**GROUNDS OF REVISION**

1. That the present revision petition has been preferred against the order dated 2.2.2021 passed by the Ld. Court of JMIC, Jhajjar, vide which, the application under [Section 319](https://indiankanoon.org/doc/435819/) of the Cr.P.C was dismissed. The learned JMIC Jhajjar completely overlooked the peculiar facts and circumstances of the instant case and the settled law. The learned JMIC completely brushed aside the mandatory provisions of Section 319 Cr.P.C. and failed to appreciate that offence at all was made out against the respondent no.2.
2. That brief facts of the instant case are that initially the case was registered on the basis of the statement of the petitioner . True translated FIR dated 6.12.2017, which was registered on the basis of the statement of the petitioner has been annexed herewith as **Annexure P-1.**
3. That there are specific allegations against the respondent no.2 in the FIR, as well as, in the statements petitioner/PW-1 , further the Ld. Court below ignored the principles of [Section 319](https://indiankanoon.org/doc/435819/) of the Cr.P.C and on account of the fact that the witnesses have not said anything about the investigation in the statements.

[**Section 319**](https://indiankanoon.org/doc/435819/)**of the Cr.P.C reads as under :-**

"319. 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.

(2) Where such person is not attending the Court, he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.

(3) Any person attending the Court although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.

(4) Where the Court proceeds against any person under sub-section (1), then -

(a) the proceedings in respect of such person shall be commenced afresh, and witness re-heard;

(b) subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced."

**4. That** there are specific allegations against the respondent no.2 Rajbala . In the FIR, the allegations read as under **:-" *That after my marriage, Deepak and Rajbala started doing humiliate and beating with me due to brought less dowry ,which I endured for many days, when I am fed up and life got tough, than I informed my father ,who reached village Thurana along with other villagers and explained to Deepak and Rajbala’***

***Further stated in FIR that “my father given Rs. two lakh in cash to Deepak and Rajbala. But the demand of the greedy man went on increasing and these persons beating me again and again and I along with my son fired from their home in Aug. 2015”,***

The allegations in the FIR were supported by the statements of Deep Chand ,Chandrawati and Jitender made under [Section 161](https://indiankanoon.org/doc/447673/) of the Cr.P.C. after the filing of the challan, PW-1 Kavita (petitioner) appeared as witness and alleged as under :-

**PW-1 Kavita, while making specific allegations in her evidence against the respondent no.2 Rajbala stated as under :-**

" ***My husband and my mother-in-law used to beat me and asked me that you brought less dowry.***."

***“ Than my in-laws started to beat with me*** *.* ***Deepak my husband and Rajbala started beating me up.******In April -2013 Deepak and his mother demanded for Rs. Two lakh from me .Than they started beating more ,about which I informed to my father.”***

***“ my father given Rs. Two lakh to Deepak and Rajbala so that, my house peace be on. But even, no improvement has been done in behavior of my husband and mother-in-law.******Still bother me for the dowry .Deepak and Rajbala demanded Rs. Five lakh”.*** *True translated copy of statement dated 15.5.2018 before the Ld. JMIC Jhajjar of the petitioner as pw-1 is attached here wit has* ***Annexure P-2.***

Thus, there is sufficient evidence and specific allegations against the respondent no.2 . State has not been able to show as on what basis, the respondent no .2 was found innocent.

**5. That** during the investigation conducted by the police, respondent no.2 was kept wrongly in column no.2 of the charge sheet than petitioner moved the application before the Superintendent of Police Jhajjar that there are sufficient allegations against the respondent no.2 but all in vain.

