

**IN THE COURT OF MS. MONIKA SAROHA,  
ADDITIONAL SESSIONS JUDGE (SOUTH)  
SAKET COURT COMPLEX, NEW DELHI**

SC No. 366/2021

State Vs Mahesh & Ors.

FIR No. 146/2021

PS Ambedkar Nagar

06.09.2022

Present :- Ld. Substitute APP for the State.

Accused Mahesh, Raja, Sonu, Sumit, Aman and  
Govind produced from JC.

Sh. Anil Tomar, Ld. Counsel for accused Mahesh,

Sh. Anil Basoya, Ld. Counsel for accused Raja, Sh.

Nikhil Kharbanda, Ld. Counsel for accused Sumit,

Sh. Ayub Ahmed, Ld. Counsel for accused Aman.

Inspector Vinay Kumar in person.

Heard arguments on charge as advanced by all the  
Counsels present and by Ld. Substitute APP for State. The  
Investigating Officer has also provided due assistance to the  
Court and has answered the specific queries regarding role of  
each accused and the incriminating material against them.

Detailed arguments have been advanced by each Ld.  
Counsel. The entire charge-sheet and documents filed with it  
have been carefully considered.

The role / material against each of the accused is  
mentioned below and the findings regarding framing of charge /  
discharge is also mentioned

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1) Accused Govind @ Danny:-

The eye witness Sunny has deposed in his statement u/s 161 Cr.P.C. dated 24.03.2021 that he saw this accused alongwith other accused Shahrukh firing gun shots at the deceased Kunal while sitting as a pillion rider on a motorcycle bearing No. ..6303. This statement alongwith the MLC of the injured, the photographs of the spot, statement of the other official witnesses, are sufficient to charge this accused with offence u/s 120B/109/302 IPC and Section 27 Arms Act. Charge framed accordingly.

2) Accused Aman:-

The eye witness Sunny has also deposed in his statement u/s 161 Cr.P.C. that he saw this accused drive the two wheeler on which the co-accused Danny who fired the gun shots at the deceased Kunal was sitting as a pillion rider. This statement alongwith the MLC of the injured, the photographs of the spot, statement of the other official witnesses, are sufficient to charge this accused with offence u/s 120B /109/302 IPC. Charge framed accordingly.

3) Accused Sonu Kumar

The eye witness Sunny has also deposed in his statement u/s 161 Cr.PC that he saw this accused drive the two

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wheeler on which the co-accused Shahrukh who fired the gun shots at the deceased Kunal was sitting as a pillion rider. This statement alongwith the MLC of the injured, the photographs of the spot, statement of the other official witnesses, are sufficient to charge this accused with offence u/s 120B /109/302 IPC. Charge framed accordingly.

4) Accused Raja

It is in the statement of the witness Sagar u/s 161 Cr.P.C. recorded on 24.03.2021 that a few days before the incident, this accused had threatened the deceased Kunal in the presence of this witness that since he refused to pay money to him, he will get him eliminated from co-accused Shahrukh. This threat by accused Raja soon materialized on the day of the incident when gunshots were fired at the deceased Kunal. This statement alongwith other material filed with the charge-sheet links this accused with the conspiracy to commit this offence. This also raises grave suspicion regarding the role of this accused in abetting the offence of murder of Kunal. Accordingly, the material on record is sufficient to charge this accused with offence u/s 302/120B/109 IPC. Charge framed accordingly.

5) Accused Mahesh

The allegation against this accused is that he entered

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into a criminal conspiracy with the co-accused to kill the deceased Kunal. The only material against this accused is that his phone location is of the same tower as that of the main accused Sharukh and Govinda @ Danny. This accused Mahesh is a resident of Madangir only and therefore merely because his location as per the mobile tower location is of the area of Madangir the same cannot be said to be an adverse evidence against him. There is no other incriminating material to show any act by this accused. Thus, the material on record is insufficient to frame charges against this accused. This accused is accordingly discharged.

6) Accused Sumit:-

There is no material on record in the entire charge-sheet or in the documents filed with the charge-sheet to show the involvement of this accused in the offence. There is no material to show any covert or overt act by this accused in the entire sequence leading to the incident of the victim shot dead. There are no call details between this accused and the co-accused Shahrukh or any other co-accused. There is only one statement by the eyewitness Sunny that after the incident he saw this accused Sumit also running away from the spot. Even assuming for a moment that this statement is absolutely correct even then the mere act of running away from spot where several

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gun shots had just been fired cannot be said to be sufficient to even point the needle of suspicion towards this accused. There is no material to show any motive for this accused to be involved in the conspiracy to kill the deceased. There is no material to show that he was anyhow in contact with the other co-accused or anyone else soon before the incident while being present at the spot. Thus, the material on record is insufficient to frame charges against this accused. This accused is accordingly discharged.

**Accused Mahesh and Sumit be released from jail if not required in any other matter.**

To come up for PE on **29.11.2022**.

Copy of the Order be sent to the Jail Superintendent concerned.

(Monika Saroha)  
Special Judge-NDPS/ASJ (South)  
Saket Courts/06.09.2022