

5. CR CASES 1494/2020
STATE VS. ROHIT
FIR NO. 148/2020
PS GOKALPURI
CNR NO. DLNEO2-002596-2020

Physical hearing is conducted in terms of Order No.569/RG/DHC/2021 dated 19.08.2021 of Hon'ble High Court of Delhi.

17.09.2021

Present: None for State.
Accused Rohit in person alongwith counsel Sh.Vimal Kumar Singh.
Accused Jatin Panwar in person alongwith counsel Sh. S.K.Morya.
None for accused Jitender.
IO is absent.
Inspector Pramod Joshi, SHO PS Gokal Puri in person.

Report in terms of previous order has been received from DCP (NE) in terms of which the complaint U/s 195 Cr.P.C. has already been placed on record on 19.04.2021 which was handed over to the Reader of the court who had taken the same on record with permission of Ld. Predecessor of this court as he was detected Covid-19 positive, however, no order dt. 19.04.21 is available on record nor is there any noting on the judicial record by the Reader regarding filing of the complaint U/s 195 Cr.P.C. by the IO on 19.04.21. In view of the aforesaid facts, I deem it appropriate to call for a report from the Reader in response to the averments made in the reply of the DCP (NE) and SHO PS Gokalpuri.

Reader is directed to submit the said report within two days along with the explanation for non availability of the order dated 19.04.2021 and the noting regarding filing of the complaint if any by the IO.

However, since the complaint dated 31.03.2021 U/s 195 Cr.P.C. from DCP (NE) qua the offence U/s 188 IPC is available on record, the court has decided to hear submissions on cognizance. SHO PS Gokalpuri has expressed his inability to assist the Court on the facts of the case, whereas IO as well as Ld. SPP for State are absent.

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At request, be awaited for appearance of Ld. SPP and the IO for submissions on cognizance.

Put up again at 11 am.

(ARUN KUMAR GARG)
Chief Metropolitan Magistrate
NE/KKD/DELHI/17.09.2021

Called again:

Present: Shri D.K.Bhatia Ld. SPP for the State.
Accused Rohit and Jatin Panwar along with their respective counsels.
Accused Jitender @ Jeetu is reportedly on bail and not present.
IO is absent.
Inspector Pramod Joshi SHO, PS Gokalpuri and Shri Ajay Kumar Singh ACP Gokalpuri.

Once again, a request for pass over is made on behalf of the State for making submissions on cognizance on the ground that the IO of the present case is busy in Hon'ble High Court of Delhi.

Accordingly, at request put up again at 2.00 pm.

(ARUN KUMAR GARG)
Chief Metropolitan Magistrate
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Called again

Present: None for State.
Accused Rohit and Jatin Panwar in person.
IO is absent.
ASI Gajraj Singh on behalf of the IO.

Once again a request for pass over is made on behalf of the State as neither the IO nor Ld. SPP for the State is available at this stage. Accordingly, put up again at 2.30 pm.

(ARUN KUMAR GARG)
Chief Metropolitan Magistrate
NE/KKD/DELHI/17.09.2021

Called again

Present: None for State.
Accused Rohit and Jatin Panwar in person.
IO/ASI Sushil Kumar in person.

A request for adjournment is made by the IO to assist the Court on the facts of the case on the ground that he has not gone through the police file and hence is unable to answer the queries of the Court. Moreover Ld. SPP for the State is also not available despite repeated calls. It is already 3.25 pm.

A perusal of the record reveals that Ld. SPP for the State had not been appearing in the present case since last many dates and even on the last date of hearing Ld. SPP had appeared only after the matter was adjourned in the morning. Although as per report dated 03.09.2021 received from DCP North East, SHO PS Gokalpuri has been directed to ensure the presence of both of them at a time.

This Court is not oblivious of the fact that inability of SHO PS Gokalpuri to ensure the presence of the IO till 3.25

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pm was due to the reasons beyond his control as the IO had to appear before Hon'ble High Court of Delhi, however, once he was aware of the fact that IO of this case had to appear before Hon'ble High Court, he should have deputed a substitute Officer, duly briefed by the IO, to remain presnet before this Court for assistance on facts. This Court is pained to note that the SHO Gokalpuri has not only failed to depute the substitute IO but also to ensure that the IO while appearing at 3.25 pm, should atleast have gone to the case file. He has also failed to ensure the presence of Ld. SPP except on the second call that too to seek a pass over.

Such lackadisical approach on the part of the prosecution as well as the Investigating Agency in riots cases has been repeatedly brought to the notice of not only the DCP North East and Joint CP Eastern Range but has also been brought to the notice of the Commissioner of Police, Delhi. However, no steps for proper prosecution of the cases seem to have been taken by either of them and if taken, have not yet been brought to the notice of this Court. The aforesaid failure on the part of said police officers to take appropriate measures for prosecution of riots cases is causing avoidable delay in committal/trial of riots cases.

Under the aforesaid circumstances, I deem it appropriate to once again direct the Commissioner of Police Delhi to personally look into the issues pointed out by this Court and to ensure proper prosecution of the riots cases failing which, the Court shall be constrained to pass adverse order as per law against the State including but not limited to imposition of adjournment costs on the State with a further direction to deduct the same from the salary of the officers responsible for imposition of the said cost. Commissioner of Police, Delhi is further directed to ensure the presence of DCP NE before this Court, if he wishes to avail the opportunity of personal hearing on the next date so as to apprise the Court about the difficulties if any faced by him in compliance of directions of this Court, failing which the Court shall be constrained to pass an appropriate order as per law without any further opportunity of hearing to him.

Put up for further proceedings on 01.10.2021. Copy of this order be sent to DCP NE, Joint Commissioner of Police Eastern Range, Commissioner of Police Delhi as well as to

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Hon'ble Lt. Governor of Delhi through Niab Court ASI Irshad today itself who shall place on record the acknowledgement regarding delivery of copy of this order to all concerned by tomorrow at 10.00 am.

Copy of the order be also uploaded on the CIS Server.

(ARUN KUMAR GARG)
Chief Metropolitan Magistrate
NE/KKD/DELHI/17.09.2021