IN THE COURT OF VINOD YADAV: ADDL. SESSIONS JUDGE-03: (NORTH-EAST): KARKARDOOMA DISTRICT COURTS: DELHI

Sessions Case No.28/2021 FIR No.97/2020 State V/s Lakhpat Rajora & Ors. PS Karawal Nagar U/s 147/148/149/153-A/302/436/505/120-B/34 IPC

14.09.2021

THROUGH WEBEX VIDEO CONFERENCING

Present: Shri Manoj Chaudhary, Ld. Special PP for the State alongwith

IO, Inspector Virender Kumar.

Shri Kanish Kharbhanda, Advocate for Shri Deepak Bhardwaj and Rajesh Goswami, Advocates, Ld. Counsel(s) for accused Dilip Kumar alongwith accused on bail.

Shri V.K Singh and Shri Manoj Chauhan, Ld. Counsels for accused Dinesh Kumar alongwith accused produced in JC physically.

Shri Vimal Tiwari, Ld. Counsel for accused persons namely Kuldeep and Lakhpat Rajora alongwith both accused produced in JC physically.

Shri Dinesh Tiwari, Ld. Counsel for accused Yogesh alongwith accused produced in JC physically.

ORDER ON CHARGE

Today the matter is listed for consideration on charge. I have heard arguments advanced at bar by both the sides and perused the entire material on record.

2. Before adverting to the arguments advanced at bar, it would be appropriate to have a brief overview of the facts of the case in hand. The case FIR in the matter was registered at PS Karawal Nagar on 01.03.2020, pursuant to receipt of DD No.38-B (at about 7.00 PM) by SI Yeshvir Singh, regarding lying of an unknown dead body in Shiv Vihar ganda nallah. The dead body was found

to be of an unknown male, aged about 35 years, having deep injury mark on his face and in a highly decomposed state. The same was taken out from the ganda nala with the help of local residents and sent to Ram Manohar Lohia Hospital (RML Hospital) in CAT Ambulance Bita-38, which was deposited/preserved therein vide MLC No.E-45233/20. Efforts were made to identify the said dead body and on 01.03.2020 itself, same was identified to be of one **Aaftaf**, S/o Mohd. Umar, aged about 21 years, r/o Mohalla Shaheed Nagar, Kasba and PS Noorpur, District Bijnor, Uttar Pradesh by his parents.

3. Considering the seriousness of offence, investigation of the case was transferred to SIT/Crime Branch. During the course of investigation, it was revealed that total seven persons (all belonging to muslim community) were living/working in a factory being run from House No.29, Gali No.2, Devi Nagar, 33 foota road, Shiv Vihar, Karawal Nagar, Delhi. The said inmates were Firoz, Fahim, Aaftaf (deceased herein), Sazauddin, his wife Smt.Nosima, sister and brother namely Ms. Taniya (aged about 15 years) and Master Osama (aged about 12 years) respectively. The said factory was being run by Mohd. Danish, S/o Late Shri Buniyad Ali on rent. Shri Kailash Singh was the owner of aforesaid property/house. On account of eruption of communal riots in the area, in the night of 24.02.2020, the rioters tried to break open the shutter of said factory/building, but in vain. Thereafter, in the morning of 25.02.2020, at about 7/7.30 AM, when most of the rioters had dispersed, Sazauddin and his family members managed to escape while Fahim, Firoz and Aaftaf (deceased) were intercepted by the riotous mob and pushed back into the factory/building. After some time, factory owner Mohd. Danish came to the spot with four officials of para-military force and all the three occupants were called outside. During the course of investigation, it came to fore that Aaftaf (deceased herein) managed to ran towards 33 foota road while Firoz and Fahim were forced to remain inside as by that time the riotous mob had began to swell. Later on, Aaftaf was caught hold of by the riotous mob on 33 foota road, given beatings with sticks/rods and

thereafter murdered between 9.00 AM to 10.30 AM in front of Dinesh Fashion House, near MPV Public School, 33 foota road, Shiv Vihar, near Shiv Vihar puliya, Karawal Nagar, Delhi by firing three bullets and thereafter his dead body was thrown in the ganda nala, which is about 250 metres away from the factory, however, on account of muddy water in the nala, the dead body could not be detected till 01.03.2020. The factory/house in which the deceased used to work and stay alongwith six other persons was also set on fire by the riotous mob on 25.02.2020 in the morning itself.

