

SC 48/2020  
STATE  
Vs.  
AAS MOHAMMAD  
FIR No. 207 /2019

13.09.2021

Present : Ld. Substitute PP for the State.

Accused Aas Mohd. is present. He was the person who was arrested by the police and bailed out by the Court on regular bail.

There are other five accused persons namely Razia w/o Aas Mohammad, Rahis Mohammad s/o Md. Pyare, Dilshad s/o Md. Pyare, Kausar w/o Md. Dilshad and Nida w/o Rahis Mohammad. The final para of the charge sheet makes a very interested reading. I am quoting the same as here under :

*“From the investigation conducted so far statements recorded under Section 161 Cr.PC as well as 164 Cr.PC and the documentary evidence adduced during the investigation i.e. PM report, dying declaration of the deceased etc. there is sufficient evidence against the accused (1) Aas Mohd. S/o Mohd. Pyare, (2) Md. Dilshad s/o Md. Pyare, (3) Rahis Md. S/o Md. Pyare, (4) Razia w/o Aas Md., (5) Kausar w/o Md. Dilshad and (6) Nida w/o Rahis Md. in column no. 11 for the offence punishable under Section 302/34 IPC. Therefore, the present charge sheet has been prepared and the same is being forwarded to this Hon'ble Court for taking cognizance. However, in view of the statement of neighbours, CCTV footage and old matrimonial dispute, the accused Md. Dilshad s/o Md. Pyare, Rahis Md. S/o Md. Pyare, Razia w/o Aas Md., Kausar w/o Md. Dilshad and Nida w/o Rahis Md. have not been arrested in the case and they have been chargesheeted without affecting their arrest. The accused Aas Md. S/o Md. Pyare is in judicial custody.”*

Admittedly five persons were charge sheeted. They were named in para no.1, however they were not arrested.

IPC has no more a serious offence other than Section 302

IPC. It appears that IO is trying to sail in two boats. Firstly he chargesheeted all the accused persons holding that there is incriminating evidence against them and at the same time not arrested them which itself leaves a doubt as to the case qua them.

Without going into deep into the merits of the case at this juncture these circumstances appear to be irreconcilable at the first blush.

Issue notice to the 1<sup>st</sup> IO Kumar Jiweshwar to appear on 21.09.2021.

(SUMIT DASS)  
ASJ-04 + Spl. Judge (NDPS) South East District,  
Saket Court, New Delhi: 13.09.2021