

State Vs. Rahul Kumar Pal & Ors.

CNR No.: DLCT01-011251-2022

SC No.: 501/2022

FIR No.: 111/2022

Under Sections: 365/395/342/170 IPC

P.S.: Lahori Gate

12.03.2024

Present: Mr. Amit Dabas, Ld. Addl. PP for the State.
Mr. R.D. Singh, Ld. Counsel for accused, Rahul Kumar Pal and Monu.
Mr. Salimuddin, Ld. Proxy Counsel for Mr. Zia Afroz, Ld. Counsel for accused, Viresh (*through video conferencing*).
The accused persons, namely, Rahul Kumar Pal and Monu have been produced from judicial custody.
The accused, namely, Viresh is produced from District Jail, Firozabad.

ORDER ON CHARGE

1. The arguments of the Ld. Counsel for the accused persons as well as that of Ld. Addl. PP for the State have been heard as well as record(s), including the application moved on behalf of/by the Ld. Addl. PP for the State under Section 216 of the Code of Criminal Procedure, 1973/Cr.P.C., thoroughly perused.

2. Laconically, the case of the prosecution is that on 31.03.2022, the complainant, Rahul Ravinder Pandey, was present at SP Marg, Church Mission Road, T. Point where he met with one, Raju Bhai, who worked with Sehdev, who handed over a bag to him containing a sum of Rs. 65,00,000/- (Rupees Sixty Five Lakh only), which the complainant had to take to Chandni Chowk. As the complainant, reached 50-60 steps ahead of Church Mission Road towards Fatehpuri, at around 11:45 am-12 noon, two persons, who were around 30-35 years of age stopped

him and one of them, briefly displayed an I-Card on which 'Police' was written. The said person asked the complainant to show his bag, which he complied. Upon this, the said two persons forcefully took the complainant's bag filled with money and dragged the complainant in the middle seat of a white colour Scorpio car, which was standing there. As per the complainant, three persons were already sitting in the said car. Thereafter, the said persons forcefully took the complainant in the said car and as they reached near PS. Kashmere Gate, the complainant asked from them, "*thana toh aa gaya hai*", where were they taking him. On this, the person who was sitting near the driver's seat and who had showed him the aforesaid I-Card threatened the complainant that they were all from Noida Police and were taking him for inquiry. However, the complainant got suspicious and started screaming, on which the person sitting near him slapped as well as threatened him. Upon reaching near Salim Garh Bypass and on 100-150m on a path leading towards Geeta Colony, they stopped the Scorpio car and shoved the complainant out of the same. Thereafter, the said persons left the spot, robbing the complainant of his aforesaid bag containing Rs. 65,00,000/- (Rupees Sixty Five Lakh only), his purse containing complainant's Aahar Card, Pan Card, Driver License, Voter ID Card and 2 ATM Card (SBI and ICICI Bank). Pertinently, on the basis of the complainant's complaint, initially, e-FIR was registered, which was subsequently registered in present form. Further, notably, during the investigation, accused Rahul Kumar Pal, Viresh and Monu were apprehended, wherein accused Rahul and Viresh refused to undergo TIP proceedings, however, later on

identified by the complainant. Significantly, Monu was correctly identified as one of the perpetrators by the complainant. Further, since, accused Viresh and Monu were evading their arrest, they were declared proclaimed offender by the Ld. MM vide order dated 01.09.2022.

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, 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

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

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

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.

4. Therefore, wary of the aforesaid principles and arguments of Ld. Counsel for accused persons as well as that of Ld. Addl. PP for the State, this Court, outrightly observes that the from the facts and circumstances of the case, material/documents placed on record, including the chargesheet/supplementary chargesheets, statements/supplementary statements of witnesses, TIP proceedings/record(s), CCTV footage(s) and CDR particulars, *prima case* under Sections 365/342 read with Sections 34/149 IPC and Section 395¹² IPC are framed against the accused persons, namely, Rahul Kumar Pal, Viresh and Monu; as well as *prima facie* case under Section 170 IPC stands established against accused, Rahul Kumar Pal; and *prima facie*

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

¹² *Ganesan v. State of T.N.*, (2022) 15 SCC 634.

case under Section 174A IPC stands established against accused persons, namely, Viresh and Monu. Further, from the perusal of case record, it is revealed that there is strong suspicion and sufficient material/ground(s) to proceed against them, besides there are witness(es) who can depose against the accused persons.

5. Accordingly, in view of the foregoing, charge(s) under **Sections 342/365** read with **Section 34/149 IPC** and **Section 395 IPC** are framed against the accused persons, namely, **Rahul Kumar Pal, Viresh and Monu**. Further, charge under **Section 170 IPC** is framed against accused, namely, **Rahul Kumar Pal**; and charge under **Section 174A IPC** is framed against accused, namely, **Viresh and Monu**, to which all the accused persons have, pleaded not guilty and claimed trial. Accordingly, the State's application under Section 216 Cr.P.C. is disposed off in the above terms.

6. List for P.E. on **23.04.2024**.

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

(Abhishek Goyal)
ASJ-03, Central District,
Tis Hazari Courts, Delhi
12.03.2024