

**IN THE COURT OF VIKAS DHULL, SPECIAL  
JUDGE (PC ACT) (CBI)-23 (MPs/MLAs CASES)  
ROUSE AVENUE COURT COMPLEX, NEW DELHI**

Case Registration No. **SC/07/2023**

CNR No. DLCT11-000455-2023

**FIR No.01/2019**

PS Fatehpur Beri

State

**Versus**

1. Raju Kumar Singh  
S/o Sh.Uday Pratap Singh  
R/o Rose Farm House, Mandi Village, New Delhi
2. Hari Singh (**Deceased**)  
S/o Sh.Lal Babu  
R/o Rose Farm House, Mandi Village, New Delhi
3. Renu Singh  
W/o Sh.Raju Kumar Singh  
R/o Rose Farm House, Mandi Village, New Delhi
4. Rana Rajesh Singh  
S/o Sh.Uday Pratap Singh  
R/o Rose Farm House, Mandi Village, New Delhi
5. Ramendra Singh  
S/o Sh.Virender Singh  
R/o Village & P.O.Masath, P.S. Udwant Nagar  
Distt.Bhojpur, Bihar

**... Accused Persons**

Date of filing of chargesheet	: 28.09.2019
Date on which case received by assignment	: 02.06.2023
Date on which order on charge reserved	: 18.10.2023
<b>Date on which order pronounced</b>	<b>: 30.10.2023</b>

*SC No. 7/2023*

*FIR No. 01/2019*

*PS. Fatehpur Beri*

*State Vs.Raju Kumar Singh and Ors.*

*1/30*

## ORDER ON CHARGE

1. Vide this order, I shall dispose of the plea of accused Raju Singh seeking his discharge for the offence under Section 302 of the Indian Penal Code, 1860 (**hereinafter referred to as “IPC”**) and under Section 30 Arms Act, 1959 (**hereinafter referred to as “Arms Act”**) and plea of accused persons namely, Ramendra Kumar Singh, Rana Rajesh Singh and Smt.Renu seeking their discharge in the present case for the offence under Section 201/34 IPC.

### **Brief Facts of the case**

2. The brief facts, which are relevant for deciding the plea of accused persons seeking discharge are that on 01.01.2019, an information was received at PS Fatehpur Beri from Fortis Hospital, Vasant Kunj, New Delhi regarding shooting incident at Mandi Gaon, New Delhi which was recorded vide General Diary No.006A and was assigned to SI Manjeet Kumar for further action. Thereafter, SI Manjeet Kumar had reached Fortis Hospital, Vasant Kunj, New Delhi where he had found one lady by the name of Archana Gupta, aged 45 years, admitted in the hospital with gunshot injury and doctor opined that since the patient is on mechanical ventilator, therefore, her statement cannot be recorded. At the hospital, SI Manjeet Kumar also met Vikas Gupta, who was husband of injured

Archana Gupta, and his statement was recorded regarding the incident.

3. In his statement, Sh.Vikas Gupta had stated that on the night of 31.12.2018, he alongwith his wife Archana Gupta and daughter had gone for a New Year Party to Rose Farm, Ambedker Colony Mandi Village, New Delhi which belongs to his friend Sh.Sanjeev Singh, who was known to him for the past 25 years. He further stated that at about 12 O'clock, his wife hugged him and had went back to the DJ dance floor to continue with her dancing. He further stated that at that point of time, he had seen security guard and Raju Singh, brother of his friend Sh.Sanjeev Singh, firing in the air with their respective weapons. He further stated that thereafter about 5 minutes later, firing was again done by Raju Singh and thereafter, he suddenly noticed that his wife had fallen down and he accordingly, rushed towards her. She was found to be unconscious and had blood on her face. Thereafter, he alongwith the help of other guests, had taken her to the Fortis Hospital in the Innova Car belonging to his friend Sh.Sanjeev Singh. After recording the statement of husband of injured Archana Gupta, SI Manjeet Kumar alongwith Constable Ramrattan had reached at the place of incident where they came to know that on the occasion of New Year Party, injured was shot and they also found that blood lying at the spot, was also got cleaned. Thereafter, SI Manjeet Kumar had sent information to the police station and accordingly, FIR No.

01/2019 under Section 307/201/34 IPC and 27 Arms Act was registered and the matter was taken up for investigation.

