

SC No. 686/2023  
State vs. Mangal @ Rohit  
FIR No. 481/2023  
PS Jahangir Puri

10.11.2023

Present : Sh. Girish Giri, Ld. Addl. PP for the State.

Accused in JC with legal aid Counsel Sh. D.K.  
Pandey.

IO ASI Pankaj Singh is also present.

Ld. Counsel for the accused has filed copy of authority letter dated 09.11.2023 issued by the Secretary, DLSA, North, Rohini Courts, Delhi, authorizing him to contest the present case on behalf of the accused.

IO has placed on record copy of Acknowledgment dated 06.11.2023 issued by FSL, Rohini, Delhi, acknowledging the case acceptance.

IO has moved an application as well stating therein that Section 25/27/59 Arms Act have inadvertently been added in chargesheet of the present case.

Arguments on the point of charge, have been heard.

Ld. Counsel for the accused Mangal @ Rohit has conceded the Charge and has submitted that appropriate Charges be framed against the accused Mangal @ Rohit.

File perused.

Perusal of the record including the chargesheet, the complaint of the complainant Sh. Ajay and the other documents, which have been placed on record, clearly show that the

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complainant was stabbed multiple times with a knife by the accused Mangal @ Rohit, resultantly, the complainant sustained dangerous injuries.

Though the IO has moved an application stating that Section 25/27/59 Arms Act have inadvertently been added in chargesheet of the present case, but the Ld. Addl. PP for the State submits that using of knife for causing stab injuries at a public place by the accused is apparent, hence, Charge u/s 27 Arms Act be also added in the Charge.

The recovery of the alleged knife has been affected in another case bearing FIR No. 490/2023 and as per the MLC, three incised wounds are opined, as such, it is apparent that the intention of the accused was to kill/murder the complainant Ajay.

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*.

In the case of *Union of India v. Prafulla Kumar Samal* 1979 SSC (3) 609, their lordship laid down the parameters that must weigh in the mind of the Court while considering the issue on charge. It was observed as under:

*(i) That the Judge while considering the question of framing of charges under Section 227 of the Code has the undoubted power to shift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the*

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*accused has been made out;*

*(ii) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial.*

*(iii) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. 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.*

*(iv) That in exercising his jurisdiction u/s.227 of the Code the Judge which under the present Code is a senior and experienced Court cannot act merely as a Post Office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however, does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.*

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

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evidence.

From the scrutiny of the complaint made by the complainant Sh. Ajay and the other prosecution evidence, the inference is the accused, at least, at this prima facie stage. The accused allegedly stabbed the complainant multiple times by knife. Further, the recovery of the said knife has also been affected, though in some other case.

Accordingly, I am of the opinion that, at this stage, a prima facie case u/s 307 IPC and 27 Arms Act, is made out against the accused Mangal @ Rohit.

Formal Charges for offences punishable u/s 307 IPC and u/s 27 Arms Act, are, accordingly, framed against the accused Mangal @ Rohit, to which, the accused has pleaded not guilty and claimed trial.

Matter be listed for PE on 08.12.2023. PWs mentioned at serial no. 1 to 3, in the list of witnesses, be summoned for the next date of hearing. Summons be also issued to IO and MHC(M).

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

Delhi/10.11.2023