

SC No. 58(I)/15

State Vs. Mohd. Vicky & Anr.

FIR No. 42/2015

Under section 307/120-B/34 IPC & 25/27 Arms Act

PS Khajuri Khas

Present: Sh. I.H. Siddiqui, Ld. Addl. PP for the State.

Sh. Yogender Kumar, Ld. Defence counsel.

Both accused on bail.

ORDER ON CHARGE

1. I have heard arguments on charge.
2. Ld. Defence counsel submitted that there is no material against the accused persons. He submitted that the complainant neither named the accused Mohd. Vicky nor disclosed features / appearance of the assailant in his first statement. He submitted that the statement under section 164 of the Cr.P.C. of the complainant was recorded after considerable delay with the intent to falsely implicate his wife Rani and the accused Mohd. Vicky in the present case. He submitted that there is no evidence to show existence of any conspiracy between the accused Mohd. Vicky and Rani to commit any offence against the complainant. He submitted that the accused persons deserve discharge.
3. Ld. Addl. PP for the State submitted that the complainant mentioned about physical features of the assailant in his first statement. He submitted that the complainant suspected involvement of the accused Mohd. Vicky. He submitted that the complainant in his statement under section 164 of the Cr.P.C. categorically stated that the accused Mohd. Vicky fired gun-shot at him and he did not name him at the instance of the accused Rani. He submitted that the accused Rani had the knowledge that the complainant would be passing from the place of incident as she had called twice on his mobile number.

4. On thoughtful consideration of the matter, this Court is of the considered opinion that there is no incriminating material against the accused Rani. The fact that she persuaded the complainant not to name the accused Mohd. Vicky in his first statement is not indicated of any conspiracy between them. However, the complainant made specific allegations against the accused Mohd. Vicky in his statement under section 164 of the Cr.P.C. His daughter Reshma also made similar statement. At this stage, the Court has to confine itself to the material on record. The Court cannot go into evidentiary value of the material. There is sufficient material against the accused Mohd. Vicky for presuming commission of offences under section 307 IPC, 25 and 27 of the Arms Act. Accordingly, charges under section 307 IPC, 25 and 27 of the Arms Act framed against the accused Mohd. Vicky to which he pleaded not guilty and claimed trial.

5. The accused Rani is discharged from offence under section 307 read with section 120-B IPC.

6. Rani admitted to bail on furnishing personal bond in the sum of Rs. 10,000/- with one surety in the like amount as required under section 437-A of the Cr.P.C.

7. PW Mehfooj be summoned for **16.03.2017**.

Sanjay Sharma
Special Judge NDPS (NE)
ASJ/KKD/Delhi/18.01.2017