In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.1534 of 2018 (O&M)

.....

Date of decision:09.01.2019

Lakhwinder Singh alias Lakhi Baba

...Petitioner

v.

State of Punjab and another

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. R.S. Radhawa, Advocate for the petitioner.

Mr. Dhruv Dayal, Deputy Advocate General, Haryana
for the respondent-State.

Mr. Inderjeet Sharma, Advocate for respondent No.2.

.....

Inderjit Singh, J.

Mr. Inderjeet Sharma, Advocate appeared on behalf of Paramjit Singh, a prosecution witness and filed power of attorney and prayed that Paramjit Singh be impleaded as respondent No.2. Learned counsel for the applicant stated that Paramjit Singh has appeared as a witness before the Court and on his statement the present petitioner has been summoned in the case under Section 319 Cr.P.C.

Keeping in view the above facts, Paramjit Singh is impleaded as respondent No.2 in this criminal revision petition. Necessary additions be made in the memo of parties.

I have heard learned counsel for the parties as well as learned

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State counsel and have gone through the record.

From the record, I find that during the pendency of the trial, an application under Section 319 Cr.P.C. has been filed by the Public Prosecutor for summoning Lakhwinder Singh alias Lakhi Baba as additional accused. The application was filed after statement of PW-4 Paramjit Singh, who has specifically deposed that on 4.3.2017 he had gone to Gurdwara Sahib and heard the noise from the house of Mukhtiar Singh regarding the activity of Tantrik and he went inside the house of Mukhtiar Singh and saw Nirmal Kaur, Mukhtiar Singh, Labh Singh, Kulwinder Singh, Rozi Kaur, Jaspreet Singh and two minor children, namely, Ranjot Singh and Anamika sitting there in the said Deewan. Paramjit Singh witness further stated in his examination-in-chief that Lakhwinder Singh alias Lakhi Baba- accused was murmuring some `Mantras' and he was touching the peacock hair on the head of minor children Ranjot Singh and Anamika. It has been stated in the application that Paramjit Singh witness told that Lakhwinder Singh alias Lakhi Baba asked Nirmal Kaur and Kulwinder Singh that the Tantrik activity has been completed and they will gain their wishes and they have to get sacrificed both minor children. It has been stated that the present petitioner be summoned under Section 319 Cr.P.C.

The learned trial Court vide order dated 17.4.2018 summoned the present petitioner as additional accused to face the trial.

A perusal of the impugned order shows that the order has been passed as per evidence and law. No illegality has been committed by the learned trial Court while summoning the present petitioner as an additional accused. It is settled law that additional accused can be summoned after it

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appears to the Court from the evidence on record that he is also involved in the commission of the offence and should be tried along with the other accused.

From the perusal of the statement of PW-4 Paramjit Singh, it appears to the Court that the present petitioner is involved in the commission of the offence. As per the statement of PW-4, the petitioner is the main accused who was murmuring some `Mantras and was doing Tantrik activity, on whose instance two minor children aged 3 and 5 years of Nirmal Kaur and Kulwinder Singh were killed. Nirmal Kaur and Kulwinder Singh are facing the trial.

At the time of summoning of the accused, the proof is required somewhat more than a *prima facie* case. PW-4 Paramjit Singh can be held as an eye witness to the occurrence as he had gone to the house though some days earlier and he had seen this Deewan of the present petitioner. It is in the FIR that one Tantrik was holding Pooja etc. in the house for some days. The learned trial Court has also held that as per the prosecution version, the present petitioner is the main accused along with Nirmal Kaur and Kulwinder Singh. The argument of the learned counsel for the petitioner that earlier Lakhwinder Singh alias Lakhi Baba was found innocent during investigation and he has been discharged by the learned Judicial Magistrate Ist Class, Talwandi Sabo, I find that under Section 319 Cr.P.C. even the discharged person can be summoned by the Court on the basis of the evidence produced before it. Furthermore, the copy of the order has been shown to me by the learned counsel for the petitioner regarding his discharge. It looks that no notice has been given to the complainant before

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discharging the accused even. From the record, I find that the impugned order dated 17.04.2018 passed by the learned Special Judge, Bathinda is correct as per evidence and law. In no way, it can be held as perverse or illegal.

Therefore, from the above discussion, I find no merit in the present criminal revision petition and the same is dismissed.

January 09, 2019. **(Inderjit Singh)**
Judge

hsp

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

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