- 4. During the course of further investigation, CDR details (mobile number 7819856324) of deceased Aaftaf were analyzed, site plan(s) of the spots/SOCs were prepared and efforts were made to collect relevant CCTV footages/video-clips in the matter. During this process, three DVRs (Digital Video Recorder) of cameras installed at 33 foota road, Shiv Vihar, Karawal Nagar Delhi were seized and sent to FSL. The DVRs of CCTV cameras lying installed at the following places were seized in the matter:
 - (i) MNB Modern Public School, 33 foota road, Devi Nagar, Shiv Vihar, Karawal Nagar, Delhi;
 - (ii) House No.394, 33 foota road, phase-6, near Shiv Vihar puliya, Shiv Vihar, Karawal Nagar, Delhi and;
 - (iii) Bhajanpura Co-operative Thrift & Credit Society, situated in House No.7, phase-6, 33 foota road, Shiv Vihar, Karawal Nagar, Delhi.
- 5. (i) On 19.03.2020, three accused persons namely Kuldeep, Lakhpat Rajora and Yogesh were arrested in case FIR No.62/2020, PS Karawal Nagar (Mohd. Anwar murder case), wherein they made disclosure statement(s) regarding commission of crime in the instant case. Accordingly, accused persons namely Lakhpat Rajora and Yogesh were arrested in the instant matter on 21.03.2020, while accused Kuldeep was arrested on 23.03.2020. Accused Lakhpat Rajora was found having a criminal history and previously involved in

several other criminal cases. Two firearms, i.e country made pistols were recovered from accused Yogesh and Kuldeep in case FIR No.62/2020, PS Karawal Nagar, which were used by accused Lakhpat Rajora to commit murder of victim in the said case. The spot/SOC in case FIR No.62/2020, PS Karawal Nagar is stated to be barely 300 metres away from the spot/SOC in the case in hand.

- (ii) During the course of further investigation, CDRs of mobile phone numbers 9599521198 (user accused Lakhpat Rajora), 8130055057 (user accused Yogesh) and 9971028575 (user accused Kuldeep) were obtained and same were found to be at or around the spot/SOC on the date and time of incident.
- (iii) Thereafter, statements of Mohd. Danish (factory owner), Mohd. Firoz, Fahim and other witnesses were recorded in the matter. PWs Mohd. Firoz and Fahim categorically identified the aforesaid three accused persons to be part/member of the riotous mob on the date and time of incident.
- 6. (i) During the course of further investigation, efforts were made to identify other rioters/other accused persons by minutely examining the CCTV footages and during such exercise accused persons namely Dinesh Kumar, S/o Shri Shanti Prasad and Dilip Kumar, S/o Shri Dabbal Singh were identified. Accused Dinesh Kumar was seen in the CCTV footage, while accused Dilip Kumar himself had recorded one mobile video-clip from his mobile phone on 24.02.2020 and he identified himself in the said video-clip. Accordingly, both the said accused persons were also arrested in the matter on 05.11.2020. Both of them refused to take part in judicial "**Test Identification Parade**" (TIP).
- (ii) Accused Dinesh Kumar was found using mobile numbers 9818068125 and 7982328268; while accused Dilip was found using mobile phone number 7982328268 (belonging to his younger brother). The CDR location of the said mobile phones was found at or around the spot/SOC at the relevant time.
 - (iii) Thereafter, statements of some more public witnesses namely

Pawan, S/o Madan Lal and Kumar Sambhav @ Subham, S/o Shri Pramod Dwivedi were recorded in the matter. Both the aforesaid accused persons were identified by PW Kumar Sambhav @ Subham vide his statement recorded under Section 161 Cr.P.C.

