

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

SC NO. 450/2022
FIR NO. 327/2018
PS Fatehpur Beri

IN THE MATTER OF

State

Versus

- 1. Pawan Chaudhary**
S/o Sh. Bharam Singh
R/o H. No. 39, Ghora Mohalla,
Aya Nagar, Fatehpur Beri, Delhi

- 2. Praveen @ Vinod @ Titu Yadav**
S/o Sh. Virender Singh
R/o H.No. 37, Phase-1, Aya Nagar, New Delhi,
Permanent Address: Village Chapari,
P.O. Kosma Musalmeen, Distt. Mainpuri,
U.P. & village Maikhas, P.S. Sikohabad,
Distt. Firozabad, U.P. 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. Chargesheet discloses that Complainant Jasbir Singh Deswal is a supervisor at K.N. Traders Company. He also works as a property dealer. The office of the complainant is at C-1/801, Bandh Road, Aaya Nagar, New Delhi. On 12.08.2008 at 10:15 AM, he was present at his office at Aaya Nagar and was carrying cash amount of Rs. 1 lakh which was to be released as salaries to the workers at the company. While the complainant was present in his office, four boys forcibly entered there. Complainant knew two of them. They are accused Pawan Chaudhary and accused Praveen @ Titu. Both of them were armed with iron rods when they forcibly entered the office of the complainant. The complainant did not know the other two accomplices of the accused persons.

4. It has been specifically alleged that after entering the office of the complainant forcibly, both Praveen @ Titu and Pawan Chaudhary started beating the complainant with iron rods without any provocation. Accused Praveen @ Titu assaulted the complainant on his head with iron rod. Since he dodged the blow, the rod hit him on his back. Accused Pawan hit the complainant with a rod at his right ear. The complainant protected his head with his hands. The assailants thrashed the complainant and gave him fist blows and kick blows. When the complainant tried to run, the two accomplices of accused Praveen @ Titu and Pawan Chaudhary forcibly restrained him at the door and did not let the complainant to go out. They gave fist blows and kick blows to the complainant. One of

those boys also thrashed the complainant with belt.

5. Accused Praveen @ Titu snatched the cash amount of Rs. 1 lakh on gun point. When complainant again tried to escape, the assailants pushed the complainant on ground and thrashed him with iron rods, belt, fist blows and kick blows. They also threatened him to either leave the work of taking care of the land of Karan Luthra or they would shoot him dead. The complainant then shouted for help on hearing which friend of the complainant, namely, Satish R/o Ghitorni and office boy Avdhesh reached there and saved the complainant. Police was also called.

6. The MLC and medical documents of the injured/complainant Jasbir Singh Deswal show that he suffered grievous blunt injury on the left side parietal region. He also suffered trauma to ear.

7. The statements u/s 161 Cr.P.C. of PW Satish and PW Avdhesh as also the MLC of the complainant corroborate the case of the prosecution. Proceedings u/s 82 Cr.P.C. were also initiated against accused Praveen @ Titu and he was declared a proclaimed offender in the present case on 19.02.2021 by Ld. MM-01/ South / Saket Courts.

8. The contentions of Ld. Counsel for the accused persons regarding false implication, there being improvements and

inconsistencies in the statements of the witnesses are a matter of trial. At this stage, a *prima facie* case giving rise to grave suspicion is required to be seen.

9. In **Sajjan Kumar Vs. CBI (2010) 9 SCC 368**, Hon'ble Supreme Court of India has held as follows:

“17) Exercise of jurisdiction under Sections 227 & 228 of Cr.P.C.

On consideration of the authorities about the scope of Section 227 and 228 of the Code, the following principles emerge:-

(i) The Judge while considering the question of framing the charges under Section 227 of the Cr.P.C. has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.

(ii) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained, the Court will be fully justified in framing a charge and proceeding with the trial.

(iii) The Court cannot act merely as a Post Office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and

the documents produced before the Court, any basic infirmities etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the Court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the Court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of Sections 227 and 228, the Court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value discloses the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.”

10. In view of above discussion, there is sufficient material on record to frame charge against the accused persons as follows:

- (I) Both the accused : Offences punishable u/s (i) 308/34 IPC, (ii) 452/34 IPC, (iii) 341/34 IPC, (iv) 394/34 IPC and (v) 506/34 IPC;**
- (II) Accused Praveen @ Titu: Offence punishable u/s (i) 174A IPC and (ii) 397 IPC;**
- (III) Accused Pawan Chaudhary : Offence punishable u/s 397 IPC**

**PRONOUNCED IN OPEN COURT ON THIS 6th DAY OF
FEBRUARY 2023**

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