

SC No. 230/21
FIR No. 100/21
PS Jamia Nagar
State Vs. Shawez

17.11.2021

Present: Sh. Nischal Singh, Ld. Substitute Addl. PP for the State.
Ld. Counsel Sh. Ayub Khan for the accused/applicant.
Ld. LAC Sh. Mukesh Choudhary for the complainant/victim.
Ms. Anam Khan, Ld. Counsel for DCW.

Victim is also present along with her mother.

ACP Sh. Avnish Kumar is present along with Insp. Satish Kumar, SHO PS Jamia Nagar and IO W/SI Surekha.

Perused orders dated 08.11.2021. I have also considered reply filed on behalf of the Commissioner of Police, Delhi by DCP, South East who stands exempted from her personal appearance for today. Request of Joint CP is also allowed.

As regards the court observations the DCP has reported/replied "*The charge sheet before correction was also in the police file which was inadvertently given to the complainant. This mistake happened without any malafide intention*". However, I am of the firm opinion that the malafide on the part of concerned officials is writ large, as detailed in the last orders. Court has been misled and same is deliberate and intentional. There cannot be any question of draft charge sheet or the charge sheet which was yet to be corrected as both the sets of charge sheets bears the signatures of the concerned officials of the same day/date. I am not inclined to believe that on the same day the charge sheet was corrected/amended and signed and both sets of charge sheets were filed in

the court. Moreover the soft copy/CD/e-challan is different from the charge sheet/hard copy filed in the court.

Most importantly and what the DCP has failed to justify and explain is the omission of two complete paragraphs running into 20-25 lines from the charge sheet, which paragraphs were giving clean chit to the accused and fixing liability/responsibility/involvement of one another individual namely Umer whose name was completely deleted/omitted from the charge sheet filed in the court. How can the said action be justified and what more is required to hold that it was deliberate, motivated and malafide. Some of the grave omissions are listed under:-

(a) Though in one charge sheet it is mentioned that location of mobile phone of the accused was not found at the crime scene, however, the said fact has been omitted in the charge sheet filed in the court.

(b) As discussed above involvement of Umer, claim of filing supplementary charge sheet against him has also been omitted in the charge sheet filed in the court.

(c) The fact that victim had visited the crime scene with Umer had also been omitted in the charge sheet filed in the court.

There are other crucial omissions in the charge sheet as has been filed in the court as against the charge sheet available with the Ld. Addl. PP and the Ld. Counsel for the complainant. Investigation conducted so far is a mockery which is writ large from the fact that the prosecution has recorded statement of private persons and arrayed them as witnesses, though their testimony is giving clean chit to the accused who has been charge sheeted.

Undoubtedly investigation is the sole prerogative of the police officials but it is expected that the investigation shall be conducted by them in an absolutely fair, honest & transparent manner and same should not be motivated or malafide. This court leaves it absolutely to the Commissioner of Police as to what action he deems fit against the erring officials but it is a big slap on the Delhi Police logo of “Shanti, Seva, Nyay”. “Nyay” has been taken for a ride by them, twisted and warped as per their whims and fancies. If this continues, and the officials are not dealt sternly, the public shall loose their faith in police system. They not only have mocked the court/judicial system but also abused their power qua the people they have pledged to serve & protect. Court obviously, though already circumspect about their approach in certain matters, would be much more cautious and think twice before believing their claim.

Copy of present order be sent to the Commissioner of Police, Delhi as well as DCP concerned. DCP concerned shall remain present in person. If the DCP deems it fit a detailed investigation be conducted and this court expects an honest investigation report is filed in the present matter at the earliest.

Relist the bail application now on 24.11.2021.

(GAURAV RAO)
ASJ-1 (POCSO) South East
Saket Courts, New Delhi/17.11.2021