- 7. (i) FSL result qua the three DVRs was received in the matter and DVR No.3, which was found installed just near the spot/SOC was found overwritten twice or thrice and thus, requisite data could not be retrieved therefrom.
- (ii) Even the FSL report qua the three bullets fired in the matter revealed that the same were not fired from the two country made pistols recovered from accused persons namely Kuldeep and Yogesh in case FIR No.62/2020, PS Karawal Nagar. In this regard, the observations made by Hon'ble High Court of Delhi in order dated 20.10.2020 (passed in Bail Application No.2082/2020) while granting bail to co-accused Yogesh are very crucial and same is reproduced as under:

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- 5. Pursuant to the directions passed by this Court, the results of FSL and DVRs are on record. As per the result of FSL report, three recovered bullets from the dead body of the deceased were not fired from country made pistols recovered from the accused persons of FIR No. 62/2020. Moreover, result of 3 DVRS, as per data available on DVR no.1 seized from MNB Modern School,33 Futa Road, Devi Nagar, Shiv Nagar, DVR no.2 was seized from Deepak Mittal, Near Shiv Vihar pulia retrieved, however, data available on DVR no.3 seized from Bhajanpura Cooperative Thrift & Credit society, 33 Futa Road, Shiv Vihar, could not be retrieved.
- 6. Data available on DVR no. 3 was crucial evidence of this case as camera of CCTV was installed just near the place of incident of this case. DVR no.1- camera was not entirely covering the requisite portion as was installed far from the spot. It was found that in the night of 24/25.2.2020, lot of persons of all age group were roaming here and there in groups on 33 Futa Road, Shiv Vihar. Mostly persons were carrying lathi/danda in their hands

and some were wearing caps and helmet etc on their heads. Door of the houses near the spot were seen as closed. It was observed that angle of such camera of Ch. no.1 was changed to wrong side at about 08.54.51hrs and camera of Ch. no. 2 was changed to wrong side at about 08.54.12 hrs to avoid capture in the CCTV Footage. DVR no.2 covering mostly the area of counter and nearby portion.

7. Keeping in view the result of FSL report which does not support the prosecution case and the result of DVRs, it is not established that petitioner was present on the spot at the time when the incident took place in the present case.

8. In view of above, without commenting on the merits of the prosecution case, I am of the view that the petitioner deserves bail.

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- 8. The learned defence counsel(s) in unison made a strong pitch *inter alia* submitting that the instant matter is a perfect recipe for discharge of accused persons on account of the following reasons:
 - (i) It is argued that accused persons have been falsely implicated in the matter by the investigating agency, being resident(s) of the same area/locality. Their false implication is further evident from the fact that there is an "*unexplained delay*" of about six (06) days in registration of FIR in the matter, as the alleged incident took place on 25.02.2020; whereas, the case FIR was registered on 01.03.2020. The accused persons have neither been specifically named in the FIR nor recovery of any sort has been effected from them.
 - (ii) The public witnesses in the matter namely Kumar Sambhav @ Subham and Pawan are "planted witnesses" for two important reasons. Firstly, their alleged statement(s) recorded under Section 161 Cr.PC is highly belated (being recorded in the month(s) of October/November' 2020), without there being any cogent/plausible explanation for the said delay in recording the statement(s) of said witness(es) from the side of

investigating agency and **secondly**, none of the said witnesses had specifically named the accused persons in their initial statement(s) and instead both of them have named/identified accused persons namely Dinesh and Dilip Kumar vide their respective supplementary statement(s), which casts a serious doubt upon the credibility of said witnesses. The said eye witness(es) even did not make a call at number 100 on the date of alleged incident.

