

SC No. 641/2017
FIR No. 820/2017
PS : Mangol Puri
U/S 302/34/120B of IPC & 27/54/59 of Arms Act
State Vs. Mohd. Faishal

31.01.2019

Present: Sh. Pankaj Kumar Ranga, Additional Public Prosecutor for State.
Accused Mohd. Faishal in JC not produced.
Accused Himanshu in JC not produced.
Accused Vikas in JC not produced.
Sh. Sandeep Kumar, Id counsel for accused Mohd. Faishal.
HC Sandeep MHC(M) is present alongwith case property.
ASI Karamvir Pervi Officer is present.

The matter is fixed for evidence of the prosecution.

ASI Karamvir Pervi Officer has brought the letter written by Addl. DCP, Outer District and report of SHO of Police Station Mangol Puri and an application dated 25.10.2018 written by Rohit (Prosecution Witness) and Hori Lal (Prosecution Witness) which is address to SHO Police Station Mangol Puri, Delhi , same are taken on record. He has also stated that IO has gone to the Hon'ble High Court of Delhi. So, he is exempted from personal appearance.

Process issued to IO, Rohit Kumar, Vir Pal and MHC(M) are received back with the report served.

On calling the case MHC(M) HC Sandeep has come present. But accused have not been produced in Judicial Custody nor the witnesses have come present.

So, the matter stands passed over till 10:15 A.M.

(Pawan Kumar Matto)
Special Judge (NDPS)/
Additional Sessions Judge (N-W)
Rohini Courts, Delhi. 31.01.2019

At 10:15

Present: None for the State.

Accused Mohd. Faishal in JC not produced.
Accused Himanshu in JC not produced.
Accused Vikas in JC not produced.
Sh. Sandeep Kumar, Id counsel for accused Mohd. Faishal.
HC Sandeep MHC(M) is present alongwith case property.
ASI Karamvir Pervi Officer is present.

The matter was passed over for awaiting of all the three accused and prosecution witnesses.

Ld. APP for the State has gone in the court of Ms. Raj Rani, Ld. ASJ, Rohini Courts, Delhi to argue in the bail matters.

On calling the case accused have not been produced in Judicial Custody nor PWs have come present.

So, the matter stands passed over till 10:30 A. M.

(Pawan Kumar Matto)
Special Judge (NDPS)/
Additional Sessions Judge (N-W)
Rohini Courts, Delhi. 31.01.2019

At 10:30 A.M.

Present: None for State.
Accused Mohd. Faishal in JC .
Accused Himanshu in JC not produced.
Accused Vikas in JC .
Sh. Sandeep Kumar, Id counsel for accused Mohd. Faishal.
HC Sandeep MHC(M) is present alongwith case property.
ASI Karamvir Pervi Officer is present.

The matter was passed over for awaiting of accused and prosecution witnesses.

Ld. APP for the state has gone in the court of Ms Raj Rani, Ld. ASJ, Rohini Courts, Delhi to argue on the bail matter has not yet returned.

On calling the case accused Mohd. Faishal and Vikas have been produced in JC. But accused Himanshu has not been produced.

PWs have also not come.

Matter stands passed over till 10:40 A. M. for awaiting of

accused Himanshu and prosecution witnesses.

(Pawan Kumar Matto)
Special Judge (NDPS)/
Additional Sessions Judge (N-W)
Rohini Courts, Delhi. 31.01.2019

AT 10:40 A.M.

Present: None for State.
Accused Mohd. Faishal in JC .
Accused Himanshu in JC not produced.
Accused Vikas in JC .
Sh. Sandeep Kumar, Id counsel for accused Mohd. Faishal.
HC Sandeep MHC(M) is present alongwith case property.
ASI Karamvir Pervi Officer is present.

The matter was passed over for awaiting of accused and prosecution witnesses.

ASI Karamvir (Pervi Officer) has told to the court that he has made talk with the witness Virpal on telephone and he has told that he had gone at Aligarh, so, he will not come today. Since, other witnesses of prosecution have also not come present.

Matter stands passed over till 10:50 A.M. for awaiting of the witness Rahul.

(Pawan Kumar Matto)
Special Judge (NDPS)/
Additional Sessions Judge (N-W)
Rohini Courts, Delhi. 31.01.2019

At 10:50 A.M.

