

SC No.641/2022
State Vs. Tosim
FIR No. 517/2021
PS Sunlight Colony

13.12.2022

Present: Shri Salim Khan, learned Chief Public Prosecutor
for State.

Accused produced from JC.

Ms. Mehvish Rana, learned counsel for accused.

Heard arguments on charge.

The prosecution has filed chargesheet against the accused under Section 356/379/34 IPC and 25 Arms Act on the basis of which the learned Trial Court of MM had given charge to the accused under Section 356/379/34 IPC and 25 Arms Act. During trial, the complainant PW1 Sukhpal made statement that accused had taken out buttondar knife, on the point of knife demanded his mobile phone and he handed over the mobile phone to him as he got scared. On the basis of this statement, learned MM vide order dated 09.09.2022 has observed that as per statement of PW1 allegations attracting offence punishable under Section 397 IPC is made out which is triable by Sessions Court. Accordingly, the matter was put before this court and was self assigned.

The learned counsel for accused submits that in the FIR complainant PW1 has made allegations of snatching the phone against the other co-accused who could not be arrested by the police but while deposing before the court he had attributed all the role to this accused. He submits that the statement of PW1 is not trustworthy.

Complainant Sukhpal while deposing as PW1 has

stated that at the time of incident, two persons came from back side on bike, accused who was sitting on the back seat of the bike asked him to hand over the mobile phone to him. Accused had taken out buttondar knife and opened the same by pressing the button and thereafter he had handed over his mobile phone to him as he got scared. The necessary ingredients of the offence under Section 397 IPC are made out against the accused. There is recovery of buttondar knife from the accused.

Thereby, *prima facie* offence punishable under Section 397 IPC and under Sections 25/54/59 Arms Act is made out against the accused. Charge is accordingly framed separately to which accused pleaded not guilty and claimed trial.

Put up for prosecution evidence on 13.02.2013.

The witnesses mentioned at Serial No. 1, 5 and 6 in the list of witnesses along with the IO be summoned for the date fixed.

(SANJAY GARG-I)
Principal District & Sessions Judge
South East District, Saket Courts
New Delhi : 13.12.2022 (ar)