

SC No.17/2023

State Vs. Sayed Mohd. Umar

03.05.2023

Present : Sh. Rakesh Kumar Mehta, Ld. Chief PP for the State.

Accused is present on bail with Ld. Counsel Sh. Akhil Anand.

I have heard Ld. Chief PP for the State as well as Ld. Counsel for the accused on the point of charge, and perused the chargesheet, the statements recorded under Section 161 Cr.PC and other materials available on record.

Ld. Counsel for accused submits that the accused has been falsely implicated in this case as he was not present at the spot on the day of alleged incident. It is further submitted that as per the chargesheet the time of the alleged incident is 10:40 am whereas the MLC of the victim was conducted on 10:30 am i.e. prior to happening of the alleged incident.

On the other hand, Ld. Chief PP for the State has argued that allegations against the accused are not general but specific and prima facie case is made out against him as per the FIR and statement of complainant/victim for offences U/s 308 IPC. With respect to timing of the MLC of the victim prior to happening of the incident, it is submitted by Ld. Chief PP for the State that it is a triable issue and can be decided only after appreciation of evidence.

It is a settled law that at the stage of consideration of

framing of charge, the Court is not required to meticulously judge the truth, veracity and effect of evidence which the prosecution proposes to adduce nor weight is attached to the probable defence of the accused. The Court is not required to assess if there is sufficient ground for conviction or whether the trial is definitely going to end in the conviction of the accused. It is only to be considered if there is a strong suspicion which leads the Court to think that there are grounds for presumption that the accused had committed an offence.

In view of the above arguments and also the statement of the complainant/victim and other materials available on record, prima facie, charge under Section U/s 308 IPC is made out against the accused and as such, charge is accordingly framed. The accused has pleaded not guilty to the charge and claimed trial.

Put up for PE on **07.06.2023**.

Let the complainant/victim be summoned for next date of hearing.

(SHAIL JAIN)
Principal District & Sessions Judge
Shahdara, KKD Delhi/03.05.2023