4. During the course of investigation, two .22 caliber used cartridges were seized from the spot and some live and used cartridges were recovered from the house of Raju Singh and one rifle .315 Caliber, some used and live cartridges and other material was recovered from the house of Hari Singh.
5. During the course of investigation, it came on record that two persons firing in the New Year Party were accused Raju Singh, who was an Ex MLA from Bihar and his driver Hari Singh. Both had fled from the spot and were apprehended on 02.01.2019 from Fazil Nagar, U.P. and from the possession of accused Raju Singh, one pistol with .22 caliber and some live cartridges were recovered. The Innova Car in which both accused were bound traveling, was also seized. Thereafter, on 03.01.2019, information was received at PS that injured Archana Gupta had expired during the course of treatment. Accordingly, Section 307 IPC was replaced by Section 302 IPC. The postmortem of deceased was got done from the AIIMS Hospital, New Delhi and doctor opined that death was as a result of head injury due to Fire-Arm injury to the head.
6. Further, the witnesses, who were present at the New Year Party, at the place of incident, were examined and their statement was recorded under Section 161 Cr.P.C. and

statement of some of the witnesses was also got recorded under Section 164 Cr.P.C. Witnesses in their respective statements had stated that on the occasion of New Year Party, people were dancing on the DJ dance floor and accused Raju Singh and accused Hari Singh were firing in the air with their respective weapons and accused Raju Singh was under the influence of alcohol and suddenly, one lady by the name of Archana Gupta had fallen down on the dance floor and lot of blood had oozed out on the dance floor. It had also come in their statement that co-accused Ramendra Kumar Singh, Rana Rajesh Singh and Smt.Renu had got the blood cleaned from the DJ dance floor.

7. During the course of investigation, both accused had produced their gun licenses, which on verification were found to be genuine. Further, the fragments of bullet recovered from the body of deceased Archana Gupta during the course of postmortem, the used as well as live cartridges alongwith both the weapons i.e. .22 caliber allegedly used by Raju Singh and .315 rifle allegedly used by Hari Singh, was sent to the CFSL for their opinion.
8. Based upon the postmortem report and the statement of witnesses, it was concluded in the investigation that accused Raju Singh had done firing in the New Year Party with the knowledge that the act of firing is so dangerous that it might lead to death and accordingly, he was charge

sheeted for the offence of murder under Section 302 IPC read with 30 Arms Act.

9. Accused Hari Singh was chargesheeted for the offence under Section 336 IPC as he had done the negligent act of firing in the New Year Party, which could have endangered human life and personal safety of others.
10. Remaining three accused namely, Ramendra Kumar Singh, Rana Rajesh Singh and Smt.Renu were chargesheeted for the offence under Section 201/34 IPC for causing disappearance of evidence relating to the offence by getting the blood of deceased cleaned from the DJ dance floor with the intention of screening the offenders.
11. After the filing of chargesheet before the court of Ld.Magistrate, Saket District Courts, New Delhi, all accused persons were summoned and they were supplied with the copy of chargesheet and documents under section 207 Cr.P.C. After compliance of Section 207 Cr.P.C., Ld.Magistrate had committed the case to the court of Sessions as the offence under Section 302 IPC was exclusively triable by the court of Sessions. Thereafter, it came into the notice of Ld.Predecessor of the court that CFSL result was still awaited and IO was directed to bring the same on record at the earliest. Thereafter, supplementary chargesheet was filed on 30.09.2021, having the fire arm examination report from CFSL and copy of supplementary chargesheet was also supplied to

accused persons. Thereafter, it was informed by Ld. counsel for accused Hari Singh that he had expired on 28.04.2021. After the verification of death of accused Hari Singh, proceedings against accused Hari Singh stood abated on 04.06.2022. Thereafter, the matter was posted for arguments on the point of charge.

12. At the stage of arguments, Ld.counsel for accused persons had apprised the Ld. Predecessor of the court, regarding moving of a transfer application before the Hon'ble High Court of Delhi, for transferring the present case to the designated court set up for trying the offences against MPs/MLAs. Thereafter, vide order dated 26.05.2023 passed in Tr.P.(CrI.) 60/2023, the Hon'ble High Court of Delhi had transferred the said case from the Saket District Courts, New Delhi to the Rouse Avenue District Courts, New Delhi. Thereafter, the Ld.Principal District & Sessions Judge, RADC, New Delhi had assigned this case to this court.

13. I have heard Sh.Rajiv Mohan, Ld.counsel for all accused persons and Sh.Manish Rawat, Ld.Addl.PP for State. I have also carefully perused the chargesheet, supplementary chargesheet and the documents filed alongwith them.

### **Arguments on behalf of State**

14. It was submitted by Ld.Addl.PP for State that at the stage of charge, prosecution is required to show a prima

facie existence of material showing that the offence has been committed by accused.

