CNR No: PHHC011381942023
2026:PHHC:180498

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-54913-2023 (O&M)
Date of decision: 28.09.2026

Abdul Rasheed and another

….Petitioners

Versus

State of Punjab and another

….Respondents

CORAM: HON'BLE MR. JUSTICE RAMESH CHANDER DIMRI

Present: Mr. Saqib Ali Khan, Advocate
for the petitioners.

Mr. Hardeep Hans, AAG, Punjab.

Mr. Gaurav Vir Singh Behl, Advocate,
Mr. Jugraj Singh Chouhan, Advocate and
Mr. Sagar Bansal, Advocate
for respondent No.2/complainant.

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RAMESH CHANDER DIMRI, J. (Oral)

1. Through the present petition filed under Section 482 of the Code of Criminal Procedure, 1973, the petitioners have challenged an order Annexure P-2 dated 05.06.2023 by which they both have been summoned

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as additional accused under Section 319 of the said Code to face trial with their co-accused Mohd. Rashid @ Rashid.

2. Learned counsel for the petitioners has contended that only two injuries were detected on person of the complainant in his medico-legal examination Annexure P-4 and the said two injuries were attributed to the co-accused Mohd. Rashid @ Rashid. As per him, keeping in view the said fact, no case was made out to summon the petitioners as additional accused under the said Section.

3. As against his such argument, learned State counsel assisted by learned counsel for the respondent No.2/complainant has argued that contents of the FIR Annexure P-1 and deposition of the complainant as PW1 made before the Court concerned make out more than a *prima facie* case against the petitioners to summon them as additional accused and therefore, the impugned order Annexure P-2 has rightly been passed.

4. After hearing learned counsel for the petitioners and learned State counsel assisted by learned counsel for the respondent No.2/complainant on the petition in question, I have gone through contents of the FIR Annexure P-1. As per its contents, the petitioners actively participated in the occurrence in question with the co-accused Mohd. Rashid @ Rashid. In the said document, they have specifically been

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attributed injuries to the complainant. A perusal of the impugned order Annexure P-2 shows that PW1 Mohammad Ramzan deposed before the Court concerned that the petitioners actively participated in the occurrence. In view of the contents of the FIR Annexure P-1 and observations made by the Court concerned in the impugned order, it comes out that the petitioners were present at the place of occurrence in question and participated in it actively. In view of their active participation, non-detection of injuries corresponding to the injuries attributed to the petitioners will be irrelevant for deciding the application/petition in question. Hon'ble the Supreme Court, in the report ***Hardeep Singh Vs. State of Punjab, (2014) 3 SCC 92***, in respect of the satisfaction to be arrived at while deciding an application under Section 319 of the 1973 Code, observed as under: -

> *"110. We accordingly sum up our conclusions as follows:*
>
> ***Question Nos.1 & III***
>
> *Q.1 What is the stage at which power under Section 319 Cr.P.C. can be exercised?*
>
> *AND*
>
> *Q.III Whether the word "evidence" used in Section 319(1) Cr.P.C. has been used in a comprehensive sense and includes the evidence collected during investigation or the word "evidence" is limited to the evidence recorded during trial?*

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*A. In **Dharam Pal**'s case, the Constitution Bench has already held that after committal, cognizance of an offence can be taken against a person not named as an accused but against whom materials are available from the papers filed by the police after completion of investigation. Such cognizance can be taken under Section 193 Cr.P.C. and the Sessions Judge need not wait till 'evidence' under Section 319 Cr.P.C. becomes available for summoning an additional accused. Section 319 Cr.P.C., significantly, uses two expressions that have to be taken note of i.e. (1) Inquiry (2) Trial. As a trial commences after framing of charge, an inquiry can only be understood to be a pre-trial inquiry. Inquiries under Sections 200, 201, 202 Cr.P.C.; and under Section 398 Cr.P.C. are species of the inquiry contemplated by Section 319 Cr.P.C. Materials coming before the Court in course of such enquiries can be used for corroboration of the evidence recorded in the court after the trial commences, for the exercise of power under Section 319 Cr.P.C., and also to add an accused whose name has been shown in Column 2 of the chargesheet. In view of the above position the word 'evidence' in Section 319 Cr.P.C. has to be*

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broadly understood and not literally i.e. as evidence brought during a trial.

Question No. II

Q.II Whether the word "evidence" used in Section 319(1) Cr.P.C. could only mean evidence tested by cross-examination or the court can exercise the power under the said provision even on the basis of the statement made in the examination-in-chief of the witness concerned?

A. Considering the fact that under Section 319 Cr.P.C. a person against whom material is disclosed is only summoned to face the trial and in such an event under Section 319(4) Cr.P.C. the proceeding against such person is to commence from the stage of taking of cognizance, the Court need not wait for the evidence against the accused proposed to be summoned to be tested by cross-examination.

Question No. IV

Q.IV What is the nature of the satisfaction required to invoke the power under Section 319 Cr.P.C. to arraign an accused? Whether the power under Section 319 (1) Cr.P.C. can be exercised only if the court is satisfied that the accused summoned will in all likelihood be convicted?

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A. Though under Section 319(4)(b) Cr.P.C. the accused subsequently impleaded is to be treated as if he had been an accused when the Court initially took cognizance of the offence, the degree of satisfaction that will be required for summoning a person under Section 319 Cr.P.C. would be the same as for framing a charge. The difference in the degree of satisfaction for summoning the original accused and a subsequent accused is on account of the fact that the trial may have already commenced against the original accused and it is in the course of such trial that materials are disclosed against the newly summoned accused. Fresh summoning of an accused will result in delay of the trial - therefore the degree of satisfaction for summoning the accused (original and subsequent) has to be different.

Question No.V

Q.V Does the power under Section 319 Cr.P.C. extend to persons not named in the FIR or named in the FIR but not charge-sheeted or who have been discharged?

A. A person not named in the FIR or a person though named in the FIR but has not been charge-sheeted or a person who has been discharged can be summoned under Section 319 Cr.P.C.

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provided from the evidence it appears that such person can be tried along with the accused already facing trial. However, in so far as an accused who has been discharged is concerned the requirement of Sections 300 and 398 Cr.P.C. has to be complied with before he can be summoned afresh.

The matters be placed before the appropriate Bench for final disposal in accordance with law explained hereinabove."

5. Applying the said observations to the present case, I find that more than a *prima facie* case is made out against the petitioners to summon them under the abovestated Section. I, therefore, do not find any illegality in the impugned order Annexure P-2 warranting interference under Section 482 Cr.P.C.

6. Petition in question is accordingly dismissed. Anything mentioned in the present order shall not affect final decision of the case in question. Interim application/s, if any, stand/s disposed off.

[RAMESH CHANDER DIMRI]
JUDGE

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

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