

SC 366/2021
STATE Vs. MAHESH AND ORS.
FIR No. 146/2021
PS-Ambedkar Nagar

29.08.2022

Present :- Mr. Nishchal Singh, Ld. Addl. PP for State.
Accused Ishaq, Shabana and Farah on bail.
Remaining accused produced from JC.
Sh. Abhay Kumar, Ld. Counsel for accused Farah.
Sh. Anil Tomar, Ld. Counsel for accused Mahesh.
Sh. Nikhil Kharbanda, Ld. Counsel for accused Sumit.
Sh. Anil Basoya, Ld. Counsel for accused Raja.
Sh. MM Khan, ld. Counsel for accused Ishaq.
Sh. Ayub Ahmed, Ld. Counsel for accused Aman. V/L filed.

Heard arguments on charge as advanced by Ld. Addl. PP and Ld. Counsels for accused Farah, Shabana and Ishaq.

Coming first to the aspect of framing of charge against accused Farah, Shabana and Ishaq. All these three accused have been chargesheeted for offence u/s 212/225 IPC. The material allegations against these accused are that on 14.04.2021, all of them were inside one house in which Shahrukh was also present and despite repeated asking of the police officials they did not open the door in time and the police officials who were standing outside the door could hear that these three

persons were asking the accused Shahrukh to run away. In support of this allegation, there are available on record, statement u/s 161 Cr.PC of Ct. Arvind, one Vandana and one Jagdish Sharma. The statements of all these three witnesses have been carefully perused. There is nothing in the statements of any of these three persons or even otherwise on the file to even prima facie show the commission of offence u/s 212 /225 by these accused.

According to the prosecution, they received information that accused Shahrukh is at house no. B/5, 177, First Floor, Lalita Park, Laxmi Nagar, upon which the police officials reached there and also asked one public person Jagdish Sharma to join them. Thereafter, while the police officers directed for the door of the abovesaid house to be opened, the door was not immediately opened but they could hear, some people saying “*Shahrukh bhag jaa*”. Later, when the door was opened, these three accused Ishaq, Farah and Shabana were found inside that room. These statement of these witnesses, even if taken on their face value are grossly insufficient to charge these accused for any offence and proceed against them.

There is no material on record to show that :-

- 1) anyone saw the accused Shahrukh enter the above said house.
- 2) anyone saw the accused Shahrukh escape from the above said house.
- 3) the mobile phone of accused Shahrukh was being used from the above said house.

4) that the above said house had multiple doors or balcony / large windows to allow the accused to escape. No plan of this house / photographs of this house are on record.

5) any of the witnesses regarding this incident had earlier interacted with these accused and therefore, were in a position to identify their voice.

Thus, there is nothing on record to suspect that these accused had harboured the co-accused or created any obstruction in his apprehension. Accordingly, **these accused namely Ishaq, Farah and Shabana are discharged.**

Remaining Ld. Counsels for the remaining accused have sought more time to advance arguments on charge. Further Ld. Addl. PP also submits that as far as the remaining accused are concerned, specially accused Sumit, Raja and Mahesh, he needs the assistance of the IO.

Issue notice to the IO for the next date of hearing.

Ld. Addl. PP / IO to satisfy the court regarding the incriminating material on record against accused Sumit, Raja and Mahesh.

Ld. Counsel for accused Raja seeks permission to withdraw the bail application of accused Raja. His statement to this effect recorded

separately. In view of the same, the bail application of accused Raja is dismissed as withdrawn with liberty to file afresh.

To come up on 06.09.2022.

(Monika Saroha)
Special Judge-NDPS/ASJ (South)
Saket Courts/29.08.2022

At this stage, it is informed by the Reader, inadvertently wrong date has been mentioned on the warrants of the accused. The accused have now left the lockup also. Issue production warrants of the accused for 06.09.2022.

Reader to also inform the Ld. Counsels for all the remaining accused through telephone / email to avoid any confusion on the date.

(Monika Saroha)
Special Judge-NDPS/ASJ (South)
Saket Courts/29.08.2022