CNR No: PHHC011470212026
2026:PHHC:128464

125 IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

CRR-2162-2026 (O&M)
Date of Decision: 10.09.2026

GAGANDEEP SINGH @ RAJA

…PETITIONER

V/S

STATE OF PUNJAB AND ANOTHER

…RESPONDENTS

CORAM: HON'BLE MS. JUSTICE SHALINI SINGH NAGPAL

Present: Mr. Vaibhav Narang, Advocate
for the petitioner.

Mr. Kunwarbir Singh, AAG Punjab.

****

SHALINI SINGH NAGPAL J.

CRM-37804-2026

Application under Section 5 of the Limitation Act, 1963 has been filed for condonation of delay of 59 days in filing the revision petition.

Heard. The delay of 59 days in filing the revision petition is condoned for the reasons mentioned in the application.

CRR-2162-2026 (O&M)

1. The revision petition impugnes order dated 09.04.2026 of learned Judicial Magistrate Ist Class, Amritsar in case No. CHI-1471-2023 titled '*State of Punjab Vs. Robin Rai @ Raja*' vide which application under Section 358 Bharatiya Nagarik Suraksha Sanhita, 2023 filed by prosecution to summon the petitioner, was allowed.

2. Learned counsel for the petitioner submits that upon registration of the FIR, final report was presented by the investigating agency against Robin Rai alias Raja, Jagjeet Singh alias Raja, Amritpal Singh alias Madhi and Harmandeep Singh but petitioner was found innocent by the police on

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2026.09.11 17:52
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the basis of an inquiry conducted. During investigation, statements of 5 independent witnesses were recorded, who all stated that petitioner was not present at the spot. Although, PW1 Jugraj Singh and PW2 Aditya appeared before the Court and deposed regarding involvement of the petitioner, learned trial Court erroneously overlooked and ignored the inquiry conducted under Section 173(8) Cr.P.C, pursuant to an application submitted by petitioner's father before Commissioner of Police, Amritsar, wherein petitioner's alibi was verified. Impugned order passed by learned Magistrate did not disclose that statements of independent witnesses examined during the inquiry proceedings were considered by the Court. Order dated 09.04.2026 suffered from non-application of mind to material facts of the case and deserved to be set aside on this ground alone.

3. To appreciate the legality of the impugned order, it would be relevant to refer to the contents of the FIR.

4. Complainant Jugraj Singh son of Manjeet Singh stated that on 20.02.2023, when he was driving his activa with his cousin brother Aditya riding pillion and reached Mandir Wala Bazaar near Gurdwara Kalgidhar Gurdwara, a motorcycle hit the activa and they fell on the ground whereafter, Amritpal Singh @ Madhi son of Harpreet Singh armed with '*datar'*, Jagjeet Singh @ Raja @ Mota son of Kanwaljeet Singh armed with '*datar'*, Robin Rai son of Ram Pyare armed with '*datar'*, **Gagandeep Singh @ Raja son of Surinder Singh armed with a baseball bat**, Harmandeep Singh armed with '*datar'* with 5-6 unknown persons surrounded them. Amritpal Singh proclaimed that they would be taught a lesson for getting raids conducted in their houses. Amritpal Singh @ Madhi, with the intention to kill, gave blow with '*datar'* on his hand which hit his wrist, Jagjeet Singh

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2026.09.11 17:52
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@ Mota pushed him to the ground, Robin Rai hit his lower back with *'datar'*, **Gagandeep Singh @ Raja hit him with the baseball bat on his head**. Harmandeep Singh hit him with *'datar'* on his forehead. 5-6 other young men also thrashed him. His son Aditya, who tried to save him, was also beaten up. Then Amritpal Singh @ Madhi snatched his mobile phone. Robin Rai pulled gold chain from his neck. When they raised cries, the assailants fled with their weapons.

5. During investigation, petitioner was exonerated on the basis of an inquiry conducted by the police, wherein statements of 5 witnesses were recorded regarding false implication of the petitioner.

6. It appears from para No.5 of the revision petition that after framing of charges, PW1 Jugraj Singh and PW2 Aditya were examined. They both in their examination-in-chief categorically deposed that Gagandeep Singh @ Raja was present at the spot, armed with baseball bat and struck a blow on the person of complainant. Learned trial Magistrate, in a well reasoned order, has recorded that the testimonies of PW1 and PW2 were direct, categoric and specific regarding presence of the petitioner at the spot along with other accused, his being armed with baseball bat and inflicting blow with baseball bat on the person of Jugraj Singh. On the basis of the testimony of PW1 and PW2, learned trial Court has observed that specific, overt act was attributed to the petitioner in the substantive evidence, recorded on oath, during the course of trial.

7. The plea that petitioner Gagandeep Singh was found innocent during investigation was brushed aside and rightly so, in view of the well settled position of law that power under Section 319 Cr.P.C. requires "evidence" during trial irrespective of the investigation report. It cannot be

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2026.09.11 17:52
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doubted from the record that strong, cogent evidence was led against the petitioner during trial, which is the foundation of the impugned order.

8. The law with respect to Section 319 Cr.P.C. as laid down in ***Hardeep Singh Vs. State of Punjab (2014) 3 SCC 92,*** was reiterated and summarized in ***Omi Vs. State of State of M.P. (2025) 2 SCC 621*** in the following terms:-

> *"19. The principles of law as regards Section 319 of the CrPC may be summarized as under:*
>
> *19.1 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.*
>
> ***19.2 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 charge-sheet or the case diary, because such materials contained in the charge sheet or the case diary do not constitute evidence.***
>
> *19.3 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*

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2026.09.11 17:52
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> *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.*
>
> *19.4 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. Thus, no fault can be found in the impugned order of learned trial Court refusing to be governed by the opinion of the investigating agency and forming an independent opinion on the basis of evidence of PW1 Jugraj Singh and PW2 Aditya to invoke Section 319 Cr.P.C. against the petitioner. Learned JMIC, Amritsar has rightly exercised discretion to summon the petitioner to face trial along with other accused.

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2026.09.11 17:52
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10. There is no illegality or perversity in the impugned order requiring intervention by this Court. The revision petition stands dismissed.

11. Pending miscellaneous applications, if any, stand disposed of.

(SHALINI SINGH NAGPAL)
JUDGE

10.09.2026
Sumit Singla

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

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2026.09.11 17:52
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