

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-41565 of 2017

Date of decision:11.12.2017

Dharambir and others

...Petitioners

v.

State of Haryana and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Ishan Gupta, Advocate for the petitioners.

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Inderjit Singh, J.

The petitioners have filed this petition under Section 482 Cr.P.C. praying for setting aside/quashing the order dated 18.4.2017 passed by learned Additional Sessions Judge, Bhiwani (Annexure-P.15) and all consequential proceedings arising thereof in case FIR No.27 dated 21.2.2016 registered for the offences under Sections 147, 148, 149, 323, 436 and 307 IPC and Sections 3 and 4 of the Prevention of Damage of Public Property Act, 1984 at Police Station Loharu, District Bhiwani (Annexure-P.1), whereby the learned trial Court has proceeded to summon the petitioners as additional accused while purportedly exercising powers under Section 193 Cr.P.C. as the order so passed is contrary to the settled tenets of criminal jurisprudence interdicting and governing the exercise of such powers and, therefore, is completely non-est, untenable and unsustainable in

the eyes of law.

I have heard learned counsel for the petitioner and have gone through the record.

The brief facts of the case as noted down by the learned Additional Sessions Judge, Bhiwani in the order dated 18.4.2017 are as under:-

“Statedly on 20.02.2016 at about 10.00 p.m. Bhagwana Ram Sarpanch of Village Dhigawa informed police through his mobile phone number 9813164064 to mobile phone number 9188140114 that Branch of State Bank of India and Cooperative Society Bank and ATM situated in Village Dhigawa was surrounded by 20 to 25 young boys and they were raising slogans JATEKTA JINDABAD and were causing damage to aforesaid three government institutions and set the same on fire. His son Virender went there and the hooligans caused injuries to him and he was shifted to Pilani hospital. Out of aforesaid hooligans one boy Ramesh son of Niranjn resident of Nakirpur was apprehended. On basis of aforesaid information, FIR was lodged. During investigation it surfaced that Virender son of Bhagwana Ram was referred to Jaipur on 23.02.2016. Accused Ramesh son of Niranjn resident of Nakipur was arrested. On 03.03.2016 accused Parveen son Satbir Singh, on 05.03.2016 accused Sunil @ Kaliya son of Daya Kishan Ja, on 06.03.2016 accused Amit Kumar son of

Dharampal, on 27.03.2016 accused Pawan @ Dudu son of Dalip were arrested. On 02.04.2016 statements of Bhagwana Ram and Banwari Lal were recorded and CCTV Camera clipping were obtained by a CD. On 08.04.2016 accused Manoj son of Balbir was arrested. He suffered disclosure statement and got recovered Alto Car No.HR-18B-4919. On 16.04.2016 accused Ravinder @ Geela son of Sher Singh was arrested. He suffered disclosure statement and pointed out place of occurrence and got recovered pick up Dala No.HR-61-9149 used in the offence. On 02.05.2016 accused Harish Chander @ Chander son of Sube Singh and accused Janakbir son of Karan Singh were arrested. On 08.05.2016 accused Krishan Kumar son of Rampat was arrested. He suffered disclosure statement and pointed out place of occurrence. Accused Ramesh son of Niranjana was sent to face trial before Principal Magistrate Juvenile Justice Board, Bhiwani. Thereafter, aforesaid accused namely, Parveen, Amit, Pawan, Manoj, Ravinder, Harish, Janakbir and Sunil were sent to face trial. During investigation the damaged property including broken glasses, ashes and remains of material lying in the three institutions were taken into police possession.

Subsequent upon aforesaid challan, statement of injured Virender son of Bhagwana Ram was recorded on 18.06.2016. He gave statement that on 20.02.2016 at about 10.30 p.m. some

boys were raising slogans JAT EKTA JINDABAD and set the aforesaid three institutions on fire. When he intervened them and made aforesaid boys to understand, Kuldeep son of Attar Singh, Kuldeep Q Harapa son of Jagdish, Gajanand @ Motia son of Vijay Kumar, Vikas @ Dholia son of Dharambir, Raj Kumar son of Gajanand, Rajender son of Sher Singh etc. were involved in the aforesaid arson. Rest of the boys can be identified by him. Kuldeep son of Attar Singh asked Vijay on telephone to come and to teach a lesson to Virender. In the meanwhile one Pick Up Dala came being driven by Ravinder alias Geela, Vijay Kumar son of Sanjay, Dharambir @ Parveen boarded down from aforesaid pick up dala. Ravinder was armed with hammer. Vijay was armed with iron rod. Surja, Dhera and Parveen were armed with danda and pounced upon Virender Singh can caused injuries to him with an intention to commit his murder. He was shifted to Jaipur. On basis of aforesaid statement, police filed cancellation report against Ravinder @ Geela. Injuries sustained by Virender were found to be grievous in nature and dangerous to life. Statements of some witnesses were recorded, who stated that Ravinder @ Geela was innocent. Statements of some witnesses recorded by police also suggest that Dhrambir, Parveen, Vikas, Sanjay, Kuldeep, Raj Kumar, Gajanand, Kuldeep @ Harapa were not involved in this incident and they have been named due to

panchayat rivalry.”

After the presentation of challan, an application as filed under Section 193 Cr.P.C. with the request to summon Kuldeep son of Attar Singh, Kuldeep alias Harapa son of Jagdish, Gajanand alias Motiya, Vikas alias Dholiya, Raj Kumar, Rajender, Vijay, Sanjay, Sube alias Chotia, Dharamvir alias Dhira and Parveen alias Billu. It has been mentioned that the names of the aforesaid persons were specifically mentioned by Varinder son of Bhagwana Ram in his statement given to the Police despite that they have not been summoned.

The learned Additional Sessions Judge after hearing the parties to the case summoned the present petitioners along with others under Section 193 Cr.P.C. It is firstly held that the Court can summon a person as additional accused after commitment of the case as said powers are conferred upon the Court to add accused once the case has been committed to it. It is also stated that initially Bhagwana Ram Sarpanch had named accused Ramesh, who was involved in the occurrence and thereafter accused Parveen and others were arrested in this case and they were sent to face trial. As injured Virender was not in a fit condition to make statement, therefore, his statement was recorded subsequently on 18.6.2016. In his statement, he has categorically deposed before the Police that accused Kuldeep and others were involved in the aforesaid occurrence. The Court also held that the hooligans came to the place of occurrence and caused damage to three government institutions and thereafter some of them exceeding their common object caused injuries to Virender.

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I have gone through the impugned order dated 18.4.2017 passed by learned Additional Sessions Judge, Bhiwani. The order passed by the Court below is as per law and does not require interference from this Court. No illegality has been committed by the learned Additional Sessions Judge, Bhiwani while summoning the petitioners as additional accused to face trial under Section 193 Cr.P.C. Further these petitioners are named by the injured also.

Therefore, from the above, I find that no ground is made out to quash the impugned order dated 18.4.2017. Finding no merit in the present petition, the same is dismissed.

December 11, 2017.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No