**6. That** in the recent judgment of the Hon,ble Supreme Court in CRI. APPEAL  no.s. 298-­299 OF **2021 titled as Sartaj Singh Versus State of Haryana & Anr.** Etc. under para no. 6.2 of the said judgment considering   the   law   laid   down   by   in **Hardeep Singh (supra)** the observations and findings referred to and **reproduced hereinabove, it emerges that**

1. ” the Court can exercise the   power   under   Section   319   Cr.P.C.   even   on   the   basis   of   the statement   made   in   the  examination-­in-­chiefof   the   witness concerned and the Court need not wait till the cross­ of such a witness and the Court need not wait for the evidence against the accused   proposed   to   be   summoned   to   be   tested   by crossexamination; and (ii) 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., provided from the evidence (may be on the basis of the evidence   collected   in   the   form   of   statement   made   in   the examination­-in­-chief the witness concerned), it appears that such person can be tried along with the accused already facing trial.”

**7. It** is a well settled proposition of law that an order under [Section 319](https://indiankanoon.org/doc/435819/) Cr.P.C should not be passed only because one of the witnesses wish to implicate another person. The Courts are required to apply stringent tests; one of the tests is that the Court should come to the reasonable conclusion on the basis of evidence before it that the same is likely to lead to conviction.

[In Michael Machado and another v. Central Bureau of Investigation and another](https://indiankanoon.org/doc/1335414/), 2000(2) RCR (Criminal) 75, while considering the basic requirements of [Section 319](https://indiankanoon.org/doc/435819/) of the Code, Court said:

"The basic requirement for invoking the above Section is that it should appear to the Court from the evidence collected during trial or in the inquiry that some other person, who is not arraigned as an accused in that case, had committed an offence for which that person could be tried together with the accused already arraigned. It is not enough that the Court entertain some doubt, from the evidence, about the involvement of another person in the offence. In other words, the Court must have reasonable satisfaction from the evidence already collected regarding two aspects. First is that the other person has committed an offence. Second is that for such offence that other person could as well be tried along with the already arraigned accused."

[In Krishnappa v. State of Karnataka](https://indiankanoon.org/doc/1945016/) reported as 2004 (4) RCR (Criminal) 678, the Court ruled that the power to summon an accused is an extraordinary power conferred on the Court and it should be used very sparingly and only if compelling reasons exist for taking cognizance against the person other than the accused.

The Apex Court in the case of [Sarabjit Singh and another v. State of Punjab and another](https://indiankanoon.org/doc/189268/) reported as 2009(3) RCR (Criminal) 388, in para 17, observed as under:-

"17. The provision of [Section 319](https://indiankanoon.org/doc/435819/) of the Code, on a plain reading, provides that such an extraordinary case has been made out must appear to the court. Has the criterion laid down by this Court in Municipal Corporation of Delhi (supra) been satisfied is the question? Indisputably, before an additional accused can be summoned for standing trial, the nature of the evidence should be such which would make out grounds for exercise of extraordinary power. The materials brought before the court must also be such which would satisfy the court that it is one of those cases where its jurisdiction should be exercised sparingly.

We may notice that in [Y. Saraba Reddy v. Puthur Rami Reddy and Anr. [JT](https://indiankanoon.org/doc/1695102/) 2007 (6) SC 460], this Court opined:

"...Undisputedly, it is an extraordinary power which is conferred on the Court and should be used very sparingly and only if compelling reasons exist for taking action against a person against whom action had not been taken earlier. The word "evidence" in [Section 319](https://indiankanoon.org/doc/435819/) contemplates that evidence of witnesses given in Court..."

An order under [Section 319](https://indiankanoon.org/doc/435819/) of the Code, therefore, should not be passed only because the first informant or one of the witnesses seeks to implicate other person

(s). Sufficient and cogent reasons are required to be assigned by the court so as to satisfy the ingredients of the provisions. Mere ipse dixit would not serve the purpose. Such an evidence must be convincing one at least for the purpose of exercise of the extraordinary jurisdiction.

For the aforementioned purpose, the courts are required to apply stringent tests; one of the tests being whether evidence on record is such which would reasonably lead to conviction of the person sought to be summoned."

**8. That** there are specific allegations against the respondents- no.2 Rajbala in the statement made by petitioner/PW-1, as reproduced above. In fact, there has been consistent stand of the witnesses about the role attributed to the respondent no.2. The allegations find support in the evidence. Thus, there is a reasonable chance of the respondent no. 2 being convicted on the basis of the said evidence.