(iii) Similarly, it is argued that two alleged public witnesses namely Mohd. Firoz, S/o Shri Abdul Hameed and Fahim Ahmad, S/o Shri Naseem Ahmad vide their initial statements recorded under Section 161 Cr.P.C on 12.03.2020 categorically stated that they could not identify/see any of the persons from the riotous mob, as the persons/members of the riotous mob had covered their faces with helmets and handkerchiefs, but later on vide their supplementary statement(s) recorded in the matter on 30.04.2020, both the said witnesses categorically identified accused persons namely Kuldeep, Lakhpat Rajora and Yogesh, that too when their photographs were shown to them by the IO, when he/IO visited their native villages. It is emphasized that such identification of the accused persons, that too after lapse of considerable period of time (i.e after 52 days of the alleged **incident**) is no identification and the benefit thereof should be accorded to them. It is further argued that both the said witnesses even did not make a call at number 100 on the date of alleged incident. As a corollary of the aforesaid submission, it is further very vehemently argued that another public witness namely Danish, who admittedly was the employer of deceased Aftaf and witnesses Mohd. Firoz and Fahim Ahmed and was present at the spot/SOC immediately before the death of deceased Aftaf, did not name/identify the accused persons vide her statement recorded in the matter on 07.03.2020. As such, the alleged identification of said accused persons by aforesaid two public witnesses becomes doubtful.

- (iv) It is further contended that there is unbearable and unexplained confusion regarding the timing of alleged incident in the matter. As per the chargesheet filed in the matter, the alleged incident took place on 25.02.2020 between 9.00 AM to 10.30 AM in front of Dinesh Fashion House, near MVP School, 33 foota road, near Shiv Vihar puliya, Karawal Nagar; whereas, as per the chargesheet filed in connected case bearing FIR No.62/2020, PS Karawal Nagar, the timing of incident in the said case is also stated to be at 9.00 AM on 25.02.2020. Therefore, it is impossible to digest that accused persons namely Kuldeep and Lakhpat Rajora were present at two different places at the same time.
- (v) It is further very vehemently argued that there were three CCTV cameras lying installed at or near the spot/scene of crime (SOC), however, accused Kuldeep and Lakhpat Rajora are not seen/visible in any of them. In this regard, the learned counsel(s) have placed heavy reliance upon the observations made by Hon'ble High Court of Delhi in paragraphs No.5 and 6 of the order dated 20.10.2020, passed in Bail Application No.2082/2020 (vide which co-accused Yogesh was admitted on bail in the matter). As regards accused Dinesh and Dilip Kumar, it is contended that that accused Dinesh Kumar was standing with a "danda" in his hand near his residence to guard the same from riotous mob; while accused Dilip Kumar was merely standing bare handed and not doing any overt act. As a corollary of the aforesaid submission, it is contended that it is clearly apparent from the post-mortem report of deceased Aftaf that he died on account of having received 17 lacerated wounds and three gunshot injuries and as such, there is no direct evidence available against the said accused persons of they having committed the murder of deceased.

- (vi) It is further argued that as per FSL report, three recovered lead pieces/bullets from the dead body of deceased Aftab were not fired from the country made pistol, allegedly recovered from co-accused Yogesh in connected case FIR No.62/2020, PS Karawal Nagar. As such, the allegations against accused Kuldeep of handing over the said pistol to applicant Lakhpat and then accused Lakhpat firing therefrom are not getting proved from the findings of FSL report. It is further argued that the CDR location(s) of the accused persons relied upon by the investigating agency is of no help to it because accused persons are resident(s) of the area/locality in question and CDR does not show real time location of the user, it shows only approximate location. It is further argued that the CDR location(s) of accused persons is not getting changed, meaning thereby that they were present inside their respective residences.
- 9. (i) Per contra, learned Special PP for the State has very vehemently argued that on 24.02.2020 some unscrupulous elements hatched a large scale conspiracy and carried out riots in the area of North-East District of Delhi. The communal riots continued for two days unabated, resulting in large number of deaths of innocent persons and loss of property worth crores of rupees.
- (ii) As regards the case in hand, it is very vehemently argued that it is an unfortunate case wherein one young person namely Aftaf was cut short in the prime of his life by the riotous mob, just because he belonged to a particular community. His dead body was recovered from the spot/nallah, which had three gunshot injuries on his chest and abdomen. There were 17 lacerated wounds. The evidence available against the accused persons has been specified as under:

