

**IN THE COURT OF SH. NEERAJ GAUR : ASJ-05, NORTH WEST :**  
**ROHINI COURTS, DELHI**

**SC No. 371/2023**  
**STATE Vs. DEEPAK KHANNA**  
**FIR No. 02 /2023**  
**PS Sultan Puri**

**27.07.2023**

**ORDER ON CHARGE**

1. The prosecution case as per the charge-sheet/complaint u/s 195 CrPC is that one scooty was found in accidental condition within the area of PS Sultanpuri and the information was recorded vide DD No.19A dt. 01.01.2023. The spot was inspected by the officials of PS Sultanpuri. The scooty was found registered in the name of Rekha and during inquiry it was revealed that the said Rekha has left the registered address about 5 years ago.
2. SI Umesh posted at PS Kanjhawala also received a PCR call vide DD No.15A. In the said PCR call, the caller informed that the nude dead-body of a girl was lying. During inquiry, the PCR caller informed the registration no. of the offending vehicle as DL 8 CAY 6414 Baleno Car. On reaching at the spot, the dead-body of a female in almost nude condition was found lying on main Kanjhawala - Qutubgarh Road. The body was removed to SGM Hospital. It was found by SI Umesh that the aforesaid offending vehicle was registered in the name of Lokesh Pratap Sharma and he had gifted the same to his brother-in-law/jija i.e. accused Ashutosh. Accused Ashutosh informed that his friends i.e. accused Deepak Khanna and Amit Khanna had taken the said car on

31.12.2022 at 7 PM and had returned the same on 01.01.2023 at 5 AM in accidental condition. In response to a notice u/s 133 MV Act, accused Ashutosh interalia informed the police that the offending vehicle was being driven by accused Deepak Khanna. The police examined accused Deepak and Amit and Deepak disclosed that it was him who was driving the said car in which accused Manoj, Mithun, Krishan and Amit were also traveling at the time of the accident.

3. A case u/s 279/304A IPC was initially registered at PS Sultanpuri vide the present FIR No.02/23 on the basis of DD No.19A. The Crime Team inspected the spot of accident where the scooty was initially found.
4. The dead-body was identified to be that of Anjali. During interrogation made by SI Umesh of PS Kanjhawala, accused Ashutosh initially disclosed that accused Amit and Deepak had informed him that they had met with an accident with one scooty and out of fear, they drove away the car. Ashutosh also called accused Deepak and Amit and Deepak stated to SI Umesh that it was him who was driving the offending car and accused Manoj was sitting on the front passenger seat. He further informed that accused Mithun, Krishan and Amit were sitting on the rear seat.
5. The offending Baleno Car was sent to FSL for inspection. During investigation, the CCTV footages of the route followed by the offending car was analyzed. The CDRs of the mobile phones of the accused persons were also analyzed to ascertain their physical presence and connectivity. It was revealed that the accused Deepak

Khanna was not driving the vehicle during the accident and he was not even present in the car. During sustained interrogation, it was found that accused Amit Khanna was actually driving the vehicle. Since he was not holding any license, he promised his cousin i.e. accused Deepak Khanna of giving some money for showing Deepak as the driver of the vehicle. It was found that in order to avoid the liability because of non-possession of a valid license by the driver Amit Khanna, it was planned by accused Ankush (who is brother of Amit Khanna) that accused Deepak Khanna will be shown as the driver.

6. During analysis of the CCTV footages, it was discovered that the deceased Anjali and one girl Nidhi reached on the scooty in an OYO hotel. The CCTV footage from the house of the accused Ashutosh further showed that on 31.12.2022, he handed over the offending car to the accused Amit Khanna who was accompanied by accused Krishan. The CCTV footage further showed that the offending car was stopped near Kh. No.106/1 Village Pooth Kalan and 2 persons sitting on the rear seat and one person from the front seat got out of the car and looked beneath the car and again sat back in the car. The movement of the offending car was traced at various places on the basis of the CCTV footages. It was revealed that after the accident, the victim got entangled under the offending vehicle. The accused persons present in the car i.e. accused Amit, Krishan, Mithun and Manoj Mittal noticed that the injured was entangled but instead of trying to save her, they intentionally dragged the deceased for a long distance for about 13 Kms.
7. The eye-witness Nidhi was examined who stated that she could

identify the persons sitting on the driver seat and the front passenger seat. Accused Amit and Manoj Mittal refused to participate in the TIP but during investigation, witness Nidhi identified all the four persons present in the car at the time of accident. As per the version of Nidhi, she alongwith the deceased left the OYO Hotel for their homes on the scooty. When they had gone for some distance, the offending Baleno car hit against the scooty due to which the deceased fell in between the left side tyres of the car whereas Nidhi fell on the other side and sustained minor injuries. The driver moved the car a bit forward and backward due to which Anjali got entangled underneath the car and was crying. While Anjali was still stuck under the car, the driver drove the car dragging Anjali along.