In view of the above, the present revision petition may kindly be allowed and order dated 2.2.2021 passed by the Ld. Judicial Magistrate Ist Class, Jhajjar, vide which, the application under [Section 319](https://indiankanoon.org/doc/435819/) of the Cr.P.C was dismissed, be set aside and the respondent no.2 be summoned under [Section 319](https://indiankanoon.org/doc/435819/) Cr.P.C to face trial.

Note: That no such or similar criminal revision petition has earlier been filed by the petitioner either in the Hon’ble Court or in the Hon’ble Supreme Court of India

Through Counsel

(**SURESH AHLAWAT**)

CHANDIGARH ADVOCATE

DATED:22.3.2021 COUNSEL FOR THE PETITIONER

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.R. No. of 2021

Kavita ( aged about 34 years ) wife of Deepak d/o Sh. Deep Chand resident of Village Kablana Tehsil and Distt. Jhajjar …………Petitioner

Versus

1. State of Haryana
2. Rajbala w/o Sh. Kuldeep resident of village Thurana , Tehsil -Hansi Distt. Hisar

………..…Respondents

CHANDIGARH (SURESH AHLAWAT)

DATED : 22.3.2021 ADVOCATE

COUNSEL FOR THE PETITIONER

FIRST INFORMATION REPORT

( UNDER SECTION 154 CR.P.C.)

1.District :Jhajjar P.S.Women Station Jhajjar,Year:2017

FIR No:- 0175 Dated: 6.12.2017

2. Sr. No. Acts Sections

1. IPC-1860 406

2. IPC- 1860 498-A

Xxxxxxxxxxxxxxxxxxxxxxx

12. Contents of FIR:

*To*

*The Supt.of Police*

*Jhajjar*

*Subject:- Application for taking the action against Deepak son of Kuldeep and Rajbala wife of Kuldeep resident of village Thurana Tehsil Hansi Distt. Hissar.*

*Sir,*

*I, Kavita wife of Deepak daughter of DeepChand resident of village Kablana Tehsil and Distt. Jhajjar request the following:-*

1. *That my marriage was solemnized in accordance with Hindu rites and ceremonies on 14.6.2011 with Deepak son of Kuldeep resident of village Thuran in my village at Kablana.*
2. *That in my marriage ,my father had spent the money beyond his capacity ( near about Rs. 15 lakh) i.e. one Alto car was also given in dowry, apart from this, one gold chain weighing two tola. one gold ring weighing five gram for Deepak, two pair gold Topas for the mother-in-law and grand mother-in-law ,one gold ring weighing five gram for Satveer ( Mama of Deepak).*
3. *That one male child was born in 2013 from my marriage who is living with me .*
4. *That after my marriage, Deepak and Rajbala started doing humiliate and beating with me due to bringing less dowry ,which I endured for many days, when I am fed up and life got tough, than I informed to my father ,who reached village Thurana along with other villagers and explained to Deepak and Rajbala .*
5. *That my Alto car has been sold by Deepak and signed the documents under pressure . In 2013 they harass and beating with me due to bringing less dowry and demanded Rs. Two lakh than I informed to my father in this regard. Than my father reached in village Thurana along with villagers to maintain the peace and harmony in the house and my father given Rs. two lakh in cash to Deepak and Rajbala.But the demand of the greedy man went on increasing and these persons beating me again and again and I along with my son fired from their home in Aug. 2015, which from her day ,I am residing with my son in the house of my father . After that, My father gone to village Thurana three times along with panchayat, at which they demanded Rs. Five Lakh in cash. On my father’s refusal, than they refused to let me take my son.*

*Thus, It is humble request to you, that strict action be taken against the above mentioned accused persons and my jawalary , cash , money of sold car and dowry articles according to list be returned to me.*

***Sd/- Kavita d/o Deep Chand resident of Village KablanaTehsil and Distt. Jhajjar***

Xxxxxxxxxxxx

State v/s Deepak

**PW- 1 Kavita**  w/o Deepak aged about 32 years resident of village Kablana Jhajjar

On S.A.

