



2023:DHC:7342



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

% Judgment delivered on: 27.09.2023

+ CRL.REV.P. 681/2023

MR.SHAGUN

..... Petitioner

versus

THE STATE(NCT OF DELHI)

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Avatar Singh Bhamlot, Advocate

Versus

For the Respondent : Mr. Mukesh Kumar, APP for State with SI
Praveen , PS Tilak Nagar**CORAM:****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****TUSHAR RAO GEDELA, J. (ORAL)****[The proceeding has been conducted through Hybrid mode]****CRL.M.A. 16172/2023 (Exemption)**

1. Exemption is allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. This is a petition under Section 397 r/w Section 482 Cr.P.C, 1973 for setting aside the order dated 21.03.2023 passed by the learned ASJ-



08, West District, Tis Hazari Courts in Sessions Case No.18/2023 arising from FIR No.502/2022 under Sections 307/201/212/34 IPC, 1860 registered at Police Station Tilak Nagar captioned '*State Vs. Shivam & Anr.*'

4. Mr. Avatar Singh, learned counsel appearing for the petitioner submits that the petitioner has been falsely implicated in the present case on the strength of Section 201 IPC. Other than that, no particular role has been ascribed by the prosecution against the petitioner. Learned counsel further submits that the entire case of the prosecution, even in respect of the ingredients of Section 201 IPC is not made out and the charges as framed *vide* the impugned order are unsustainable in law and as on facts too.

5. At the outset, Mr. Singh learned counsel draws attention of this Court to page 31 of the present petition, which is a part of the chargesheet, to submit that the weapon of offence i.e. knife was recovered not at the instance of petitioner but at the instance of the main accused namely Shivam.

6. That apart, learned counsel submits that the only instance that has been attributed against the petitioner is that the petitioner had hidden the blood stained clothes of the main accused Shivam, in his house. To that, Mr. Singh, learned counsel draws attention of this Court to page 30 of the chargesheet placed before this Court to submit that the allegation in the chargesheet is that the petitioner had disclosed in his disclosure statement that he would be able to get recovered the blood stained clothes of the main accused Shivam, which he was wearing at the time of alleged offence, from his house.



7. According to learned counsel, the allegations as made, itself are wrong for the reason that the said house does not belong to the petitioner. As a proof thereof, a lease agreement executed between one Mr. Karan Bhardwaj and one Mr. Gurmeet Singh has been placed on record of the Trial Court by the IO during investigation. The same is placed at page No. 45 of the present petition. According to the learned counsel, the lease agreement has been executed between two strangers who are unknown to the present petitioner and therefore, to allege that the house wherefrom the alleged recovery of blood stained clothes has been made, is that of the petitioner is factually wrong based on a particular document revealed during investigation.

8. On that basis, learned counsel submits that the case has been falsely foisted against the petitioner.

9. That apart, learned counsel also draws attention of this Court to the disclosure statement of the petitioner at page 42 of the present petition to submit that the recording of the statement itself is false inasmuch as the correct address of the petitioner has been actually noted in the disclosure report, and the same stands verified as well. Learned counsel on that basis submits that in contradistinction to the address of the petitioner as noted in the disclosure statement, the prosecution now alleges that the petitioner is a resident of the address actually belonging to one Mr. Gurmeet Singh.

10. To buttress the aforesaid arguments, Mr. Singh, learned counsel draws attention of this Court to page 47 which is the statement of Mr. Gurmeet Singh under Section 161 Cr.P.C., 1973. Learned counsel submits that the statement of Mr. Gurmeet Singh under Section 161



Cr.P.C is apparently an incorrect statement where he alleges that he has rented out his flat @ Rs.1,200/- per month to one Aman and also made a further allegation that the said Aman used to reside with the petitioner in the said flat at that relevant point of time. Learned counsel submits that once the correct address of the petitioner is noted in the disclosure statement, it appears untenable and illogical as to why the petitioner would reside at the address of Gurmeet Singh along with Aman. Learned counsel submits that this creates doubt as to the veracity of the case of the prosecution.

11. Learned counsel next refers to Section 201 of the IPC, 1860 to submit that according to the provisions, the person accused of such offence ought to be aware or have reason to believe that an offence has been committed and unless the said ingredient is complete, no offence under Section 201 IPC can be charged against a particular person. In view of the aforesaid, learned counsel submits that the impugned order be set aside *qua* the petitioner.

