

SC No. 386-21
FIR No. 1127-20
PS Nangloi
State Vs. Manoj Kumar @ Manoj Shokeen and anr.

20.02.2023

Present : Ld. Chief PP for the State.
Sh. Binay Kumar, AR for the complainant company
with Ld. Counsel.
Sh. Fanish K. Jain, Ld. Counsel for the accused No.1
along with accused No.1 in person.

**Accused Sandeep already stand declared PO vide
order dated 05.04.2022.**

Ld. Counsel for the accused Naresh along with
accused Naresh in person.

The matter is fixed today for the purpose of PE.

An application for recalling of the witnesses namely
PW1 Shailander Tiwari (Assistant Manager) and PW2 Sh. Rahul
Kumar Jha (DET) also stand moved on behalf of accused Naresh
Kumar.

It is submitted by the Ld. Chief PP for the State that
he does not want to file any reply to the said application.

Arguments on the application stand heard from both
the sides.

By virtue of the present application it is submitted
by the Ld. Counsel for the accused Naresh Kumar that the said
PW1 and PW2 be recalled as after getting uncertified copy of the
cross examination of the said PWs recorded on 06.02.2023, it
came to his notice that few of his suggestions and answers to his
questions were inadvertently missing from the cross examination
so recorded.

On the perusal of judicial file it is transpired that uncertified copies of the cross examination of PW1 and PW2 were provided to the Ld. Defence Counsel on that very day immediately after completion of the evidence.

No mention of non recording of the suggestions and answers, as averred in the present application, has been made by the Ld. Defence Counsel on that very day on which evidence was recorded.

Furthermore, even the application is very vague in nature in the sense that nothing has been specified as to what kind of suggestions were given and what answers have not been recorded.

Accordingly, in these circumstances, keeping in view the judicial record available, the said application stands dismissed being not maintainable.

Another application has also been moved by the Ld. Counsel for accused Naresh Kumar u/s 310 Cr.P.C. thereby making prayer to the court to inspect the site in person and record a memorandum in this respect.

Again, it is submitted by the Ld. Chief PP for the State that he does not want to file any reply to the said application.

Arguments on the application stand heard from both the sides.

By virtue of the present application, it is submitted by the Ld. Defence Counsel that as per the FIR / charge sheet, the raid was conducted at Plot No. A-4, Khasra No. 6/1,7,14,16,17,14 7 25, Yadav Park, Block A, Nangloi, New

Delhi-110041 but the videography which has been submitted with the charge sheet pertains to premises i.e. H.No. 174, Khasra No.5, Kamruddin Nagar, Nangloi, New Delhi and accordingly, it is submitted that the site inspection by the court is necessary to ascertain as to at which premises raid was conducted.

The court has gone through the FIR and the charge sheet and a perusal of the same transpired that the same is a matter with respect to allegation of direct theft of the electricity on the basis of raid conducted by the complainant company. Though proper identification of the property is one of the important factor but at the same time the other important factor w.r.t allegation of theft so recorded in the videography has also to be taken into consideration. The raid itself was conducted in the year 2018 and at present 2023 is going on. Furthermore, the court cannot collect evidence on behalf of the accused for creating defence in his favour. The purpose for which the inspection on the part of the court is being sought, is a matter which has to be proved by the accused, if he chooses to lead DE or by virtue of his cross examination of the PWs but in no way by virtue of the present application he can call upon the court to collect evidence on his behalf.

Hence, finding no merit in the application, the same stands dismissed.

PW3 examined, cross examined and discharged.

PW namely Nand Kishore (Technician) is also present. However, he is discharged unexamined for today at the request of Ld. Counsel for the accused No.1 as he has to rush to Hon'ble High Court of Delhi.

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Put up for PE now on **20.03.2023 and 24.03.2023.**

Let PWs i.e. IOs namely SI Sonu Kumar and ASI Sunil Kumar be summoned for 20.03.2023 & PWs namely Nand Kishore (Technician) and Ajit Singh (Videographer) be summoned for 24.03.2023.

(Vinay Singhal)
ASJ (Electricity) - 01,
Central/Tis Hazari Courts/Delhi
20.02.2023