8. Another witness namely Deepak stated that he was standing outside his milk dairy when he saw at 03:18 AM that a car passed in front of his shop making a sound of something stuck under it. Deepak noticed that a dead-body was being dragged with the legs on the front side and head on the backside. The body was semi-nude. Deepak called the police at 112 at about 03:44 AM and he got a call from the PCR. While he was still on call with the PCR, the said car again came and Deepak started following the car on his scooty. He saw that the 4 persons got out of the car and pulled out the dead-body and dumped it on the road.
9. The witness Kamal Khanna stated in his statement recorded u/s 164 CrPC that he was running a TSR and at about 03:15 AM of 01.01.2023, he got a phone call from his nephew i.e. accused Ankush who called him outside stating that his brother i.e. accused Amit had met with an accident. Ankush alongwith his cousin i.e. accused

Deepak reached at Avantika Pagalkhana Road on the TSR. In about half an hour, accused Manoj, Mithun, Krishan and Amit came in a Baleno car and sat in the TSR. Kamal Khanna then dropped all of them to the house of accused Deepak.

10. The witness Sahil Singh stated that he was present alongwith accused Manoj, Mithun, Krishan and Amit on the New Year's Eve and they were partying in the Baleno car. They drank. Sahil was finally dropped at his house.
11. The prosecution case in nutshell is that the accused accused Manoj, Mithun, Krishan and Amit committed the murder of Anjali by dragging her under the car whilst she was still alive. Accused Deepak Khanna, Ankush Khanna and Ashutosh alongwith the aforesaid accused persons made a conspiracy to mislead the police by planting Deepak Khanna as the driver of the offending vehicle. It is further alleged that the evidence of the crime present in the car in the form of fingerprints of accused Manoj, Mithun, Krishan and Amit inside the car and the proof of drinking alcohol were disappeared by all the accused persons in furtherance of a conspiracy. It is further alleged that after all the accused persons assembled at the house of Ashutosh, the actual offenders i.e. accused Manoj, Mithun, Krishan and Amit were harboured at the house of accused Deepak Khanna in furtherance of the conspiracy.
12. Ld. Special PP is pressing the following charges qua the accused persons.:-
  - (a) Accused Amit Khanna – Section 279, 337, 302, 201, 212, 182, 34

IPC r/w Section 120B IPC and u/s 3/181 and 185 MV Act.

- (b) Accused Krishan – Section 302, 201, 212, 182, 34 IPC r/w Section 120B IPC.
  - (c) Accused Mithun – Section 302, 201, 212, 182, 34 IPC r/w Section 120B IPC.
  - (d) Accused Manoj – Section 302, 201, 212, 182, 34 IPC r/w Section 120B IPC.
  - (e) Accused Deepak Khanna – Section 201, 212, 182, 34 IPC r/w Section 120B IPC.
  - (f) Accused Ankush – Section 201, 212, 182, 34 IPC r/w Section 120B IPC.
  - (g) Accused Ashutosh – Section 201, 212, 182, 34 IPC r/w Section 120B IPC and 5/180 MV Act.
13. Arguments have been heard. Record has been perused.
14. On behalf of accused Mithun, it is argued that the offending car was allegedly being driven by accused Amit Khanna. Accused Mithun was neither the driver nor he can be said to be in the knowledge about the accident or about the deceased getting entangled beneath the car. Accused Mithun was sleeping on the rear seat of the car. It is argued that neither any intention nor any knowledge can be imputed to accused Mithun or for that matter to the other accused who were not driving the offending car.
15. Ld. Special PP refuted the above arguments and submitted that there are ample material in the charge-sheet showing that after the accident, the 4 accused persons sitting in the car got down and despite noticing

that the deceased was entangled and was alive, they drove the car dragging the body underneath. It is further submitted that there is evidence to the effect that the car was making loud noise clearly indicating that something was badly stuck in the tyres and the accused persons sitting in the car cannot plead ignorance.

16. It is further argued by Ld. Counsel for accused Ashutosh that accused Ashutosh was completely oblivious of the fact as to who was driving the offending vehicle. He was only told that the car had met with an accident. The CCTV footage collected by the police shows that at the time of taking back the car, he simply came out and took the car. He cannot be said to be part of any conspiracy of making false statement or of disappearing of the evidence or of harbouring of the accused persons.
17. Ld. counsel for accused Amit, Krishan, Manoj, Deepak and Ankush further argued that there is no material to show that there was any motive behind the alleged act. It is further argued that the co-victim/injured Nidhi did not make any complaint regarding the accident and she kept quiet for several days. There are various contradictory versions given by Nidhi in her media statements and she is not a reliable witness. It is argued that there was no premeditation of mind or conspiracy between the accused persons and there was no common intention between the accused persons.
18. I have considered the submissions and gone through the record. The law on the point of charge has been discussed in detail by Hon'ble Apex Court in **State Vs. A. Arun Kumar and Anr 2015 (2) SCC**

