



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

**CRM-M-20966-2023 (O&M)**

**Reserved on:-04.09.2025**

**Date of Decision: 12.09.2025**

Balwinder Parshad and others

.....Petitioners

Versus

State of Haryana and another

.....Respondents

**CORAM: HON'BLE MS. JUSTICE KIRTI SINGH**

Present: Ms. Navneet Kaur, Advocate  
for the petitioners.

Ms. Saumya Ahluwalia, Sr. DAG, Haryana.

Mr. Anmol Verma, Advocate  
for respondent No. 2.

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**KIRTI SINGH, J. (ORAL)**

1. The instant petition has been filed under Section 482 Cr.P.C. seeking quashing of the impugned order dated 05.4.2023 (Annexure P-5), whereby the revision petition filed by respondent No. 2 against the order dated 2.1.2023 (Annexure P-4), passed by the learned Chief Judicial Magistrate, Ambala dismissing her application under Section 319 Cr.P.C., was allowed and the petitioners were ordered to be summoned as additional accused to face trial qua commission of the alleged offences.

2. Succinct factual narrative relevant for the disposal of the petition is that respondent No. 2 moved a complaint dated 21.11.2018 against her husband and the present petitioners, alleging therein that her marriage with Jangbir Singh was solemnized on 29.10.2017 and it was their second marriage. At the time of solemnization of their marriage, the divorce petition of her accused-husband with his first wife was pending, and the



divorce to the accused husband was granted only on 10.11.2017. The present petitioners being the father, brother and sisters of her husband, had defrauded and cheated her only to solemnize his second marriage with respondent No. 2 by misrepresenting the facts. It was further alleged that petitioner No. 1 took her gold ornaments and obtained her signatures on an affidavit. Moreover, petitioner No. 1 was not having good behaviour towards her and she was also subjected to cruelty by all the accused persons. On the basis of the said complaint, FIR No. 0422 dated 22.11.2018 under Sections 323, 406, 420, 498-A and 506 IPC was registered against all the accused at Police Station Ambala City, District Ambala. During the course of investigation being made into the present FIR, the allegations levelled against accused Jangbir Singh were proved. However, the allegations levelled against the present petitioners were found to be false. Accordingly, challan was presented only against accused Jangbir Singh, whereas the names of the other persons mentioned in the FIR were kept in column No. 2.

3. The trial against accused Jangbir Singh was commenced. During the course of the trial, the complainant moved an application under Section 319 Cr.P.C. for summoning of the present petitioners as additional accused. Vide order dated 02.1.2023 (Annexure P-4) passed by the learned Chief Judicial Magistrate, Ambala, the said application was dismissed. Against the said order, the complainant preferred a revision petition before the learned Sessions Court, Ambala. Vide impugned order dated 05.4.2023 (Annexure P-5), the said revision petition was allowed and the petitioners were directed to appear before the learned trial Court to face trial. Hence, the present petition has been filed seeking quashing of the impugned order.



**Submissions made by the learned counsel for the petitioners**

4. Learned counsel for the petitioners has argued that respondent No. 2, at the time of her second marriage with the son of petitioner No. 1, was well aware of the fact that the second motion statement in the divorce petition filed to dissolve her husband's previous marriage had been recorded. Therefore, the allegations levelled against the present petitioners are vague and omnibus, which fact is also apparent from the statements of the witnesses and affidavits taken during the course of investigation. It is submitted that after investigation being made into the present FIR, the petitioners were found innocent, and respondent No. 2 has also failed to point out any illegality or bias on the part of the investigating officer concerned. It has further been argued that after marriage, respondent No.2 lived in her matrimonial home only for 2-3 months, and thereafter she along with her husband shifted to village Landran, therefore, the main dispute of respondent No. 2 is with her husband. However, she filed the complaint against the husband and his entire family only to harass and humiliate them, as she was aware about the fact that her father-in-law (petitioner No. 1) has been suffering from Paralysis and her brother-in-law (petitioner No. 2) is a Tubercuosis (TB) patient. Learned counsel has further submitted that respondent No. 2 was also engaged in multiple litigations at different Courts with her previous husband. Further, in the present complaint, no specific date, time or place of the alleged incidents has been mentioned. There are no allegations against the petitioners with regard to any injury being caused to respondent No. 2, or demand of dowry being made by the present petitioners. Learned counsel has also argued that vide order dated



