

State vs. Jishan & Ors.

CNR No.: DLCT01-017302-2019

SC No. 1016/2019

FIR No. 198/2019

Under Section 307/392/394/397/411/34 IPC

PS Kashmere Gate

21.03.2022

Present : Mr. Amit Dabas, Ld. Addl. PP for the State.

Mr. Manish Sharma, Legal Aid Counsel for all accused.

All accused persons are produced from JC.

ORDER ON CHARGE

1. The case of the prosecution is that on 21.07.2019 at about 12.50 a.m., in front of Punjab National Bank, Lothian Road, Kashmere Gate, Delhi, within jurisdiction of PS Kashmere Gate, the accused persons, namely, Jishan, Shahrukh and Amir Hussain @ Babloo robbed a bag from injured, namely, Bhim Singh Panwar and during commission of robbery, the accused, namely, Jishan stabbed a deadly weapon i.e. knife into right lumbar region and caused stab injuries approximately 2.5 inches. The nature of injury is opined as '*dangerous*'. A knife measuring 31.8 cm with length of blade 19.5 cm having width of blade 4 cm and length of handle 12.3 cm recovered from the accused, namely, Jishan. According to FSL report, the recovered knife had blood of injured, namely, Bhim Singh Panwar. The accused, namely, Jishan was apprehended at the place of incident alongwith knife and robbed bag. The complainant, namely, ASI Roop Kishore identified the accused, namely, Shahrukh during Test Identification Parade (TIP). The injured identified all the accused persons.

2. Ld. Addl. PP for the State contended that there is sufficient material in the form of statement of the complainant, namely, ASI Roop Kishore and injured, namely, Bhim Singh Panwar, FSL report and identification of the accused persons for trial of the accused persons for charged *offences*.

3. Mr. Manish Sharma, Legal Aid Counsel contended that the accused persons were falsely implicated in this case. He contended that no recovery was effected from the accused persons. He contended that the complainant, namely, ASI Roop Kishore did not identify the accused, namely, Amir Hussain @ Babloo in Test Identification Parade (TIP). He contended that there is no material to demonstrate that the accused persons, namely, Shahrukh and Amir Hussain had shared common intention to commit robbery or injury to injured, namely, Bhim Singh Panwar. He contended that in any case, *offence* under Section 307 IPC is not made out as the injured, namely, Bhim Singh Panwar was discharged on 21.07.2019. He contended that the accused, namely, Jishan did not stab injured, namely, Bhim Singh Panwar repeatedly and charge under Section 326 IPC can only be framed against the accused, namely, Jishan.

4. On examination of charge-sheet, documents and statement of the witnesses, it is evident that the accused, namely, Jishan, Shahrukh and Amir Hussain came on a motorcycle.

5. While the accused, namely, Jishan was snatching bag from injured, namely, Bhim Singh Panwar, the accused, namely, Shahrukh and Amir Hussain @ Babloo kept the motorcycle in starting mode and exhorted the accused, namely, Jishan to finish assignment at the earliest. In that process, the accused, namely, Jishan stabbed a deadly weapon i.e. knife, having dimensions as aforesaid, into right lumbar region of injured, namely, Bhim Singh Panwar and caused '*dangerous*' injury to the extent of 2.5 inches deep. It is, therefore, evident that all the co-accused persons shared common intention to commit robbery and cause life threatening injury to injured, namely, Bhim Singh Panwar.

6. The accused, namely, Jishan caused '*dangerous*' injury on vital part i.e. abdomen by using a deadly weapon i.e. knife, with dimensions as aforesaid, and therefore, *prima facie*, it is apparent that the accused, namely, Jishan caused injury with intention to cause death or knowledge that such injury is likely to cause death punishable under Section 307 IPC. The accused, namely, Shahrukh and Amir Hussain @ Babloo shared common intention and therefore, they should be charged with *offence* under Section 307 read with Section 34 IPC.

7. All the accused persons shared common intention to commit robbery and therefore, they should be charged with *offence* under Section 392 read with Section 34 IPC.

8. The accused, namely, Jishan voluntarily caused injury and the accused persons, namely, Shahrukh and Amir Hussain jointly concerned in committing or attempting to commit such robbery and therefore, they should be charged under Section 394 read with Section 34 IPC.

9. The accused, namely, Jishan possessed and used a knife i.e. arms in contravention of Notification dated 17.02.1979 issued by Delhi Administration under Section 4 of '*The Arms Act, 1959*' and he should be charged under Section 25 and 27 of '*The Arms Act, 1959*'.

10. The accused, namely, Jishan used a deadly weapon i.e. knife or caused '*grievous*' (*dangerous*) injury to injured, namely, Bhim Singh Panwar which is punishable with minimum imprisonment of 7 years under Section 397 IPC.

11. Accordingly, the accused persons, namely, Jishan, Shahrukh and Amir Hussain @ Babloo are charged for *offences* under Section 392/34, 394/34 and 307/34 IPC.

12. The accused, namely, Jishan is also charged with *offence* under Section 25 and 27 Arms Act. He is also charged with Section 397 IPC.

13. The accused persons have pleaded not guilty and claimed trial.

14. Issue notice to IO SI Satender Singh, *through DCP (North)*, to appear on each and every date of trial.

15. Issue notice to IO, *through DCP (North)*, to co-ordinate with all the witnesses and furnish the report of service of summons on **04.04.2022**.

16. The roster of examination of the witnesses is as under:

Sl. No.	Description	Date
1	PW mentioned at Sl. No. 1	18.04.2022
2.	PW mentioned at Sl. No. 2, 3 and 4	29.04.2022
3.	PW mentioned at Sl. No. 5, 6, 7 and 8	30.04.2022
4.	PW mentioned at Sl. No. 10 and FSL	07.05.2022
5.	PW mentioned at Sl. No. 9, 11 and 12	12.05.2022
6.	PW mentioned at Sl. No. 13 / IO	17.05.2022

17. Issue summons to the witnesses, *through IO*, as per roster.

18. Copy of order be sent to IO SI Satender Singh, *through DCP (North)*, for immediate compliance.

Sanjay Sharma-II
ASJ-03, Central District,
Tis Hazari Courts, Delhi
21.03.2022

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