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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 20th July, 2021

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CRL.REV.P. 98/2021

ANGEL GUPTA

..... Petitioner

Represented by: Mr. Joginder Tuli, Adv.

versus

STATE NCT OF DELHI

..... Respondent

Represented by: Mr. Tarang Srivastava, APP for State
with Insp. Sudhir Gautam, PS
Bawana.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

JUDGMENT : (ORAL)

The hearing has been conducted through Video Conferencing.

1. By this petition the petitioner challenges the order dated 7th December, 2019 whereby order directing framing charge was passed against the petitioner and a charge for offence punishable under Section 302/120-B IPC was framed.
2. Learned counsel for the petitioner submits that no recovery whatsoever has been made from the petitioner. Co-accused has not stated even in the disclosure statement that the petitioner ever gave money to them for commission of the crime. Petitioner at no point of time was physically involved with the alleged offence. Petitioner would not be in the knowledge

as to what the other accused would be planning and no conversation whatsoever between the petitioner and Manjeet was recorded by the prosecution.

3. Learned counsel for the petitioner further states that the allegations of the prosecution are only of motive which is not sufficient to frame a charge for conspiracy of the murder. It is further stated that even if the petitioner had knowledge of the offence to be committed, unless petitioner participates therein or commits any overt act, the petitioner cannot be held responsible for the offence committed. Reliance is placed on the decisions of the Supreme Court reported as AIR 2010 SC 1812 R Venkatakrishnan Vs. CBI; AIR 2019 SC 3363 Dipakbhai Jagdishchandra Patel Vs. State of Gujarat & Ors. and of this Court reported as MANU/DE/0747/2009 State NCT of Delhi Vs. Shiv Charan Bansal & Ors. Thus, the arguments on behalf of the petitioner is that it is a case of no evidence except the evidence of motive against the petitioner, therefore the petitioner be discharged and the impugned order be set aside.

4. In response to the present petition status report has been filed enlisting sequence of events and the evidence collected during the course of investigation in the murder of one Smt. Sunita, W/o Manjeet Sehrawat. According to the status report on 29th October, 2018 an information was received at PS Bawana informing of "a lady on scooty having been shot" recorded vide DD No. 06A. On reaching the spot i.e. Bawana-Auchandi Road in front of Dayal Vermi Compost an Activa Scooty No. DL-SP-7044, two bags with one helmet, a pair of lady shoes, blood and an empty cartridge were found lying. On enquiry it was revealed that injured had been shifted to the M.V. Hospital by public persons. On reaching the hospital, Sunita,

W/o Manjeet, R/o Dada Bhaiya Wali Gali, aged 41 years was found admitted with the history of gunshot and was declared brought dead. As no eye witness was found at the spot or in the hospital, FIR was registered on the DD entry.

5. During the course of investigation, husband and family members of her matrimonial home, who reached the hospital were sought to be examined but they did not give any statement. Information of the death of Sunita was given to the brothers of the deceased who gave their statements, according to which husband of the deceased Manjeet Sehrawat was having illicit relationship with the present petitioner Angel Gupta, d/o Rajiv Gupta and thus they raised suspicion for the death of Sunita on Manjeet Sehrawat, husband of the deceased, Angel Gupta and her family members.

6. Brother of the deceased produced an e-mail forwarded by the deceased to him, which was written by the present petitioner to the husband of the deceased Manjeet Sehrawat on 26.09.2016 along with the photographs attached therewith, which showed close relationship between Angel Gupta and Manjeet Sehrawat wherein she referred to Manjeet as “*Log Ji*” which word is used for husband in Haryanvi. Further, Angel Gupta had started writing Sehrawat as her surname i.e. the surname of Manjeet.

7. Diary of the deceased was produced by her daughter Dakshita wherein deceased had expressed her apprehension regarding an untoward incident, which might be caused to her or to her children. On page 23, written on 19th October, 2016 deceased had noted that ‘*today was Karwa Choth and even on that date her husband was with that lady and she again and again provoked Manjeet to get rid of his wife and children. In case something happens, the said Model and her family members would be*

responsible.’ There are various other noting in the diary including one in which she says that ‘only way to get rid of her was to murder her.-----’

8. Statement of Dakshita was also recorded under Section 164 Cr.P.C. wherein she stated that she heard the conversation of her mother with Angel Gupta on phone. Angel Gupta threatened her mother that she would get her murdered, get her removed from the job and kidnap her children. In her statement she further stated that *‘in the week of Karwa Choth Angel Gupta had called her father and stated that if this year she will not be able to celebrate Karwa Choth, she will not even let his wife celebrate Karwa Choth.’*

9. On the very strong suspicion against Angel Gupta and her family members, analysis of the call records and their locations was done. It was found out that accused Dharmender, Vishal @ Jony and Shahzad, who were all residents of U.P., had gone to meet Petitioner and her father at R.K. Puram, where they were residing, on 25th October, 2018.

