

**IN THE COURT OF SH. SUSHIL ANUJ TYAGI,
ADDITIONAL SESSIONS JUDGE-04:CENTRAL,
TIS HAZARI: DELHI**



SC No.:50/2023

FIR:167/2022

PS: Rajinder Nagar

State Vs Mendhi Hasan & Anr.

U/s: 395/397/34 IPC & 25/27/54/59 Arms Act

CNR No.: DLCT01-000975-2023

ORDER ON CHARGE

16/05/2023

Present: Mr. Mohd. Iqrar, Id. Addl.PP for the State.
Both accused produced from JC.
Mr. Ishan Ahmed, Id. Counsel for accused No.1.
Mr. Tarun Kumar Makhija, Id. Counsel for accused No.2.
Mr. Kulbhushan Arora, Id. LAC for accused No.1 is also present.

1. It is submitted by accused No.1 Mendhi Hasan that he has engaged his private counsel and he does not want the assistance of Id. LAC. Accordingly, Mr. Kulbhushan Arora, Id. LAC for accused No.1 is discharged from this case.
2. Arguments on the point of charge heard.
3. Record Perused.
4. Id. Addl.PP has submitted that there is sufficient material on record for framing of charge U/s 395/397 IPC & 323/34 IPC against both the accused persons and charge u/s 27 Arms against Mustkeen.
5. Id. Counsels for accused persons have argued that accused

persons have been falsely implicated in the present case. It is argued that there is no evidence against the accused persons except the disclosure statements. It is further argued that section 397 IPC is invoked only against the person who used the weapon and not against all the accused persons. It is therefore, prayed that the said sections are not made out in the present case and accused persons may not be charged for the same.

6. Briefly, the case of the prosecution is that on 08/06/2022 at about 10:25 pm when complainant Nitin Dhawan alongwith his friends was standing on his shop, in the meanwhile a white colour Chevrolet Cruze car came and four boys came out of the car and one was sitting in the car. Out of them two boys from right side and two boys from left side came to the complainant. All of them were having pistols in their hands and pointed the pistols towards complainant and committed dacoity of his gold kada weighing about 100 grams and gold chain weighing about 25 gram and gold ring weighing about 7-8 grams. After committing dacoity, they caused hurt to the complainant and fled towards new Delhi.
7. During the investigation, the accused persons were apprehended and one country made pistol was recovered from accused Mustakeen and two live cartridges were recovered from accused Mendhi Hasan. Both accused refused to participate in TIP proceedings.
8. At this stage, of framing of charge, this Court has to see whether there is sufficient ground for proceeding against the accused. It is axiomatic that even the strong suspicion that

the accused has committed the crime, is sufficient to frame the charges. It is also well settled that the standard of proof adhered to at the final decision of the case is not to be adopted at the stage of framing of charge. The court is not to appreciate or weigh the evidence, which the prosecution proposes to lead during the trial.

9. There is prima facie case made out for framing of a charge **U/s 395/397 IPC & 323/34 IPC** against both the accused persons and charge **u/s 27 Arms Act** against accused Mustakeen and there is sufficient material on record to proceed against both the accused persons.
10. Accordingly, charges are framed in the aforementioned sections against the accused persons namely Mendhi Hasan and Mohd. Mustakeen to which they pleaded not guilty and claimed trial.
11. *As far as the offence under section 25 Arms Act is concerned, the Addl PP has submitted that the sanction under section 39 Arms Act is yet not taken. The Addl. PP is at liberty to move appropriate application for framing additional charge, if the circumstances so require, at appropriate stage after receiving the required sanction.*
12. List this case for PE for **18/08/2023**. Witnesses at Sl. No. 1 & 2 be summoned for the next date of hearing.

(SUSHIL ANUJ TYAGI)
ASJ-04/CENTRAL/DELHI
16/05/2023_{MK}