



2026:AHC:56035

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 1682 of 2026

Krishna @ Kishan

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s)	: Harish Chandra, Pawan Kumar Shukla
Counsel for Opposite Party(s)	: G.A.

Court No. - 87

HON'BLE ABDUL SHAHID, J.

1. Heard learned counsel for the revisionist and the learned A.G.A. for the State.
2. The present criminal revision has been filed against the impugned order dated 06.02.2026 passed in Sessions Trial No. 264 of 2021 (State versus Chatar Singh and others), arising out of Case Crime No. 156 of 2021, under Sections 147, 148, 352, 302/149 I.P.C., Police Station Nandgram, District Firozabad.
3. Learned counsel for the revisionist submitted that the F.I.R. was registered under Sections 147, 148, 149, 452, 302, 34 I.P.C. against (1) Chatar Singh, (2) Gaurav, (3) Lavi, (4) Harsh alias Sonu, (5) Narendra alias Lala, (6) Krishna, (7) Ravindra, (8) Sunita, and (9) Pooja. He further submitted that no specific role has been assigned to the revisionist in the said F.I.R. He also submitted that, after completion of the investigation, the revisionist was exonerated and no charge sheet was filed against him.
4. It is further submitted that the learned trial court summoned the revisionist in exercise of powers under Section 319 Cr.P.C. The impugned order has been passed without proper appreciation of the entire facts and evidence. There is no specific role assigned to the revisionist, and he has been falsely summoned by the learned trial court. It is also submitted that various litigations are pending between the parties, including Case Crime No. 1687 of 2020 and Case Crime No. 142 of 2021, and that the present offence has been alleged to create undue pressure for settlement of those cases.

5. Learned counsel for the revisionist further submitted that there was no evidence against the revisionist during the investigation, nor was any charge sheet filed against him. He submitted that P.W.-1, Geeta, wife of Gajendra Singh, was examined but did not assign any specific role to the revisionist. However, Smt. Geeta (P.W.-1) has also stated that the revisionist entered her house along with other co-accused persons and threatened to abduct her husband and kill him. It is alleged that all the accused persons took away her husband, and thereafter the incident occurred at the house of Chatar Singh, where, due to injuries, her husband died.

6. Harish Verma, Prashant, and the minor daughter were examined as P.W.-2, P.W.-3, and P.W.-4, respectively. All have supported the prosecution story and recorded their statements against the accused. However, any final appreciation or interpretation of such evidence at this stage is not justified, as it may cause prejudice to the accused and would not be in consonance with the principles of a fair trial.

7. Learned counsel for the revisionist has further relied upon the law laid down by the Hon'ble Supreme Court in **Hardeep Singh v. State of Punjab and Others**, AIR 2014 SC 1400, particularly paragraphs 98 and 99, which are reproduced hereinbelow:

"98. 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 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.

99. 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 un rebutted, 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."

8. The law laid down by the Hon'ble Supreme Court for summoning an accused under Section 319 Cr.P.C. is clear and specific. It is true that the revisionist was named in the F.I.R.; however, no charge sheet was filed against him after investigation. It is a settled principle of law that for summoning an accused under Section 319 Cr.P.C., the evidence recorded before the trial court is to be considered.

9. Learned A.G.A. opposed the revision and submitted that the impugned order has been rightly passed by the learned trial court. He relied upon Section 319 Cr.P.C., which reads as under:

10. Learned A.G.A. opposed the revision and submitted that the impugned order has rightly been passed by the learned trial court. He relied on Section 319 Cr.P.C. which reads as under:-

"Section 319 Cr.P.C. 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 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."

11. The Hon'ble Supreme Court has consistently held, and more particularly in the Constitution Bench judgment in Hardeep Singh (supra), that the evidence recorded during trial can be considered for summoning an accused under Section 319 Cr.P.C.

12. The summoning of the revisionists by the impugned order dated 7.5.2024 was passed by the learned trial court after perusing the statements recorded during trial. The learned trial court also considered the law laid down by the Hon'ble Supreme Court in **Hardeep Singh** (supra), **Brijendra Singh and Others v. State of Rajasthan; 2017 Lawsuit SC 484**. The ingredients and conditions required for summoning an accused under Section 319 Cr.P.C., as elaborated in Hardeep Singh (supra), stand duly satisfied.

13. It is held by Hon'ble Supreme Court in **Asim Akhtar Versus The State of West Bengal and another, 2024 INSC 794** that complicity of any person

sought to be arrayed as an accused can be decided with or without conducting cross-examination of the complainant and other prosecution witnesses and there is no mandate to decide the application under section 319 Cr.P.C. before cross examination of other witnesses. It is held by the Hon'ble Supreme Court in Hardeep Singh (supra), that the word "evidence" used in section 319 Cr.P.C. indicates, the word "evidence" is limited to the evidence recorded during trial. The summoning of accused under section 319 Cr.P.C. is settled, that this power is an extraordinary power, which should be used sparingly with circumspection and while passing the summoning order under section 319 Cr.P.C. court must consider whether more than prima facie case made out, or not; mere prima facie case is not sufficient.

14. It is held by Hon'ble Supreme Court in **Omi Versus State of M.P. (2025) 2 SCC 621**, that trial court can add an individual as accused only on the basis of the evidence adduced before it and not on the basis of the materials available in the charge sheet or the case diary because such materials contained in the charge sheet or the case diary do not constitute evidence. It is held by the Hon'ble Supreme Court in **Shiv Baran Versus State of U.P., 2025 SCC OnLine SC 1457** that trial court can exercise power to summon an additional accused under section 319 Cr.P.C. only on the basis of the evidence adduced before it and not any other material collected during investigation.

15. It is settled law by the Constitution Bench in **Hardeep Singh** (supra) that evidence recorded before the trial court is the evidence which has to be considered for summoning of an accused under Section 319 Cr.P.C. The nature of the evidence has to be more than prima facie. The cross examination is even not necessary. If the evidence recorded during trial is of upto the extent that if unrebutted, it would lead their conviction, which is sufficient to summon the accused under Section 319 Cr.P.C.

16. In view of the above, there is neither any illegality nor irregularity in the impugned order.

17. The criminal revision lacks merit and is dismissed accordingly.

March 18, 2026
K.K. Maurya

(Abdul Shahid,J.)