

SC No. 57657/16

FIR No. 115/11

PS: Crime Branch

State Vs. Deepak Kaushik etc.

24.01.2019

Present: Ms. Neeta Gupta, Ld. Additional PP for State
All four accused on bail.
Sh. S.S Bawa counsel for accused Kapil Kaushik and amicus curiae for accused Parvesh.

Arguments heard on application moved on behalf of accused Kapil Kaushik for providing copy of charge-sheet filed in case FIR No. 116/11 and further permitting to cross examine the witnesses examined in the said case. Ld counsel for applicant/accused has argued that on the application moved by prosecution before Ld District Judge for clubbing FIR No. 116/11 and FIR No.115/11, police station crime branch the said two matters were clubbed. It is stated that after inspection of the Court record Ld counsel for applicant came to know that some of witnesses in case FIR No. 116/11, whose names have been mentioned in the application and not been cited as witnesses in case FIR No. 115/1, have also made the statement with regard to allegations made in FIR No. 115/11. It is stated that case of applicant shall be adversely effected and they shall be prejudiced if their testimony shall remain un rebutted qua the applicant due to their non cross examination.

The application has been opposed by Ld Additional P.P on the

ground that applicant/accused is not party in case FIR No. 116/11 and there is no provision in the Code to permit the cross examination of witnesses by an outsider. For the said reason the applicant is also not entitled to get the copy of charge sheet in case FIR No. 116/11.

It is not disputed that applicant/accused has not been charge sheeted in case FIR No. 116/11. Further though case FIR No. 116/11 and 115/11 have been clubbed for the sake of convenience, however, both the cases have not been consolidated. I agree with the contention of Ld Additional P.P that application is not maintainable since the applicant/accused is not the party in case FIR No. 116/11.

In the facts and circumstances, I do not find any ground to allow the application. Hence, the same is dismissed. It goes without saying that the testimony of witnesses examined in case FIR No. 116/11 can not be read against the applicant/accused since he has not been charge-sheeted in the said case.

Put up for P.E on 22.04.19 and 23.04.19. Issue summons to PW-1 and PW-2 for their further cross examination alongwith IO for both the dates.

(Sukhvinder Kaur)
Addl. Sessions Judge: 04 (North)
Rohini Courts: Delhi: 24.01.2019