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

CRR-2447-2025

Date of decision : 08.10.2025

SALIM ALIAS BANIYA ALIAS TASLEEM

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Lewish Edward, Advocate with
Mr. Vignesh, Advocate and
Mr. Sameer Gayis, Advocate
for the petitioner.

Mr. Vipul Sherwal, Asstt. A.G., Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition is for quashing of the order dated 22.08.2025 (Annexure P-2) passed by the Addl. Sessions Judge, Nuh whereby the petitioner has been ordered to be summoned as an additional accused under Section 319 Cr.P.C.

2. The brief facts of the case are that an FIR No.301/2023 dated 26.08.2023 U/s 148/149/323/302/506/120-B IPC R/w Section 25 of Arms Act P.S. Ferozpur, Jhirka, District Nuh came to be registered at the instance of one Ronish S/o Liyakat and the same reads as under:-

“To The SHO City Chowki Incharge, City Ferozpur Jhirka (Nuh). Subject: Application against 1. Sallu alias Salmuddin, 2.



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Saleem @ Baniya, 3. Jaleesh son of Sorabh and 4-5 other persons residents of village Dhulet. P.S. Pahari, District Bharatpur Rajasthan, for taking legal action. Sir, it is requested that I, Ronish son of Lijayat am permanent resident of Rajouli, P.S. Ferozpur Jhirka, District Nuh and I am working on the shop of spare parts with my father in front of the Anaj Mandi. The above said accused used to come to our shop and their borrowing account is also running from our shop. Some amount of our shop was outstanding against above said accused. My father time to time used to demand money from them but many times accused demanded time to return the amount. Due to this they nourished grudge against my father. Yesterday on 25.08.2023 continuously from 5-6 p.m. in the evening accused Sallu alias Salmuddin was getting the work done on his Highwa Dumpher from mechanic Sehzaad near to our shop. My father demanded the old borrowed amount from Sallu and then the above said accused said that today they have to come clear your accounts but let the work of the vehicle will be done. At that time all the above said accused were present. At about 9.00 p.m. in the night the work of the vehicle of the accused was done. When the work was being done in the vehicle, then all the above said accused repeatedly were going and conniving with each other and accused Sallu alias Salmuddin. Saleem alias Bania and Jalees and other persons were present. When they were about to leave after getting the work done on the vehicle, then my father asked them to give the amount of the material, then the accused said that after parking the vehicle, they will give the money. Then my father said that amount be given now as he and his Son have to go to home. After that the accused gave threat to my father that why you are repeatedly asking for money. We will finish you. After that the driver of the accused was taking the Highwa Dumpher to park near the parking of Bharat Petrol Pump and I and my father were going towards the accused for taking our money and all the above said



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accused were going ahead by riding in Bolero vehicle No.RJO2UA9984, The Bolero vehicle was being driven by accused Sallu alias Salmuddin. On seeing coming behind them the accused came in anger and they parked their bolero vehicle in front of us little before Gupti Sagar Bharat Petrol Pump. Accused Saleem alias Bania and Jaleesh and other 2-3 persons were having danda and iron rods and desi katta in their hands. While I was looking accused Saleem alias Bania gave Danda blow at the head of my father and my father fell down. During this accused Sallu alias Salmuddin asked his brother and other accused that you go to one side I will kill him and he with the intention to kill my father hit him with the above said bolero vehicle. Then by reversing it crossed over his head. Lot of blood came out from my father and my father received many injuries at his body. I started crying loudly and mechanic Ejaj and Farooq etc came at the spot. All the accused on seeing the opportunity ran from the spot in their bolero vehicle. After that by lifting my father from there I took him to G H Mandikhera and where the doctor declared my father dead. After that accused Sallu alias Salmuddin with cruelty called from his mobile 7623216972 and asked Farooq mechanic on his mobile number 9813181258 whether he has died or not. Now I have come to police station for taking action against the accused for the murder of my father by the above said accused. Strict legal action be taken against the above said accused. I shall be highly thankful.”

Dated 26.08.2023

Sd/- Ronish. Applicant.”

3. Based on the investigation conducted four accused namely, Salauddin @ Sallu @ Salmuddin, Sohrab, Saheed and Ashraf were charge-sheeted while the petitioner and his co-accused Jalish were found to be innocent and placed in Column No.2.



