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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14794-2019
Date of decision : 30.01.2024

Lakhwinder Singh Petitioner

versus

State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. G.S. Randhawa, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioner has assailed order dated 05.02.2019 passed by revisional Court setting aside the order passed by the trial Court invoking power under Section 319 of the Cr.P.C. to summon respondents No.2 to 6 as additional accused.

2. FIR was registered on the statement made by Bagicha Singh s/o Niranjan Singh alleging as under:-

To, The SSP, Tarn Taran. Subject: Regarding committing cheating. Application against Vikas Kumar son of Ravi Kumar, Anju daughter of Ravi Kumar, Ravi Kumar and his wife Sunita, resident of Block No. 3, Quarter No. 29, Gulshan Ground, Gandhi Nagar, Police Line, Jammu, residential address of Vikas Kumar: House No. 93, Ward No. 12, Bisna, Near Bamtiwara, Jammu. Janakraj son of Boru Lal, Sunita daughter of Boru Lal, resident of Ramgarh, Tehsil Jammu. Sir, I, Bagicha Singh son of Niranjan Singh, am resident of village Algo

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Kothi, Tehsil Patti, Distt. Tarn Taran. Sukha Singh son of Tega Singh resident of Khem Karan, Tehsil Patti, Distt. Tarn Taran. Sir, Firstly, Nirmal Singh, Driver Delhi alongwith fellow driver Janak Raj came to us with vehicle. Where Janak Raj told to Bagicha singh that his niece Anju is on good post at Airport and her father Ravi Kumar is senior officer in the police. Nirmal Singh said that if you want to get job for boys then contact with Anju. When we contacted on contact No. 0901814123 then she said that give her documents and some money, I will collect it from there. After some days, Anju, her mother Sunita, Ravi Kumar, Vikas Kumar-her brother, who was driving the vehicle, came to Amritsar on Vehicle No. JK-02-BB-3210 colour silver and pay their obeisance to Sri Harmandir Sahib. Then we eat food at "Bhravan Da Dhaba" and settled all the matter there. It was agreed to give Rs. 2 lac cash and Rs. 4 lac in bank for one person and thereafter, all of their family members came alongwith us at our village Algo Kothi. Where we handed over Rs. 10 lac to them for five persons. For one person it was settled to give Rs. 6 lac. Documents were taken as per procedure and it was settled that remaining money will be deposited in the bank account which was given as 3386001500001874, PIN Account No. C.F.G.P.K. 1660B Vikas Kumar, House No. 93, Ward No. 12, Bisna, Jammu. After three days, Anju informed us on phone that our filed were processed. After some days, we received phone call that our boys are now settled, make arrangement of rest of the money. Then we got deposited money in the bank account of Vikas on different dates. On 18.12.2012 letters

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from BSF was reached. After some days letters from Airport was reached. Then after some days we received letters from Railway TT. On reaching the date of recruitment she started making excuses. Then she demanded some drivers. For drivers Sukha Singh and some of his friends gave money. Jagtar Singh and his friends also deposited money for Railway. Then Anju alongwith her family members came to the house of Sukha Singh at Khem Karan and said that they will return our money if they are not able to arrange job for our boys. But we did not get justice, then we Bagicha Singh and Sukha Singh went to the house of Nirmal Singh at Delhi. From where alongwith Nirmal Singh driver went to the house of Janak at Ramgarh. Where also she did not come even after calling her on phone. Anju, niece of Janak and her father Ravi Kumar told that they will return the cheque there where they received money. Said that they will come at Amritsar on 25.12.2014 and will handover the cheque to you there. They did not reach Amritsar. Thereafter, they did not make any contact with us. Kindly justice be prevailed with us and such type of cheaters be arrested. Letters sent to us are enclosed. Receipt of bank account and photocopies are enclosed. I will be highly thankful to you. xxxx”

3. One Lakhwinder Singh one of the victims appeared as PW-6, wherein he stated that Tega Singh and Bagicha Singh were present on the spot when Sukha Singh s/o Tega Singh allured him to part away with the money. An application was moved under Section 319 of the Code. Trial Court allowed the same observing as under:-

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“After hearing the contentions, it is observed that the case is at initial stage and fraud of more than Crores has been alleged to be committed by the accused connivance with the accused challaned. Keeping into account of the facts and circumstances of the present case and taking into note of the huge misappropriation of public money involved as well as the serious allegations of cheating with dishonest intention on the part of accused is concerned. It would be appropriate that the prosecution be granted an opportunity in these exceptional circumstances to prove the allegation. This court is satisfied that there reasonable grounds to invoke the provision under section 319 Cr.P.C for summoning these additional accused and accordingly the above said accused be summoned to face the trial along with the present accused for 4.10.2017.”

4. In revision preferred by the private respondents, the aforesaid order has been set aside wherein the revisional Court held that by invoking power under Section 319 Cr.P.C., the Court is required to record satisfaction that there is evidence against the persons sought to be summoned as additional accused that passes the test of ‘more than prima facie case’. There being no such satisfaction recorded by the trial Court, the order was not sustainable.

5. Counsel for the petitioner after arguing for some time has not been able to point out any infirmity in the order passed by the revisional Court, more so in the light of law laid down by the constitution bench of Supreme Court in ***Hardeep Singh vs. State of Punjab***, reported as ***2014(3) SCC 92***.

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6. In view of the aforesaid fact, this Court does not find any reason to exercise jurisdiction under Section 482 of the Code to upset the orders passed by revisional Court which is perfectly in accordance with law.

7. Resultantly, the present petition is dismissed.

(PANKAJ JAIN)
JUDGE

30.01.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No