15. It was submitted that in the present case, statement of complainant Vikas Gupta and the statement of witnesses namely, Vikas, Suraj, Anand Tiwari, Smt.Shikha Gupta, Sanjeev Bhat, Rohit Kumar, Rajesh Singh and Achyut Kant was recorded under Section 161 Cr.P.C. It has come in their statements that on the occasion of New Year Party at Rose Farm House, Mandi Gaon, New Delhi, which is owned by Raju Singh, accused Raju Singh and deceased accused Hari Singh were firing in the air with their respective weapons and at around 12 in the night, one lady, who was dancing on the DJ dance floor suddenly fell down and blood was found to be oozing on the dance floor.

16. It was further submitted that thereafter, deceased Archana Gupta was taken to the Fortis Hospital where in the MLC, it was opined that it was a case of gunshot injury to the head. Later on, deceased had expired on 03.01.2019 during the course of treatment and her post mortem was got conducted from the AIIMS hospital. It was further submitted that as per the post mortem report, death of deceased was due to gunshot injury to the head and during the course of postmortem, fragments of bullet were recovered from the head of deceased and the same were sealed and were sent to the CFSL, Delhi for its examination.



17. It was further submitted that as per CFSL report, it was opined that lead pieces could be fragments of bullet and with regard to deformed bullet, it was opined that it could be a .22 bullet.
18. It was further submitted that it has further come on record from the statement of witnesses as well as from the arms license that pistol having of .22 caliber, was fired by accused Raju Singh and rifle of .315 caliber was being fired by deceased accused Hari Singh at New Year Party. Therefore, from the above, there is a prima facie material on record to show that due to firing done by accused Raju Singh from his .22 caliber pistol, deceased had suffered a gunshot injury to her head and had expired.
19. It was further submitted that accused Raju Singh being under the influence of alcohol, was firing with his pistol at New Year Party knowing fully well that firing in an inebriated condition is an act which is so dangerous that in all probability, it may lead to causing of such bodily injury as is likely to cause death. Therefore, the knowledge can be attributed to the acts of accused Raju Singh and accordingly, he should be charged for the offence of murder under Section 302 IPC or in the alternative for the offence under Section 304 IPC.
20. It was further submitted that with regard to accused persons namely, Ramendra Kumar Singh, Rana Rajesh Singh and Smt.Renu, there is a prima facie material on record in the light of statement of witnesses under Section

161 Cr.P.C. as aforementioned that after the deceased was shot, they had instructed the witnesses i.e. Vikas, Suraj and Anand Tiwari to clean the blood lying on the dance floor. It was further submitted that the act of these three aforementioned accused persons in getting the blood of deceased cleaned from the dance floor, was done with the intention of causing disappearance of evidence of offence of murder with the intention of screening the offender from the punishment. Therefore, there is a prima facie material on record to frame charge against accused Ramendra Kumar Singh, Rana Rajesh Singh and Smt.Renu for the offence under Section 201/34 IPC. Accordingly, it was prayed that appropriate charge against all accused be framed.

#### **Arguments on behalf of all accused persons**

21. It was submitted by Ld.counsel for accused Raju Singh that at the stage of framing of charge, there should be some material on record, on the basis of which there should be some prima facie or strong suspicion on record showing that accused had committed an offence and only in those circumstances, charge can be framed against accused. In support of his submission, he has relied upon **Dipakbhai Jagdishchandra Patel Vs. State of Gujarat and another (2019) 16 SCC 547** (para 23).
22. It was further submitted that in the present case, as per the statement of witnesses recorded under Section 161

Cr.P.C, there were two persons firing in the air in the New Year Party at Rose Farm House, Mandi Gaon, New Delhi i.e. accused Raju Singh with his .22 caliber pistol and deceased accused Hari Singh with his rifle having .315 caliber.

23. It was further submitted that it is an admitted case of prosecution that accused Raju Singh and Hari Singh were firing in the air. It was further submitted that it is an admitted position that deceased Archana Gupta had died due to gunshot injury to her head. However, there is no material on record to show that deceased had died as a result of gunshot injury by accused Raju Singh. It was submitted that as per postmortem report of deceased Archana Gupta, fragments of bullet were recovered from her head and same were sent by the IO to the CFSL for their examination. It was further submitted that as per the CFSL report, the fragments of bullet were opined to be part of bullet but there is no opinion given by CFSL expert that fragments of bullet were that of .22 caliber pistol or that of .315 caliber rifle.

