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

CRR-2939-2018

Date of Reserve:26.05.2026

Date of Decision:08.06.2026

Sharwan Kumar

...Petitioner

Vs.

State of Haryana and Ors.

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Gourav Bhaiya, Advocate
for the petitioner.

Mr. Rajiv Sidhu, Sr.DAG, Haryana.

Mr. Jagdeep Singh Rana, Advocate
for respondents No.2 to 4.

Mr. Arun Luthra, Advocate
for respondent No.5.

N.S.Shekhawat J.

1. The petitioner has filed the present petition against the impugned order dated 11.07.2018, passed by the Court of Additional Sessions Judge, Kaithal, whereby, the application filed by him under Section 319 Cr.P.C for summoning the respondents No.3 to 5 was ordered to be dismissed.

2. Learned counsel for the petitioner contends that the FIR in the present case was registered on the statement made by him and the same has been reproduced below:-

“Statement of Sharwan Kumar S/o Rati Ram, Caste Rajput r/o [REDACTED] aged 52 years, Mobile No. [REDACTED], stated that I am resident of above address and does agricultural work and I have two sons



Arun and Randhir and one daughter [REDACTED] whose marriage was solemnized on dated 25.08.2016 with Surendra Singh [REDACTED] [REDACTED] as per hindu rites and rituals and in the and marriage, I have given dowry as per my capacity and status. Since after the marriage husband of my daughter Surendra Singh, elder brother-in-law Sukhbir and elder brother-in-law Neetu's son Vicky and Surendra's friend Opin Verma were not happy with the dowry and used to demand dowry and used to harass and torture my daughter. That on demand of Surendra Singh few days earlier I have bought LED TV and sent to my daughter's in-laws house and today I have received telephonic information that my daughter is no more. That me and my sons Arun Kumar, Ranbir Singh and many persons from our village reached at my daughter [REDACTED] matrimonial house at [REDACTED] and checked [REDACTED] and we found that rope marks were there on her neck and we have complete doubt that my daughter [REDACTED] has been forcibly killed by hanging her. That my son-in-law Surendra Singh and his elder brother Sukhbir used to demand dowry from beginning and I being a poor person was not able to fulfill the greed of my daughter's in-laws family and due to this reason they have killed my daughter by hanging her. Stern action may be taken against the accused. I have submitted my statement and have read and heard the contents which are true and correct. Sd/- Sarvan Kumar”.

3. After the registration of the F.I.R, the police did not conduct the investigation fairly and impartially. Despite specific attributions of participation in torturing the daughter of the petitioner/deceased, the respondents No.3 to 5 were exonerated by the police, while presenting the challan before the Area Magistrate. Even, in the F.I.R as well as his testimony before the Trial Court, the petitioner had levelled specific allegations against the respondents No.3 to 5, still, the Trial Court ignored the evidence on record and wrongly dismissed



the application under Section 319 Cr.P.C. The Trial Court failed to appreciate that even in his statement Ex.PA, i.e. the original complaint, the petitioner had mentioned that respondents No.3 to 5 had joined hands with the husband of the deceased and had tortured her, soon before her death. Learned counsel also referred to the statements of Arun Kumar and Randhir Singh (Annexures P-5 and P-6), respectively and submitted that [REDACTED] had committed suicide due to extreme torture by Surender Singh, her husband and proposed accused i.e. respondents No.3 to 5, however, the Trial Court had adopted a hyper-technical approach and wrongly dismissed the application under Section 319 Cr.P.C.

4. On the other hand, learned State counsel submitted that during the course of investigation, the statements of neighbours as well as respectables of the area were recorded and the facts were verified by the concerned SHO also. During investigation, it was found that the allegations against respondents No.3 to 5 were general and vague and their participation in the crime could not be proved by the complainant side. Apart from that, there was no prior complaint against respondents No.3 to 5 regarding dowry harassment or quarrel and the allegations against them could not be substantiated. Consequently, there was no cogent and reliable incriminating evidence against them, respondents No.3 to 5 were declared innocent.

5. On the other hand, learned counsel appearing on behalf of respondents No. 3 to 5 has referred to the findings recorded by the Trial Court in detail and prayed for dismissal of the present case.

