

**IN THE COURT OF SH. AMITABH RAWAT
ADDITIONAL SESSIONS JUDGE-03
(SHAHDARA), KARKARDOOMA COURT, DELHI**

I.A . No. 170-2023 (Tasleem Ahmed)

SC No. 163/2020 (RIOTS CASE)

FIR NO. 59/2020

PS- Crime Branch, Delhi (Investigated by Special Cell)

U/s 13/16/17/18 UA (P) Act, 120B r/w 109/114/124-A/147/148/149/153A/186/201/212/295/302/307/341/353/395/419/420/427/435/436/452/454/468/471/34 IPC & Section 3 & 4 Prevention of Damage to Public Property Act, 1984 and Section 25/27 Arms Act.

State Vs. Tahir Hussain & Others

03.10.2023

Present: Sh. Amit Prasad, Ld. Special Public Prosecutor for the State (through Webex) alongwith ACP Vivekanand Jha.
Applicant/accused Tasleem Ahmed from JC pursuant to his production warrant with Ld. Counsel Sh. Sanawar.

Ld. Special Public Prosecutor submits that Sh. Mehmood Pracha, Ld. Counsel for applicant/accused has made specific personal allegations against him as stated in the application including that he has got conducted private investigation done on him and has found out that Special Public Prosecutor has, in an underhand manner, taken money in cash from the police. Ld. SPP stated that if this allegations is correct, he is not fit to continue as Special Public Prosecutor in this case. He further submits that Ld. Counsel for accused may place the material on record to substantiate his false and grave allegations on his integrity alongwith the affidavit of the private investigator. It is stated that Ld. Counsel for accused has put question marks on the integrity of the Ld. Prosecutor and prosecution cannot be browbeaten like this.

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Ld. SPP further points out that even under law Mr. Mehmood Pracha, Ld. Counsel for accused cannot represent an accused in this case as he himself been named in the statement of one witness namely 'SMITH' and there is conflict of interest. He further submits that despite no objection by the accused to be represented by Sh. Mehmood Pracha, there is still conflict of interest and violation of Bar Council Rules.

He has referred to Section 395 Cr.P.C and asked the Court to refer the matter to the Hon'ble High Court of Delhi on the question of law about Mr. Mehmood Pracha representing an accused in this case. Ld. Special Public Prosecutor submits that this will have an implication at the later stage of trial.

Ld. Special Public Prosecutor has referred to the judgment of Hon'ble High Court of Gujarat in a case titled as *Gohel Himatsingh Lakhaji vs. Patel Motilal Garbaldas and Ors.*, MANU/GJ/0141/1965.

Ld. SPP submits that without this issue being decided, he cannot address arguments on the bail application of applicant/accused.

Accused submits that he wants to continue with Mr. Mehmood Pracha. Ld. Proxy Counsel for accused, on instructions, submits that they do not wish to state anything about the submissions and court may pass any order.

Heard.

In these circumstances, let this matter be posted for orders on this issue on 25.10.2023.

(Amitabh Rawat)
Addl. Sessions Judge-03
Shahdara District, Karkardooma Courts,
Dated: 03.10.2023