

SC 166/2023
STATE Vs. ASHISH@KALU
FIR No 330 /2022
PS (Pul Prahlad Pur)
12.07.2023

Present: Sh. Wasi-Ur- Rahman, Ld. Addl. PP for State.
Accused produced from JC
Sh. Vk. Pandey and Sh. Abhigyan, Ld. Counsel for
accused.

ORDER ON CHARGE

1. Arguments on point of charge heard.
2. Ld. Counsel for accused submitted that the police has wrongly charged the accused herein for the offence u/s 307 IPC. Ld. Counsel for accused further submitted that at the most an offence u/s 323 r/w 341 IPC ought to have been invoked. Ld. Counsel for accused submitted that a perusal of CCTV footage does not reveal the commission of the incident as narrated by the witnesses. It was also contended that both the friends of the victim ie the eye witnesses namely Sonu and Tohid have mentioned in the statement that they did not see the weapon of offence. Ld. Counsel also submitted that a perusal of the seizure memo of Knife would reveal that knife is about 1 foot long and thus it is highly implausible that the witnesses could not see such a long weapon at the time of commission of offence. Ld. Counsel also invited the court's attention to the statement of eye witnesses to contend that they were not sure of the weapon that was used. It was also contended that there was no blood

recovered on the spot. Thus, in view of the above, Ld. Counsel submitted that accused ought to be discharged.

3. *Per contra*, Ld. Addl PP for State invited the court's attention to MLC of the victim to contend that grievous injuries were repeatedly caused on the vital parts of the body and that too with a sharp weapon. Ld. Addl PP for State further contended that not only the injured, but there are two eye witnesses, who saw the incident. Under these circumstances, Ld. Addl PP for State contended that the police has rightly levelled allegations of 307 IPC qua accused Ashish @ Kalu.
4. Submissions heard.
5. A perusal of record reveals that the injured Yogesh has categorically narrated the sequence of events and has also specified the fact that he was attacked and stabbed several times by the accused Ashish @ Kalu. Moreover, his statement is prima facie corroborated by a perusal of the statement of two of his friends namely Tohid and Sonu, who also narrated the same sequence of events. Further a perusal of MLC would reveal that there are injuries on the vital parts of the body of victim.
6. Particulars of injuries are hereunder:

*WOUND 1 INCISED WOUND INCISED
WOUND OVER MEDICAL ASPECT OF RT ARM
4x2 Cm WITH ACTIVE BLEEDING WITH
DISTAL PULSES ABSENT
WOUND 2 INCISED WOULD TWO INCISED
WOUND OVER LATERAL ASPECT OF LT
CHEST SIZE 2x1 CM, 2x2 CM
WOUND 3 INCISED WOULD TWO INCISED
WOULD OVER LT ILIAC REGION 2x1 CM, 1x1
CM
WOUND 4 ABRASION ABRASION OVER LT
ANT CHEST WALL.”*

7. Further, a perusal of record reveals that a knife almost 1 foot long which was used for the commission of offence and thus Section 25 of Arms Act was also invoked and in view of the above, this Court is of the opinion that prima facie **u/s 307 IPC and 25 Arms Act are squarely made out qua the applicant/accused Ashish @ Kalu**. Charges be framed accordingly.
8. Put up for **PE** on **18.10.2023**.
9. **PW/Victim/injured Yogesh and PW Tohid s/o Sabbir be summoned** through IO/SHO concerned for the next date of hearing.

(ARUL VARMA)
ASJ-04 + Spl. Judge (NDPS) South East District,
Saket Court, New Delhi: 12.07.2023