



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

CRM-M No.29332 of 2018
Reserved on: 12.05.2026
Pronounced on: 13.05.2026
Uploaded on: 13.05.2026

*Whether only operative part of the judgment is
Pronounced or the full judgment is pronounced: operative part/full judgment*

Jasvinder Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Argued by:- Mr. G.C. Shahpuri, Advocate
for the petitioner.

Mr. Sushil Bhardwaj, Addl. A.G., Haryana
for respondent No.1-State.

Mr. Amit Kohar, Advocate
for respondents No.2 and 3.

MANDEEP PANNU, J.

1. Present petition under Section 482 Cr.P.C. has been filed for quashing of the order dated 06.06.2018 (Annexure P-7) passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, vide which the revision petition filed by the petitioner has been dismissed, and also for quashing of the order dated 02.11.2017 (Annexure P-5), whereby the petitioner has been summoned under Section 319 Cr.P.C. to face the trial.

2. As per the allegations levelled in the FIR, complainant Jarnail Singh stated that on 27.09.2013 at about 6.30 p.m., he along with his



brothers Raj Kumar and Ram Parshad were standing on the road near their house and were talking with each other. In the meantime, Sukhbir and Ram Nath sons of Genda Ram, Jaswinder son of Ram Nath also came at the spot and talks were being held about the mortgage of our land, because the land of his brother Jasmer had been mortgaged with Rekha Rani wife of Sukhbir about seven years ago and on account of this, a dispute has erupted between them. It was further alleged that on hearing the noise of dispute, Rekha Rani and Salochna wife of Ram Nath also reached at the spot. Rekha Rani was having a *gandasi* in her hand, who has given it to her husband and Salochna was having a sword in her hand which she had given to her husband Ram Nath. Thereafter, Sukhbir hit him with the *gandasi* on his head, which he was holding in his hand and hit on the finger of his left hand and wrist, Ram Nath hit his brother Raj Kumar on his left foot with the Sword and others hit with brick bats. His brother Ram Parshad has been hit by all the above with brick bats. It was also stated that they have also inflicted injuries to them in self defense and thereafter, the assailants ran away with their respective weapons.

3. During the investigation, the petitioner Jasvinder Singh was found innocent by the police and was kept in column No.2 of the challan. Thereafter, charges were framed and statements of the witnesses were recorded. PW-3 Ram Parshad, while appearing in the witness box, stated that “on 27.9.2013 at about 6.30 p.m, I and my brother Jarnail Singh and Raj Kumar were standing outside our house, then in the meantime, Sukhbir, Ram Nath and Jasvinder also came there and on their coming, we were talking about our land, which Jasmer had mortgaged with Rekha Rani wife



of Sukhbir. We were having talks with Sukhbir, Ram Nath, Jasvinder and we had a tiff with them and after that Sukhbir's wife Rekha Rani who was having a *gandasi* in her hand, gave it to Sukhbir and Sukhbir hit the *gandasi* on the head of Jarnail, on his left hand and also on left arm. Salochna wife of Ram Nath came with a sword and Ram Nath hit Raj Kumar on his left leg and after that, Jasvinder hit me with brick bats and salochna and Rekha Rani also hit with brick bats and stones." Thereafter, after recording the statement of PW-3 Ram Parshad, one of the alleged injured, an application under Section 319 Cr.P.C. was moved by the injured/complainant for summoning of Jasvinder Singh as an additional accused to face trial along with the other co-accused. It is relevant to mention here that earlier also, an application was moved under Section 319 Cr.P.C., which was dismissed by the Court of learned JMIC vide order dated 05.04.2017.

4. Aggrieved by the said order, the complainant had filed a revision petition, which was allowed by the Court of learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, vide judgment dated 09.08.2017, whereby while setting aside the order dated 05.04.2017, the trial Court was directed to pass a fresh order. In pursuance of the directions issued by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, the trial Court, after hearing the parties afresh, passed the impugned order dated 02.11.2017, whereby the petitioner has been summoned to face trial along with the other accused.

5. Feeling aggrieved by the said order, a revision petition was filed by the present petitioner before the Court of learned Additional



Sessions Judge, Yamuna Nagar at Jagadhri, and vide impugned order dated 06.06.2018, the same has been dismissed. While dismissing the revision petition, learned Additional Sessions Judge observed that the summoning order dated 02.11.2017 passed by the learned trial Court was based upon the allegations levelled in the complaint and the same stood duly supported by the deposition of the complainant and other witnesses recorded before the trial Court. It was further observed that specific allegations regarding active participation in the occurrence had been attributed to the present petitioner and there was clear cut mention regarding his presence at the spot. Learned revisional Court also observed that at the stage of summoning under Section 319 Cr.P.C., the Court was not required to look into the prospective defence of the accused and the only point for consideration was whether there was any illegality, irregularity or impropriety in the order under challenge. Finding no such illegality or irregularity in the impugned order, the revision petition filed by the petitioner was dismissed.

