

SC No. 387/2020
State Vs. Sumit & Anr.
FIR No. 66/2020
PS : Janak Puri
u/s : 302/34 IPC & 25/27 Arms Act
CNR No. DLSW01-007908-2020

23.05.2022

Present: Shri Dushyant Siwatch, Learned Addl. Public Prosecutor for the State.
Ms. Harjeet Kaur, mother of deceased in person.
IO/Inspector Satender Kumar in person.
Sh. Surender Kumar, Counsel for both accused.

Arguments on charge heard.

During the course of arguments, Counsel for accused concedes charges for the offence punishable u/s 302 IPC and 25/27 Arms Act against the accused Sumit but he argued that offence u/s 302 IPC is not made out against the accused Tushar. It is submitted that the accused Tushar has been falsely implicated in the present case. It is allegation of the prosecution that both accused persons committed the murder of victim, namely Gagandeep but the said allegation is not supported by the prosecution witness namely Ms. Mohini. Her statement was recorded by Ld. MM u/s 164 Cr.P.C on 07.02.2020 wherein she has not named the present accused Tushar. Therefore, the offence u/s 302 IPC is not made out against him.

Ld. Additional Public Prosecutor has vehemently opposed the said arguments stating that there is also a statement of Ms. Mohini recorded u/s 161 Cr.P.C on 06.02.2020. In the said statement, she stated that on the day of incident, accused Tushar and Sumit were following her and her boyfriend namely Gagandeep (victim) by motorcycle and the said fact was disclosed by her to the Gagandeep. Gagandeep had dropped her at Poshangipur. At about 06:25 pm, she made a call to Gagandeep and stated that she reached at her home. She further stated that she received a call

Contd/-2

from the mobile of Gagandeep by unknown person stating that Gagandeep met with an accident and he was taken to the Mata Chanan Devi Hospital. Subsequently, it was found that victim sustained fire arm injury. It is further submitted by Learned Additional Public Prosecutor that said witness has also stated that on 05.02.2020, she received a call from accused Sumit and he stated that he and his brother fired upon the victim Gagandeep and now they will also not leave her. It is further submitted by Learned Additional Public Prosecutor that both accused persons came on the motorcycle on the day of incident and both of them had fired upon the victim Gagandeep. It is further submitted that the alleged weapons used in the crime were also recovered from them. FSL report is awaited.

Heard.

After having gone through the submissions advanced by both the parties and on perusal of the record, I found that there is a statement of Ms. Mohini on record wherein she has clearly stated that accused Sumit was having love affair with her three years ago but the said relations ended due to some circumstances and now she became friend of victim working in her office. She further stated that on the day of incident, she observed that both accused were following her and her boy friend (victim). She also stated that after the alleged incident, she received the phone call from the accused Sumit who stated that he and his brother Tushar fired upon the victim on the day of incident and he also threatened her. Further, I find that the alleged weapon used in the crime has also been recovered at the instance of the both accused persons. In the light of the aforesaid facts and circumstances, I am of the considered view that there is a sufficient ground to presume that both accused committed the offence punishable u/s 302/34 IPC & 25/27 Arms Act.

-3-

Separate Charge for the offence under Section 302/34 IPC and 25/27 Arms Act is framed against the accused persons to which they plead not guilty and claim trial.

PWs be summoned through IO concerned for next date of hearing. Also issue summons to IO and MHC(M) concerned to produce the case property, if any, on next date of hearing.

Re-list the matter for prosecution evidence on **05.09.2022**.

(R. L. Meena)
ASJ-05/South-West District,
Dwarka Courts/New Delhi
23.05.2022