10. In the year 2018, the festival of Karwa Choth was celebrated on 27th October, 2018. As per the disclosure statement, the initial plan was to eliminate deceased Sunita was fixed on 26th October, 2018 i.e. just one day before the festival, however since the same could not be finalized, the plan was executed on 28th October, 2018.

11. Prosecution has placed on record call detail analysis of the mobile phone cell location of each accused person on 26th, 28th and 29th October, 2018. As per analysis of 26th October, 2018 Rajiv Gupta along with his driver Deepak, who with the help of his maternal uncle Dharmender hired shooter Vishal @ Jony and Shahzad, departed early morning and reached Bawana before 7.45 AM.

12. From the CCTV footages from the LPR camera installed at PP Daryapur two cars; one car bearing No. DL-8CZ-4036 and an Esteem car No. DL-2CAG-38 was found registered on authority. It was found, that vehicle No. DL-8CZ-4036 was registered in the name of Rajiv Gupta and there was no vehicle with the registration No. DL-2CAG-38 and that Rajiv Gupta owned one Maruti Esteem car bearing No. DL 2C AG 2383 and thus by tampering with 2 digits in the number plate, the said car was used. Thus, Rajiv Gupta along with Deepak were also present near the spot at the time of incident.

13. Further, the phone call details, location of Rajiv Gupta, and Deepak was at Bawana Depot which is about 1 km away from the place of incident at 7.39 AM and the incident occurred at around 8.00 A.M. Further, Rajiv Gupta was in constant touch with the present petitioner and husband of deceased, Manjeet on their mobile phones.

14. Statement of one Raju was also recorded who had arranged for the stay of Dharmender, Vishal @ Jony, Shehzad and Deepak at a hotel near Nizamuddin after they met the petitioner and Rajiv Gupta. Raju identified Shahzad in judicial TIP while Dharmender and Vishal @ Jony refused to join judicial TIP and were later identified in police custody.

15. By this petition primary contention of learned counsel for the petitioner is that it is a case of no evidence against the petitioner and except the motive there is no circumstance to show that the petitioner was a part of the conspiracy as no overt act is attributed to her.

16. Learned counsel for the petitioner specifically relies upon the decision in State NCT of Delhi vs. Shiv Charan Bansal & Ors. (supra) wherein para 87, this Court noted the passage from Russell on Crimes (12th Edn. Vol. 1)

quoted in the decision of Hon'ble Supreme Court reported as 1988 (3) SCC 609 at page 731 wherein it was noted as under:-

"The gist of the offence of conspiracy then lies, not in doing the act, or effecting the purpose for which the conspiracy is formed, nor in attempting to do them, nor in inciting others to do them, but in the forming of the scheme or agreement between the parties. Agreement is essential. Mere knowledge, or even discussion, of the plan is not, per se enough.."

17. As noted by the Hon'ble Supreme Court, the gist of offence of conspiracy lies in the agreement between the parties and not in the execution thereof and thus no overt act is required to be a part of the conspiracy. Further, conspiracies are mostly hatched in secrecy and thus most often direct evidence thereof is not forthcoming. In a case of circumstantial evidence, inferences have to be drawn from the chain of circumstances. In the present case, even though it is not the case of the prosecution that the petitioner was present at the spot or committed the murder of Sunita but the fact that there was an agreement between the parties i.e. Rajiv Gupta, Angel Gupta, Manjeet Sehrawat, Deepak, Dharmender, Vishal @ Jony and Shahzad is evident from the various call details between the parties as also the fact that they met prior to the incident and the night stay arrangement of the co-accused was done by Raju who identified one of the accused in judicial TIP and that at the time of commission of offence, Rajiv Gupta and Deepak were near the place of incident and Rajiv Gupta was on constant touch through phone with the petitioner and Manjeet.

18. In a case of conspiracy each conspirator has not to play the entire role, and it is sufficient for the prosecution to show that two or more persons conspired to commit an offence and for the said purpose meeting of minds

between the said accused has to be shown. From the call details between the parties, the presence of father near the spot at the time of incident and he was in constant touch with the petitioner and husband of the deceased, besides the motive there is sufficient material with the prosecution to show the petitioner's involvement in the offence. Hence, this Court finds no error in the impugned order passed by the learned Additional Sessions Judge framing charge for offence punishable under Sections 120-B/302 IPC against the petitioner.

19. Petition is dismissed.

20. Order be uploaded on the website of this Court.

(MUKTA GUPTA)
JUDGE

JULY 20, 2021
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