| (a) Role of accused | They have been found to be "active members of the |
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| persons | riotous mob" on the date and time of incident that |
| | took active participation in rioting, vandalizing and |
| | arson in the area/locality in question on the date and |

| | time of incident. |
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| (b) Ocular evidence | (i) Accused persons Kuldeep, Lakhpat Rajora and |
| | Yogesh have been named/identified by PWs Mohd. |
| | Firoz and Fahim Ahmed vide their statements |
| | recorded under Section 161 Cr.P.C on 30.04.2020. |
| | (ii) Accused persons namely Dinesh Kumar and |
| | Dilip Kumar have been identified by PWs Kumar |
| | Sambhav @ Subham and Pawan vide their |
| | statements recorded under Section 161 Cr.P.C on |
| | 07.11.2020. |
| | (iii) PWs namely Naresh Kumar, Deepak, Ajay |
| | Yadav and Radha Krishan in their statements have |
| | categorically stated that accused persons namely |
| | Kuldeep, Lakhpat Rajora and Yogesh were not found |
| | present at their respective residence(s) during the |
| | date and time of incident. |
| | |
| (c) Technical Evidence | Accused Kuldeep, Lakhpat Rajora and Yogesh: |
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| (c) Technical Evidence | |
| (c) Technical Evidence | (i) Lakhpat Rajora is a habitual criminal, while one |
| (c) Technical Evidence | (i) Lakhpat Rajora is a habitual criminal, while one country made pistol each was recovered from |
| (c) Technical Evidence | (i) Lakhpat Rajora is a habitual criminal, while one country made pistol each was recovered from accused Kuldeep and Yogesh in case FIR |
| (c) Technical Evidence | (i) Lakhpat Rajora is a habitual criminal, while one country made pistol each was recovered from accused Kuldeep and Yogesh in case FIR No.62/2020, PS Karawal Nagar (Mohd.Anwar |
| (c) Technical Evidence | (i) Lakhpat Rajora is a habitual criminal, while one country made pistol each was recovered from accused Kuldeep and Yogesh in case FIR No.62/2020, PS Karawal Nagar (Mohd.Anwar murder case). |
| (c) Technical Evidence | (i) Lakhpat Rajora is a habitual criminal, while one country made pistol each was recovered from accused Kuldeep and Yogesh in case FIR No.62/2020, PS Karawal Nagar (Mohd.Anwar murder case). (ii) Their CDR locations have been found to be at or |
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| (c) Technical Evidence | (i) Lakhpat Rajora is a habitual criminal, while one country made pistol each was recovered from accused Kuldeep and Yogesh in case FIR No.62/2020, PS Karawal Nagar (Mohd.Anwar murder case). (ii) Their CDR locations have been found to be at or around the spot/SOC on the date of incident. Accused Dinesh Kumar: |
| (c) Technical Evidence | (i) Lakhpat Rajora is a habitual criminal, while one country made pistol each was recovered from accused Kuldeep and Yogesh in case FIR No.62/2020, PS Karawal Nagar (Mohd.Anwar murder case). (ii) Their CDR locations have been found to be at or around the spot/SOC on the date of incident. Accused Dinesh Kumar: (i) Categorically seen/visible in the CCTV footage at |
| (c) Technical Evidence | (i) Lakhpat Rajora is a habitual criminal, while one country made pistol each was recovered from accused Kuldeep and Yogesh in case FIR No.62/2020, PS Karawal Nagar (Mohd.Anwar murder case). (ii) Their CDR locations have been found to be at or around the spot/SOC on the date of incident. Accused Dinesh Kumar: (i) Categorically seen/visible in the CCTV footage at the spot, i.e 33 foota road, Devi Nagar, Shiv Vihar, |