02.1.2023, the application moved by respondent No. 2 under Section 319 Cr.P.C. was rightly dismissed by the learned Chief Judicial Magistrate, Ambala. However, vide impugned order 05.4.2023 (Annexure P-5), the revision petition filed by respondent No. 2 against the said order, has been wrongly allowed by the learned Additional Sessions Judge, Ambala, whereby the petitioners have been directed to appear before the learned trial Court. Therefore, it is submitted that the present petition be allowed and the impugned order dated 05.4.2023 (Annexure P-5) be quashed and set aside.

**Submissions made by the learned State counsel as well as the counsel  
for the complainant-respondent No. 2**

5. *Per contra*, the learned State counsel and the learned counsel for complainant-respondent No. 2 have vehemently opposed the present petition.

6. Learned counsel for respondent No. 2 has argued that the learned trial Court concerned has rightly summoned the petitioners after going through the evidence on record. It has been argued that the petitioners had apprised the family members of respondent No. 2 that Jangbir Singh had already taken divorce from his first wife. However, after the marriage, respondent No. 2 came to know that her husband had filed a petition for Restitution of Conjugal Rights against his first wife, which was pending before the Court at Patiala, and that Jangbir Singh had not taken divorce from his first wife before solemnizing his second marriage with respondent No. 2 on 29.10.2017. In fact, he had obtained a decree of divorce from his previous wife on 10.11.2017 i.e. after his marriage with respondent No. 2. Learned counsel has placed reliance



upon the judgment dated 10.11.2017 (Annexure R-2). It has also been argued that the marriage of respondent No. 2 with accused Jangbir Singh was arranged with the intervention of the present petitioners, therefore, it has been argued that Jangbir Singh and the present petitioner willfully cheated respondent No. 2 by disclosing wrong facts to her. Further, there are specific allegations in the present FIR against the petitioners with regard to cheating, maltreatment and misappropriation of dowry articles.

7. Therefore, both the counsels submit that the present petition is liable to be dismissed as all the contentions raised by the learned counsel for the petitioner herein are disputed question of facts, which can be determined only after the evidence is produced before the learned trial Court.

**Inference(s) of this Court**

8. Heard learned counsel on either side and perused the judicial record with their able assistance.

9. Before proceeding further, it is pertinent to discuss the observations made by the Hon'ble Supreme Court in some of its recent judgements. Discussing the scope of Section 319 Cr.P.C., the Constitution Bench of Hon'ble Supreme Court in ***Hardeep Singh versus State of Punjab and others*** reported in 2014 (1) RCR (Criminal) 623, has laid down that:

*"105. 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. 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 unrebutted, 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."*

10. Hon'ble the Supreme Court in ***Brijendra Singh and Others Vs. State of Rajasthan, (2017) 7 SCC 706***, while summing up the ratio as laid down in Hardeep Singh's case (supra) has held as under:

*"Power under Section 319 Cr.P.C. can be exercised by the trial Court at any stage during the trial, i.e., before the conclusion of trial, to summon any person as an accused and face the trial in the ongoing case, once the trial Court finds that there is some 'evidence' against such a person on the basis of which evidence it can be gathered that he appears to be guilty of offence. The 'evidence' herein means the material that is brought before the Court during trial. Insofar as the material/evidence collected by the IO at the stage of inquiry is concerned, it can be utilised for corroboration and to support the evidence recorded by the Court to invoke the power under Section 319 Cr.P.C. No doubt, such evidence that has surfaced in examination-in-chief, without cross examination of witnesses, can also be taken into consideration. However, since it is a discretionary power given to the Court under Section 319 Cr.P.C. and is also an extraordinary one, same has to be exercised sparingly and only in those cases where the circumstances of the case so warrants. The degree of satisfaction is more than the degree which*



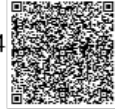
*is warranted at the time of framing of the charges against others in respect - of whom charge-sheet was filed. Only where strong and cogent evidence occurs against a person from the evidence led before the Court that such power should be exercised. It is not to be exercised in a casual or a cavalier manner. The prima-facie opinion which is to be formed requires stronger evidence than mere probability of his complicity.*

