

CrPC S. 190 – CrPC S. 193 – Whether a Magistrate taking cognizance of an offence on the basis of a police report in terms of Section 190 (1)(b) of The Code of Criminal Procedure, 1973 can issue summons to any person not arraigned as an accused in the police report and whose name also does not feature in column (2) of such report ? The uniform view , irrespective of the fact as to whether cognizance is taken by the Magistrate under Section 190 of the Code or jurisdiction exercised by the Court of Session under Section 193 thereof is that the aforesaid judicial authorities would not have to wait till the case reaches the stage when jurisdiction under Section 319 of the Code is capable of being exercised for summoning a person as accused but not named as such in police report – Such jurisdiction to issue summons can be exercised even in respect of a person whose name may not feature at all in the police report, whether as accused or in column (2) thereof if the Magistrate is satisfied that there are materials on record which would reveal prima facie his involvement in the offence – If there are materials before the Magistrate showing complicity of persons other than those arraigned as accused or named in column 2 of the police report in commission of an offence, the Magistrate at that stage could summon such persons as well upon taking cognizance of the offence – For summoning persons upon taking cognizance of an offence, the Magistrate has to examine the materials available before him for coming to the conclusion that apart from those sent up by the police some other persons are involved in the offence – These materials need not remain confined to the police report, charge sheet or the F.I.R. A statement made under Section 164 of the Code could also be considered for such purpose – CrPC S. 319. [Para 20, 21]

*Hardeep Singh v. State of Punjab*, 2014) 3 SCC 92 followed *Dharam Pal v. State of Haryana*, 2013 PLRonline 0103. It was opined by the Constitution Bench in the case of *Hardeep Singh* (supra):-

“111. Even the Constitution Bench in *Dharam Pal* (CB) [(2014) 3 SCC 306 : AIR 2013 SC 3018] has held that the Sessions Court can also exercise its original jurisdiction and summon a person as an accused in case his name appears in Column 2 of the charge-sheet, once the case had been committed to it. It means that a person whose name does not appear even in the FIR or in the charge-sheet or whose name appears in the FIR and not in the main part of the charge-sheet but in Column 2 and has not been summoned as an accused in exercise of the powers under Section 193 CrPC can still be summoned by the court, provided the court is satisfied that the conditions provided in the said statutory provisions stand fulfilled.”

[2022 Scej 0324 , 2022 PLRonline 3503](#)

[NAHAR SINGH v. THE STATE OF UTTAR PRADESH , \(2022-2\)206 PLR 081 \(SC\) , 2022 Scej 0324 , 2022 PLRonline 3503](#)