| | around the spot/SOC on the date of incident. |
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| | Accused Dilip Kumar: |
| | (i) He was found loading stones and bricks in a |
| | luggage rickshaw in the night of 24/25.02020 near |
| | the spot, i.e Prem Vihar, Shiv Vihar, Delhi. All such |
| | incident has been recorded in his mobile phone by |
| | accused himself on 24.02.2020. Further, he himself |
| | has identified himself in his mobile recording. |
| | (ii) CDR location qua his mobile was found at or |
| | around the spot/SOC on the date of incident. |
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| | Both the aforesaid accused persons had refused to |
| | take part in judicial "Test Identification Parade" |
| | (TIP). |
| (c) Involvement in | Besides the case in hand, accused persons are also |
| other cases | involved in several other cases of rioting in the area. |

10. As regards the contentions of the learned counsel(s) that the accused persons have not been specifically named in the FIR and there being delay in registration thereof, it is argued that the communal riots in North-East Delhi were very unprecedented; people were very much scared; police personnel were busy in maintaining law and order duty, rescuing the victims and stopping further damage to the life, limb and property(ies) in the area; there was curfew like atmosphere at or around the area and the people were so shocked and traumatized that it took several days for them to muster courage to come out and report the matter to the police when the situation became normal. It is contended that since the police personnel remained busy in maintaining law and order, the matters were not promptly reported to the police station. It is further submitted that accused persons have been categorically identified by independent eye witnesses namely Mohd. Firoz, Fahim Ahmed, Kumar Sambhav @ Subham and Pawan and

the same finds corroboration from the statements of PWs who stated that accused persons namely Kuldeep, Lakhpat Rajora and Yogesh were not found present in their respective houses on the date and time of incident. At this stage, the aforesaid statements of eye witnesses recorded in the matter cannot be thrown out of the Court merely on account of some delay therein or they not having named the accused persons in their initial statements. As a sequel thereto, it is contended that this is not the appropriate stage to dwell upon the said issue(s) and the same would be taken care of during the course of trial.

- 11. Lastly, it is submitted that at the stage of consideration on charge, the court is not supposed to meticulously judge the evidence collected by the investigating agency and has to take *prima facie* view thereupon.
- 12. I have given thoughtful consideration to the arguments advanced at bar by both the sides. I have also carefully gone through the chargesheet filed in the matter.
- 13. The law with regard to framing of charge is fairly settled now. In the case of "Kallu Mal Gupta V/s State", 2000 I AD Delhi 107, it was held that while deciding the question of framing of charge in a criminal case, the Court is not to apply exactly the standard and test which it finally applied for determining the guilt or otherwise. This being the initial stage of the trial, the court is not supposed to decide whether the materials collected by the investigating agency provides sufficient ground for conviction of the accused or whether the trial is sure to culminate in his conviction. What is required to be seen is whether there is strong suspicion which may lead to the court to think that there is ground for presuming that the accused has committed an offence.
- 14. Furthermore, in case titled as, "Umar Abdula Sakoor Sorathia V/s Intelligence Officer Narcotic Control Bureau", JT 1999 (5) SC 394 it was

held that, "it is well settled that at the stage of framing charge, the Court is not expected to go deep into the probative value of the materials on record. If on the basis of materials on record, the court could come to the conclusion that the accused would have committed the offence, the court is obliged to frame the charge and proceed to the trial".

