

SC no. 114/24
State Vs. Firoz @ Bona Etc.
FIR no. 109/24
PS: Shastri Park

21-10-2024

Present: Sh. Pramod Kumar, Ld. Sub. Addl. PP for State
All accused produced from JC
Sh. R.K. Kochar, advocate for accused persons

It is submitted by Ld. Counsel for accused persons that accused have been falsely implicated in this case.

On the other hand, Ld. Sub. Addl. PP for State has submitted that at this stage, only material supplied along with the chargesheet has to be considered and as per facts stated in the chargesheet, prima facie, there is sufficient material on record to indicate commission of offence punishable u/s 307/392/397/411/34 IPC and u/s 25/27 of Arms Act against the accused persons.

It is always to be remembered that all the stage of framing charges, evidence of prosecution has not yet commenced. Accordingly, only the sufficiency of ground of proceedings against the accused on a general consideration of materials placed before the court by the investigating police officer are to be considered. Truth, veracity and effect of the evidence which the prosecution proposes to adduce are not to be meticulously judged. Same standard in appreciation of evidence as would be applied at trial to find whether accused is guilty is not exactly to be applied at the stage of consideration of framing a charge. At that stage even a very strong suspicion presumptive opinion as to

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existence of factual ingredients constituting the offence alleged, may justify the framing of charge against the accused in respect of the commission of that offence.

Further, it is also settled law that at the stage of framing of charge, only the police report as referred to in Section 173 Cr.P.C. is required to be referred to. This aspect of the law has been adverted to in **State Anti Corruption Bureau, Hyderabad and Another V.P. Suryaprakasam; 1999 SCC (CrI.), 373** where considering the scope of Sections 239 and 240 of the Cr.P.C., it was held that, "*at the time of framing of charge, what the trial court is required to, and can consider are only the police report referred to under Section 173 of the Code and the documents sent with it*". This position of law was reiterated by a three Judge Bench of the Apex Court in the case of **State of Orissa Vs. Debendra Nath Padhi AIR 2005 SC 359.**

Therefore, what is crystal clear is that at the stage of the framing of charge, the Court is not at all to look into the possible defences of the accused or the merits of the defences likely to be taken up the accused. This aspect of framing of charge is to be considered solely from the point of view of police report as referred to in Section 173 Cr.P.C.

On the basis of above-mentioned findings and the documents annexed with the charge-sheet, this court is of the opinion that prima-facie there is sufficient material on record to frame charges against the accused persons Faizal @ Saud and Bilal @ Fahim for the offence punishable u/s 392/34 and 397 of IPC; u/s 307/34 against accused Faisal @ Saud, Salim, Bilal and

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Firoz @ Bona for the offence u/s 307/34 of IPC; u/s 411/34 of IPC against accused Faizal @ Saud and Firoz @ Bona; u/s 27 of Arms Act against accused Fahim @ Bilal and u/s 25/27 of Arms Act against accused Faizal @ Saud.

Accordingly, charges framed against the accused persons to which they pleaded not guilty and claimed trial.

Put up for PE on 08-11-2024. PWs Sameer @ Sonu, Zakir Hussain, IO and MHCM be summoned for next date of hearing.

(Pankaj Arora)
ASJ-04/North-East District/KKD
Delhi/ 21-10-2024