

SC No. 388/19 (Old SC No. 35/19)  
FIR No. 117/19 P.S.- Jahangir Puri  
u/S 307/34 IPC & 27 Arms Act

**State Vs. Suresh @ Pawan @ Parwan etc.**

**21.08.2019**

Present:- Shri Harvinder Nar, Ld. Addl. PP for the State with IO ASI  
Subhash Chandra.

Accused Suresh @ Pawan @ Parwan produced from JC.

Accused Sandeep @ Bachcha is P.O.

Sh. Sanjeev Kumar Sharma, Ld. Counsel for the accused.

IO has filed opinion on the MLC. Copy of the same is  
supplied to the accused.

Arguments on the point of charge(s) heard.

Brief facts are that on receipt of DD No. 79A, IO reached at  
BJRM Hospital, where he collected the MLC of injured Vinay @  
Pahalwan S/o. Tika Ram on which the doctor had mentioned that the  
patient had been admitted with alleged history of Fire Arm Injury. At  
that time, the injured was not in a condition to give statement.

Later on he recorded his statement wherein he stated as  
under :

**That he is pursuing his studies in B.A  
1st year. On 20.02.2019, at around 9:00 pm, he  
after eating manchuriyan roll was going on foot  
infront of BJRM Hospital towards CD Park Jhuggi.  
When he reached at D Block side Main Road,  
where one red colour motorcycle on which two  
persons were riding came and stopped near him.  
The said motorcycle was being driven by Suresh**

Contd...2

**@ Murderi and Sandeep @ Bachha was pillion riding the same.**

**All of a sudden Sandeep @ Bachha took out a pistol and after pointing the same towards him fired from it. He put his left hand on his stomach due to which the bullet after hitting his hand, entered into his stomach and after moving inside his body for some time, exited from his back side. Thereafter, both the accused persons after turning their motorcycle ran away towards ITI side.**

**He telephonically informed his friend Pawan, who got him admitted in BJRM Hospital.**

Ld. Counsel for the accused has argued that the accused is in JC since 14.03.2019 and he has been falsely implicated in this case by the complainant, as the accused is the neighbour of the co-accused Sandeep @ Baccha, with whom the complainant had previous enmity. It is further stated that the accused was not present at the spot and he was coming from his native village District Gonda, UP on 20.02.2019 and reached Delhi in the morning hours of 21.02.2019 for attending the date of hearing before the court of Ld. MM. It is further stated that the investigations qua the present accused have already been completed and the charge sheet has already been filed, therefore, the accused be released on bail.

On the other hand, Ld. Addl. PP for the State submits that the plea of alibi is the defence of the accused, which can only be seen at the time of defence evidence and after trial.

Ld. Counsel for the accused has relied upon certain documents in support of his plea of alibi that on the date of the incident, he was not in Delhi and was coming from his native village Gonda, U.P. on bus bearing no. UP-43T-9451 for attending the date of hearing before the court of Sh. Arun Goel, Ld. MM, which was fixed for 21.02.2019 and he reached Delhi in the morning hours of 21.02.2019. The plea of alibi regarding which the accused has relied upon photocopies of certain documents cannot be seen at this stage in view of the settled law laid down by the Hon'ble Supreme Court in ***Devendra Nath Padhi Vs. State of Orissa*** unless the documents are of sterling quality, which the above documents are not.

The relevant law with regard to the framing of charge has been laid down in the judgments ***Dilawar Balu Kurane Vs. State of Maharashtra, (2002) 2 SCC 135*** and ***Union of India Vs. Prafulla Kumar Samal, (1979) 3 SCC 4*** wherein it has been held as under :

***“The Judge while considering the question of framing the charges under section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. Where the materials placed before the court disclose grave suspicion against the accused which has been properly explained the court will be fully justified in framing a charge and proceeding with the trial. By and large, however, if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.”***

It is settled law that at the stage of framing of charge, it is not expected that the prosecution evidence should be meticulously evaluated. The court has to frame a charge, if there is a strong suspicion that the accused is involved in the commission of offence(s) for which he has been charge sheeted.

After having gone through the FIR, statements of the witnesses recorded u/s 161 Cr.P.C. and other material and documents including the MLC available on the record, a prima facie case U/s 307/34 IPC is made out against the accused.

Accordingly, formal charge(s) for the offence(s) u/s 307/34 IPC has been framed against the accused to which he pleaded not guilty and claimed trial.

Be listed for PE on **30.10.2019**.

PWs Nos. 1, 8 & 12 along with IO & MHC (M) be summoned for the next date of hearing.

(Sanjeev Aggarwal)  
Addl. Sessions Judge-02(North)  
Rohini Courts Delhi  
**21.08.2019**