

SC No. 151/19
FIR No. 612/18
PS: Khajuri Khas
State Vs. Rahmatulla

18.11.2019

Present: Sh. Masood Ahmad, Ld. Addl. PP for the State.
Sh. Anshum Goswami, Advocate alongwith Ms. Tanima Kishore,
Advocate for victim side.
Accused on bail with Sh. Ankit Aggarwal, Advocate

IO/ASI Mahipal Singh is also present.

Written arguments on the point of charge, filed on behalf of victim.

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Arguments on the point of charge heard. Record perused.

Ld. Addl. PP assisted by counsels for victim, has referred to the relevant allegations appearing on record and the documents including statements u/s 161 CrPC as well as statements in the form of questionnaires of all the 11 victims/rescued children, in order to bring home his point that there is sufficient material which raises grave suspicion in respect of offences u/s 370/374 IPC, Sec. 3/14 of Child Labour Act, Sec. 16 of Bonded Labour System (Abolition) Act and Sec. 75/79 of JJ Act, 2015. It is further argued that there are specific allegations appearing in the statements of victims that it was accused who had procured/traffick them for the purpose of their exploitation by inducing them to make payment against the work to be performed by them but neither paid the requisite labour charges to them nor allowed them to go outside the factory premises and made them to work for more than permissible working hours. It is, therefore, urged that charge for the aforesaid offences may be framed against the accused.

On the other hand, counsel for accused has argued that there is no reliable evidence on record to show that it was present accused who had indulged in trafficking of the victims within the meaning of Sec. 370 IPC or had exploited them in any manner. It is further argued that even as per statements u/s 164 CrPC of all the victims, they themselves had come to Delhi and used to work in the premises of accused against payment of wages and there is no evidence regarding their exploitation in any manner at the hands of accused. He, therefore,

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urged that offences u/s 370/374 IPC and the offences under Child Labour Act and Bonded Labour System (Abolition) Act are not made out in this case.

Law regarding considerations at the stage of charge is well-settled now. The Court has power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against accused has been made out. It is no more res-integra that when the material placed before the Court discloses grave suspicion against the accused which has not been properly explained, the Court will be justified in framing the charge. The judge should not make a roving inquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial. If on the basis of materials on record, Court could come to the conclusion that commission of the offence is a provable consequence, a case of framing of charge exists. To put it differently, if the Courts were to think that the accused might have committed the offence it can frame a charge, though for conviction the conclusion is required to be that the accused has committed the offence. At the stage of framing of a charge, probative value of the materials on record cannot be gone into, the material brought on record by the prosecution has to be accepted as true at that stage. The truth, veracity and effect of the evidence which the prosecutor proposes to adduce, are not to be meticulously judged. Nor is any weight to be attached to the probable defence of the accused. It is not obligatory for the Judge at that stage of the trial to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the accused or not. The standard of test and judgment which is to be finally applied before recording a finding regarding the guilt or otherwise of the accused is not exactly to be applied at this stage of deciding the matter under S. 227 or S. 228 of the Code.

Now turning back to the facts of the present case. FIR in question came to be registered on the complaint of SDM, Seelampur after he alongwith representatives of Labour Department, Police Force, NGO had conducted surprise child/bonded labour rescue operation on 05.12.2018. Eleven children were allegedly rescued from the factory premises of accused herein. They were

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allegedly engaged in different kind of work i.e. suit/coat covers stitching. In their respective replies to the questionnaires put to them by concerned SDM, the victims/children claimed that they used to work for 13 hours and above and used to work for 6 ½ days in a week and some of them were not paid any wages at all whereas others were paid paltry amount for the work performed by them. Apart from that, all those victims/children have stated in their respective statements u/s 161 CrPC that they were working in the factory premises of the accused and accused used to take more work than the wages being paid. Several victims also stated that accused did not pay even a single penny to them.

In view of the discussion made hereinabove and the statements of the victims/rescued children, Court is of the opinion that there is sufficient material which raises grave suspicion against accused in respect of offences punishable u/s 370/374 IPC, Sec. 3/14 of Child Labour Act, Sec. 16 of Bonded Labour System (Abolition) Act and Sec. 75/79 of JJ Act, 2015. Accordingly, charge for the said offences framed against the accused, to which he pleads not guilty and claims trial.

Put up on 10.02.2020, 11.02.2020 and 12.02.2020 for PE. PWs mentioned at Sl. No. 1 and 14 in the list of witnesses be summoned for 10.02.2020. PWs mentioned at Sl. No. 2, 3 and 15 in the list of witnesses be summoned for 11.02.2020. PWs mentioned at Sl. No. 4, 5 and 16 in the list of witnesses be summoned for 12.02.2020. IO/ASI Mahipal Singh be also summoned for all the three dates.

(VIDYA PRAKASH)
Addl. Sessions Judge/
NE/KKD/Delhi/18.11.2019