6. I have heard learned counsel for the parties and perused the record carefully.

7. The Hon'ble Supreme Court, while discussing the powers under



Section 319 Cr.P.C held in the matter of “**Hardeep Singh Vs.State of Punjab, (2014) 3 SCC 92** as follows:-

“105. Power under Section 319 Cr.PC 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 CrPC. In Section 319 CrPC 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 CrPC to form any opinion as to the guilt of the accused."

8. Still further, the Hon'ble Supreme Court has held in the matter of “**Omi @ Omkar Rathore & Anr. Vs.State of Madhya Pradesh & Anr., SLP (Crl.) No.(s) 17781 of 2024** held that the powers under Section 319 Cr.P.C



empowers the trial court to summon persons to face trial, even they were not named in the charge-sheet, however, this power has to be exercised extraordinarily and must be exercised sparingly and not in a casual manner and held as follows:-

“21.The principles of law as regards Section 319 of the Cr.P.C may be summarised as under:

a. On a careful reading of Section 319 of the CrPC as well as the aforesaid two decisions, it becomes clear that the trial court has undoubted jurisdiction to add any person not being the accused before it to face the trial along with other accused persons, if the Court is satisfied at any stage of the proceedings on the evidence adduced that the persons who have not been arrayed as accused should face the trial. It is further evident that such person even though had initially been named in the F.I.R. as an accused, but not charge sheeted, can also be added to face the trial.

b. The trial court can take such a step to add such persons as accused only on the basis of evidence adduced before it and not on the basis of materials available in the chargesheet or the case diary, because such materials contained in the charge sheet or the case diary do not constitute evidence.

c. The power of the court under Section 319 of the CrPC is not controlled or governed by naming or not naming of the person concerned in the FIR. Nor the same is dependent upon submission of the chargesheet by the police against the person concerned. As regards the contention that the phrase 'any person not being the accused' occurred in Section 319 excludes from its operation an accused who has been released by the police under Section 169 of the Code and has been shown in column No. 2 of the charge sheet, the contention has merely to be stated to be rejected. The said expression clearly covers any person who is not being tried already by the Court and the very purpose of enacting such a



provision like Section 319(1) clearly shows that even persons who have been dropped by the police during investigation but against whom evidence showing their involvement in the offence comes before the Criminal Court are included in the said expression.

d. It would not be proper for the trial court to reject the application for addition of new accused by considering records of the Investigating Officer. When the evidence of complainant is found to be worthy of acceptance then the satisfaction of the Investigating Officer hardly matters. If satisfaction of Investigating Officer is to be treated as determinative then the purpose of Section 319 would be frustrated”.

9. In the present case also, I completely agree with the findings recorded by the Trial Court, whereby, it has been held that neither in the application (Ex.PA) nor in the statement recorded in the Court, the petitioner had disclosed the name of the father and address of Opin Verma. Moreover, Opin Verma, respondent No.5, who was a friend of husband of the deceased, could never be the beneficiary of demand of dowry nor any specific allegation of harassment was levelled against him. Similarly, general and vague allegations have been levelled against Sukhbir, brother-in-law of the deceased (Jeth) and Vicky, cousin of husband (Jeth). Even Subkbir and Shanky @ Vicky, respondents No.3 and 4 have also been implicated due to their relations with Surender Singh. Even otherwise, from the very beginning itself, no specific allegations was levelled against respondents No.3 to 5, who were proposed to be summoned as an additional accused. Now, during the course of trial, the petitioner appeared as PW-1 and reiterated the allegations levelled in his initial complaint, which was found to be false by the police, during the course of investigation qua the respondents.



10. Even otherwise, the Hon'ble Supreme Court has held in the matter of "Juhru and others Vs. Karim and Anr." (2023) 5 Supreme Court Cases 406 that the 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 qua non to summon an additional accused. With a view to prevent the frequent misuse of power to summon additional accused under Section 319 Cr.P.C, 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, 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.

11. In view of the above discussion, finding no merits, the present petition is ordered to be dismissed.

12. Ordered accordingly.

(N.S.SHEKHAWAT)
JUDGE

08.06.2026
hitesh

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