6. Learned counsel for the petitioner has contended that the petitioner has falsely been implicated in the present case and, in fact, he was not even present at the place of occurrence at the relevant time. It has been argued that during investigation, affidavits of respectable persons including Sarpanches and village Secretaries were recorded, wherein it was specifically stated that on the date of occurrence, the petitioner was present at village Chhappar from 5.00 p.m. to 7.00 p.m. in connection with their work and was not present at the place of occurrence. It has further been contended that after a thorough enquiry conducted by the senior police officers including the DSP, the petitioner was found innocent and his



presence at the place of occurrence was not proved and, accordingly, he was kept in column No.2 of the challan. Learned counsel has further argued that initially, an application under Section 319 Cr.P.C. moved by the complainant was dismissed by learned trial Court vide order dated 05.04.2017 after specifically observing that no specific injury had been attributed to the petitioner in the FIR or in the statements recorded under Section 161 Cr.P.C. and only a general allegation was levelled that all of them had caused injuries with stones and brick bats. It has been contended that the complainant materially improved his version while appearing in the witness box by specifically alleging for the first time that the petitioner had caused injuries with brick bats and stones. It has further been argued that although the revisional Court remanded the matter for fresh adjudication, learned trial Court, without properly appreciating the facts and circumstances of the case and without independently applying its judicial mind, mechanically passed the summoning order dated 02.11.2017 merely on the basis of the statement made during trial. Learned counsel submits that the impugned summoning order is based upon conjectures and surmises and is a non-speaking order. Learned counsel for the petitioner has also contended that summoning of an accused under Section 319 Cr.P.C. is a serious matter and the power is required to be exercised sparingly and only upon strong and cogent evidence. It has been argued that in the present case, the Courts below failed to appreciate that there was no specific allegation against the petitioner in the FIR or in the earlier statements and the subsequent improvement statement made by PW-3 in Court could not have formed the sole basis for summoning the petitioner as an additional accused. It has further been argued that both



the Courts below failed to properly consider the findings recorded during investigation by the DSP, wherein the petitioner had been found innocent, and thus, the impugned orders have been passed mechanically without proper application of mind.

7. Learned State counsel, assisted by learned counsel appearing for respondents No.2 and 3, has opposed the present petition and argued that there is no illegality, perversity or infirmity in the impugned orders passed by both the Courts below. It has been contended that the name of the present petitioner specifically figures in the FIR itself and his presence at the spot is not disputed. Learned counsel submits that in the FIR itself, it has specifically been alleged that “others hit with brick bats” and “all the above with brick bats”, which also included the present petitioner as he was admittedly present at the spot along with the other accused persons. It has further been argued that while appearing in the witness box, PW-3 Ram Parshad specifically attributed the role to the petitioner by stating that Jasvinder hit me with brick bats and thus there was sufficient material before the trial Court to summon the petitioner under Section 319 Cr.P.C. Learned State counsel further argued that the petitioner was found innocent during inquiry only on the basis of plea of alibi raised by him, however, the plea of alibi is essentially a matter of defence which is required to be proved during trial and the same cannot be conclusively examined at the stage of summoning under Section 319 Cr.P.C. It has been submitted that the trial Court rightly appreciated the evidence available on record and exercised its jurisdiction in accordance with law while summoning the petitioner to face trial along with the other accused. Learned State counsel



has further relied upon the judgment of the Hon'ble Supreme Court in *Lal Suraj @ Suraj Singh vs. State of Jharkhand, 2009(1) R.C.R. (Criminal) 504*, to contend that although the power under Section 319 Cr.P.C. is extraordinary in nature and is required to be exercised sparingly, yet even a person who has not been charge-sheeted can be summoned as an additional accused if from the evidence brought before the Court, a *prima-facie* case emerges showing his involvement in the commission of offence and that such person could be tried together with the other accused.

8. I have heard learned counsel for the parties and have gone through the paper-book as well as the impugned orders passed by both the Courts below.

9. There is no dispute with regard to the settled proposition of law that the power under Section 319 Cr.P.C. is an extraordinary power and the same is to be exercised sparingly and only where strong and cogent evidence emerges during trial against a person sought to be summoned as an additional accused. The Hon'ble Supreme Court in *Lal Suraj @ Suraj Singh (supra)* has observed that before summoning an additional accused, the trial Court must form an opinion on the basis of evidence brought before it that such person could be tried together with the other accused and the power under Section 319 Cr.P.C. cannot be exercised merely on the basis of suspicion. At the same time, it has also been held that even a person who has not been charge-sheeted may be summoned under Section 319 Cr.P.C. if sufficient evidence regarding his involvement comes before the Court during trial.

10. In the present case, admittedly the petitioner was specifically



named in the FIR and his presence at the spot has never been disputed. Although no specific injury was initially attributed to him in the FIR, however, the allegations therein clearly reveal that “others hit with brick bats” and “all the above with brick bats”, which *prima-facie* included the present petitioner also, as he was admittedly part of the assembly present at the place of occurrence. Thereafter, while appearing in the witness box, PW-3 Ram Parshad specifically stated on oath that Jasvinder hit me with brick bats. Thus, a specific role came to be attributed to the petitioner during trial proceedings.

11. The contention raised by learned counsel for the petitioner that the petitioner had been found innocent during investigation on the basis of plea of alibi also does not advance the case of the petitioner at this stage. The plea of alibi is essentially a defence plea, which is required to be established by leading evidence during trial and the same cannot be conclusively adjudicated while exercising jurisdiction under Section 319 Cr.P.C. Merely because the petitioner was found innocent during investigation would not debar the trial Court from summoning him if sufficient evidence regarding his involvement surfaces during the course of trial. The trial Court as well as the revisional Court have rightly observed that at the stage of summoning under Section 319 Cr.P.C., the prospective defence of the accused is not required to be examined in detail.

12. This Court is of the considered opinion that the impugned orders passed by both the Courts below are based upon proper appreciation of the material available on record and do not suffer from any illegality, perversity or jurisdictional error warranting interference by this Court in



exercise of inherent jurisdiction under Section 482 Cr.P.C.

13. Consequently, finding no merit in the present petition, the same is hereby dismissed and the impugned orders dated 02.11.2017 and 06.06.2018 passed by the Courts below are upheld.

14. All pending applications, if any, also stand disposed of.

15. However, nothing observed herein shall be construed as an expression on the merits of the case.

13.05.2026
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(MANDEEP PANNU)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No