

2025:PHHC:138765



CRR-2476-2025 (O&M)

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

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CRR-2476-2025 (O&M)
Date of Decision: 01.10.2025

Rxxxxx

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondent

CORAM: HON'BLE MS. JUSTICE SHALINI SINGH NAGPAL

Present: Mr. L.S. Sidhu, Advocate
for the petitioner.

Mr. Kunwarbir Singh, AAG Punjab.

SHALINI SINGH NAGPAL, J. (ORAL)

This revision petition challenges order dated 08.09.2025 of learned Additional Sessions Judge, Fast Track Special Court, Mansa, vide which an application filed by the petitioner under Section 358 Bharatiya Nagarik Suraksha Sanhita, 2023 for summoning respondents No. 3 to 6, as additional accused, was dismissed.

Learned counsel for the petitioner argued that the order under challenge was illegal, arbitrary based on wrong appreciation of evidence. He submitted that on 09.01.2023 at about 3.00 PM, when petitioner was present at Bus Stand, Mansa, accused-Jagdeep Singh accompanied by respondents No. 3



to 6 came in a Swift Car and forcibly abducted the petitioner. Referring to statement of the petitioner recorded during trial, it was urged that despite sufficient evidence to invoke Section 358 BNSS, learned Additional Sessions Judge, Fast Track Special Court, Mansa dismissed the application, ignoring the statement of prosecutrix on oath. It has been prayed that the order under challenge, which did not reflect application of mind, be set aside.

8. The issue regarding the scope and extent of powers of the court to arraign any person as an accused during the course of inquiry or trial in exercise of power under Section 319 Cr.P.C. (now Section 358 BNSS) has been set at rest by a Constitutional Bench of Hon'ble Apex Court in the case of **Hardeep Singh Vs State of Punjab 2014 (1) R.C.R. Criminal 623 : 2014 (1) Recent Apex Judgments (R.A.J.) 384 : JT 2014 (1) SC 412**. The legal position is summarised as under:-

“98. Power under Section 319 Cr.P.C. is a discretionary and an extra-ordinary 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 CrossExamination, 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.”

Thus, Hon’ble Supreme Court held that though only a *prima facie* case has 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/her 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.....

9. In **Babubhai Bhimabhai Bokhiria and Anothers Vs State of Gujarat and Others 2014 (2) RCR (Criminal) 915 (S.C.)**, the Hon'ble Apex Court went a step further to hold that:-

“8. Section 319 of the Code confers power on the trial court to find out whether a person who ought to have been added as an accused had erroneously been omitted or has deliberately been excluded by the investigating agency and that satisfaction has to be arrived at on the basis of the evidence so led during the trial. On the degree



of satisfaction for invoking power under Section 319 of the Code, this Court observed that though the test of prima facie case being made out is same as that when the cognizance of the offence is taken and process issued, the degree of satisfaction under Section 319 of the Code is much higher.”

Very relevant to the case is the first version of the prosecutrix in the FIR. She stated that she was working as a cashier in a showroom at Bathinda and before that, she worked in a call centre at Mohali where she became acquainted with Jagdeep Singh son of Gamdoor Singh. She and Jagdeep Singh were in a relationship and started residing together. They also got prepared documents regarding the relationship from the Court at Sunam. They lived together for 20 days at Mohali. When her family came to know of this, they brought her back to village Kot Dharmu. Later, she learnt that Jagdeep Singh was already married, so, she refused to stay with him. She picked up a job in a private hospital at Bathinda. Jagdeep Singh started harassing her and she made a complaint against him in Police Station Civil Lines, Bathinda, but the matter was not settled. Thereafter Jagdeep Singh unsuccessfully tried to kidnap her from Ajit Road, Bathinda. She again filed a complaint in the police. They were called to the Police Station and it was decided that they would not make any call to each other. After 15 days, she and Jagdeep Singh were again talking to each other. On 09.01.2023, she came to Mansa from her village for making purchases. At about 3.00 PM, when she was present at Bus Stand, Mansa, Jagdeep Singh accompanied by Kulwant Singh, resident of Aklian and two



unidentified boys reached on his swift car. Jagdeep stopped his car, he opened the door and asked her to sit inside. She refused to board the car, whereupon Jagdeep showed his revolver and extended threats. He held her arm and pulled her inside the car. Out of fear, she did not raise alarm and he took towards Tapa town, where he gave her beatings. Thereafter, he took her to village Aklian and in the night, committed rape upon her in a shop. On 11.01.2023, Jagdeep Singh brought her to Mansa, near Chungli Ghar, where he forcibly performed *Anandkaraj* at Gurudwara Chardikalan Sahib. Thereafter, he again took her to the shop in Aklian. On 13.01.2023, Jagdeep Singh went home and she escaped. She went to Gurudwara Sahib at Aklian and called her mother, who brought her back and got her admitted in Civil Hospital, Mansa, where she was taking treatment.