12. *Per contra*, Mr. Kumar, learned APP for the State submits that the impugned order is based on correct finding, proper reasoning and submits that the present petition should be dismissed. Additionally, learned APP, by referring to the disclosure statement submits that the Khasra No. 13/15, U Block, Uday Vihar, Nihar Vihar, Nangloi, New Delhi is the address of the flat where the petitioner was residing with Aman, as rented out by the owner Gurmeet Singh and the subsequent address of WZ-34, Gali No.22, Sant Garh, Tilak Nagar, New Delhi is his permanent address. Learned APP further submits therefore that the learned counsel for the petitioner is confusing the said issue.



13. This Court has heard the arguments of Mr. Avatar Singh, learned counsel for the petitioner as also Mr. Mukesh Kumar, learned APP.

14. After having perused the relevant portions at page 30 and 31 of the chargesheet annexed to the present petition, the issue in respect of recovery of knife is not a subject matter of the present petition nor does this Court need to give any observation in respect of such recovery.

15. So far the present petition is concerned, the challenge is to the charges framed under Section 201 IPC, 1860.

16. It would be apposite to extract the provision under Section 201 IPC, 1860 which is as under:-

“201. Causing disappearance of evidence of offence, or giving false information to screen offender.—Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false;

if a capital offence.—shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

if punishable with imprisonment for life.—and if the offence is punishable with imprisonment for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

if punishable with less than ten years’ imprisonment.—and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence,



for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.”

17. The arguments of learned counsel that only a person who has knowledge or reason to believe that an offence has been committed is the one against whom any such offence can be made out and in the facts of the present case, there is nothing on record to show that the petitioner was having any knowledge or having any reason to believe that the main accused Shivam had committed any such crime would extract the petitioner out of the offence under Section 201, IPC is untenable in law.

18. That is for the reason that the issue as to whether the petitioner had knowledge or not or had reason to believe would be tested at the time of trial when the evidence on behalf of the prosecution is placed and the petitioner is provided an opportunity to conduct the cross examination. At this stage, this Court need not to consider as to whether the offences and the ingredients of Section 201 IPC are clearly made out so as to show that it would lead only to his conviction.

19. This Court, at the moment, is only to consider as to whether there are grave suspicions or instances which point towards the complicity of the petitioner in the offences under Section 201 IPC.

20. Keeping the aforesaid principle in mind, this Court now deems it appropriate to consider the arguments addressed on behalf of the petitioner.

21. So far as the issue of recovery of blood stained clothes of the main accused Shivam is concerned, it is not disputed that the



chargesheet as also the disclosure statement of the petitioner is clear as to where such clothes were hidden. The fact that the clothes were not recovered from any public place would itself suggest that there is a knowledge which can be imputed to the petitioner of where the blood stained clothes have been hidden and the same would itself attract the offences under Section 201 IPC.

22. That apart, so far as the arguments of Mr. Singh in respect of there being a confusion in regard to the addresses is concerned, the same also is untenable for the reason that it is the specific statement of said Mr. Gurmeet Singh, the owner of the address Khasra No.13/15, U Block Uday Vihar, Nihal Vihar, Nangloi, New Delhi-110041, under Section 161 Cr.P.C, 1973 that he had rented out the said flat to Aman and has also stated that the present petitioner namely Shagun also used to live with Aman at the said flat. The said issue gains importance and relevance for the reason that it is the same flat which, the petitioner in his disclosure statement had disclosed and led the police party to recover the blood stained clothes, which were in fact recovered from the bathroom of the said house.

23. This Court has also considered the overall arguments made on behalf of the petitioner by Mr. Avatar Singh, learned counsel for the petitioner, and is unable to agree with the said submission.

24. In view of this Court, the impugned order is complete in substance and material issues and has taken into account the principles of law governing the framing of charges.

25. In view of above, this Court is of the considered opinion that the order impugned is unassailable and as such, the present petition is



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dismissed.

26. The observations made in the present petition is purely for appreciating the arguments based on the impugned order. The same shall not come in the way of Trial Court while deciding the matter on merits.

TUSHAR RAO GEDELA, J .

SEPTEMBER 27, 2023/ms