Stated that on 14.6.2011  *my marriage was solemnized in accordance with Hindu rites and ceremonies with Deepak son of Kuldeep resident of village Thurana in my village at Kablana. My father given one Alto car in my marriage. One gold chain weighing two tola and one gold ring for Deepak, one gold ring for Mama of Deepak and two pair gold Topas for my mother-in-law and grand mother-in-law were also given.* ***My husband and my mother-in-law used to beat me and asked me that you brought less dowry.*** *My husband sold the car which has been given in dowry and when the car sold, than my sign has been obtained on documents under threat. In 2013 one male child born out from this wedlock , whose name is Harprit .He is residing with me .* ***Than my in-laws started to beat with me*** *.* ***Deepak my husband and Rajbala started beating me up.******In April -2013 Deepak and his mother demanded for Rs. Two lakh from me .Than they started beating more ,about which I informed to my father*** *,than my father reached in village Thurana along with some other persons and my husband and my mother-in-law explained .****And my father given Rs. Two lakh to Deepak and Rajbala so that, my house peace be on. But even, no improvement has been done in behavior of my husband and mother-in-law.******Still bother me for the dowry .Deepak and Rajbala demanded for Rs. Five lakh.*** *Than I informed to my father in this regard. Than my father came again along with two-or three persons .But my father refused to give Rs. Five lakh in demand* ***because which, my mother-in-law and my husband refused to keep me .*** *My son also is living with me .* ***In 2015, I and my son were evicted from the home by my husband and mother-in-law****, on which I submitted the complaint Ex.PW-1/A to the S.P. Jhajjar ,on which my signature is there. Accused is present in court.*

*Xxxxxxxxxxx Defence Counsel*

*At this stage application u/s 319 Cr.P.C. has been moved.*

***Judicial Magistrate 1st Class***

***Jhajjar***

***15.5.2018***

THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No. --------- of 2021

Kavita …………Petitioner

Versus

State of Haryana and another ………..…Respondents

Affidavit of Kavita w/o Deepak aged about 34 years resident of village Kablana Distt. Jhajjar

I , the above named deponent do hereby solemnly affirm and declare on oath as under: -

1. That the contents of the accompanying petition which are true and correct, but for want of brevity have not been reproduced in this affidavit.

*2 That no such or similar petition has earlier been filed by the petitioner either in this Hon,ble court or the Apex Court nor pending before any District court on the same cause of action .*

CHANDIGARH

DATED .

*VERIFICATION*

Verified that the contents of my above affidavit are true and correct to my knowledge. No part of it is false and nothing has been kept concealed therein.

CHANDIGARH

DATED

THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.R. No. --------- of 2021

Kavita …………Petitioner

VERSUS

State of Haryana and another ………..…Respondents

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Similar case if any:- No.

CHANDIGARH (SURESH AHLAWAT)

P/370/1994

DATED : 22.3.2021 ADVOCATE

COUNSEL FOR THE PETITIONER

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM No. of 2021 IN

CRR No. --------- of 2021

Kavita …………Petitioner

VERSUS

State of Haryana and another ………..…Respondents

Application under section 482 of the code of criminal procedure for seeking exemption from filing the certified copies of Annexures P-1 to P-2 and placing on record the same.

MOST RESPECTFULLY SHOWETH:

1. That the accompanying petition is being filed in this Hon’ble Court, which is likely to be accepted on the strength of grounds taken therein.
2. That the certified copies of Annexures P-1 to P-2 are not readily and easily available at this stage with the petitioner. The case, being urgent in nature, therefore, true typed/translated copies of the same are being annexed with this petition.

It is, therefore, respectfully prayed that this application may kindly be allowed and the petitioner may kindly be exempted from filing the certified copies of Annexures P-1 to P-2 and placing on record the same in the interest of justice and fair play.

Note: Affidavit is attached.