24. It was further submitted that in the CFSL report, an opinion has been given that the deformed bullet can be .22 caliber pistol. However, the opinion given by CFSL regarding deformed .22 bullet does not raise any kind of grave suspicion that it was accused Raju Singh, who had fired upon deceased from his pistol, which led to her death. It was submitted in this regard that the doctor, who had

conducted the post mortem at AIIMS, did not mention about the recovery of any deformed .22 bullet during the course of post mortem and has only mentioned regarding recovery of fragments of bullet from the entry wound and from the exit wound side. Therefore, onus is upon the prosecution to explain as to how the deformed bullet has reached the CFSL department on which an opinion has been given that it was a .22 caliber bullet. However, prosecution has not been able to explain as to how the deformed bullet had reached CFSL, Lodhi Road, New Delhi in the exhibits of AIIMS Hospital when there is no mention about its recovery in the post mortem examination. Therefore, possibility of same being planted by police in the exhibits sent to the CFSL, Lodhi Road, New Delhi to falsely implicate accused Raju Singh, cannot be ruled out.

25. It was further submitted that CFSL report has not given any opinion to connect the deformed bullet allegedly recovered from the body of deceased to the pistol of accused Raju Singh. It was further submitted that as per CFSL report, it has been opined that used four .315 cartridge, which were allegedly recovered from the spot, were not not fired from .315 rifle of deceased accused Hari Singh but was fired from the same Fire-Arm i.e. .315 rifle other than which was sent to the CFSL laboratory. Therefore, this opinion of the CFSL points to the use of 3<sup>rd</sup> Fire-Arm and the possibility of deceased dying as a result

of gunshot injury from some other rifle of .315 caliber cannot be ruled out. Therefore, there is no prima facie material on record to show that deceased Archana Gupta had died as a result of gunshot injury due to firing by accused Raju Singh from his .22 caliber pistol.

26. It was further submitted that even if it is assumed that deceased Archana Gupta had died as a result of firing from .22 caliber pistol of accused Raju Singh, then also no offence under Section 302/304 IPC is made out. It was submitted in this regard that as per the admitted case of prosecution, accused Raju Singh was firing in the air. This act of accused Raju Singh demonstrates that he had no intention to cause death of any person.

27. It was further submitted that it is also an admitted case of the prosecution that accused Raju Singh had not fired pistol aiming at the crowd gathered at New Year Party. Therefore, from the act of accused Raju Singh of firing in the air on the New Year occasion, no intention or knowledge can be attributed to him to prima facie make out an offence under Section 304 IPC.

28. It was further submitted that the alleged act of accused Raju Singh in firing in the air, on the occasion of New Year, can at best, be described as a rash and a negligent act, which had led to the death of deceased Archana Gupta. Therefore, at the most offence under Section 304-A IPC is made out against accused Raju Singh if due to firing from his .22 caliber pistol, deceased

Archana Gupta had died. Accordingly, it was prayed that accused Raju be discharged for the offence U/s 302 IPC.

29. With regard to Section 201/34 IPC, it was submitted by Ld.counsel for accused persons namely, Ramendra Kumar Singh, Rana Rajesh Singh and Smt.Renu that firstly, there is no material on record to show that accused Renu had caused dis-appearance of any evidence in order to screen the offender.

30. Secondly, it was submitted that even with regard to Ramendra Kumar Singh and Rana Rajesh Singh, statement of various eye witnesses shows that only they had got blood cleaned from the DJ floor. It was submitted that blood of deceased Archana Gupta lying on the dance floor was not any evidence connected with the offence and, therefore, offence under Section 201 IPC is not made out.

31. It was further submitted that even accused persons had no knowledge or reason to believe that some offence has been committed and, therefore, they cannot be charged with Section 201 IPC just because they had got the blood of deceased cleaned from the DJ dance Floor. It was further submitted that blood of deceased Archana Gupta on the DJ dance floor could have provided the evidence regarding the place of commission of the offence, which in any case is not being disputed. Accordingly, it was submitted that the offence under Section 201/34 IPC is not made out against Ramendra Kumar Singh, Rana Rajesh Singh and Smt.Renu. Accordingly, a prayer was made to

discharge the said accused persons for the said offence. In support of his submission, he has relied upon **Sukhram Vs. State of Maharashtra (2007) 7 SCC 502.**

### **Reasoning**

32. I have considered the rival submissions of respective counsels and have carefully perused the record.

33. The law with regard to discharge of accused in criminal trial can be succinctly summarized as follows by referring to following judgments of the Hon'ble Supreme Court of India:

(i) **Sajjan Kumar Vs. CBI Criminal Appeal of 2010 (Arising out of SLP NO. 6374/10 date of Judgment 20.09.2010)**

(ii) **Union of India Vs. Prafulla Kumar samal (1979)3 SCC4**

(iii) **Dilawar Balu Kurane Vs. State of Maharashtra(2002) 2 SCC 135**

(a) The court while considering the question of framing the charge under the Criminal procedure Code has 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.

