

20.05.2024

Present : Sh. K.D. Pachauri, Ld. Addl. PP (substitute) for the State.
Accused present on bail with Ld. Counsel Sh. Hari Om
Gupta (*through VC*).

IO/SI Wazir Singh is also present.

IO submits that the MLC of the injured has already been placed on record through supplementary chargesheet.

Arguments on the point of charge, have been heard.

Ld. Counsel for the accused, who has joined the proceedings through video conferencing, has conceded the Charges and has submitted that the appropriate Charges be framed against the accused Mohd. Rafik.

File perused.

Perusal of the record including the chargesheet, the complaint of the complainant and the other documents, which have been placed on record, clearly show that the complainant Amrul @ Sameer was wrongfully restrained and beaten with *danda*, by the accused Mohd. Rafik and co-accused persons i.e. Vicky, Imran and Sintu, who are yet to be arrested.

It is a settled proposition of law that at the time of framing of charge, the Court is not required to marshal any evidence and only grave suspicion is to be seen and when grave suspicion arises, charge can be framed against the accused. Reliance can be placed upon *Alpana Dass v. CBI 2006 (90) DRJ 441* and in the case of *Union of India v. Prafulla Kumar Samal 1979 SSC (3) 609*.

contd.....

Guided by the above Judgments, it can safely be observed that at the time of Charge, the court does not have to weigh the evidence collected by the prosecution on the scale, which would be applicable after the prosecution has led its evidence.

From the scrutiny of the complaint made by the complainant Amrul @ Sameer and the other prosecution evidence, the inference is against the accused Mohd. Rafik, at least, at this prima facie stage.

Accordingly, I am of the opinion that, at this stage, a prima facie case u/s 308/341/34 IPC is made out against the accused Mohd. Rafik.

Formal Charges for the offences punishable u/s 308/341/34 IPC are, accordingly, framed against the accused Mohd. Rafik, to which, he has pleaded not guilty and claimed trial.

Matter be listed for PE on 26.07.2024. PWs mentioned at sr. no. 1, 2 & 4, in the list of witnesses, be summoned for the next date of hearing. IO be also summoned.

(Seema Maini)
Principal District & Sessions Judge (North)
Rohini Courts, Delhi/20.05.2024