

**IN THE COURT OF SHRI POORAN CHAND
ADDITIONAL SESSIONS JUDGE-02 (WEST), DELHI**

**SC no.266/2021
State Vs.Faisal Alam @ Shahrukh & Ors.
FIR no.656/2020
PS : Hari Nagar
u/s.302/34 IPC**

12.11.2021

ORDER ON CHARGE

1. I have heard arguments on charge from both sides and have perused the record and the evidence relied by the prosecution.
2. It is argued on behalf of all the accused persons by their respective counsel that accused persons have been falsely implicated in this case on disclosure statement only to work out the dead case of the prosecution. It is also argued that none of the accused has committed any crime whatsoever in this case and they are innocent. Hence, all the accused persons may be discharged.
3. Per contra, it is vehemently argued on behalf of State by Ld Addl. PP that there is ample evidence on record direct or indirect which prime facie proved that all the accused persons have committed offence of murder in the present case. It is also argued that at the stage of charge prime facie case is to be seen and not defence of accused persons. Hence, all the accused persons may be charged for

having committed offence u/s. 302/34 IPC.

4. At the stage of charge, the Court is not required to enter into the realm of evidence bit by bit but has to form a prima facie opinion regarding the commission of offence for which the accused persons have been charged with.
5. The Hon'ble Apex Court in Soma Chakravarty Vs. Stated through CBI (2007) 5 SCC 403 has beautifully summed up the position as under :

“The settled legal position is that if on the basis of 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. At the time of framing of the charges the probative value of the material on record cannot be gone into, and the material brought on record by the prosecution has to be accepted as true. 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. Whether, in fact, the accused committed the offence, can only be decided in the trial. Charge may although be directed to be framed when there exists a strong suspicion but it is not also trite that the Court must come to a prima facie finding that there exist some materials therefor. Suspicion alone, without anything more, cannot form the basis therefor or held to be sufficient for framing charge.”

6. I have considered rival submissions and perused the record. This court is in agreement to the submissions made on behalf of State that there is sufficient material on record which prima facie proved the charge against all the accused persons.

7. In view of the above reason and settled preposition as mentioned above, having considered the report u/s. 173 Cr.PC, coupled with complaint and statement of the witnesses u/s. 161 Cr.P.C. and the documents, prima facie charge u/s. 302/34 IPC against all the accused persons are made out. Hence, separate charges be drawn accordingly.

(Pooran Chand)
ASJ-02/West/Delhi
12.11.2021