

09.09.2019

Fresh chargesheet received on committal. It be checked and registered.

Present: Ms. Sushma Badhwar, Ld. Addl. PP for the State.  
Accused Waseem on bail in person.  
Accused Imran @ Munna is absent today.  
LAC Sh. Lalit Yadav, Advocate for both the accused.

On oral request, accused Imran @ Munna is personally exempted for today.

The chargesheet has been committed to the Court of Session by the Court of Ld. MM vide order dt. 05.09.2019 while observing that "As the offence is exclusively triable by the Court of Sessions" thereby leaving this Court to find out as to which offence is exclusively triable by the Court of Sessions, reference of which has been made by Ld. MM in order dt. 05.09.2019.

Be that as it may, record shows that FIR in this case came to be registered in respect of offences punishable u/s 392/394/397/412/34 IPC at PS New Usmanpur on 01.08.2013. On completion of investigation, chargesheet in respect of offences u/s 392/394/397/411/34 IPC was filed before the Court of Ld. ACMM, North-East on 28.10.2013. Proceedings dt. 29.10.2013 would reveal that Ld. ACMM took cognizance for offences punishable u/s 394/411/34 IPC and Sec. 25/29 Arms Act and fixed the matter for scrutiny of documents and arguments on the point of charge for next date of 12.11.2013, meaning thereby cognizance for offence u/s 397 IPC was declined. Thereafter, matter was adjourned from time to time for arguments on the point of charge till 23.09.2017, on which date Ld. ACMM observed that challan in the present matter has been filed u/s 392/394/397/411/34 IPC and since Sec. 397 IPC is exclusively triable by Court of Sessions, matter requires committal before appropriate forum. IO was directed to be summoned for next date of 15.11.2017. Subsequent proceedings as available in the judicial file would reveal that matter was adjourned from time to time and finally on 05.09.2019, Ld. MM has simply committed the matter to the Court of

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Sessions by making observation as reproduced hereinabove.

Thus, it is quite evident that while taking cognizance, Court of Ld. ACMM did not take cognizance in respect of offence u/s 397 IPC at any point of time and thus, matter could not have been committed to the Court of Sessions in this manner, in the opinion of this Court. Hence, the present matter is directed to be placed before Ld. District & Sessions Judge, North-East, on 13.09.2019 at 2:00 pm for passing appropriate directions. Both the accused are directed to appear there on said date and time. Ahlmad is directed to send the file complete in all respect to the court of Ld. District & Sessions Judge, North-East, as per rules.

(VIDYA PRAKASH)  
Addl. Sessions Judge/  
NE/KKD/Delhi09.09.2019