(SURESH AHLAWAT)

CHANDIGARH ADVOCATE

DATED:22.3.2021 COUNSEL FOR THE PETITIONER

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. --------- of 2021

Kavita …………Petitioner

VERSUS

State of Haryana and another ………..…Respondents

Affidavit of Kavita w/o Deepak aged about 34 years resident of village Kablana Distt. Jhajjar

I, the above named deponent do hereby solemnly affirm and declare as under:

1. That the accompanying petition is being filed in this Hon’ble Court, which is likely to be accepted on the strength of grounds taken therein.
2. That the certified copies of Annexures P-1 to P-2 are not readily and easily available at this stage with the deponent. The case, being urgent in nature, therefore, true typed/ translated copies of the same are being annexed with this petition.

Chandigarh

Dated: .3.2021

Verification:

Verified that the contents of para nos.1 and 2 of my above affidavit are true and correct as per my knowledge. No part of it is false and nothing material has been kept concealed therein.

Chandigarh

Dated: .3.2021

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM No. of 2021 IN

CRR No. --------- of 2021

Kavita …………Petitioner

VERSUS

State of Haryana and another ………..…Respondents

Application under Section 482 of the Code of Criminal Procedure for staying the further proceedings before the court of Ld. JMIC , Jhajjar.

Respectfully showeth:

1. That the accompanying revision petition is being filed by the petitioner, which is most likely to be accepted on the basis of grounds taken therein, which may kindly be read as a part and parcel of this application.

2. That the petitioner is a good prima facie case in her favour and she will suffer irreparable loss and injuries in case the further proceedings before the learned trial court is not stayed.

It is, therefore, respectfully prayed that this application may kindly be allowed and the further proceeding before the learned trial court may kindly be stayed in the interest of justice and fair play.

Note: Affidavit is attached.

(SURESH AHLAWAT)

CHANDIGARH ADVOCATE

DATED:22.3.2021 COUNSEL FOR THE PETITIONER

IN THE HIGH COURT OF PUNJAB & HARYANA AT

CHANDIGARH

CRR No. --------- of 2021

Kavita …………Petitioner

VERSUS

State of Haryana and another ………..…Respondents

Affidavit of Kavita w/o Deepak aged about 34 years resident of village Kablana Distt. Jhajjar

I, the above named deponent do hereby solemnly affirm and declare as under:

1. That the accompanying revision petition is being filed by the deponent, which is most likely to be accepted on the basis of grounds taken therein, which may kindly be read as a part and parcel of this application.

2. That the deponent is a good prima facie case in her favour and she will suffer irreparable loss and injuries in case the further proceedings before the learned trial court is not stayed.

Chandigarh

Dated: .3.2021

Verification:

Verified that the contents of para nos.1 and 2 of my above affidavit are true and correct as per my knowledge. No part of it is false and nothing material has been kept concealed therein.

Chandigarh

Dated: .3.2021

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. --------- of 2021

Kavita …………Petitioner

VERSUS

State of Haryana and another ………..…Respondents

Total Court Fee

(SURESH AHLAWAT)

CHANDIGARH ADVOCATE

DATED:22.3.2021 COUNSEL FOR THE PETITIONER

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 400 of 2021

Kavita …………Petitioner

VERSUS

State of Haryana and another ………..…Respondents

Application u/s 482 Cr.P.C. for placing on record the final repost u/s 173 Cr. P.C. submitted by the Investigating agency.

**RESPECTFULLY SHOWTH:**

* 1. That above mentioned petition has been filed for summoning the respondent no. 2 u/s 319 Cr.P.C. to face trial.
  2. That on the last date of hearing i.e. on 22.11.2021 this Hon,ble Court directed the petitioner to place on record, copy of the final report submitted by the Investigating agency.

It is , therefore, most respectfully prayed that copy of final report submitted by the Investigating agency may kindly be taken on record in the interest of justice .

It is further prayed that the exemption from filing the certified/typed copies of final report may kindly be granted to the petitioner in the interest of justice.

