

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



SC No.:52/2023

FIR:136/2022

PS: Rajinder Nagar

State Vs Mustakeen & Ors.

U/s: 392/397/34 IPC & 25/27/54/59 Arms Act

CNR No.: DLCT01-000992-2023

ORDER ON CHARGE

16/05/2023

Present: Mr. Mohd. Iqar, ld. Addl.PP for the State.
All three accused produced from JC.
Mr. Tarun Kumar Makhija, ld. Counsel for accused No.1.
Mr. Ishan Ahmed, ld. Counsel for accused No.2.
Ms. Afshan, ld. Counsel for accused No.3.

1. It is submitted by accused No.2 Mendhi Hasan that he has engaged his private counsel and he does not want the assistance of ld. LAC. Accordingly, Mr. Kulbhushan Arora, ld. LAC for accused No.2 is discharged from this case.
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 392/34 IPC & u/s 397 IPC against all the accused persons and charge u/s 27

Arms against Mustkeen.

5. Ld. Counsels for accused persons have argued that accused persons have been falsely implicated in the present case. It is argued that the only evidence against the accused persons are their disclosure statements which are not admissible in evidence. 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 that the FIR was registered on the complaint of the complainant Shiva Dhamija that on 14.04.2022 at around 12.50 a.m., three persons came on motorcycle bearing no. DL 4S DK 9201 and one of them asked to deliver all the articles otherwise he will shoot them and he pointed one pistol type thing on the leg of the complainant and looted gold chain, gold bangle and Rs. 35-40,000/- from the complainant as well as the ring of his friend Varun Arora and thereafter, they flew away from the spot. It is alleged that all of them were having pistols like things in their hands.
7. During investigation, the accused Mustakeen and Mendhi Hasan were formally arrested as they were already arrested in FIR No.167/2022 PS Rajinder Nagar where accused Mustakeen was found in possession of country made pistol and accused Mendhi Hasan was found in possession of two live cartridges. Both the accused persons refused to participate in TIP proceedings. On their disclosure, the third accused Sultan was arrested who was

correctly identified by the complainant 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 charge **U/s 392/34 IPC & u/s 397 IPC** against all the accused persons and **charge u/s 27 Arms** against Mustkeen.
10. Accordingly, charges are framed in the aforementioned sections against the accused persons namely Mustakeen, Mendhi Hasan and Sultan to which they pleaded not guilty and claimed trial.
11. List this case for PE for **18/08/2023**. Witnesses at Sl. No. 1, 2 & 5 be summoned for the next date of hearing.

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