

SC No.407/2018
FIR No. 650/2017
PS. Ambedkar Nagar
State Vs. Dheeraj @ Dheeru & ors.

07.08.2019

Present : Sh. Pravin Rahul, Ld. Addl. P.P. for the State.

Accused Aman is PO

Accused Dheeraj present on bail alongwith counsel

Counsel for accused Abhishek.

Accused Abhishek produced through video conferencing.

Ld. Counsel for accused has prayed for discharge on the ground that in the subsequent statement of victim Yogesh recorded u/s 164 Cr.PC he has exonerated all the accused and raised allegations against one Neeraj, who is not even the accused in the present chargesheet. It is further stated that even in supplementary statement u/s 161 Cr.PC recorded on 13.07.2018 the victim has not uttered a word against the accused persons.

Perusal of the chargesheet shows that FIR was registered on the statement of the victim Yogesh on 23.12.2017. The alleged incident occurred on 22.12.2017 at about 8.45pm. Record further shows that DD regarding alleged incident was received at 9.10pm on the very same date. The victim was declared fit for statement at 2.15am on 23.12.2017 and thereafter, his statement was recorded on which the FIR was lodged. In said statement dated 23.12.2017, the victim has given a detailed account of the alleged incident and specifically named all the accused persons with their parentage and addresses and also attributed them specific roles. In his statement u/s 164 Cr.PC which was recorded on 15.03.2018 i.e. after gap of about three months from the date of incident victim has come up with entirely different story wherein he exonerated all the accused named by him in the FIR and put entire blame on some person namely Neeraj and in his subsequent statement recorded on 13.7.2018 he stated that he did not know the parentage of said person nor his address whereas, in his 164 statement, he had stated that Neeraj was his school time friend.

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The aforementioned facts and circumstances raises a serious doubt on the veracity of victim's statement recorded u/s 164 Cr.PC. In above circumstances, the court at this stage cannot believe the statement of 164 Cr.PC and discard the statement on which the FIR was initially lodged specially in the light of the facts that there is other ample corroborative evidence on record in the form of recovery of arms and used cartridge, FSL report and MLC of the victim.

In view of the aforementioned material, I am of the view that there is a prima facie case for framing of charge u/s 307/34 IPC against the accused. In addition, section 25/27 Arms Act against accused Dheeraj @ Dhiru and u/s 174 A Cr.PC against accused Abhishek @ Bhola.

Since in this case accused Abhishek is in JC and he has been today produced through video conferencing, the charge shall be formally framed on the next date. Accused Abhishek be physically produced from JC on the next date.

Case is adjourned for framing of charge on **21.10.2019.**

(Sunena Sharma)
Addl. Sessions Judge-03(South)
Saket Courts/New Delhi 07.08.2019