

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

Date of Order: February 13, 2019

+ CRL.REV.P. 766/2018

THE STATE (GNCT OF DELHI) Petitioner

Through: Ms. Neelam Sharma, Additional
Public Prosecutor

Versus

SHIV RAJ NAIDU @ SULLI & ANR. Respondents

Through: Mr. Robindra Tiwary, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

Vide impugned order of 29th May, 2018, respondents herein have been discharged in FIR No. 339/2017, under Sections 302/307/506/120B/147/148/149 IPC, registered at police station Ambedkar Nagar, Delhi. It is a matter of record that respondents herein have been charge-sheeted for the offences in question with the aid of Section 120B of IPC. Trial court vide impugned order has not relied upon the statement of eye-witnesses, who have categorically stated that the respondents herein had enmity with the complainant and had threatened to get the complainant and his family implicated but in the opinion of trial court, element of criminal conspiracy by respondents does not exist and so, they were discharged in this FIR case.

Learned Additional Public Prosecutor for petitioner-State submits that as per statements of eye witnesses *Shivbalan*, *Parvativan* and *Vignesh*, respondents herein were in active conspiracy with the co-accused to commit the offence in question and so, impugned order deserves to be set aside.

On the contrary, learned counsel for respondents support the impugned order and submits that injured and witnesses- *Vijay* and *Shanta Kumar* have not deposed anything against respondents and so, there is no infirmity in the impugned order.

Upon hearing and on perusal of impugned order and statements of eye witnesses, I find that respondents have been charge-sheeted with the aid of Section 120B IPC and trial court has erred in discharging the respondents.

Accordingly, the impugned order is set aside while refraining to comment upon the merits of the case, lest it may prejudice respondents before the trial court. Respondents are directed to appear before the trial court on the date fixed and they be admitted to bail subject to their furnishing bail bond in the sum of ₹25,000/- each with one local surety in the like amount, to the satisfaction of the trial court. Respondents be tried on the basis of the charge-sheet filed against them.

This petition is accordingly disposed of while not commenting upon the merits of the case.

(SUNIL GAUR)
JUDGE

FEBRUARY 13, 2019

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