Present: Sh. Pankaj Kumar Ranga, Additional Public Prosecutor for State.
Accused Mohd. Faishal in JC .
Accused Himanshu in JC.
Accused Vikas in JC .
Sh. Sandeep Kumar, Id counsel for accused Mohd. Faishal.
Sh. M. K. Sharma & Sh. Kuldeep Beniwal, Id. Counsels for accused Vikas and Himanshu.
HC Sandeep MHC(M) is present alongwith case property.
ASI Karamvir Pervi Officer is present.

The matter was passed over for awaiting of accused and prosecution witnesses.

On calling the case all the three accused have come present but witnesses have not come present.

So, the matter stands passed over till 11:15 A.M. for awaiting of prosecution witnesses.

(Pawan Kumar Matto)
Special Judge (NDPS)/
Additional Sessions Judge (N-W)
Rohini Courts, Delhi. 31.01.2019

AT 11:15 A.M.

Present: Sh. Pankaj Kumar Ranga, Additional Public Prosecutor for State.
Accused Mohd. Faishal in JC .
Accused Himanshu in JC.
Accused Vikas in JC .
Sh. Sandeep Kumar, Id counsel for accused Mohd. Faishal.
Sh. M. K. Sharma & Sh. Kuldeep Beniwal, Id. Counsels for accused Vikas and Himanshu.
HC Sandeep MHC(M) is present alongwith case property.
ASI Karamvir Pervi Officer is present.
SHO/Inspector Vijay Kataria SHO of PS Mangol Puri.
HC Prahlad Singh, Police Chowki , Rohini Courts.
Ms. Poonam Mother of PW Rohit .

The matter was passed over for awaiting of prosecution witnesses.

SHO PS Mangol Puri and mother of the prosecution witness Rahul have submitted that Rohit will come at about 12 Noon with the police as Escort has been given to witness in view of passing of order and seek passing over the matter.

Matter stands passed over till 12:00 Noon for awaiting of prosecution witness Rohit.

(Pawan Kumar Matto)
Special Judge (NDPS)/
Additional Sessions Judge (N-W)
Rohini Courts, Delhi. 31.01.2019

S.C. No 641/2017
FIR No. 820/2017
U/s. 302/120B/34 IPC
P.S. Mngol Puri
State vs. Faishal & ors.

31.01.2019

At 12:00 Noon.

Present : Mr. P.K. Ranga, Additional Public Prosecutor for the
State.

Accused Mohd. Faishal in JC with counsel Sh.

SandeepKumar

Accused Himanshu and Vikas in JC with Id proxy
counsel Sh. Kuldeep Beniwal.

IO Insp. Rajpal Singh in person.

Smt. Rajwati, mother of accused Vikas

Smt. Poonam, mother of witness Rohit Kumar.

PW Rohit Kumar with escort Ct. Anil.

Matter was fixed for awaiting the witness and at
12:00 noon witness has come present with the escort constable
Anil.

As on the last date of hearing i.e. on dt.
29.09.2018, after adjournment of this case, one application was
moved by witnesses Rohit and Hori Lal for threats alleged to
have been given to them by some Kalu, who is the friend of
father of accused Himanshu, as threat was allegedly given to
them outside this court room, so that, they may not depose
against the accused and this court had directed to the Incharge,
Police Post Rohini Courts to do the needful for protecting these

witnesses of the prosecution and to inquire into the allegations levelled against Kalu. Since, the witnesses have also told that they are living in the area of Mangolpuri and this case is also relating to the area of Mangolpuri, so, SHO PS Mangolpuri was also directed to ensure the protection

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of these witnesses of the prosecution and attested copy of the order and copy of the application were ordered to be sent to the Incharge, Police Post, Rohini Courts, Delhi to do the needful and attested copy of the order passed by this court along with copy of application were also ordered to be sent to the DCP, outer District to ensure the safety of these witnesses and to do the needful and today the DCP has sent a letter and escort to the witness Rohit has been provided for today. Since, the witness Rohit Kumar is a minor boy, so, this court has chosen to examine him in the court meant for vulnerable witnesses. This witness is made to sit in the room meant for vulnerable witnesses with the supporting person Ms. Harneet Kaur and accused are also made to sit in the room meant for accused. So, that they may not see each other. Let, PW Rohit Kumar be examined as PW2.

