

State Vs. Pooran Lal Gameti @ Akshay & Anr.

CNR No.: DLCT01-010390-2023

SC No.: 429/2023

FIR No.: 156/2023

Under Sections: 302/34 IPC

P.S.: DBG Road

31.01.2024

Present: Mr. Amit Dabas, Ld. Addl. PP for the State.
Mr. Roop Narayan, Ld. Legal Aid Counsel for both the accused persons (*through video conferencing*).
Accused Pooran Lal Gameti @ Akshay and Raj Kumar @ Rekhal @ Machhi Wala have been produced from judicial custody.

ORDER ON CHARGE

1. The arguments of Ld. Legal Aid Counsel for the accused persons and that of Ld. Addl. PP for the State have been heard as well as record(s)/material placed on record, thoroughly perused.

2. Briefly, the case of the prosecution is that on 13.03.2023, on receipt of a PCR Call *vide* DD No. 52A pertaining to an unknown injured person being found at footpath, opposite DCM Mall, who was being taken to Bara Hindu Rao Hospital, the concerned police official reached the said Hospital, where the said unknown person was declared 'brought dead', *vide* MLC No. 1550/2023. Subsequently, upon inquiry, the complainant/ eyewitness Rahul Karki was tracked down, who stated that on 13.03.2023, at around 01:00 p.m., he was collecting garbage near Railway Colony and suddenly heard someone's shout, "*maar diya*". Upon hearing this, the complainant went towards the road and found that his uncle (*mama*) Sunil Singh Bisht was lying in a pool of blood, with blood oozing out from his head and other parts of body. As per the complainant the accused Raj Kumar @ Rekhal @ Machhi

Wala was hitting his *mama's*/deceased's head with a wooden stick, while accused Pooran Lal Gameti @ Akshay was kicking and inflicting injuries on the deceased with some sharp object. Pertinently, on the basis of the complainant's complaint, the FIR was registered, followed by ensuing investigation. Relevantly, during the course of the investigation, CCTV footage was collected wherein the accused persons were seen running as well as identified by the complainant. Further, statement of another eye-witness Sahil @ Sajid @ Ganja was recorded as well as the accused apprehended. Notably, at the instance of accused, Pooran Lal Gameti @ Akshay the aforestated wooden stick and his blood-stained T-shirt, which he wore at the time of incident, were recovered. Further, at the instance of accused, Raj Kumar @ Rekhal @ Machhi Wala, the said accused's blood-stained jeans (worn at the time of incident) and a thread-cutter, with blood stains were recovered. Pertinent to mention, as per the post-mortem report of the deceased, his cause of injury was opined to be, "*hemorrhagic shock as a result of antemortem injury to major neck vessels, lung & spleen, as described in injury no. 1, 2, 4 & 5 produced by sharp stabbing weapon... injury no. 1, 2, 4 & 5 are sufficient to cause death in ordinary course of nature...*"

3. At the outset, this Court deems it pertinent to observe the settled law¹ that at the stage of framing of charges, neither can the truth, veracity and effect of the prosecution case be meticulously judged, nor can any weight to be attached to the probable defence of the accused. On the contrary, at such a stage, only the sufficiency of ground for proceeding against the accused, on a general consideration of materials placed before the Court by the investigating police officer is relevant. In fact,

¹ *State of Bihar v. Ramesh Singh, AIR 1977 SC 2018*

the probative value² of the material on record cannot be gone into, and the material placed on record by the prosecution has to be accepted as true at that stage. Relevantly, it is trite law³, at the stage of framing of charge, only the police report is required to be considered and the defence of the accused⁴ cannot be looked into. Further, though, sifting of evidence is permissible⁵, however, scanning of evidence in detail is not, at the stage of framing of charge. Concomitantly, it is trite law⁶ that the inconsistency in the material produced by the prosecution or defect in investigation⁷, cannot be looked into for discharge of an accused, in the absence of full-fledged trial. Needless to further emphasize⁸ at the stage of charge, court is not even required to record detailed reasons as to why charge is framed, rather⁹, a very strong suspicion founded upon materials placed before the Court, which leads it to form a presumptive opinion as to the existence of factual ingredients constituting the offence alleged, may justify the framing of charges. Apposite to further note that it is trite law¹⁰ that the inconsistency in the material produced by the prosecution cannot be looked into for discharge of an accused, in the absence of full-fledged trial. In fact¹¹, it is only when no case is made out even after presuming entire prosecution evidence, only then can an accused be discharged.

