

\$~23

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Judgment delivered on: 26.10.2018

+ CRL.REV. P. 8/2018

STATE (NCT OF DELHI)

..... Petitioner

versus

AMIT @ MINTU & ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Ms. Meenakshi Dahiya, Addl. PP for the State with
SI Manoj.

For the Respondents : Mr. Ravi Chawla, Mr. Vivek Luthra and Mr. Komal
Sharma, Advs. with respondent no. 2 in person.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

%

26.10.2018

SANJEEV SACHDEVA, J. (ORAL)

1. The State has filed the present petition impugning order dated 03.10.2017 whereby the trial court has declined to frame a charge against the respondents Amit @ Mintu and Sandeep @ Kala in case FIR No. 441/2012 under Sections 147/148/149/308/506/34 of the IPC at Police Station Ali Pur, Delhi.

2. Allegations in the FIR are that there was a quarrel between the

complainant's brother on one side and the co-accused on the other side which led to a fight, consequent to which they sustained injuries. It was alleged that the other accused along with the respondents were also present in the fight.

3. After registration of the FIR, same was investigated and the chargesheet was filed on 16.11.2015. In the chargesheet it is specifically mentioned that after investigation by the IO from other eye-witnesses, the presence of the respondents was not established on the scene of the incident. Consequently, respondents - Amit @ Mintu and Sandeep @ Kala were placed in Col. No. 12 solely on the basis of statement of the complainant.

4. By the impugned order, the trial court, on perusal of the record of investigation as well as the chargesheet has noticed that the respondents - Amit @ Mintu and Sandeep @ Kala were not found present at the spot during alleged incident. Accordingly, the trial court has discharged the respondents from all offences under said FIR.

5. It is settled position of law that the charge has to be framed not only on suspicion but grave suspicion of involvement of the accused in the commission of the offence. Respondent No. 2 is not named in the FIR and his name has surfaced in the statement made by the father of the complainant.

6. Further investigation of the IO revealed that Respondents were

not present at the spot. Even the prosecution had not placed the respondents in Col. No. 11 as accused, but had arrayed them in Col. No. 12.

7. On perusal of the record as also the fact that respondent No. 2 were not named in the FIR by the complainant and even investigation revealed that they were not present at the spot, I find no infirmity in the view taken by the trial court in discharging the respondents of all offences under the subject FIR. On perusal of the record, I am satisfied that there is no material on record to raise grave suspicion against the respondents of having committed the subject offence.

8. In view of the above, I find no merit in the petition. The petition is hereby dismissed.

OCTOBER 26, 2018
'rs'

SANJEEV SACHDEVA, J