

FIR No. 14/2017
PS Aman Vihar
State vs. Krishan and ors.

12/9/2018

Present: Sh. Rajat Kalra, Ld. Addl. PP for the State
All the accused are present on bail
Sh. Diwan Singh, Sh. Lalit and proxy counsel Ms. Rajni
Malhan Advocates for complainant.
Sh. S.K. Saingar, Ld. Defence counsel for accused Dragpal
Singh
Sh. Vishnu Kant, Ld. Defence counsel for accused
Chandan, Shakuntala and Kusum
Sh. S.P. Singh, Ld. Defence counsel for accused Amit
Ld. Proxy counsel for Sh. Vibhash Mishra, Ld. Defence
counsel for accused Vinod
Sh. Pradeep Vijayran, Advocate for all the remaining
accused persons

I have heard Ld. Add. PP for the State and Ld. Counsels
for the defence on the point of charge and I have careful perused the
entire record.

It is argued by Ld. Counsels for the defence that the
accused persons have been falsely implicated in this case and it was the
complainant who along with his father was indulging in unauthorised
constructions and encroachment at property of Gram Sabha, khasra no.
562 adjoining shamshan ghat, Kirari, Delhi and on the complaint of the
village people, restrained order was passed by the SDM concerned in
December, 2015. It is further stated that the complainant has already
filed a civil suit against certain people of the village seeking decree of
mandatory injunction to restrain them from interfering in the
possession of the said property. It is further stated that the intial

complaint complainant is silent about any incident dated 25/12/2016 and he did not specify who all exactly had tried to demolish the wall of his plot on 29/12/2016, although no such incident took place as alleged. It is further argued that this false complaint has been lodged by the complainant only to create pressure so that he could encroach upon the Gram Sabha Land by taking the benefit of SC/ST Act.

Per contra, Ld. Addl. PP for the State who is assisted by Ld. Counsels for the complainant has vehemently controverted the contentions of Ld. Counsels for the defence.

This FIR was registered on 5/1/2017 on the complaint of the complainant in which he primarily enumerated about the incident dated 29/12/2016 on which date, the accused persons allegedly entered his house and intentionally insulted, abused and intimidated him and his family members and broke the walls of his plot adjoining his house. During investigation, statement of complainant and his father Talewar Singh was also recorded in which they stated that on 25/12/2016 also certain people of the village had broken the boundary wall of his plot adjoining to his house. Thereafter, supplementary statement of the complainant was recorded in which he clearly named 12 persons who had broken the boundary wall of his plot on 25/12/2016 and also gave the name of accused persons who entered his house on 29/12/2016 intentionally insulted, abused and intimidated him and his family members and broke the walls of his plot adjoining his house.

With respect to the contention of the Ld. Counsel for the defence that the complainant is an encroacher on the Gram Sabha land and he was doing illegal construction on the said land and their reliance in this regard on the restraintment order passed by SDM, it is relevant here to state that it appears to be an interim order passed by the said authority and there is nothing on record to suggest that the proceedings have finally culminated before the said authority.

It is settled law that at the stage of consideration of charge, this court is not required to assess, evaluate and to weigh the prosecution evidence in a criminal case as it is done at the final stage. It is not open for this Court to sift and weigh the evidence as if a mini trial is being conducted and charge can be framed on the basis of grave suspicion and the evidential value of the statement of witnesses recorded during the course of investigation is required to be seen at the time of appropriate trial. A roving and fishing inquiry is impermissible and it is sufficient if the prosecution is able to show prima facie the commission of offence and the involvement of the accused persons.

In view of the above, it is noted as under:

1. With respect to the incident dated 25/12/2016 there is prima facie ground to proceed against 12 accused persons namely, (i) Krishan (ii) Nay Chand @ Bittu Chaudhary (iii) Harvir Khatra @ Monu (iv) Praveen @ Babbal (v) Rajbir Singh (vi) Subhash Chandra @ Chandra Bose (vii) Draggpal Singh Tomer (viii) Chanchal (ix) Mehtab Chaudhary (x) Manish Mathur (xi) Kusum and (xii) Shakuntala u/s 143/147 IPC r.w.s. 149 IPC and U/s. 3 (1) (g) of the Scheduled Caste and Scheduled Tribes (Prevention of atrocities) Act, 1989 as amended by the Amendment Act of 2015 r.w.s. 149 IPC.

2. With respect to the incident dated 29/12/2016, when certain accused entered in the house of the complainant, there is prima facie ground to proceed against 6 accused persons namely, (i) Krishan (ii) Nay Chand @ Bittu Chaudhary (iii) Harvir Khatra @ Monu (iv) Surjit (v) Vinod and (vi) Vishal @ Pinte u/s 451/34 IPC and u/s.3(1)(r) and 3(1)(s) of SC/ST (Prevention of Atrocities) Act, 1989 as amended by the Amendment Act of 2015 read with Section 34 of IPC

3. With respect to the incident dated 29/12/2016, when the accused persons demolished the boundary wall of the plot of the

complainant, there is prima facie ground to proceed against 13 accused persons namely, (i) Krishan (ii) Nay Chand @ Bittu Chaudhary (iii) Harvir Khatra @ Monu (iv) Surjit (v) Vinod (vi) Vishal @ Pinte (vii) Praveen (viii) Rajbir Singh s/o Sh. Ram Karan, (ix) Subhash Chandra @ Chandra Bose (x) Amit (xi) Narender Sharma @ Dharmender (xii) Kalyan Singh and (xiii) Manjeet Singh u/s 143/147 IPC r.w.s. 149 IPC and U/s. 3 (1) (g) of the Scheduled Caste and Scheduled Tribes (Prevention of atrocities) Act, 1989 as amended by the Amendment Act of 2015 r.w.s. 149 IPC.

Put up for framing of charge on 29/9/2018.

(Deepak Garg)
ASJ-II, North-West
Rohini: Delhi
12.09.2018