² *Soma Chakravarty v. State*, (2007) 5 SCC 403

³ *State Anti-Corruption Bureau, Hyderabad & Anr. v. P. Suryaprakasam*, (1999) SCC (CrL) 373 and *State of Orissa v. Debendra Nath Padhi*, 2005 (1) SCC 568

⁴ *State of Gujarat v. Dilipsinh Kishorsinh Rao*, 2023 SCC OnLine SC 1294

⁵ *State of Maharashtra v. Priya Sharan Maharaj & Ors.*, (1997) 4 SCC 393

⁶ *Sheoraj Singh Ahlawat v. State of U.P.*, (2013) 11 SCC 476

⁷ *State of Tamil Nadu by Inspector of Police v. N. Suresh Ranjan & Ors.*, (2014) 11 SCC 709

⁸ *Bhawna Bai v. Dhanshyam & Ors.*, (2020) 2 SCC 217

⁹ *Supdt. and Remembrance of Legal Affairs, West Bengal v. Anil Kumar Bhunja*, AIR 1980 SC 52 and *Sajjan Kumar v. CBI*, (2010) 9 SCC 368

¹⁰ *Sheoraj Singh Ahlawat v. State of U.P.*, (2013) 11 SCC 476

¹¹ *Manjit Singh Viridi v. Hussain Mohammed Shattaf*, (2023) 7 SCC 633

4. Therefore, mindful of the aforementioned principles, in light of the arguments addressed, this Court outrightly observes that the from the facts and circumstances of the case, material/documents placed on record, including *inter alia* the contents of the chargesheet, statements of witnesses, MLC and post mortem report of the deceased, *prima facie* case under Section 302 read with Section 34 of IPC stands established against the accused persons, namely, Pooran Lal Gameti @ Akshay and Raj Kumar @ Rekhal @ Machhi Wala. Further, from the perusal of case record, it is revealed that there is strong suspicion and sufficient material/ground(s) to proceed against the said accused persons. At the same time, there are witness(es) who can depose against them. In so far as the averment of the Ld. Counsel for the accused persons pertaining to the alleged inconsistency in statement of the eyewitnesses, as aforementioned, cannot be a ground for discharge. Further, the averment of the Ld. Counsel for the accused persons, pertaining to the injury not being possible from the recovered wooden stick or tread cutter in question, in the considered opinion of this Court, is a subject matter of trial, which cannot be delved into at the present stage.

5. Accordingly, in view of the foregoing, charge(s) under **Section 302 read with Section 34 IPC** are framed against the accused persons, namely, **Pooran Lal Gameti @ Akshay and Raj Kumar @ Rekhal @ Machhi Wala**, to which they have pleaded not guilty and claimed trial.

6. List for PE on **06.03.2024**.

7. **Issue summons against PW Rahul Karki along with the concerned IO** for the next date of hearing.

8. At this stage, letter dated 30.01.2024 has been received from FSL, Rohini wherein it has been stated that the

FSL report *qua* the biological analysis as well as physical analysis of the case property in question would be ready by 23.02.2024 and 29.02.2024 respectively. Accordingly, **the IO is directed to co-ordinate with the FSL authority and ensure that the said report is collected as per the schedule provided. Let the same be specified under the summons issued to the IO.**

(Abhishek Goyal)
ASJ-03, Central District,
Tis Hazari Courts, Delhi
31.01.2024