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4. During the course of the trial, pursuant to the examination of the prosecution witnesses an application was moved under Section 319 Cr.P.C. to summon the petitioner and his co-accused Jalish. While the petitioner came to be summoned to face trial under Section 319 Cr.P.C., the application came to be dismissed qua his co-accused Jalish vide order dated 22.08.2025.

5. The aforementioned order of summoning the petitioner as an additional accused has been challenged by the petitioner.

6. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. In fact, he was not present at the spot and has been named only on suspicion and in the disclosure statement of the arrested accused. No specific role/injury has been attributed to him. It is a case of a roadside accident as has been admitted by the doctor. No recovery of a danda has been effected from him. Therefore, the impugned order dated 22.08.2025 (Annexure P-2) whereby the petitioner has been summoned under Section 319 Cr.P.C. as an additional accused is liable to be set aside.

7. I have heard the learned counsel for the petitioner.

8. Before proceeding further in the matter, it would be apposite to refer to the provisions of Section 319 Cr.P.C and the same reads as under:-

“319. Power to proceed against other persons appearing to be guilty of offence.

(1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any



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person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.

(2) Where such person is not attending the Court, he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.

(3) Any person attending the Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.

(4) Where the Court proceeds against any person under sub- section (1), then-

(a) the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard;

(b) subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced.”

9. A perusal of the depositions of the complainant-Ronish examined as PW5 and an eye-witness Shehzad examined as PW6 would establish that a specific role has been attributed to the petitioner of having given a danda blow on the head of Liyakat (deceased). Thereafter, with an intention to kill Liyakat, Sallu alias Salmuddin drove his vehicle into the deceased and on account of the multiple injuries sustained, Liyakat died at the spot.



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10. As per the postmortem examination, Liyakat has suffered the following injuries:-

“1. REDDISH CONTUSION OF SIZE 5 X 6CM PRESENT OVER THE RIGHT TEMPO PARIETAL REGION, ON DISSECTION THE UNDERLYING TISSUE WAS ECCHYMOSED. ON FURTHER DISSECTION THERE WAS FRACTURE OF RIGHT TEMPO PARIETAL REGION OF SIZE 8 X 7 CM, THE FRACTURE END SHOWED INFILTRATION OF BLOOD. ON FURTHER DISSECTION THERE WAS EDH OF SIZE 10 X 8 CM PRESENT AND FURTHER THERE WAS DIFFUSE SDH AND SAH OVER THE BILATERAL HEMISPHERES.

2. SPLIT LACERATION OF SIZE 5X3CM PRESENT AROUND LEFT ANKLE JOINT. THE MARGIN OF WOUND WAS ECCHYMOSED. CLOTS PRESENT AROUND THE WOUND.

3. A REDDISH GRAZED ABRADED CONTUSION OF SIZE 10X5CM AND 10X8 CM PRESENT OVER THE RIGHT AND LEFT BUTTOCK RESPECTIVELY. ON DISSECTION UNDERLYING TISSUE WERE ECCHYMOSED.

4. A REDDISH ABRADED CONTUSION OF SIZE 4X3CM AND 5X2CM PRESENT OVER THE DORSAL ASPECT OF LEFT HAND. ON DISSECTION UNDERLYING TISSUE WAS ECCHYMOSED.

5. A REDDISH CONTUSION OF SIZE 3X2CM PRESENT OVER LEFT SIDE OF FACE AND 4CM BELOW LEFT LOWER EYELID OVER MAXILLARY EMINENCE. ON DISSECTION UNDERLYING TISSUE WAS ECCHYMOSED.

6. A REDDISH ABRADED CONTUSION OF SIZE 14X7CM PRESENT OVER THE RIGHT FOREARM OVER POSTERIOR ASPECT. ON DISSECTION UNDERLYING TISSUE WERE ECCHYMOSED.”

The cause of death has been opined as under:-



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“IN MY OPINION THE CAUSE OF DEATH IS HEMORRHAGIC SHOCK DUE TO HEAD INJURY AS DESCRIBED IN THE POSTMORTEM REPORT ABOVE WHICH WAS SUFFICIENT TO CAUSE DEATH IN ORDINARY COURSE OF NATURE.”

11. A perusal of the ocular evidence along with the medical evidence would *prima facie* establish the culpability of the petitioner inasmuch as there is sufficient evidence available on the record for which the petitioner is liable to face as an additional accused along with the accused already facing trial.

12. In view of the above, I find no merit in the present petition. Therefore, the same is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

08.10.2025
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No