

SC No.7703/2016
FIR No. 420/16
PS. Malviya Nagar
State Vs. Mumtaz etc.

08.11.2017

Present : Sh.R.K. Mehta, Addl.Public Prosecutor for State.
Shri Rajeev Jain, Legal Aid Counsel for accused Mumtaz
Shri LK Verma, counsel for accused Mumtaz
Ms. Seema Misral, Legal Aid Counsel for accused Hafizullah
Counsel for accused Abdullah
Accused Mumtaz and Hafizullah produced from JC
Accused Abdullah on bail.

Since accused Mumtaz has engaged a private counsel, hence Shri Rajeev Jain Ld. LAC is discharged.

The counsel on behalf of accused Hafizullah raises arguments that accused Hafizullah was not arrested at the spot nor he was known to the complainant despite that no judicial TIP was conducted. On the other hand IO says that complainant in his complaint has named the said accused, therefore no judicial TIP was conducted.

I have carefully perused the complaint wherein the complainant has named the person, who absconded from the spot, though he later further stated that name of said person was disclosed even by the co-accused. Considering said position on record, non conduct of judicial TIP cannot be a ground to discharge said accused. In my opinion material on record is sufficient to frame charges against accused Hafizullah and Mumtaz for the offence punishable u/s 302/34 IPC.

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Ld. Addl. PP points out that against accused Abdullah in addition to Section 212 IPC & section 14 of Foreigners Act, one more section 474 IPC is also attracted because he was found in possession of a forged election identity card which was seized by the police and is lying on record.

I have perused the record which shows that upon inquiry regarding said election ID card from the election office it was revealed that the said ID card was issued in the name of one Ali Mohammad s/o Noor Mohammad and on the photograph of said person the photograph of accused Abdullah was affixed and a photocopy of the same was taken and got laminated and said ID card was used by accused Abdullah for seeking his stay in the hotel where co-accused Hafizullah also stayed with him after commission of the offence. Considering said material on record, I am of the view that a prima facie case for offences punishable u/s 212/474 IPC & section 14 of Foreigners Act is also made out against accused Abdullah, as he being an Afghani national was staying in India unauthorisedly without any valid document. As per record, even accused Hafizullah was also staying unauthorisedly without any valid passport or visa hence, a prima facie case of section 14 of Foreigners Act is also made out against accused Hafizullah in addition to offence u/s 302/34 IPC.

Accordingly charge for the offence u/s 302/34 IPC is made against accused Mumtaz and Hafizullah and in addition charge for the offence u/s 14 Foreigners Act is also made out

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against Hafizullah. Charge for the offence u/s 212/474 IPC and 14 Foreigners Act is made out against accused Abdullah. Charges framed accordingly to which accused persons pleaded not guilty and claimed trial.

Put up for PE on 12.12.2017. Let Complainant be summoned for the next date.

Counsel for the accused Hafizullah requests for a translator as she says that accused Hafizullah does not understand either Hindi or English as he is a Afghani national. Let Secretary Delhi Legal Service Authority be sent letter for providing translator for assisting her in this case as case is now fixed for PE.

(Sunena Sharma)
Addl. Sessions Judge-03(S)
Saket Courts, New Delhi/08.11.2017