

57 CR Cases 1175/2009 1625/2016 STATE Vs. VED PRAKASH
CHOUDHARY 454 /2005 (Shakarpur)

03.06.2023

Present: Ld. APP for the State.
All Accused except Roop Chand in person.
Accused Roop Chand permanently exempted through
Counsel.
Sh. K K Nehra, Ld. Counsel for Ved Prakash & Akil
Saleem Khan.
Sh. R P S Bhati, Ld. Counsel for accused Roop Chand
Jain.
Sh. Brijesh Kumar Sharma, Proxy Counsel a/w Subodh
Bhatt & Shobha Bhatt.

Order on Charge

1. The brief facts of the case are that the complainant Sh. D. K. Jain and the accused Roop Chand Jain were engaged in property dealing business. They had purchased a property bearing no. 88/14A, Gali No.1, Shakarpur, Delhi in December, 1995 for consideration price of Rs. 5 Lakhs and the papers were prepared in the name of accused Roop Chand Jain. The complainant built up the plot upto 3 floors using his own sources. The second floor was sold to Pramod Bhatt for consideration price of Rs. 3,50,000/- and the amount was handed over to accused Roop Chand Jain. Except 2nd floor, the complete property was in possession of the complainant. The complainant also built up one office at the ground floor of the property and the expensive furniture was kept. In 1999, accused Roop Chand Jain lodged a complaint against the complainant and his son and relatives. Thereafter, the dispute arose between the complainant and accused Roop Chand Jain and a civil case was also instituted. The

complainant used to visit his office situated at the ground floor often. On 14.04.2005, the complainant found that his belongings were absent from his office situated at ground floor. On query from neighborhood, the complainant came to know that on 21.03.2005, at 7:00-7:30 P.M., the door of the office of complainant was broken and his belongings were taken in a vehicle bearing no. DL1LL0754. He further came to know that possession of his office was taken by accused Smt. Sobha Bhatt. Upon the complaint of the complainant, the FIR was registered u/sec. 448/454/380/34 IPC and after the investigation, the present charge sheet and supplementary charge-sheet has been filed u/s 448/454/380/411/34 IPC against accused persons.

2. I have heard arguments addressed by both the parties and perused the record.
3. Ld. APP for state has submitted that as per the charge-sheet the recovery was duly made from accused Subodh Bhatt and Shobha Bhatt. He further submitted that there are eye-witnesses to the incident and the prosecution witnesses had duly named the involvement of all the accused persons in their statement given to the IO. Ld. APP for State further argued that there is sufficient material of record to frame the charges against the accused u/sec. 448/454/380/411/120B IPC. On the other hand, Ld. Counsel for accused has submitted that the present case is based on false and frivolous facts and the same had been filed as a pressure tactic due the pendency of civil dispute. They further submitted that the accused persons deserve to be discharged.
4. In the light of rival contentions put forth by the parties and on

the basis of charge-sheet and annexed documents, the Court shall decide whether there are grounds for presuming that accused has committed an offence (240 Cr.P.C) or the charge against accused is groundless (239 Cr.P.C).

5. This Court is conscious of the scope of Sections 239 & 240 Cr.P.C. which postulate the 'standard of consideration' for discharge or to frame charge against an accused. The criteria to be taken into account at the stage of charge has been discussed in **State of Orissa Vs. Debender Nath Padhi, AIR 2005 SC 359** wherein the Court observed that Section 239 Cr.P.C. requires the Magistrate to consider 'the police report and the documents sent with it under Section 173 Cr.P.C.' and if necessary, examine the accused and after giving an opportunity of being heard, if the Magistrate considers the charge against the accused to be groundless, the accused is entitled to be discharged by recording reasons thereof.
6. Duty of the Court at the stage of framing of charge is to see whether the ingredients of offence are available in the material produced before the Court (Reference can be made to **Niranjan Singh Karam Singh Punjabi, Advocate vs. Jitendra Bhimraj Bijjay, (1990) 4 SCC 76** and **Union of India vs. Prafulla Kumar Samal, AIR 1979 SC 366**). Contradiction in the statement of witnesses or sufficiency or truthfulness of the material placed before the Court cannot be examined at the stage of framing of charge. For this limited purpose, the Court can sift the evidence. Court has to consider material only with a view to find out if there is ground for presuming that the accused has committed an offence and not for the purpose of arriving at a definite conclusion. A case for framing of

charge is made out only if the Court comes to a conclusion, on the basis material on record that commission of offence is a probable consequence.

7. In the present case, it has been very specifically alleged that the accused persons had committed house-trespass and committed theft of articles lying into the office of the complainant. As per the charge-sheet, some of the stolen case property was recovered from the possession of accused Shobha Bhatt.

8. In the considered opinion of this court, there is sufficient material on record which prima-facie show involvement of the accused persons in committing the offences under Section 448/454/380/411/120B IPC and the charge-sheet does not appear to be groundless.

9. In these circumstances, I am of the view that the accused persons are liable to be charged for offences under Sections 448/454/380/411/120B IPC.

Be listed for formal framing of charge on 26.08.2023.

A copy of this order be given dasti to all accused persons, as prayed.

(SONIKA)
MM-04/East/KKD/Delhi/03.06.2023