At this stage, Id APP for the State has filed an application for making correction in the charge and submits that at the time of framing of charge on 16.02.2018 against accused Mohd Faishal, it is inadvertently mentioned in the charge that the other accused have caused bullet injuries to Deepak & Kaneta and committed murder of Deepak and submitted that since Deepak and Kaneta is the same person and Kaneta is the

alias name of Deepak. So, the rectification in the charge may be done to this effect. Copies of the application have been supplied to proxy counsel for accused Vikas and Himanshu and also counsel for the accused Faishal. They have stated at bar that they have no objection, if, the said rectification in the charge is done.

Since, perusal of the record reveals that on 16.02.2018, a charge u/s 109 r/w Sec. 302 of IPC was framed against accused Mohd. Faishal and at the time of framing of charge the words are written as under:

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"the other accused have caused bullet injuries to Deepak & Kaneta & committed murder of Deepak"

Whereas, Kaneta is the alias name of Deepak. So, the word "&" is deleted and "@" word is incorporated therein as this was a clerical mistake and as the Id counsels for the accused have no objected thereto and I have also put my sign.

Examination in chief of Master Rohit Kumar (PW2) has been recorded and he has been cross examined by Id. Counsel for the accused Mohd. Faishal. Whereas, Id proxy counsel for the accused Vikas and Himanshu refused to cross examine this witness and submitted that main counsel has gone to Karkardooma Court, so, his cross examination may be deferred for some other date.

On the other hand, PW2 Master Rohit Kumar submits that he is a student of 11th class and that in the month of February, 2019, he has to appear in his examination. He requests that he may not be called again and he may feel to be

harassed if called again. The mother of this witness has also come and she requests that her son Rohit Kumar may be not called again and his testimony may be recorded today and if the police would come again in their rented accommodation to serve the summons to Rohit, then, they may be ousted by their landlord.

Since, this is a murder case and child witness has come and at the time of previous call, Sh M. K. Sharma, Id. Counsel for accused Vikas and Himanshu had appeared, but, when, the child witness has come, the counsel for these accused is stated to have gone at Karkardooma court. It appears to the court that the counsel for these accused Vikas and Himanshu has deliberately gone away from this court, so that, this child witness may be harassed by recalling. So, taking into consideration the seriousness of the offence, the court has asked to Vikas and Himanshu whether

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legal aid counsel should be given to them and they have denied to take the services of the legal aid counsel and when, this court has also asked to accused Vikas and Himanshu whether they are ready to cross examine to this witness, they, also refused to cross examined this child witness. So, the malafide intention of accused Himanshu, Vikas and their counsel is clear, as the proxy counsel for these accused is also stubborn, as, he has stated that he will not cross examine this child witness, who is present today in the court nor this proxy counsel for these accused is ready to call to the main counsel for these accused. Even, mother of accused Vikas has come

present and on the request of the court, she has telephonically contacted to the main counsel for these two accused Himanshu and Vikas, who has told that the main counsel for these accused is not ready to come even in the after lunch session. So, the malafide intention of accused Himanshu, Vikas and their counsel is clear that they want to cause unnecessarily harassment to this child witness by way of recalling. Since, this child witness is a student of 11th class, he has to appear in his examination of 11th class in the next month. The Id. Counsel for the accused Vikas and Himanshu appears to have left this court deliberately. The accused Vikas and Himanshu are not ready to take service of legal aid counsel nor they are ready to cross examine this child witness and proxy counsel for these accused also not ready to cross examine the child witness. So, in the given circumstances, this court does not find any cogent ground for deferring the cross examination the child witness. So, the opportunity to accused Vikas and Himanshu to cross examine this child witness (PW2) is done Nil. As this court does not want to remain on the mercy of the negligent counsel who even does not take care that accused Vikas and Himanshu are in judicial custody and who wants to harass the child witness by recalling, of which, he has no right. Contd.

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The matter stands adjourned for evidence of the remaining prosecution witness on 25.03.2019.

PW Veerpal be summoned through IO/SHO for the next date of hearing.

(Pawan Kumar Matto)

**Special Judge (NDPS)/
Additional Sessions Judge (N-W)
Rohini Courts, Delhi.
31.01.2019.**