(b) Where the materials placed before the court discloses 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.

(c) The court can not 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 can not be a roving enquiry into the pros

and cons of the matter and weigh the evidence as if court was conducting a trial.

(d) 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.

(e) 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.

34. Now, let us see whether there is any prima facie material on record or strong suspicion against accused persons to frame charge against them or not?

35. As far as accused Raju Singh is concerned, there is prima facie material on record in the light of statement of various witnesses to show that accused Raju Singh under the influence of alcohol, was firing in the air in the New Year Party on 31.12.2018 and due to his firing, deceased Archana Gupta had suffered head injury and later on, she died during the course of treatment. As per the statement of complainant Sh.Vikas Gupta, who happens to be the husband of deceased Archana Gupta and statement of witnesses namely, Rajesh Singh, Achyut Kant, Vikas and Rohit, there were two persons firing in the air at the New Year Party at Rose Farm House, Mandi Village, New Delhi i.e. accused Raju Singh with his .22 caliber pistol and accused Hari Singh with his .315 caliber rifle. However, the majority of witnesses, who were present at the aforementioned New Year Party have stated that when



deceased Archana Gupta had fallen down on the floor, it was accused Raju Singh alone, who was firing in the air. In this context, statement of complainant Sh.Vikas Gupta dated 01.01.2019 is relevant wherein he has stated that initially at about 12 O'clock in the night, both accused Raju Singh and his driver namely Hari Singh were firing in the air with their respective weapons but after about five minutes later, it was accused Raju Singh alone, who was firing when he suddenly noticed that his wife had fallen down on the floor and she was having blood on her face.

36. The complaint of complainant Sh.Vikas Gupta dated 01.01.2019 is corroborated by number of witnesses, who were present in the aforementioned New Year Party. In the statement recorded under Section 161 Cr.P.C. of PW Vikas and Suraj, who were playing the DJ, it has come that accused Raju Singh was under the influence of liquor and while dancing with deceased, had shot the deceased with his pistol. Similarly, PW Anand, who was working as a waiter in the said party, PW Punit Gupta, who was the cousin of Sh.Vikas Gupta, husband of deceased Archana Gupta, Sanjeev Bhat, who was friend of Sh.Vikas Gupta and Sh.Kaushelendra Jha, who was also one of the guests in the party, they all had stated in their respective 161 Cr.P.C. statements that when deceased Archana Gupta had fallen on the DJ dance floor after being hit with a bullet, it was accused Raju Singh alone, who was firing in the air. Therefore, from the statement of aforementioned

witnesses, there is a prima facie material on record to connect the act of firing by accused Raju Singh to the gunshot head injury on the person of deceased Archana Gupta.

37. Further, there is material on record to show that accused Raju Singh alongwith deceased accused Hari Singh had fled from the spot in the Toyota Innova Car and were later on apprehended from Fazil Nagar, U.P. on 02.01.2019. This conduct of accused Raju Singh, subsequent to the offence, is a relevant fact under Section 8 of the Indian Evidence Act, 1872 and prima facie shows that accused was involved in the commission of offence otherwise there was no reason for the accused to have fled from the spot.

38. The other corroborative prima facie material on record is the post mortem report and the CFSL report. In the present case, the post mortem of deceased Archana Gupta was got conducted at AIIMS Hospital and as per post mortem report, the cause of death has been opined to be shock as a result of head injury consequent upon fire arm injury to the head. During the course of post mortem of deceased Archana Gupta, doctor had also observed gunshot entry and exit wound over the temple area of Archana Gupta and had also found fragments of bullets lodged in the left as well as right temple area. The fragments of bullet, which were seized during the course of post mortem were handed over to the IO in a sealed cover. Thereafter, the fragments of bullet were sent to the

CFSL Laboratory, Lodhi Road, New Delhi and the Ballistic Division of CFSL, Lodhi Road, New Delhi vide their report dated 29.06.2020 had reported regarding the description of exhibits received by them in the parcel and with regard to Exhibit No.3, it was opined that apart from two small lead pieces, one deformed/mutilated fired bullet was also recovered. Thereafter, on the basis of examination, it was opined that the deformed bullet contained in Exhibit No.3 could be a .22 caliber bullet and the lead pieces of bullet were opined to be fragments of bullet.

