IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. /2026
[@ SPECIAL LEAVE PETITION (CRIMINAL) NO.5531/2026]

NEELAM YADAV **APPELLANT(S)**

VERSUS

STATE OF U.P. & ANR. **RESPONDENT(S)**

O R D E R

1. **Leave granted.**
2. **Heard learned counsel for the parties.**
3. **This appeal impugns the judgment and order of the High Court[1] dated 16.02.2026 in Criminal Revision No.957 of 2026 whereby appellant's revision against the order of Trial Court[2] dated 03.01.2026 summoning the appellant under Section 319 of the Code of Criminal Procedure, 1973[3] for being tried along with other accused in S.T.[4] No.463 of 2022, has been dismissed.**
4. **On 25.07.2022 at about 11.25 hrs. a First Information**

[1] High Court of Judicature at Allahabad
[2] Additional Sessions Judge (First), Lalitpur
[3] CrPC
[4] Sessions Trial

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Date: 2026.10.28 16:24:07 IST
Reason:

Report (for short, FIR) was registered at Police Station Jakhaura, District Lalitpur under Section 302 of the Indian Penal Code, 1860[5] arraigning Raman Singh and Neelam Yadav (i.e. the appellant) as accused. In the FIR it was alleged that on 23.07.2022, at about 21.30 hrs., Raman Singh i.e. brother of the informant along with the appellant came to informant's house and demanded his share from the deceased i.e. Bhagwan Singh, the father of the informant and Raman Singh. When the deceased refused to execute the transfer instrument, the appellant held hand of the deceased and Raman Singh stabbed the deceased with a knife and thereafter both fled. It was alleged that the informant was involved in his father's cremation, therefore, could not report earlier.

5. **After investigation, chargesheet was laid only against Raman Singh. During trial, after recording statements of PW1, PW2 and PW3, an application was submitted under Section 319 CrPC to arraign the appellant as an accused. The Trial Court *vide* order dated 25.06.2025 summoned the appellant for being tried along with other accused. Aggrieved therewith, the appellant filed a criminal revision before the High Court which**

[5] [5] IPC

stood dismissed by the impugned order.

6. **The submission on behalf of the appellant is that the Trial Court has mechanically exercised its power under Section 319 CrPC without even applying its mind to the entire deposition of the witnesses. It is submitted that had the Trial Court considered the testimony of the witnesses in its entirety including what they stated during cross-examination, it may not have found it appropriate to summon the appellant at all. It is submitted that during cross-examination, PW1 had stated that he had not personally witnessed anyone attacking his father and that he did not lodge First Information Report on the day of the incident rather it was lodged upon insistence of the villagers. It was stated by him that he mentioned the name of Raman Singh and Neelam on being prompted by the villagers and that he did not see Raman Singh with Neelam. It is submitted that the other witness PW2 was declared hostile. Likewise, the third witness (PW3) was also declared hostile by the prosecution. In such circumstances, the submission is that the Trial Court has mechanically exercised its power without applying its mind to the evidence collected thus far. It is urged that the power under Section 319 CrPC is to be**

sparingly exercised when a case more than a *prima facie* case is made out. Therefore, when PW1 in his deposition during cross-examination had stated that the incident did not occur in his presence and that he had lodged the FIR at the insistence of the villagers, there was no justification for the Trial Court to have overlooked that part of the statement before taking a decision whether to arraign additional accused in the exercise of power conferred upon it by Section 319 of CrPC. Accordingly, it was prayed that the impugned order as well as the summoning order be set aside.

7. ***Per contra*, on behalf of the respondents it is submitted that at the stage of exercise of power under Section 319 CrPC the Court is not required to hold a mini trial so as to conclude whether the evidence would ultimately result in conviction. The Court is merely to be satisfied whether, based on the evidence available on the record, the additional accused (i.e., the one sought to be arraigned as an additional accused) must be tried along with the one already facing trial. It is submitted that the statement in chief of PW-1 indicted both the undertrial accused as well as the appellant, therefore the exercise of power under Section 319 CrPC cannot be faulted.**

8. **We have accorded due consideration to the rival submissions and have perused the record.**

9. **One of the objects of vesting power in the Trial Court to arraign an additional accused under Section 319 of CrPC is to ensure that a person involved in the crime does not escape the clutches of law on account of lapses on the part of investigating agency. However, this power is to be exercised sparingly based on the evidence led during trial. We are conscious of the law that the expression evidence as used in Section 319 CrPC is not confined to the statement of a witness tested by cross-examination. The power under Section 319 CrPC can very well be exercised based on a statement-in-chief of a witness, without awaiting his cross-examination. However, where the witness has been cross-examined, the trial court cannot shut its eye to the entire statement. Because evidence would not merely be the statement in chief of a witness but would include his statement recorded during cross-examination. No doubt, the trial court is not supposed to weigh the statement of a witness on the anvil of probabilities, or against the weight of other evidences, to consider whether it would be appropriate to try the additional accused along with one already**

facing trial. However, if the statement of a witness during cross-examination demolishes the edifice of his statement in chief, the trial court cannot overlook the statement in its entirety, when the decision to arraign additional accused rests entirely on his statement; though, after considering the statement in its entirety, it would be within the domain of the Trial Court whether to arraign the additional accused to face trial along with the one already facing trial.

10. **As we find that neither the High Court nor the Trial Court has considered the deposition of the witnesses, particularly of PW1, in its entirety, and have overlooked the statement of PW-1 made during cross-examination, we are of the view that the order of the Trial Court as well as the High Court is liable to be set aside. However, there shall be liberty to the Trial Court to consider the request for arraigning additional accused afresh, and in accordance with law.**

11. **Accordingly, the appeal is allowed. The impugned order(s) of the High Court as well as the Trial Court are hereby set aside.**

12. The Trial Court would, however, be at liberty to reconsider the prayer for arraigning additional accused in accordance with law.

13. We make it clear that we have not expressed our opinion on the merits of the prosecution case/ evidence.

14. All pending applications including the one seeking impleadment are disposed of.

…….……J
[MANOJ MISRA]

…….……J
[NONGMEIKAPAM KOTISWAR SINGH]

New Delhi
October 16, 2026

ITEM NO.48 COURT NO.9 SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 5531/2026

[Arising out of impugned final judgment and order dated 16-02-2026 in CRR No. 957/2026 passed by the High Court of Judicature at Allahabad]

NEELAM YADAV **Petitioner(s)**

VERSUS

STATE OF U.P. & ANR. **Respondent(s)**

IA No. 94743/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 94746/2026 - EXEMPTION FROM FILING O.T., IA No. 159677/2026 - INTERVENTION/IMPLEADMENT

Date : 16-10-2026 This matter was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE MANOJ MISRA
HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Petitioner(s) **Mr. Lavish, Adv.**
Mr. Raj Kumar Bhartiya, Adv.
Mr. Sudhir Mendiratta- 1759, AOR

For Respondent(s) **Mr. Ashish Kumar Rai, Adv.**
Mr. Maruti Nandan, Adv.
Mr. Ranit Mukherjee, Adv.
Mr. Krishna Dev Pandey- 4141, AOR
Mr. Rajesh Kumar Pandey, Adv.
Mr. Inzmamul Haq Khan, Adv.

Mr. Sushil Kumar, Adv.

UPON hearing the counsel the Court made the following

O R D E R

1. Leave granted.

2. The appeal is allowed in terms of the signed order which is placed on the file.

3. All pending applications including the one seeking impleadment are disposed of.

(KAVITA PAHUJA)
ASTT. REGISTRAR-cum-PS

(SAPNA BANSAL)
COURT MASTER (NSH)