319 would be frustrated.

In Hardeep Singh vs. State of Punjab (2014) 3 SCC 92,



Hon'ble Supreme Court held as under:-

“105. Power under Section 319 CrPC 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.

106. 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 CrPC. In Section 319 CrPC 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 CrPC to form any opinion as to the guilt of the accused.”

7. The short question that needs adjudication at this stage is as to whether the evidence adduced on the case file makes out a prima facie case sufficient to summon the petitioner as an accused and establishes her complicity and negligence on her part in discharging her duties, resulting in the accident in which the daughter of the complainant lost her life.

The facts of the case have already been highlighted in para 2



and 3 of this judgment. Admittedly, in the FIR lodged by complainant-Neetu, apart from mentioning the sequence of events leading to the tragic death of her minor child, who met with an accident while she was crossing the road after being dropped by the bus driver on the wrong side of the road, complainant requested for searching the white coloured car which had hit her child as also to initiate proceedings against its driver and the school bus. It is not disputed that the speeding car could not be traced. Criminal proceeding were however, initiated against the bus driver-Sh. Vinod and also against Mrs. Sushma Singh, who was deputed as the route incharge. From the documents on the record, it can be clearly inferred that the present petitioner, who was the Principal of the school fully cooperated in the investigation and admitted that the designated helper of bus Route No.16 was not present on the day in question i.e. on 09.05.2016 but disclosed that Mrs. Sushma Singh had been deputed as the route incharge. Written instructions regarding the duties and responsibilities of the route incharge were made aware to her. Driver-Sh. Vinod Singh was also intimated about the duties to be performed by him. Principal was in the office, when the tragic incident occurred.

In the opinion of this Court, she had discharged her duties by deputing a teacher incharge on the bus and intimating her (teacher) of her responsibilities. It has already been noted that Mrs. Sushma Singh, the teacher incharge on the day in question has since been discharged by the then learned Additional Sessions Judge, Gurgaon vide order dated 08.03.2018 (this order has attained finality). Submission of learned Senior counsel for the petitioner that the petitioner, who was sitting in her office and who had made the teacher incharge as also the driver aware of all do's and don'ts to be adhered to, while picking up the child and dropping him or her at the bus stop cannot be said to be negligent in performing her duties, has weighed in the mind of the Court particularly when there is absolutely



no evidence to infer that it was on account of failure on her part to discharge her duties, that the incident occurred. Bald allegation of complainant, who is the mother of the deceased-child, when she appeared as PW7 that school management was also negligent remains unsubstantiated, by any material on record.

Furthermore, the observation of the learned Additional Sessions Judge in para 18 of the impugned order that the trial Court had not summoned the revisionist to face trial under Section 304-A IPC but had to apply its mind as to under which provisions of law, the trial would proceed, is patently illegal, for the trial Court should have specified the offence/s for which petitioner had been summoned to face trial along with Vinod (who had been deputed as driver). Insofar as the application of Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015, to an educational institution is concerned, it primarily aims at ensuring the safety, well being of the child and to prevent any physical/mental abuse to them. It also aims at sensitizing the school authorities of their responsibility. The said provision of law is not applicable to the fact scenario of the case in hand. Even at the cost of repetition, it needs to be mentioned here that petitioner, who was the Principal, in the first instance while answering to the queries of the IO, had disclosed that the teacher incharge as also the driver of the bus were made aware of their responsibilities. Petitioner, who was sitting in her office, was not expected to keep track of each and every bus, as also whether the driver incharge on the said buses are discharging their duties. Had it been a case where she would not have deputed the teacher incharge on the bus and would not have made aware the said teacher as also the driver of do's and don'ts to be followed while picking up and dropping the child from and at the bus stand, situation would have been different. But not in the given facts. There is nothing on record to indicate that minor child (Jiya daughter of complainant Neetu) died on account of any negligent act or omission on



the part of Petitioner.

8. In view of discussion made hereinabove, the petition is allowed. Impugned orders dated 10.06.2022 and 29.05.2025 passed by the learned Judicial Magistrate Ist Class, Gurugram and the learned Additional Sessions Judge, Gurugram, respectively, are set aside.

(AARADHNA SAWHNEY)
JUDGE

18.08.2025

Hemant

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