39. It was the contention of the Ld. Defence counsel that the deformed bullet was never recovered during the course of post mortem of deceased Archana Gupta by the doctors of AIIMS and the possibility of deformed bullet being planted by police to falsely implicate accused Raju Singh, cannot be ruled out.

40. The said contention of Ld. Defence counsel for accused Raju Singh deserves to be rejected. The reason for the same is that initially deceased Archana Gupta, after being shot at New Year Party, was taken to the Fortis Hospital, Vasant Kunj, New Delhi and the medical report dated 01.01.2019 opined that there is a swelling over right parietal area and there is a probability of bullet being lodged inside the head. Therefore, the initial opinion given by examining doctor at Fortis Hospital, New Delhi after examining temporal area, was that bullet might be lodged

inside the brain as left side was having a small round wound with mild active bleeding whereas on the right parietal region, only swelling was there.

41. Although it is true that in the post mortem examination report of AIIMS, there is no mention of recovery of any deformed bullet and it only refers to recovery of bullet fragments from entry and exit wound area but still there is no material on record to show that the deformed bullet has been planted in this case just to falsely implicate accused. There is no material on record to show that the sealed exhibits of AIIMS having bullet fragments were received by the CFSL Laboratory, Lodhi Road, New Delhi in a tampered condition. Therefore, there is a possibility that AIIMS doctor, due to some over sight, might have missed out the mentioning of recovery of deformed bullet in the post mortem report and the prosecution is required to be provided an opportunity to explain about the recovery of deformed bullet at the stage of trial.
42. Even otherwise, as per the post mortem report, injuries which were noticed in the left temple area was an entry wound measuring 1 cm X 0.5 cm and a fracture of the right parietal bone.
43. Further, from the place of incident, two used cartridges of .22 caliber were recovered and they were seized vide seizure memo dated 01.01.2019 and the description of used bullet shows that it was having a length

of 1.5 cm and width of .4 cm. Therefore, the injury, which was caused in the entry wound area corresponds to the size of bullet so recovered from the spot and this also prima facie establishes on record that a .22 caliber bullet had caused gunshot injury to the head of deceased which led to her death.

44. Further, the recovery of deformed bullet from the temple area of deceased is further corroborated by the observation made in the post mortem report by the doctors of having found fracture of right parietal bone, which shows that bullet after entering into from the left temple area had got deformed as it had hit right parietal bone in the exit wound area, which led to the right parietal bone being fractured. Therefore, injuries so observed in the post mortem examination in the left and right temporal area are consistent with the deformed bullet so received by the CFSL, New Delhi from the AIIMS hospital, regarding which it was opined that it was .22 caliber bullet.

45. In the light of aforesaid discussion, there is prima facie material on record in the light of statement of witnesses, initial medical examination report of the Fortis Hospital, New Delhi and there being no material to show that exhibits sent by the AIIMS hospital having their seal and received by CFSL, Lodhi Road, New Delhi were tampered in any manner, to show that deceased had died due to gunshot injury caused by .22 caliber pistol of accused Raju Singh.

46. The other contention of Ld.Defence counsel that deceased might have been killed by the usage of third weapon of .315 Caliber in the light of CFSL report, deserves to be rejected. The reason for the same is that as per eye witnesses, there were two persons firing in the air i.e. accused Raju Singh, who was using his .22 caliber pistol and deceased accused Hari Singh, who was firing from his .315 caliber rifle. No witness has stated in their respective statements of having seen any third person firing from his .315 rifle, apart from aforementioned two accused persons.
47. Secondly, as discussed hereinabove, the dimension of the entry wound found in the parietal region of deceased is also suggestive of the fact that she suffered a gunshot injury of .22 caliber pistol and not of .315 caliber rifle, whose bullet is larger in size.
48. Thirdly, no .315 caliber used bullet was recovered from the place of incident and whatever used .315 bullets were recovered by the police, were recovered either from the room of accused Raju Singh (8 used .315 bullets) or from the servant quarter (39 used .315 bullets) at the aforementioned farm house.
49. The CFSL report after examining the eight used .315 bullets recovered from the room of accused Raju Singh had opined that out of eight, four bullets of .315 caliber had not been fired from .315 rifle of deceased accused Hari Singh, but was fired from a similar fire arm. The

possibility of accused Raju Singh, deceased accused Hari Singh or any of their relatives or friends having another .315 rifle cannot be ruled out at this stage, due to the fact that used bullets four in number of .315 caliber, which were not fired from the rifle of deceased accused Hari Singh, were also recovered.

