



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

**CRR-1433-2024 (O&M)  
Date of Decision: 22.9.2025**

Sxxxxxxx

.....Petitioner

Versus

State of Punjab and another

.....Respondents

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

Present: Mr. K.S.Brar, Advocate  
for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

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

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

1. The instant revision petition has been filed against the impugned order dated 03.6.2024 passed by the learned Additional Sessions Judge, Fast Track Special Court, Fazilka, whereby the application filed by the petitioner under Section 319 Cr.P.C. for summoning respondent No. 2 as additional accused has been dismissed in FIR No. 36 dated 29.3.2023 under Sections 376, 506 and 34 IPC, registered at Police Station Vairoke, District Fazilka.

2. The brief facts of the present case are that the present FIR was registered on the statement made by the complainant, alleging therein that accused Surjit Singh, who is son of her maternal aunt-respondent No. 2, committed rape upon her and also threatened to kill her. After 15-20 days of the said occurrence, respondent No. 2 along with accused Surjit Singh came to their house, and requested the mother of the complainant to send her at



their house, whereafter the complainant accompanied them to their house. It has further been alleged that in the night, respondent No.2 added some intoxicant material in her meal, upon consuming which, the complainant became unconscious, whereafter the accused and respondent No. 2 made her obscene video, and on the next morning they started blackmailing her by showing that video. It is further alleged that on 25.3.2023, accused Surjit Singh again came to their house and finding the complainant alone, he committed rape upon her. Thereafter, the matter was reported to the police and the present FIR was registered.

3. During investigation, respondent No. 2 was declared innocent and challan against accused Surjit Singh was presented before the learned Court concerned. Subsequently, an application under Section 319 Cr.P.C. was moved by the prosecution for summoning of respondent No. 2 as an additional accused. Vide the impugned order dated 03.6.2024, passed by the learned Additional Sessions Judge concerned, the said application was dismissed. Hence, the present petition.

4. Learned counsel for the petitioner submits that the impugned order dated 03.6.2024 passed by the learned trial Court is based on an erroneous appreciation of facts and is against the settled principles of law for summoning of additional accused under Section 319 Cr.P.C. It has been stated that respondent No. 2 had been particularly named in the FIR and a specific role was attributed to her, that she along with other co-accused administered some intoxicant material to her by mixing it in her meal, after consuming which, the complainant became unconscious, whereafter they made her obscene video and started blackmailing her. However, despite the allegations being reiterated by the complainant on oath, the learned trial



Court, by overlooking the same, dismissed the application filed before it, under Section 319 Cr.P.C. in a very mechanical manner.

5. Learned State counsel submits that though respondent No. 2 was initially declared innocent by the investigating agency, however, after specific and categorical allegations having been levelled against her by the complainant in her deposition as a prosecution witness, an application was moved before the learned trial Court to summon respondent No. 2 as an additional accused, but was dismissed by way of the impugned order dated 03.6.2024.

6. Per contra, learned counsel for respondent No. 2 vehemently contends that mere sweeping allegations have been levelled against respondent No.2 in the FIR. Respondent No. 2 has been residing separately from her son i.e. accused Surjeet Singh and had also disinherited him in the year 2020. Therefore, in the absence of any incriminating evidence to remotely corroborate the version of the complainant, it was but only prudent of the learned trial Court to dismiss the application under Section 319 Cr.P.C.

7. Heard learned counsel and perused the judicial record.

8. Before proceeding further, it is pertinent to discuss the observations made by the Hon'ble Supreme Court in some of its recent judgments. Discussing the scope of Section 319 Cr.P.C., the Constitution Bench of Hon'ble Supreme Court in ***Hardeep Singh V/s State of Punjab, 2014 (3) SCC 92*** 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 Ses-*



sions 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."

9. 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."*

10. Hon'ble the 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."*

11. Recently Hon'ble the 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 fre-*



*quent 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.”*

12. 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.

13. Reverting to the case at hand, a careful perusal of the judicial file reveals that during investigation, it was found that respondent No. 2 was residing separately from her son i.e. accused Surjeet Singh; and prior to three years of the alleged occurrence i.e. in the year 2020, she had already disinherited him. Moreover, other than being named by the complainant-petitioner in the FIR and her testimony as a prosecution witness, there is no other evidence on record to establish the guilt of respondent No. 2, or otherwise, to even *prima facie* substantiate the allegations levelled against her. Mere uncorroborated averments, in the absence of cogent evidence that would lead the Court to opine that respondent No.2 might be guilty of committing the offence, are insufficient to allow her summoning as an



additional accused.

14. Accordingly, the petition stands dismissed being bereft of any merit.

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

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

**September 22, 2025**  
Gurpreet Singh

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