11. The Hon'ble Supreme Court later in 2019 relying on **Hardeep Singh** (supra) held in **Periyasami and Others Vs. S.Nallasamy (2019) SCC Online SC 379** that:

*"The additional accused cannot be summoned under Section 319 of the Code in casual and cavalier manner in the absence of strong and cogent evidence. Under Section 319 of the Code additional accused can be summoned only if there is more than prima facie case as is required at the time of framing of charge but which is less than the satisfaction required at the time of conclusion of the trial convicting the accused."*

12. Recently the Hon'ble Supreme Court in case of **Juhru & Ors. Versus Karim & Anr. 2023 AIR (Supreme Court) 1160** observing the scope of section 319 Cr.P.C held that:

*"It is, thus, manifested from a conjoint reading of the cited decisions that power of summoning under Section 319 Cr.P.C. is not to be exercised routinely and the existence of more than a prima-facie case is sine quo non to summon an additional accused. We may hasten to add that with a view to prevent the frequent misuse of power to summon additional accused under Section 319 Cr.P.C., and in conformity with the binding judicial dictums referred to above, the procedural safeguard can be that ordinarily the summoning of a person at the very threshold of the trial may be discouraged and the trial Court must evaluate the evidence against the persons sought to be summoned and then adjudge whether such material is, more or less, carry the same weightage and value as has been testified against those who are already facing trial. In the absence of any credible evidence, the power under Section 319 Cr.P.C. ought not to be invoked."*



13. The principles of law with reference to exercise of jurisdiction under 319 Cr.P.C. are well settled. As has been opined in a plethora of judgments, it is clear that the objective to invoke the powers under Section 319 Cr.P.C., is to not allow the real perpetrators of an offence to get away unpunished. However, a proposed accused cannot be summoned to face trial under Section 319 Cr.P.C. in a mechanical manner, without due appreciation of the facts of the case and the material on record. The litmus test of more than a prima facie case must be adhered to in letter and spirit.

14. Reverting to the case at hand, a careful perusal of the judicial file reveals that marriage of respondent No. 2 with Jangbir Singh was solemnized on 29.10.2017 and it was their second marriage. Admittedly, after marriage, respondent No. 2 stayed in the matrimonial home for a couple of months, and subsequently she along with her husband shifted to village Landran. The detailed investigation into the present FIR was conducted, wherein the statements of the witnesses under Sections 161 Cr.P.C. were recorded, and they had also furnished their affidavits, on the basis whereof, no incriminating report was filed against the present petitioners by the investigating agency. Further, it has also not been alleged by the complainant in her complaint that her marriage with Jangbir Singh was arranged with the intervention of the present petitioners. Therefore, there seems to be no concealment of the factum of first marriage of Jangbir Singh. The mere fact that the petitioners were involved in the solemnization of the said marriage, is not a ground to hold them liable for the commission of offence punishable under Section 420 IPC. No doubt respondent No.2 is the best witness of her case, however, the allegations levelled by her,



without any evidence to substantiate the same, fails to meet the criteria of more than a prima facie case, essential for summoning of an additional accused under Section 319 Cr.P.C.

15. In the light of facts and circumstances, viewed in light of the legal principles governing Section 319 Cr.P.C., this Court finds that the material adduced in the present case fails to establish the existence of even a prima facie case against the proposed accused. Trite to say that the power under Section 319 Cr.P.C. is extra-ordinary and must be exercised sparingly, only when there is strong evidence on record indicating the existence of more than a prima facie case against the person sought to be summoned. In the present case, the evidence presented does not meet the threshold required for summoning the petitioners as additional accused, since mere mention of a person's name in the witness statement or allegations, without substantially corroboration, is insufficient.

16. Accordingly, the petition is allowed and impugned order dated 05.4.2023 (Annexure P-5) passed by the learned Addl. Sessions Judge, Ambala, is set aside qua the petitioners.

17. Pending miscellaneous application(s), if any, also stands disposed of.

**(KIRTI SINGH)**  
**JUDGE**

**September 12, 2025**  
**Gurpreet Singh**

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