

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

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**CRR-490-2023**

**Reserved on 12.05.2025**

**Pronounced on 11.08.2025**

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Gaurav & Anr.

... Petitioners

VS.

State of Haryana & Anr.

... Respondents

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**CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL**

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Present: Mr. Lekhraj Sharma, Advocate and  
Mr. Kabir Gautam, Advocate for the petitioners

Mr. Chetan Sharma, DAG Haryana

Mr. Abhishek Goyal, Advocate for respondent No.2

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**Sandeep Moudgil, J.**

(1). This criminal revision petition has been filed under Section 401 CrPC by the petitioner seeking to quash the order dated 21.09.2022 passed by the Sessions Judge, Palwal vide which the application under Section 319 CPC moved by the complainant has been allowed and the petitioners have been summoned to face trial in case FIR No.258 dated 11.12.2020 under Sections 323/324/34/506 IPC registered at Police Station Hassanpur, District Palwal.

(2). Learned counsel for the petitioners contends that no motive has been alleged, as to why the injured were attacked and it has also not been specified, as to which particular weapons were being carried and were used in alleged occurrence by petitioners and as such, the trial court has passed the impugned order without applying its judicial mind wherein the presence of complainant is highly improbable at the alleged place of occurrence as he even did not accompany the injured persons to the hospital. Therefore, on mere allegations, the petitioners have been roped in the instant case.

(3). It is further urged that the trial court has committed grave legal error, while passing the impugned order dated 21.09.2022 as the petitioners are nowhere found involved in the alleged occurrence and they had absolutely no link in alleged occurrence. He further asserted that the petitioners were found innocent during investigation by the investigating agency and as such, there is absolutely no evidence available on record, which could warrant the summoning of petitioners.

(4). On the other hand, learned State counsel, on the basis of the reply dated 07/10.10.2023 filed by Dy.SP, Hodal, averred that during investigation the accused Prem Singh was arrested and interrogated and he made his disclosure statement admitting to have committed the crime and thereafter, he even got recovered a knife used in the commission of the crime and the same was taken into police possession as evidence of the crime. It is further pointed out that accused Surjeet joined investigation and he even made his disclosure to having committed the crime. As regards the present petitioners, namely, Gaurav and Bhupender, the following assertion has been made which reads as under:-

*“As per verifications, Gaurav (petitioner no.1) and Bhupender (petitioner no.2) were not involved in the fight and they also did not cause any injury to anyone, rather they intervene in the fight to pacify and resolve it. Therefore, on the basis of verifications from the villagers and other evidence, the present petitioners were not found involved in commission of the crime and therefore, the present petitioners were exonerated from the case and declared innocent. It was further found that they were named in the FIR revengefully due to party friction in the village.”*

(5). In view of the categorical stand of the respondent-State, reproduced above, where the investigating agency itself has come up with the stand that both the petitioners were not found involved in the fight albeit they were the one who intervened and pacified the aggressive parties and the said fact has been corroborated by the villagers present at the spot. Moreover, the provisions of Section 319 CrPC cannot be invoked in a casual manner to summon the persons who have been found innocent during the course of investigation as it would amount to an act of pressure and harassment.

(6). 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. This view of mine is reinforced from the decision of Supreme Court in **Hardeep Singh vs State Of Punjab & Ors AIR 2014 SC 1400.** The impugned order passed by the Sessions Judge, Palwal thus cannot be allowed to sustain.

(7). In view of the above discussion, this petition is allowed and the order dated 21.09.2022 passed by the Sessions Judge, Palwal summoning the petitioners to face trial as additional accused is hereby set aside.

(8). Ordered accordingly.

11.08.2025  
V.Vishal

**(Sandeep Moudgil)**  
**Judge**

1. Whether speaking/reasoned? Yes/No  
2. Whether reportable? Yes/No