

9 SC 150/2016
STATE Vs. ARIF & ORS.
FIR No. 432 /2016
PS New Usman Pur

23.04.2024

Present: Sh. Kamal Akhter, Ld. APP for the State.
Sh. Rishi Chawla, Ld. LAC for the accused Sadik.
Sh. Chimendra Kaushik, Ld. Proxy counsel for Sh. Praveen Yadav, Ld. LAC for the accused Tasleem alongwith the accused..
Accused Arif already declared PO vide order dated 08.07.2022.
Accused Sadik produced from JC.

Today matter is fixed for DE on behalf of accused Sadik.

In compliance of the last order, a report has been filed by IO, whereby, it has been mentioned that accused Tasleem was not in custody in any case. Same is taken on record.

It has been submitted by accused Tasleem that he could not appear before this court on the LDOH, since he was illegally detained by the police officials at PS Gandhi Nagar.

It has been submitted by Ld. Proxy counsel for accused Tasleem that the accused person was called for interrogation by the police officials regarding some unconnected matter and that is why he could not appear on the LDOH.

Accused Tasleem is directed to be present before this court on each and every date of hearing.

Perusal of the record reflects that on 25.05.2023, DW-2 Dr. Pragya Tiwari was partly examined in chief before the Ld. Predecessor of this court and her further examination was deferred for want of the original MLC. It was submitted by DW-2 Dr. Pragya Tiwari, that the

entire medical record as mentioned in the summons to her, was not provided by the Ms. Ritu Chawla, MS of the hospital concerned. The Ld. Predecessor of this court had then issued fresh summons to the MS concerned to appear alongwith the complete record alongwith an explanation for not providing the requisite record to DW2 Dr. Pragya Tiwari.

On 08.08.2023, Dr. Shalabh Daas was present before the court however, he was discharged unexamined since the original record was not produced.

On 05.09.2023, the IO had produced two MLCs of accused Sadik, which were taken out from the police file and the copy of the said MLCs were supplied to the Ld. LAC for the accused person.

Thereafter, on 06.10.2023, DW3 Dr. Shalabh was examined and discharged.

On 02.11.2023, after DW1 Saira Bano was examined cross examined and discharged, the defense evidence stood close on behalf of accused Tasleem, however, since accused Sadik was absent, the Ld. Predecessor of this court issued NBWs against him. Thereafter, on 21.02.2024, due to non appearance of the accused persons fresh NBWs were issued against the accused person.

On 12.03.2024, the report was received qua the execution of the NBWs, wherein, it was mentioned that since the accused person was lodged in judicial custody in some other case, the said NBWs could not be served.

Perusal of the record reflects that the said MLCs bearing no. 11932 and 11944 were already exhibited as Ex. DW3/A (OSR) and Ex. DW3/B (OSR) and DW3 Dr. Shalabh was discharged as a witness.

It is submitted by the Ld. LAC for the accused Sadik that

since the said MLCs have already been brought on record through the testimony of DW3 Dr. Shalabh, the accused person does not wish to rely upon the testimony of DW2 Dr. Pragya Tiwari, which could not be completed due to want of original MLCs. It is submitted by the Ld. LAC for the accused Sadik that the accused person does not wish to lead any further DE and DE may be closed.

The DE stands closed on behalf of both the accused persons.

Now to come up for addressing final arguments on
09.05.2024.

(ATUL AHLAWAT)
ASJ (FTC)/North-
East/KKD Courts/
Delhi/23.04.2024