**Chandigarh: SURESH AHLAWAT**

**Dated 30.4.2022 ADVOCATE**

**COUNSEL FOR THE PETITIONER**

Police Station Woman Jhajjar Distt. Jhajjar

Case FIR no. 175 dated 6.12.2017 u/s 498-A , of I.P.C.

**Statement of Kavita** daughter of Deep Chand cast Jat resident of Kablana

**u/s 161 Cr. P.C.**

I am resident of above mentioned address and application already submitted regarding FIR that today, I submitted in form of evidence, two copies of our wedding photos and list of 8 pages of Kanya-daan , in which Good Marriage of Tuesday is endorsed on first page regarding Kavita dated 14.6.2011 and on last page total kanya-daan of Rs. 54,649/- is endorsed, which possession had taken by the police of above stated articles . I endorsed on fard .I does not want to recover the dowry articles. Articles of my marriage and dowry do not recover. I submitted an application to you separately. Legal action be taken against my husband Deepak and my mother-in- law Rajbala . Statement recorded which is correct and understood by me .

P.S. Woman Jhajjar

Dated 11.12.2017

Police Station Woman Jhajjar Distt. Jhajjar

Case FIR no. 175 dated 6.12.2017 u/s 498-A , of I.P.C.

**Statement of Deep Chand**  son of Nathu Ram cast Jat resident of Kablana age 69 years **u/s 161 Cr. P.C.**

Stated that I an resident of above address .I have four children, in which three girls Geeta ,Kavita and Poonam are elder and smaller is Jitender who is son. On 14.6.2011 , I solemnized the marriage of Kavita with Deepak son of Sh. Kuldeep village Thurana ( Hisar) according to Hindu rites. In this marriage I, had given dowry articles beyond my capacity. I had spent near about of Rs. 15 lakh in this marriage. *I had given one Alto car beside this , One gold chain weighing two tola and one gold ring for Deepak, one gold ring for Mama of Deepak and two pair gold Topas for her mother-in-law and grand mother-in-law were also given. Than one son Harprit now his age about 4 years was born from my daughter Kavita who is residing with Kavita in village Kablana. After the marriage my son-in-law Deepak his mother Raj Bala harassing my daughter, due to bringing less dowry . Than my daughter Kavita told above sated facts to my wife Chandrawati and my son Jitender when she was harassed and humiliated . During this period Deepak sold Alto car which was given by us and demanded Rs. two lakh to my daughter .Than I, along with some persona of my village reached in the village Thurana than I gave two Rs. lakh to Deepak and his mother Rajbala so that, her house peace be on . Then they kept my daughter in good manner for some days. But even no improvement has been done and In 2015 my daughter Kavita was evicted from house and demanded of Rs. Five lakh. I told them that I have no capacity to give Rs. Five lakh. Then I, refused . My daughter is residing with me till than . They refused to my daughter to take them. My daughter harassed and humiliated due to bringing less dowry by her husband Deepak and her mother-in-law Raj Bala .Strict legal action be taken against them .* ***Sd – 11.12.2017***

To

Supt. of Police

Jhajjar

Subject:- Application for further investigation in relation to mother-in-law Raj Bala wife of Kuldeep .

Sir,

Applicant submits as under:-

1. That It is submitted that I have submit an application on 25.9.2017 in your office regarding demand of dowry and harassment against the my husband Deepak son of Sh. Kuldeep and mother-in-law Raj Bala resident of village Thurana Police Station Hansi Distt. Hisar, on this one FIR no.175 dt. 6.12.2007 has been registered in Police Station, in which I.O. has been kept name of my mother-in-law Raj Bala in Colum no.2 during the investigation. In as much , I have been leveled direct allegations in my application against my mother-in-law regarding demand of dowry, harass and humanization. Raj bala mother-in-law of applicant wrongly kept in Colum no.2 bu the I.O. during the investigation after connivance with accused party. Therefore , applicant wanted to investigate this matter to other higher officer.

Thus, I respectfully submits that order be given in this matter be investigated to other higher officer. Obliged .

Applicant Kavita w/o Deepak d/o Deep Chand Vill. Kablana Distt. Jhajjar.