

SC no.395/2022  
STATE Vs. MOHD. ARIF  
FIR No.996/2014 (Khajuri Khas)

24.08.2023

Present: Sh. Neeraj Madhup, Ld. Addl. P. P (substitute) for  
the State.

Accused Jaan Mohd. produced in custody

Remaining three accused persons are on court bail.

Sh. Nadeem Khan, Advocate for accused Arif.

Sh. Akash Deep, Advocate for accused Akram.

Ms. Manju Sharma, Advocate for accused Deen  
Mohd. and Jaan Mohd.

Vakalatnama filed for accused Deen Mohd. and Jaan  
Mohd. Be taken on record.

Heard the arguments on charge.

Ld. Addl. P. P for the state submitted that in this case  
on 16.09.2014 at about 10:30 PM, Akbar Ali along with his wife  
Jaida Begum was present at the first floor of their house. He  
noticed somebody has broke open the main gate of their house on  
which he came out. The moment he came out, accused Jaan  
Mohd. @ Janu caught hold of his hand and Arif put knife on his  
neck. The other two accused Deen Mohd. @ Salman and Akram  
entered in the room and they after breaking bear bottle put the  
same on the body of Jaida Begum and threatened her not to make  
noise.

Ld. Addl. P. P further submitted that they removed  
Rs.60,000/- in cash, two pair of ear-tops made of gold, four

*kadaas* made of silver and one pair of *payal* made of silver and went away extending threat. Ld. Addl. P. P submitted that as robbery has been committed after breaking open the door that also in the night after making preparation to cause hurt, prima facie case for offences punishable under Section 458 read with Section 34 of IPC, under Section 392 read with Section 34 of IPC and under Section 397 IPC are made out. Ld. Addl. P. P submitted that so far as the user of knife, Section 397 of IPC is also attracted, hence, separate charge for offence punishable under Section 27 of the Arms Act is not required to be framed.

Ld. defence counsel submitted that in this case all the four accused persons have been falsely implicated. Besides this, another FIR No.995/2014, PS Khajuri Khas was registered in which they have already been acquitted. Ld. counsel submitted that as per the evidence, the main door was broke open but no photograph to this effect has been taken. One bear bottle was also broken as per the evidence but the pieces of the bottle have also not been seized, which clearly shows that no such incident had taken place as deposed. No finger prints have been lifted. There is no recovery either of the weapon or the case property. Ld. counsel submitted that infact it is a false and frivolous case. No such incident has ever taken place and prayed that the accused persons be discharged.

After hearing the arguments and going through the record, I found that there is clear allegation against all the four accused persons that they entered into the house of the complainant in the night at 10:30 PM in the month of September and committed the

offence i.e after the sunset and before the sunrise. One of the accused namely Arif was having knife, hence, they have also made preparation to cause hurt before they removed articles i.e. Rs.60,000/- in cash, two pair of ear-tops made of gold, four *kadaas* made of silver and one pair of *payal* made of silver and that has been done after putting them under the fear using deadly weapon knife. Hence, prima facie offences punishable under Sections 458 r/w Section 34 of IPC, 392 r/w Section 34 of IPC are made out against all the accused persons. As accused Arif used knife i.e. a deadly weapon in the commission of the offence, hence, prima facie case for offence punishable under Section 397 IPC is made out against accused Arif. All the accused persons are charged accordingly to which they pleaded not guilty and claimed trial.

Now to come up for PE on 30.10.2023.

Witness Akbar Ali, Jaida Begum, IO along with Duty Officer and MHC(M) be summoned for the next date.

(V. K. BANSAL)  
Principal District & Sessions Judge  
North-East, Karkardooma Courts,  
Delhi/24.08.2023