

FIR No. 1065/2016
PS Mangol Puri
State Vs. Rakesh @ Rocky & Ors.

25-03-2017

Present: Sh. A.B. Asthana, Ld. Addl. PP for State.

A1 and A2 in J.C.

A3 Sagar on bail.

Sh. Gajraj Singh, learned defence counsel for all the accused.

Heard arguments on charge.

I have carefully gone through the averments appearing in the charge-sheet.

Briefly stated, case of the prosecution is to the effect that on 02/12/2016, Sushil @ Bunty (victim herein) had left his house on scooty to bring back his children from the school. Someone informed the police that Sushil @ Bunty had met with an accident. However, when family members of Sushil @ Bunty reached SGM hospital, they learnt that he had rather been shot dead and had not met with any accident. Statements of his father, brother and wife were recorded same day and they all expressed their suspicion over Rakesh @ Rocky (A1) who had earlier quarreled with Bunty. Moreover, Rakesh @ Rocky had also taken a loan of Rs. One lac from Bunty two years back and did not want to return the same either.

During investigation, police was able to contact one crucial witness Rohit Tomar who revealed that on 02/12/2016, when he was going on account of his personal work, he met his friend Harpal @ Toni (A2) along with accused Rakesh @ Rocky at CRP Camp situated ahead on Sultan Pur Majra village and when he stopped there, accused Rakesh @ Rocky (A1) had showed him two firearms which he was carrying and also claimed that he would finish Bunty who had made his life miserable. So much so, when same evening at 5.00/5.30 p.m., Rohit met Tony (A2), Tony (A2) made extra-judicial-confession by claiming that they had killed Bunty.

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A1 Rakesh @ Rocky was arrested and at his instance, one country made pistol (katta) was also recovered which was used for killing Bunty. Co-accused Harpal @ Toni (A2) was also arrested.

As per prosecution, accused Sagar Gaur (A3) had harboured Rakesh @ Rocky (A1) and did not inform the police about the commission of offence and one more pistol (which also belonged to accused Rakesh @ Rocky) was recovered from the conscious possession of accused Sagar Gaur (A3).

Prosecution is also relying upon call detail records and CCTV footage. I have also seen the statements of PW Mukesh Kumar and Pawan Kumar who have also corroborated about the existence of motive.

Since the firearms are still reportedly in FSL and no forensic report has been received and since there is no sanction u/s 39 Arms Act either, at this stage, no charge u/s 25 of Arms Act can be framed. However, learned Addl. PP would be at liberty to pray for addition of charge in this regard as and when any such report and sanction are received.

Learned defence counsel has contended that all the three accused persons have been falsely implicated and as far as accused Sagar Gaur (A3) is concerned, no case is made out against him as he cannot be charged merely on the basis of his disclosure statement.

However, in view of the specific material available on record, prima facie offences u/s 120B IPC and u/s 302 read with Section 120B IPC are made out against A1 Rakesh @ Rocky and A2 Harpal @ Toni. Simultaneously, A1 Rakesh @ Rocky is also directed to be charged u/s 27 of Arms Act.

As far as A3 Sagar Gaur is concerned, he is ordered to be charged u/s 212/201 IPC.

Charges have been framed accordingly to which the accused persons have pleaded not guilty and claimed trial.

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Put up on **15/05/2017 (LWs 4, 6, 7, 28 and 29), 16/05/2017 (LWs 1, 2,3, 19 and 20), 17/05/2017 (LWs 8,9,10,11 and 17) and 18/05/2017 (Lws 12,13,14 and 34).** IO would appear on each and every date.

An application seeking release of motorcycle no. DL-9SW-3876 is also pending disposal. Report has been received from IO and police has no objection, if such vehicle is released to its registered owner. Accordingly, motorcycle no. DL-9SW-3876 is ordered to be released to its registered owner through concerned SHO/IO with the following conditions:-

- I) The registered owner would furnish copy of RC and superdarinama in a sum of Rs. 20,000/- before the concerned SHO/IO.
- ii) Superdar would undertake not to sell the motorcycle without permission of the Court.
- iii) Superdar would produce the motorcycle before the Court as and when directed.
- v) SHO/IO before releasing the motorcycle would take the photographs of such motorcycle from all angles and after acceptance of the bonds, would transmit the bond, documents and photographs to this Court without any delay.

A copy of this order be sent to concerned SHO/IO.

(MANOJ JAIN)
ASJ (FTC) N-W Distt: Rohini: Delhi
25-03-2017