50. In the light of aforementioned discussion, possibility of deceased being killed by usage of a third weapon of .315 caliber is ruled out and the contention of Ld.Defence Counsel is accordingly, rejected.

51. Now, the next question arises is whether accused Raju Singh is to be charged under Section 302 IPC as claimed by the prosecution or under Section 304-A IPC as claimed by Ld.Defence Counsel?

52. The material which has come on record in the light of statement of various witnesses, as discussed hereinabove shows that accused Raju Singh being under the influence of alcohol was firing in air using his licensed pistol at a New Year Party organized at Rose Garden Farm House, Mandi Gaon, New Delhi on the night of 31.12.2018. The act of firing in the air by accused Raju Singh do not show that he had any intention of causing death of any person at the New Year Party. Further, no knowledge can be attributed to accused that act of firing in the air, was so imminently dangerous that in all probability, it will cause death. Therefore, none of the ingredients of Section 300 IPC are made out from the act

of accused in firing in the air at the New Year Party. Hence, offence under Section 302 IPC is not made out.

53. However, I do not agree with the submission put forward by the Ld. Defence Counsel for accused Raju Singh that only offence which is made out against accused is under Section 304-A IPC as death was caused due to rash and negligent act. The reason for the same is that in the present case, accused Raju Kumar Singh was intoxicated and there is no material on record to show that accused was administered alcohol against his will or his knowledge. Therefore, it was a case of voluntary intoxication and as per Section 86 IPC, accused would be deemed to have the knowledge regarding his act.

54. In the present case, accused had the knowledge that if under the influence of alcohol, he uses his pistol for the purpose of celebratory firing at a New Year Party, where lot of guests had gathered, then by his act, death is likely to be caused as under the influence of alcohol, he may not have control over his senses or over the pistol and instead of aiming at the sky, he might lose grip over the pistol and it could hit any person present at the party. Therefore, prima facie there is sufficient material to show that accused has committed an offence under Section 304 (Part II) of IPC. I am fortified in my reasoning by the judgment of the Hon'ble Supreme court of India delivered in **Bhagwan Singh Vs. The State Of Uttarakhand Criminal Appeal No. 407 of 2020 decided on 18th**



**March, 2020.** In the facts before the Hon'ble Supreme Court of India, appellant Bhagwan Singh was found guilty of Section 302 and 307 IPC by Ld.Trial Court, which was affirmed by the Hon'ble High Court of Uttarakhand as during the course of his son's marriage, he had fired celebratory gunshot, which had led to death of two people and injuring other people. The Hon'ble Supreme Court of India while partially allowing the appeal, had altered the conviction of appellant from Section 302 IPC to 304 IPC by holding that appellant had the requisite knowledge for constituting the offence under Section 304 (Part II) IPC as he carried a loaded gun at a crowded place where his own guests had gathered to attend the marriage ceremony, where he fired shots not in the air, but towards the roof. It was further held that a gun licensed for self protection or for safety and security of crops and cattle, cannot be fired in celebratory events, it being a potential cause of fatal accidents and it was held that appellant cannot escape the consequences of carrying a gun with live cartridges with the knowledge that firing in a marriage ceremony with people present there is imminently dangerous and is likely to cause death.

55. In the present case also, the act of accused Raju Singh in firing from his licensed pistol at the New Year Party shows that he had the knowledge that firing in a crowded New Year Party may cause death of some person. Therefore, accused Raju Singh is prima facie liable to be

charged under Section 304 (Part II) IPC and under section 30 of Arms Act.

56. With regard to offence under Section 201 / 34 IPC, I do not agree with the submission put forward by the Ld. Defence Counsel for accused namely, Ramendra Kumar Singh, Rana Rajesh Singh and Renu Singh that there is no material on record to show that these accused persons had caused any evidence, with regard to commission of offence, to disappear with the intention of screening the offender from the legal punishment.

57. As far as accused namely, Ramendra Kumar Singh and Rana Rajesh Singh are concerned, the statement U/s 161 Cr.P.C of PW Vikas and Suraj, who were operating the DJ in the New Year Party, describes their role with regard to commission of offence under Section 201/34 IPC. It has come in their respective statements that after the lady was shot, there was lot of blood on the DJ dance floor and accused namely, Ramendra Kumar Singh and Rana Rajesh Singh had forcibly got the blood cleaned from their own people after both Vikas and Suraj had refused to clean the DJ dance floor despite being offered Rs.500/- each by accused Ramendra Kumar Singh. The statement of Vikas and Suraj is further corroborated by another eye witness i.e. Anand Tiwari, who was working as a waiter in the New Year Party on the day of incident. It has also come in Anand's statement that he was offered money by accused namely, Ramendra Kumar Singh and Rana Rajesh Singh

to clean the blood smeared on the DJ dance floor but when he refused, then accused Ramendra Kumar Singh and Rana Rajesh Singh got the same cleaned from other labourers and asked the DJ people to leave the venue.

