

suggests that these witnesses never approached the investigation officer during investigation process nor the complainant during such process claimed them as **'witnesses of incident'**. Further, it is also a matter of record that complainant never challenged such *list* of witnesses, detailed in the challan by filing a direct complaint. Such act, *normally*, would suggest satisfaction of the complainant about names of witnesses came to surface during course of investigation, therefore, complainant, being not an investigating officer, would not be justified in bringing new names as witnesses which, *too*, after conclusion of trial else this may prejudice the purpose of **'list of witnesses'** which is, *prima facie*, is given to let the accused know of evidence likely to be led against him within meaning of Section 265-F PPC. The section 265-F PPC, ensures a *fair opportunity* to both prosecution and defence in bringing their respective witnesses / material on record but not as a **'surprise'** or to prolong the conclusion of trial. Hence, after examination of material witness, such application apparently is filed to fill the lacuna of prosecution case which, I would insist, is sufficient ground to decline such a request, as held in the case of Chairman, NAB v. Muhammad Usman PLD 2018 SC 28. Needless to mention that trial court is competent to call any witness on the application as a **"court witness"** but in such an eventuality where prosecution wishes to examine a witness, not named in **list of witnesses**, then it could not claim as **'right'** but shall be required to satisfy conscious of the court that such examination is, *indeed*, for discovery of truth. Guidance is taken from the case of Chairman, NAB supra wherein it is observed as:-

"14. There may be very rare and exceptional cases, where, the prosecution has dropped any material witness whose evidence, if given, may have a direct bearing on the end result of the case, in that event, the Court is blessed with unfettered powers to summon and examine such

witness only for the purpose of discovery of truth, for the purpose of doing complete justice however, such powers are not to be exercised at random and without application of proper judicial mind with reasonable depth to the facts of each case. Unmistakenly, in view of the provision of section 540 Cr.PC, the witnesses are examined as 'court witnesses' and not for prosecution or defence, therefore, none of the parties to a case can claim such a right. These powers shall only be exercised to put justice into correct channels"

In this case, admittedly prosecution has not moved any application but complainant *himself* has filed the instant application who, otherwise, is legally obliged to act through the prosecutor, as directed by Section 493 Cr.PC. Further, the reasons, given by the trial Court, in the impugned order, are quite justified as well within line of principles of criminal administration of justice and that of Section 540 of the Code, hence same is not open to be interfered.

4. In consequence to what has been discussed above, I find no merits in instant revision petition and same is, accordingly, dismissed.

J U D G E

Sadam/P.A