



SC No.:442/2022

FIR:330/2022

PS: Burari

State Vs Mukesh Kumar & Anr

U/s: 394/397/411/34 IPC & 25/54/59 Arms Act

CNR No.: DLCT01-010533-2022

ORDER ON CHARGE

21/09/2022

Present: Mr. Mohd. Iqrar, ld. Addl.PP for the State.
Both the accused persons produced from JC.
Mr. Yatinder Kumar, ld. LAC for accused No.1
Mukesh Kumar.
Mr. Satyam Sisodia, ld. Counsel for accused No.2
Rajan.

1. Authority letter on behalf of Sh. Yatinder Kumar, ld. LAC issued by Secretary, DLSA, Central District has been filed. Be taken on record.
2. Arguments on the point of charge heard.
3. Record Perused.
4. Ld. Addl.PP has submitted that there is sufficient material on record for framing of charge U/s 392/394/34 IPC against both the accused persons and separate charge u/s 397/411 IPC & 25 Arms Act against accused Mukesh Kumar @ Lukka and charge u/s 411 IPC against accused Rajan. It is further submitted by the ld. Addl.PP for the State that though section 307 IPC has not been mentioned in the chargesheet, however, the same is made out against

the accused persons as the victim has been attacked on the vital parts by knife.

5. Ld. LAC Counsel for accused Mukesh Kumar @ Lukka has argued that accused has been falsely implicated in the present case. It is therefore, prayed that the said sections are not made out in the present case and accused may not be charged for the same.
6. Ld. counsel for accused Rajan has argued that accused has not used the weapon of offence during the commission of the offence and no offence for causing any injury or attempt to murder is made out against accused Rajan. It is further argued that intention as made out from the prosecution case is of robbery and not to commit murder. It is therefore, prayed that accused be discharged from the present case.
7. Briefly, the case of the prosecution is that on 03/04/2022 at about 12:30 AM, at Anand Vihar, Main Road, three persons hired TSR of complainant Mashrur and fare of Rs.250/- was fixed for going to Burari from Anand Vihar. At about 1:15 AM when the said TSR reached at T-point, Ishu Vihar, near Shiv Builder, Mukundpur, Delhi, accused persons asked him to stop his TSR. Thereafter, accused persons asked complainant to hand over whatever he was having. When complainant objected, accused Mukesh Kumar stabbed him with a knife in his abdomen and other parts of his body. Thereafter, one of the accused caught him around his neck and other accused took out Rs. 2500/-

to Rs.3000/- and mobile phone from his pocket and fled away. Complainant at some distance away found two boys who helped him and called on 100 number.

8. During investigation, all the three accused persons were apprehended and one of them was found to be CCL. The knife used in the commission of the offence alongwith the part of looted money was recovered from the possession of accused Mukesh and the looted mobile phone alongwith part of looted money was recovered from the possession of accused Rajan.
9. 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.
10. As rightly pointed out by ld. Addl.PP for the State that section 307 IPC is not mentioned in the chargesheet, this Court is of the considered opinion that ingredients of section 307 IPC are attracted to the facts of the present case as allegedly the victim was stabbed with the knife on the vital parts of his body.
11. There is prima facie case made out for framing of a common charge **U/s 392/394/307/34 IPC** against both the

accused persons and separate charge **U/s 397/411 IPC & 25 Arms Act** against accused Mukesh Kumar @ Lukka and separate charge **U/s 411 IPC** against accused Rajan and there is sufficient material on record to proceed against both the accused persons.

12. Accordingly, charges are framed in the aforementioned sections against both the accused persons namely Mukesh Kumar @ Lukka and Rajan to which they pleaded not guilty and claimed trial.
13. List this case for PE for **17/11/2022**. Witnesses at Sl. No. 1 & 3 be summoned for the next date of hearing.

(SUSHIL ANUJ TYAGI)
ASJ-04/CENTRAL/DELHI
21/09/2022_(mk)