

CNR No. DLNE01-004005-2021

SC No. 416/21

State v. Shah Alam etc.

FIR No. 98/20

PS Dayalpur

25.08.2023 (At 10:42 AM)

Present: **Sh. Madhukar Pandey**, ld. Special PP for State, appearing through video conference.

IO/Insp. Shiv Charan in person.

Accused Shah Alam, Rashid Saifi, Mohd. Shadab, Habib, Irfan, Suhail, Salim @ Ashu, Irshad and Azhar @ Sonu, in person on bail.

Mohd. Dilshad, ld. counsel for Shadab.

Mohd. Hasan, ld. counsel for Salim @ Ashu.

Sh. Manoj Kumar, ld. proxy counsel for **Sh. Nasir Ali**, ld. counsel for Irfan and Suhail.

Ms. Shavana, ld. counsel for Irshad and Habib.

Part submissions heard on the point of charge. As per case projected by prosecution, six different incidents arising out of six different complaints, were investigated by IO in this case. They were clubbed for investigation on the pretext of proximity of place and time of the incidents.

When file has been perused, it could be find that the same IO i.e. Insp. Shiv Charan prepared site plan of three places of incidents only and he did not bother to prepare site plan in respect of other place of incidents, though he claims that he had inspected those place of incidents as well. He was offered to submit any justification for adopting two different procedures of investigation in respect of different complaints, but he did not offer any justification.

I do not find any justification for any investigating officer to adopt different parameters in respect of different complaints. This is the situation of investigating agency when more than six months were taken by them in the name of

preparing calendar of evidence. The court had asked them to prepare calendar of evidence, so that at least in that process they could realise the evidence placed by them on the record in respect of incidents being prosecuted in this case and simultaneously, could also know absence of any vital evidence. So prima facie, I find that neither investigation was done properly, nor exercise of preparing calendar of evidence was done with open mind, even to be aware of their own omissions.

I understand that this is not the job of Id. DCP (N/E) to investigate each case, but unfortunately him being supervisory officer, I have to burden him again with the task of getting the things done, which were not done by the IO. It is also worth to mention here that one consolidated site plan was also filed by same IO and even in that so called consolidated site plan all places of incidents were not pointed out by him. Let the department make an assessment of such double standard adopted by IO.

For the purpose of this case, the site plan showing all the places of incidents being prosecuted in the case, must be filed and same must be done by next date of hearing. For the purpose of assessment of the conduct of IO, the matter is referred to Id. Commissioner of Police and for the purpose of getting the undone job done, it is referred to Id. DCP (N/E).

Put up on 15.09.2023. Copy of order be sent to Id. Commissioner of Police. Another copy of this order be sent to Id. DCP (N/E) for compliance.

(PULASTYA PRAMACHALA)
ASJ-03(NE)/KKD Courts/Delhi
25.08.2023