

FIR No. 49/18
P.S. M. Town
State Vs. Sandeep @ Babu etc

25.08.2018

Present: Sh. Rakesh Kumar, Ld. Additional PP for the State.

Accused Sandeep @ Babu produced from JC.

Accused Mohan and Balbir on bail.

Sh. Vinkal Goel and Sh. A.C Jha counsels for accused Sandeep and Balbir.

Sh. Sanjeev Kumar Sharma counsel for accused Mohan.

IO SI Kuldeep.

IO has filed the FSL result dated 29.06.18. Copy supplied. IO submits that subsequent opinion is still awaited. He seeks one week time for filing the same.

Arguments addressed on the point of charge. Sh. Sanjeev Kumar Sharma counsel for Mohan has argued that no charge u/s 392/397/459 IPC is made out against accused Mohan since the complainant had failed to identify the accused Mohan in the test identification parade. He submits that only charge u/s 411 IPC is attracted since he was purportedly found in possession of some of the robbed articles.

Sh. Vinkal Goel and Sh. A.C Jha counsels for accused Sandeep and Balbir have conceded the charge against accused Sandeep, however, they have argued that no charge is made out against accused Balbir. It is urged that the only allegation against accused Balbir is that co-accused had got recovered one of the rod used in commission of crime from his residence.

On the other hand, Ld Additional P.P has pointed out that after failure of the TIP of accused Mohan, the complainant had identified the said accused on 30.04.18 at the gate of Hindu Rao hospital, where she had gone for her medical examination. He has pointed out that supplementary statement dated 30.04.18 of the complainant was also recorded to that effect. Perusal of record reveals that supplementary statement of complainant dated 30.04.18 is on the record, wherein the complainant has stated that she had seen accused Mohan on the casualty gate of Hindu Rao Hospital and seeing him she had informed the IO that he is the same boy who had trespassed her house alongwith another boy in the night of 6/7.02.18 after breaking the lock of her house and tried to press her face with the pillow. She has further explained that she could not identify the said boy in TIP as she was afraid.

In view of the supplementary statement dated 30.04.18, I am of the view that there is sufficient material on the record to frame charge u/s 459/392/34 and 397/411 IPC against accused Sandeep and Mohan.

So far as accused Balbir is concerned, IO has conceded that the only evidence against accused Balbir is that one of the rods used in commission of crime was recovered from his residence at the instance of main accused. Even if story of the prosecution is believed as correct, no offence is made out against the accused Balbir as there is no evidence even to show that he had any knowledge about the crime. Hence, accused Balbir is discharged. He is admitted to bail u/s 437A Cr.P.C for his appearance before the Appellant Court, in case the appeal is filed against his discharge, on furnishing personal bond of Rs. 15,000/- with one surety of the like amount.

Charge has been framed accordingly u/s 459/392/34 and 397 IPC against both the accused and separate respective charge u/s 411 IPC is also made out against both the accused, to which they plead not guilty and claim trial.

Put up for P.E on 22.10.18 and 23.10.18. PWs cited at serial No. 1 & 12 be summoned for 22.10.18 and PWs cited at serial No. 2 & 13 be summoned for 23.10.18. IO be also summoned for the said dates.

(Sukhvinder Kaur)
Addl. Sessions Judge: 04 (North)
Rohini Courts: Delhi: 25.08.2018