- 15. It is well-settled law that at the time of framing of charge the FIR and the material collected by the investigating agency cannot be sieved through the cull ender of the finest gauzes to test its veracity. A roving inquiry into the pros and cons of the case by weighing the evidence is not expected or even warranted at the stage of framing of charge (reliance **Sapna Ahuja V/s State"**, 1999V AD Delhi p 407).
- 16. (i) Now, reverting back to the case in hand. Though, there is some delay in recording the statements of public witnesses in the matter, but at this stage, this Court cannot loose sight of the fact that on account of prevailing communal tension in the area, it was very difficult for the investigating agency to trace the eye/public witnesses promptly, because the people were so shocked and traumatized that it took several days for them to muster courage to come out and report the matter to the police. Independent public witnesses namely Mohd. Firoz, Fahim Ahmed, Kumar Sambhav @ Subham and Pawan have not only given blow-by-blow account of the incident, but they have also categorically named/identified the accused persons to be members/part of the riotous mob on the date and time of incident. At this stage, their aforesaid statements cannot be brushed aside/discarded merely because there has been some delay in recording thereof or they did not specifically name/identify the accused persons in their initial statements. This is not the appropriate stage to dwell upon the issue of delay in recording the statements of aforesaid public witnesses and the same would be seen during the course of trial. The learned Special PP has been able to accord cogent explanation with regard to delay in registration of FIR and

recording the statements of witnesses in the matter. Moresoever, the identification statements of eye witnesses find corroboration from the statements of other public witnesses namely Naresh Kumar, Deepak, Ajay Yadav and Radha Krishan, who have categorically stated that accused persons namely Kuldeep, Lakhpat Rajora and Yogesh were not found present at their respective residences on the date and time of incident and their family members were also worried on this account and regular telephoning them (accused persons).

- (ii) The CDR locations of all the accused persons have been found at or around the spot/SOC on the date of incident, which *prima facie* appears to be **out of their routine location(s)**. The defence taken by them that since they are residents of same area/locality and therefore, their CDR location is being found at or around the spot/SOC is of little help to them at this stage.
- (iii) Two accused persons namely Dinesh Kumar and Dilip Kumar had **refused** to undergo judicial "**Test Identification Parade**" (TIP) in the matter and an adverse inference is likely to be drawn against them.
- 17. (i) It is pertinent to note here that it is permissible for the Court to sift and weigh the evidence for the limited purpose of finding out whether or not *prima facie* case against the accused has been made out or not. The material to determine *prima facie* case would depend upon the facts of each case. However, it is not expected to decide the credibility and truthfulness of the available material at the stage of consideration on charge. The disputed defence of accused cannot be taken into consideration at this stage. Sufficiency of material or evidence is not required for framing of charges, unless Court finds that the materials are completely and absolutely absent for the purpose of trial. It is well settled that when there is evidence indicating strong suspicion against the accused, the Court will be justified in framing of charge and granting an opportunity to the prosecution to bring on record entire evidence for the purpose of trial.

(ii) Even recently the Hon'ble Supreme Court in **Criminal Appeal No.873/2021**, titled as, "**Saranya V/s Bharathhi & Anr.**" (DOD 24.08.2021) has been pleased to lay down as under:

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7.1 In the case of Deepak (supra), to which one of us (Dr. Justice D.Y. Chandrachud) is the author, considering the other binding decisions of this Court on the point, namely, Amit Kapoor v. Ramesh Chander (2012) 9 SCC 460; State of Rajasthan v. Fatehkaran Mehdu (2017) 3 SCC 198; and Chitresh Kumar Chopra v. State (Government of NCT of Delhi) (2009) 16 SCC 605, it is observed and held that at the stage of framing of charges, the Court has to consider the material only with a view to find out if there is a ground for "presuming" that the accused had committed the offence. It is observed and held that at that stage, the High Court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, take at their face value, disclose the existence of all the ingredients constituting the alleged offence or offences. It is further observed and held that at this stage the High Court is not required to appreciate the evidence on record and consider the allegations on merits and to find out on the basis of the evidence recorded the accused chargesheeted or against whom the charge is framed is likely to be convicted or not.

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18. In view of the aforesaid discussion, I am of the considered opinion that *prima facie* there is enough material on record to frame charges against the accused persons under requisite sections. Let charges under appropriate sections be framed against all the accused persons. Put up the matter at 2.00 PM for getting the charges signed from the accused persons and fixing the dates of trial.

(VINOD YADAV) ASJ-03(NE)/KKD COURTS/14.09.2021