Relevant portion of statement of the prosecutrix, recorded in the Court is reproduced hereinbelow:-

“.....On 09.01.2023, I came to Mansa to buy clothes, at about 03.00 PM when I was at Bus Stand, Mansa, accused Jagdeep Singh alongwith his friends Kulwant Singh, Monu Singh and Sukhi Singh came there and accused insisted that I should sit in their car but I refused. Thereafter, accused Jagdeep Singh forcibly pulled me inside the car and had shown me a revolver and threatended to kill me if I raise voice. Due to fear, I could not do anything. Thereafter they took the car towards Tapa side and on the way, accused Jagdeep Singh and Kulwant Singh who were sitting on the rear seat had given me beatings. Thereafter, they took me to the shops at village Aklian. During that night, accused Jagdeep Singh



committed rape upon me in the empty shop whereas Kulwant Singh, Monu Singh and Sukhi remained sitted in the car which they parked in the space in other shop. On 11.01.2023, Gurdeep Singh, Kulwant Singh, Sukhi Singh and Jagdeep Singh brought me to Mansa at Guru Ghar near Chuglighar, Mansa on car and accused Jagdeep Singh after threatening me performed Anand Karaj ceremony at Guru Ghar. Thereafter Jagdeep Singh, Gurdeep Singh, Kulwant and Sukhi took me back to the shops at village Aklian at night. Accused Jagdeep remained with me and other persons mentioned above left the spot.....”

There can be no dispute that the Court has ample power to summon a person not being accused, if it appears from the evidence that he has also committed any offence, for which he could be tried, together with other accused. What is conferred on the Court is only a discretion and the discretionary power so conferred should be exercised only to achieve the ends of justice. It is not that a Court should turn against another person whenever it comes across evidence connecting that another person also with the offence. A judicial exercise is called for, keeping in view the investigation by police, a conspectus of the case, including the stage at which the trial has proceeded already and quantum of evidence collected till then. The power under Section 319 Cr.P.C. is extra-ordinary power which should be used sparingly and only if compelling reasons exist for taking cognizance against the other persons against whom action has not been taken.

Considering the first version in the complaint, evidence of the prosecutrix and all relevant facts and circumstances of the case, this Court is of



confirmed view that is is not a case, in which the Court could be compelled to take cognizance against respondents No. 3 to 6.

A very material circumstance is that except respondent No. 4, names of respondents No. 3, 5 and 6 have not been disclosed in the FIR. FIR was registered only against accused Jagdeep Singh and respondents No. 4, Kulwant Singh, though named in the FIR, was not booked by the police, as the allegation of forcible kidnapping was found to be suspicious during investigation. As per FIR version, Jagdeep Singh was only accompanied by Kulwant Singh and two unidentified boys. No specific role was attributed to either Kulwant Singh or to the unidentified persons in the FIR. Mere presence of Kulwant Singh has been mentioned in the Car with Jagdeep Singh, without attribution of any overt act. Entire statement of the prosecutrix in the Court regarding presence of respondents No. 3, 5 and 6 in the car alongwith Jagdeep Singh and regarding respondent No. 4-Kulwant Singh giving her beatings, regarding respondents No. 3 to 6 accompanying the main accused, who was committing rape and taking the prosecutrix to Mansa for performance of *Anandkaraj* and thereafter back to the shop in village Aklian is greatly improved over the first version. The embellished, improved version of the prosecutrix before the Court could not have been relied upon by learned trial Court to satisfy the misplaced enthusiasm of the prosecutrix to see all proposed accused in the dock. There is no apparent defect in the impugned order nor any manifest illegality resulting in miscarriage of justice, warranting exercise of revisional jurisdiction by this Court.

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The revision petition is hereby dismissed.

OCTOBER 01, 2025.

Ajay Goswami

**(SHALINI SINGH NAGPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*