**2014.** The relevant portion of the judgment is being reproduced herein below:-

8. The law on the point is succinctly stated by this Court in [Sajjan Kumar v. CBI](#)[2] wherein after referring to [Union of India v. Prafulla Kumar Samal](#)[3] and [Dilawar Balu Kurane v. State of Maharashtra](#)[4] this Court observed in para 19 thus:

"It is clear that at the initial stage, if there is a strong suspicion which leads the Court to think that there is ground for presuming that the accused has committed an offence, then it is not open to the court to say that there is no sufficient ground for proceeding against the accused. The presumption of the guilt of the accused which is to be drawn at the initial stage is only for the purpose of deciding prima facie whether the Court should proceed with the trial or not. If the evidence which the prosecution proposes to adduce prove the guilt of the accused even if fully accepted before it is challenged in cross-examination or rebutted by the defence evidence, if any, cannot show that the accused committed the offence, then there will be no sufficient ground for proceeding with the trial."

This Court the went on to cull out principles as regards scope of [Sections 227](#) and [228](#) of the Code, which in our view broadly apply to [Sections 238](#) and [239](#) of the Code as well. It was observed thus in para 21: "Exercise of jurisdiction under [Sections 227 & 228](#) of Cr.P.C.

21. On consideration of the authorities about the scope of [Section 227](#) and [228](#) of the Code, the following principles emerge:

(i) The Judge while considering the question of framing the charges under [Section 227](#) of the Cr.P.C. has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.

(ii) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained, the Court will be fully justified in framing a charge and proceeding with the trial.

(iii) The Court cannot act merely as a Post Office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the Court could form an opinion that the accused might have committed offence, it can frame



the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the Court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of [Sections 227](#) and [228](#), the Court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value discloses the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal."

19. The first argument on behalf of accused Amit, Mithun, Manoj and Krishan is that they were not aware of the fact that any body was stuck underneath the car hence, they had neither the intention nor the knowledge of causing the death. The prosecution has proposed to prove the intention and knowledge through various witnesses including witness Nidhi who stated that despite seeing and noticing, the accused persons drove away the car dragging the body of Anjali underneath while she was still crying and shouting.
20. Another argument is that the other persons sitting in the car cannot be fastened with the criminal liability as the car was allegedly driven by accused Amit khanna. We are at the stage of charge and at this stage, it is to be prima-facie seen if the prosecution deserves a fair opportunity to prove the charges through its witnesses. At this stage, a mini-trial cannot be held. In the case in hand, the prosecution has relied upon

several witnesses and there is sufficient material to proceed against the accused Mithun, Manoj and Krishan for the offence of murder.

21. The primary submissions on behalf of accused Ashutosh is that he was not aware of any accident and he did not give any false statement to the police. In this regard, Ld. APP for the State drew my attention to the reply given by accused Ashutosh to the notice u/s 133 MV Act in which he stated that the car was driven by accused Deepak Khanna. The motive assigned by the prosecution is that the accused Ashutosh intended to escape the liability of the accident for want of a valid license of the actual driver Amit Khanna. Prima-facie, material is available in the charge-sheet (direct as well as circumstantial) to presume that the act of giving false information, the act of disappearance of the evidence from the offending vehicle and the act of giving shelter to the actual offenders at the house of accused Deepak Khanna were all done in a planned manner under a conspiracy of all the accused persons. No case for discharge is made out even qua accused Ashutosh.
22. After going through the contents of the chargesheet and the documents annexed therewith and in view of the discussion made herein above, I am of the view that there is a strong suspicion against the accused persons for framing of charges against them. The charges are liable to be framed in the following manner :-
  - (a) Accused Amit Khanna – Section 279, 337, 302, 201, 212, 182, 34 IPC r/w Section 120B IPC and u/s 3/181 and 185 MV Act.
  - (b) Accused Krishan – Section 302, 201, 212, 182, 34 IPC r/w Section

120B IPC.

- (c) Accused Mithun – Section 302, 201, 212, 182, 34 IPC r/w Section 120B IPC.
- (d) Accused Manoj – Section 302, 201, 212, 182, 34 IPC r/w Section 120B IPC.
- (e) Accused Deepak Khanna – Section 201, 212, 182, 34 IPC r/w Section 120B IPC.
- (f) Accused Ankush – Section 201, 212, 182, 34 IPC r/w Section 120B IPC.
- (g) Accused Ashutosh – Section 201, 212, 182, 34 IPC r/w Section 120B IPC and 5/180 MV Act.

23. Charge to be framed accordingly.

(Neeraj Gaur)  
ASJ-05/North-West District  
Rohini Courts/Delhi/27.07.2023