

IN THE COURT OF MS. VRINDA KUMARI,
ADDITIONAL SESSIONS JUDGE-02, SOUTH DISTRICT,
SAKET COURTS, NEW DELHI

CNR NO. DLST01-003621-2022

SC NO. 174/2022

FIR NO. 678/2021

PS Ambedkar Nagar

IN THE MATTER OF

State

Versus

**1. Vicky
S/o Sh. Rajpal
R/o G-241, Dakshinpuri,
Delhi**

**2. Amit @ Sunny
S/o Sh. Anoop Singh
R/o G-241, Dakshinpuri,
Delhi**

..... Accused

ORDER ON CHARGE

1. Vide this Order, I shall decide the point of charge in the present case.

2. I have heard detailed arguments and have carefully perused the record.

3. Contention of Ld. Counsel for the applicant-accused is that in GD No. 70A it was informed, “*Caller ne bataya ki yaha Vicky Rajpal name ke ladke ne mere bhai aur father ke chaku maar diya aur goli bhi chalayi h need help Caller bol raha h ki police a gayi h CAT ko by phone bataya jayega*”. It has been argued that first the complainant also took the name of one Rahul also as one of the assailants but later withdrew this name. It is further submitted that a false information was given to the police and, therefore, the complainant in the present case cannot be believed. It is further submitted that injuries have been caused on fingers and hands of the injured persons. No vital part was injured and, therefore, Section 307 IPC cannot be invoked. It is submitted that the CCTV footage would show that injured Manish was himself carrying a knife and he ran from the spot. CCTV footage would also show that accused Vicky was beaten up by the complainant party. It is further submitted that accused Amit had merely pelted stones upon the complainant party to save accused Vicky from their clutches. It is further submitted that seizure memo vide DD No. 70A is dated 03.12.2021 whereas the incident is dated 04.12.2021. It is submitted that there is no prior complaint of the complainant on record to show that injured Manish had been threatened by the accused persons.

4. Video/CCTV footage was played in the Court during the course of arguments on various dates. IO submitted that CCTV

footage was not very clear, however, at 17:27:06 hrs, injured Manish can be seen standing at the spot. Accused Vicky comes running towards Manish. Injured Manish ran away from him. Two to three persons intercept them and there is a scuffle. IO submitted that at this time, injured Manish returned to the spot. The accused Vicky was carrying a knife and he injured the complainant party during the scuffle. Co-accused Amit who was earlier not visible in the CCTV footage later pelted stones at the complainant party.

5. Ld. Addl. PP for State has argued that faces are not clear in the CCTV footage. There is a specific allegation against both the accused by the complainant. It is submitted that motive of the accused persons was clear. Injured Manish was an eye witness in a murder case bearing FIR No. 500/2021 and for this reason, present assault was orchestrated.

6. I have considered the rival contentions.

7. There is a specific allegation in the chargesheet that on 04.12.2021 at around 9:30 PM, complainant Rajesh Chauhan was standing in the street outside his house alongwith his son Manish when Vicky came running towards them with co-accused Amit @ Sunny. While accused Vicky assaulted the complainant and Manish with knife, co-accused Amit @ Sunny pelted stones on them. When Sh. Ram Kumar, father of the complainant and Rohit, younger son of the complainant came there to intervene, accused Vicky assaulted

him also. There is also a specific allegation that the assault was carried out as injured Manish was a material witness in a murder case in FIR No. 500/2021. During the course of arguments, presence of accused Vicky at the spot has not been disputed.

8. The weapon of offence i.e. knife was recovered at the behest of accused Vicky on 06.12.2021. The chargesheet discloses that both the accused, namely, Vicky and Amit @ Sunny acted in furtherance of their common intention.

9. The MLCs of the injured persons i.e. Rajesh Chauhan, Manish, Rohit and Ram Kumar show that complainant Rajesh Chauhan suffered grievous blunt injury; injured Manish suffered grievous sharp injury; injured Rohit suffered simple blunt injury and injured Ram Kumar suffered simple sharp injury. These MLCs corroborate the allegations of the prosecution. In a case u/s 307 IPC, nature of injuries is not material. It is the intention of the assailants which is material. The specific allegation that the accused persons intended to murder Manish, a key witness in a murder trial cannot be ignored.

10. All the contentions of Ld. Counsel for the accused persons are a matter of trial. ***Prima facie, there is sufficient material on record to frame charge against the accused persons as follows:***

- (i) *Accused Vicky and accused Amit @ Sunny : offence punishable u/s 307/34 IPC and 195A/34 IPC*
- (ii) *Accused Vicky : offence punishable u/s 307 IPC.*

**PRONOUNCED IN OPEN COURT ON THIS 15th DAY OF
NOVEMBER 2022**

**(Vrinda Kumari)
ASJ-02, South District
Saket Courts, New Delhi.**