

CNR No. DLNE01-004136-2021

SC No. 436/2021

State v. Rohit etc.

FIR No. 148/2020

PS Gokalpuri

16.10.2023 (At 10:44 AM)

Present: **Sh. D.K. Bhatia**, Ld. Special PP for the State alongwith IO/ASI Sushil Kumar.

Accused Rohit, Jatin Panwar and Jitender @ Jitu are present on court bail.

Ms. Priyanka, ld. counsel for Jitender @ Jitu.

Sh. Arun Sheoran, ld. counsel for Jatin Panwar.

Sh. Vimal Kumar Singh, ld. counsel for Rohit.

Case is fixed for arguments on charge and ld. Special PP has taken my attention to order dated 04.04.2022, wherein on the basis of plea taken by prosecution, the court had given direction that this case shall be entertained for prosecution of complaints related to incidents dated 25.02.2020 or with incidents without any clear date and time, i.e. 17 complaints. There had been a lot of fluctuations and ups and downs in this case in the stand being taken by prosecution since beginning till date. Because as per latest supplementary chargesheet filed on 17.05.2023, IO has taken stand to prosecute this case on 22 complaints out of 25.

It is worth to mention that initially 25 complaints were clubbed in this case. The new stand of IO is based upon recording of fresh statement of some of the complainants, so as to show that they had mentioned wrong date and time of the incident at their premises initially. This is very disturbing trend of investigation, where after filing of a chargesheet taking a stand by the prosecution, IO records statement at any subsequent point of time as per his wish, even without seeking any permission from the court and in defiance of laws u/s. 173(8) Cr.P.C. The lack of seriousness in the stand being taken by prosecution, is well reflected from the fluctuations in the same since beginning till date.

On perusal of the latest statements recorded by IO of some of the complainants (which were recorded without any formal

permission from the court) dated 08.04.2023, I also find that these complainants did not claim to be eyewitness of their incidents and while modifying the date and time of incidents at their premises, they referred to some neighbourers giving such information to them. Who were those neighbourers, are not known, courtesy to half hearted investigation done by the IO.

This case was already referred to Id. DCP (N/E) in the past, so as to point out such approach of IO and delay being caused in the case. The supplementary chargesheet being filed by IO with forwarding from SHO and ACP, taking a contrary stand as taken by them in the past, cannot be accepted without seeking clarification and explanation from the investigating agency. Therefore, Id. DCP (N/E) is called upon to go through the orders passed in this case since beginning till date, so as to be acquainted with the different stand taken by prosecution at different point of time. The court shall be interested to know as to how could without taking any permission from the court as per Section 173(8) Cr.P.C., further investigation was being done that too in half hearted manner, with probably a pre determined objective to show that all the incidents had taken place on a particular date and time. It is worth to remind here that for each incident, the date and time of happenings cannot be based on hearsay evidence. Copy of order be sent to Id. DCP (N/E) and it is expected that Id. DCP (N/E) himself or some other responsible senior officer shall appear before the court with explanation in writing.

Put up on 20.11.2023.

(PULASTYA PRAMACHALA)
ASJ-03(NE)/KKD Courts/Delhi
16.10.2023