

BLOGS

Neeraj Kumar @ Neeraj Yadav v. State of U.P. & Others

Julie Nigam · 29 Oct 2026

Citation: Neeraj Kumar @ Neeraj Yadav v. State of U.P. & Others (2025 INSC 1386)

Date of judgment: 4 December 2025

Court: Supreme Court of India

Bench: Justice Sanjay Karol and Justice Nongmeikapam Kotiswar Singh

Important provisions: [Section 319](#) of the Code of Criminal Procedure, 1973, [Sections 161](#) and [162](#) CrPC, [Section 32\(1\)](#) of the Indian Evidence Act, 1872

Can a person who was not charge-sheeted still be brought into a criminal trial later? And can a statement recorded by the police become a dying declaration even when it was not recorded by a Magistrate? The Supreme Court answered both the questions in affirmative but restricted by law in [Neeraj Kumar @ Neeraj Yadav v. State of U.P.](#)

The judgment explains the proper use of [Section 319](#) CrPC, which allows a court to summon a person not originally made an accused when trial evidence indicates their involvement. The Court held that no mini-trial should be conducted at this stage. It also held that a police-recorded statement may become a dying declaration after the maker's death if it relates to the cause of death or its circumstances.

Facts of the Case

1. On 25 March 2021, Neeraj Kumar lodged an FIR stating that his sister, Nishi, had been shot by her husband, Rahul, at their matrimonial home.
2. The FIR was based on information given by Nishi's nine-year-old daughter, Shristi, who told her uncle that her father had shot her mother.
3. Nishi was taken to hospital. During treatment, her statement was recorded under Section 161 CrPC on 25 March 2021 and again on 18 April 2021. In the first statement she named Rahul.

In the later statement she alleged that Rahul had acted at the instigation of his mother Rajo, brother Satan and brother-in-law Gabbar.

4. Nishi died from her injuries on 15 May 2021. The police filed a chargesheet only against Rahul. The other relatives were not made accused.
5. During the trial, Neeraj was examined as PW-1 and Shristi as PW-2. On the basis of their evidence and Nishi's statements, the prosecution sought to summon the three relatives under [Section 319](#) CrPC.

Procedural History

The Trial Court rejected the application on 3 August 2023, finding the material insufficiently strong. The Allahabad High Court dismissed Neeraj's revision on 22 April 2024. It held that Nishi's statements were not dying declarations because she died later, and relied on cross-examination to doubt eyewitness accounts. Hence, Neeraj approached the Supreme Court.

Issues Before the Supreme Court

1. What is the evidentiary threshold for summoning a person under [Section 319](#) CrPC?
2. Can a court assess the credibility of witnesses or conduct a mini-trial while deciding a [Section 319](#) application?
3. Can a statement recorded by police under [Section 161](#) CrPC become a dying declaration under [Section 32\(1\)](#) of the Evidence Act?
4. Is the presence of a Magistrate, medical certification or an expectation of imminent death necessary for a dying declaration?
5. Did the evidence of PW-1 and PW-2 and Nishi's statements provide sufficient material to summon the three relatives?

Arguments of the Parties

Neeraj's case relied on the trial evidence of PW-1 and PW-2 alongside two statements provided by Nishi during her medical treatment that explicitly implicated the three relatives. Conversely, the defense counter-argued by highlighting critical gaps i.e. the omission of their names of relatives in the initial FIR, PW-1's lack of direct knowledge, PW-2's statement about arriving only after the

shots. Furthermore, they pointed out inconsistencies in Nishi's statements and the absence of a Magistrate or medical certification.

Held by Supreme Court

The court allowed the appeal and set aside the orders passed by the High Court and Trial Court and sought to summon the three respondents as additional accused in sessions trial of 2021. The parties were directed to appear before the Trial Court on 8th January 2026 to cooperate with the proceedings and not to seek any unnecessary adjournments. The trial was ordered to be concluded expeditiously.

1. Purpose and limit of Section 319 CrPC

Section 319 allows a court, during an inquiry or trial, to proceed against other persons who are not already an accused if the evidence shows that the person appears to have committed an offence for which they can be tried along with the existing accused.

The power is extraordinary and must be used carefully. The required satisfaction is higher than the prima facie standard at framing of charge, but lower than the standard for conviction. It must rest on cogent material, not suspicion. Relying on Hardeep Singh v. State of Punjab, the Court held that examination-in-chief may be enough. The court need not wait for the end of trial. A person need not have been named in the FIR or chargesheet.

2. No mini-trial at the summoning stage

The High Court had decided whether PW-2 actually saw the shooting and whether she was tutored. The Supreme Court held that this was a mini-trial. At this stage, the court only asks whether the material reasonably indicates involvement, not whether it will ultimately prove guilt. Whether PW-2 arrived during or immediately after the firing, and whether she is reliable, must be decided at trial. Her testimony, supported by her Section 161 statement, assigned specific acts to the respondents. The omission of their names from the FIR was also not decisive because an FIR need not contain every detail.

3. Section 161 statements and dying declarations

Nishi's statements had been recorded by the police under [Section 161](#) CrPC. Normally, a police statement is not substantive evidence because of the rule in [Section 162](#) CrPC. However, [Section 162\(2\)](#) preserves the exception for statements covered by [Section 32\(1\)](#) of the Evidence Act.

[Section 32\(1\)](#) makes relevant a statement by a person who has died when it relates to the cause of death or the circumstances of the transaction resulting in death. Once Nishi died, her statements could therefore be considered as dying declarations because they described the shooting and the alleged role of the respondents.

The Court held that a dying declaration need not be recorded by a Magistrate. The absence of a doctor's certification of mental fitness does not automatically make it unacceptable. Medical certification is a rule of prudence, not an absolute legal requirement. Notwithstanding, for hearsay to apply, the court must still decide on whether the declarant was of sound mind and whether the statement should be deemed reliable.

A statement is not inadmissible merely because the declarant did not die soon after making it. [Section 32\(1\)](#) does not require imminent death. The test is the connection with the cause of death or its circumstances. Here, the gap was less than two months. The difference between Nishi's statements was also a matter for trial, not a reason to reject the [Section 319](#) application.

Ratio Decidendi

The ratio of the case is that [Section 319](#) CrPC may be invoked when evidence recorded during trial, supported where necessary by investigation material, reasonably indicates the involvement of a person who was not charge-sheeted. The court must apply a standard higher than a simple prima facie case at the charge stage but lower than the standard for conviction. It must not conduct a mini-trial or conclusively decide credibility, contradictions or possible tutoring.

A statement recorded by police under [Section 161](#) CrPC may be relevant as a dying declaration under [Section 32\(1\)](#) of the Evidence Act after the maker's death if it relates to the cause of death or its surrounding transaction. Neither Magistrate recording, medical certification nor imminent death is an absolute precondition.

Importance for CLAT PG Students

This case highlights the intersection of criminal procedure and evidence law, specifically clarifying rules around summoning additional accused individuals and evaluating dying declaration. It demonstrates that an individual can be summoned to stand trial under [section 319](#) if trial evidence indicates their involvement, regardless of whether the police omitted them from the initial charge-sheet.

Furthermore, the text clarifies important rules regarding evidence admissibility, noting that the absence of a doctor or magistrate does not automatically invalidate a dying declaration. Ultimately, the act of summoning an individual is not a definitive declaration of guilt, meaning the accused remains legally entitled to a complete and fair trial.