58. The act of accused Ramendra Kumar Singh and Rana Rajesh Singh in getting the DJ dance floor cleaned of the blood of injured Archana Gupta shows that they had reason to believe that she had been shot by accused Raju Singh, who was firing in the New York Party. The purpose of getting the DJ dance floor cleaned of the blood was done with the intention of screening the offender i.e. accused Raju Singh to make the evidence dis-appear with regard to the place of incident. If accused Ramendra Kumar Singh and Rana Rajesh Singh had no reason to believe that the offence has been committed, then they would not have got the DJ dance floor cleaned of the blood and would not have offered Rs.500/- each to PW Vikas and Suraj to clean the DJ dance floor. Therefore, there is sufficient material on record to frame charge against both accused namely, Ramendra Kumar Singh and Rana Rajesh Singh for the offence under Section 201/34 IPC for having caused the dis-appearance of evidence in connection with the offence committed by accused Raju Singh with the intention of saving him from legal punishment.

59. As far as accused Renu Singh is concerned, although it is true that her name does not figure in the statement of PW Vikas and Suraj as the accused, who was

getting the DJ dance floor cleaned but that by itself is not sufficient to hold that there is no material on record to frame charge against accused Renu Singh for the offence under Section 201 IPC.

60. The absence of name of accused Renu Singh in the statement of PW Vikas and Suraj has been explained by the statement of PW Anand Tiwari recorded under Section 161 Cr.P.C. As per statement of PW Anand Tiwari under Section 161 Cr.P.C., it was only after the DJ people had left, that accused Renu Singh had mopped the DJ dance floor, where the blood was lying. This statement of PW Anand Tiwari explains as to why the name of accused Renu Singh had not appeared in the statement of Vikas and Suraj as accused Renu Singh had mopped the DJ dance floor only after they had left.

61. As per the further statement of PW Anand Tiwari, not only accused Renu Singh had mopped the floor where blood was lying but had also collected used cartridges and had given the same to accused Raju Singh and had asked him to leave the spot immediately. Statement of Anand Tiwari is corroborated by PW Sh.Punit Gupta, who was one of the guests in the New Year Party. In his statement under Section 161 Cr.P.C., he has stated that when he was taking his sister in law Archana Gupta to the hospital, then he had seen that accused Renu Singh had reached at the place of incident and had picked up the used cartridges and had given the same to accused Raju Singh and was asking

him not to go to the hospital and flee from the place of incident, failing which police will arrest him. From the statement of Anand Tiwari and Punit Gupta, it is apparent that accused Renu Singh had reasons to believe that offence has been committed by accused Raju Singh while firing with his pistol at New Year Party, which had led to an injury on the person of Archana Gupta and that is why she had cleaned the floor of the blood and had also given the used cartridges to accused Raju Singh and was asking him to flee from the spot.

62. The act of cleaning the place of incident, causing dis-appearance of used cartridges by giving it to accused Raju Singh so that same could not be connected to the pistol being used by accused Raju Singh and asking accused Raju Singh to flee from the spot shows that accused Renu Singh had reasons to believe that the offence has been committed and therefore, had caused dis-appearance of the material evidence connected with the crime. If accused Renu Singh had not convinced accused Raju Singh to flee from the spot, then evidence with regard to alcohol limit in his blood and gunshot residue on his hand to show that he was firing with his pistol could have been obtained by the police during the course of investigation. However, this evidence cannot be collected as accused Raju Singh had fled from the spot and was apprehended later on from U.P. and finally, was got medically examined on 03.01.2019. Due to this delay, the

vital evidence with regard to blood alcohol limit and gunshot residue could not be obtained. Therefore, there is prima facie material on record which shows that even accused Renu Singh had committed the offence under Section 201 IPC.

63. In the light of aforesaid discussion, there is prima facie material on record to frame charge against accused Raju Singh for the offence under Section 304 (Part II) IPC and under Section 30 of the Arms Act, against accused namely Ramendra Singh and Rana Rajesh Singh for the offence under Section 201/34 IPC and against accused Renu Singh for the offence under Section 201 IPC.

**Announced in the open court  
Dated: 30.10.2023**

**(Vikas Dhull)  
Special Judge (PC Act) (CBI)-23  
(MPs/MLAs Cases), RADC  
New Delhi**