

**IN THE COURT OF SH. RAJESH KUMAR SINGH
SPECIAL JUDGE-NDPS/ASJ (SOUTH),
SAKET COURTS, NEW DELHI**

**SC 687/2018
STATE Vs. VINEET VERMA ETC**

FIR No. 429/2018

PS-Mehrauli

31.01.2019

Present :- Mr. F.M. Ansari, Ld. Addl. PP for State.

Accused Vineet Verma produced from JC (Accused Vineet Verma has been granted bail but he has not furnished bail bond as he is in JC in some other case.)

Accused Amit in person on bail.

Mr. C.M. Arif, Ld. Counsel for accused Amit.

Mr. Vinod Kumar, Ld. Counsel for accused Vineet Verma.

Order On Charge

1. Charge sheet has been filed against both accused for the offences u/s. 186/353/307/34 IPC and section 25/27/59 Arms Act. In brief the allegation is that on 11.07.2018 the two accused persons were riding motorcycle no. DL 5SAT 1320. they were intercepted by the police officers. ASI Jitender and Ct. Naveen hit the motorcycle of the accused persons due to which they fell down. They took off their helmets and threw them on the police officers. The pillion rider fired on ASI Jitender with his pistol. The bullet passed near the left shoulder

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of ASI Jitender. The other police officers also charged towards them. On finding them being cornered, the person who was driving the motorcycle also took out a pistol and fired two rounds towards the police. Thereafter, he jumped the road divider and ran towards the colony. SI Rakesh, Ct. Kamaldeep, HC Ashok and Ct. Narender chased him.

2. The pillion rider was overpowered by ASI Jitender and Ct. Naveen. They snatched the pistol from his hand. He disclosed his name as Vineet Verma S/o Sh. Suresh Chand Verma. HC Ashok and others returned and informed that the associate of the accused Vineet Verma had snatched motorcycle from a person and had fled towards Lado Sarai. On checking the pistol of Vineet Verma, two live cartridges were found. One fired round was also found near their motorcycle. On the personal search of Vineet Verma a broken chain of yellow metal was recovered. The accused disclosed that he had snatched the chain at Sainik Farms soon before being apprehended. On inquiry, the accused disclosed that the motorcycle being used by him and his associate was a stolen

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motorcycle which he had purchased from a thief. The original number of the motorcycle was found to be DL 5SAZ 7241. The accused were using fake number plate of DL 5SAT 1320. Name of the associate of the accused Vineet Verma was disclosed as Amit S/o Sh. Kalyan. FIR was registered u/s. 186/353/307/482/34 IPC r/w Section 25/27/59 Arms Act. Further investigation was handed over to SI Rajeev Kumar. Accused Vineet was arrested. On search of the house of the accused Vineet, six yellow metal chains were recovered. The accused disclosed that he had snatched those chains with the help of his associate Amit.

3. On 27.07.2018, the accused Amit @ Sonu surrendered before the Court and his PC remand was obtained. The Amit @ Sonu got recovered his pistol from his house. On checking, the pistol was found to contain two live cartridges. Complaint u/s. 195 Cr.P.C. has also been filed by the ACP, Mehrauli Sub-Division.

4. Ld. Counsel for accused Vineet Kumar submits that at this stage, he does not want to submit any argument and

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appropriate charge may be framed. Ld. Counsel for the accused Amit @ Sonu submits that there is no statement of any police officer on record to the effect that after the surrender and arrest of the accused Amit @ Sonu in the Court, he was identified by them as the same person who had fired on them and had fled from the spot leaving the accused Vineet Verma behind. Ld. Counsel further submits that the accused Amit @ Sonu was produced from Jail in muffled face but the IO stated before the Ld. MM that he did not want to get his TIP done.

5. Ld. Addl. PP submits that the accused @ Sonu was seen by the police officers at the spot. His name and address were disclosed by the co-accused Vineet Verma. Raid was conducted but the accused Amit was not found. The accused Vineet Verma had also identified him after seeing the dossier. Ld. Counsel for the accused submits that identification by the co-accused is not to be considered. Ld. Counsel further submits that the person from the accused allegedly robbed the motorcycle at CDR Chowk to flee towards Lado Sarai, did not identify him. Police had registered the case u/s. 392/397 IPC

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but Ld. MM was of the opinion that in facts of the case, prima facie offence u/s. 411 IPC only was made out and the accused compounded the matter u/s. 411 IPC vide FIR No. 428/2018, PS-Mehrauli with him only to avoid the cost of litigation. Ld. Counsel has shown copy of order dated 31.10.2018 passed by the Court of Ld. MM-05. Ld. Counsel further submits that at the most charge u/s. 25 Arms Act is only made out against the accused Amit for the alleged recovery of pistol and two live cartridges.

6. I have considered the arguments and I have perused the record. It is not mandatory to record supplementary statement or the statements u/s. 161 Cr.P.C. The IO SI Rajiv as well as ASI Jitender were present before the Court of Ld. MM when the accused Amit @ Sonu was taken on PC. Ld. Counsel for the accused has submitted that they stated they did not require their TIP. They already seen him at the spot, the co-accused disclosed his name and address and also identified him from the dossier. Therefore, the failure of the IO to specifically write that the police officers identified the

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accused Amit @ Sonu as the same person who had fled from the spot on 11.07.2018 is not material at this stage. At the stage of framing of charge, only prima facie view is to be taken.

7. By throwing their helmets on the police officers, firing upon them and resisting the apprehension, both accused persons committed offence **u/s. 186 IPC**. Both of them threw their helmets on the police officers and fired on them from pistols. The assault was committed to deter the public servant (Police officers) from discharging their duty. Thereby both accused persons committed offence **u/s. 353 IPC**. The accused Vineet Verma fired on ASI Jitender on being exhorted by the co-accused Amit to kill them. The bullet missed ASI Jitender. The accused Amit @ Sonu also fired two rounds towards the police officers. He had already exhorted the co-accused to kill the police officers. Thereby the accused Amit @ Sonu also committed offence **u/s. 307 IPC**. Both accused were using stolen motorcycle with a fake number plate. In the charge sheet section 411 IPC has not been mentioned for possession and use of the stolen motorcycle which was

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recovered at the spot with a fake number plat. Ld. Counsel for both the accused submit that in respect of theft of the motorcycle, FIR was registered in PS-Gokal Puri and the same has been compounded by the accused Vineet Verma. Police has also not recorded the statement of the owner of the motorcycle in this case which may justify framing of the charge u/s. 411 IPC in this case. However, by using the fake number plate, both accused persons committed offence **u/s. 482 IPC**. On 11.07.2018, both of them used firearms without license and thereby they committed offence punishable **u/s. 27 Arms Act**. For framing the charge u/s. 27 Arms Act which involves violation of Section 7 of the Arms Act, sanction u/s. 39 Arms Act is not required. Therefore, charge is liable to be framed against both of them u/s 27 Arms Act also. The FSL report and the sanction u/s. 39 Arms Act for the offence u/s. 25 Arms Act are still awaited and therefore, charge cannot be framed against the accused u/s. 25 Arms Act. All these offences were committed by them in furtherance of their common intention and therefore section **34 IPC** will also apply.

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8. In view of the above discussion, charge is framed against both accused persons u/s. **186/353/307/482/34 IPC** r/w **section 27 Arms Act** and **34 IPC** to which they plead not guilty and claim trial.

List the matter on **23rd** and **30th March 2019** for P.E.

(Rajesh Kumar Singh)
Special Judge-NDPS/ASJ(South)
Saket Courts/31.01.2019