

Rajesh Bhalla Vs. State

Rajesh Bhalla Vs. State

SooperKanoon Citation : sooperkanoon.com/689633

Court : Delhi

Decided On : May-21-1987

Reported in : 32(1987)DLT261

Judge : M.K. Chawla, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 397; [Indian Penal Code \(IPC\), 1860](#) - Sections 147

Appeal No. : Criminal Revision Appeal No. 176 of 1986

Appellant : Rajesh Bhalla

Respondent : State

Advocate for Pet/Ap. : K.K. Sud,; R.K. Sharma and; P.S. Sharma, Advs

Judgement :

M.K. Chawla, J.

(1) Shri Rajesh Bhalla, is the petitioner. By way of filing the present revision petition, he has challenged the order of the Add Sessions Judge, Delhi dated 13.5.86 whereby he Along with six others was charged to stand trial under Sections 147, 366 read with Section 149 and 354 read with Section 149 IPC. They pleaded not guilty to the charge and claimed trial.

(2) The case of the prosecution in brief is that on 13.3.82, Miss Nirmal Sharma, a student of 2nd year in Miranda House College, Delhi, was waiting for the bus on the Mall Road bus stand for going to her house after attending classes. At that point of time, car bearing registration no. Dhd 2707 came and stayed in front of her. There were six occupants of the car, out of whom three were Sikhs, aged between 21 and 22 years. In the meantime, two Sikh boys came on a motorcycle and stopped it near her. One of the Sikh gentlemen told Nirmal Sharma to seat herself in the car. She refused to do so. Nirmal Sharma stopped a three-wheeler scooter and tried to get into the same. The boys, however, prevented her from boarding the scooter and threatened the scooter driver to remove himself from there. The boys then made attempt to forcibly seat her in the car to accompany them but she managed to free herself and succeeded in boarding a Haryana Roadways bus heading towards Mall Road. She got down at the next Mall Road stop. Those boys followed her and again tried to forcibly adult her. At that time, one clean-shaven boy aged about 27/28 years threatened her with dire consequences in case she failed to accompany them. The boy on the motor-cycle, however, gave an assurance that he would drop her wherever she wanted to go and on that assurance, she seated herself on the motorcycle. Nirmal Sharma noticed that the motor-cycle driver was following the car and their attempt was to take her to International hostel. Sensing some trouble, she jumped from the running motorcycle and entered bangalow no. 29/31, Mall Road.

(3) Bindeshwar, gardener was on his job in the bangalow. He came to the rescue of Nirmal Sharma and saved her from the clutches of the boys. This part of the story of Miss Nirmal Sharma was supported by Sanjeev Kumar Dhall who happened to be present at the bus stop along with Miss Archana Malik. On that basis, the case was registered and investigated. The I.O. immediately swung into action and reached the owner of the car. On enquiry, he came to know that Pankaj Malhotra was driving the car at the relevant time. He was arrested. From his interrogation, the names of the other co-accused came to light and they were arrested. During the course of the investigation, all the seven accused were identified by Miss Nirmal Sharma, Archana Malik and Bindeshwar on 14.3.82, i.e. very next day of the occurrence at the Police Station. After completing the investigation, the challan was filed which resulted in the framing of charge. Out of

the 7 accused, only Shri Rajesh Bhalla is aggrieved of the order of charge. The submission is that the petitioner was neither described nor named in the Fir by the complainant Nirmal Sharma. She also did not identify him in any identification parade. According to the Id. counsel, there is no legally admissible evidence upon which the court below could frame the charge. The identification in the Police station is no identification in the eye of law and on that score, the petitioner cannot be implicated. None of the arguments are to the liking of the Id. counsel for the State who mainly relies upon the statements of the witnesses recorded under Section 161 of the Code of Criminal Procedure, implicating each and every accused in this case.

(4) After hearing the Id. counsel for the parties at length, I am of the opinion that no interference in the order of charge at this stage is called for. It is well settled that for the purpose of framing charge, the Court is required to consider judicially as to whether on consideration of the material on record, it can be said that the accused has reasonably connected himself with the offences alleged to have been committed. If the answer is in the affirmative, the Judge will be at liberty to presume 'that the accused has committed the offence'. In finding out a prima facie case, not only the first information reporter complaint but even the statements of the witnesses recorded u/s 161 Cr.P.C. although the same may have been recorded after some delay, during the investigation of the case, are to be taken into consideration and if from all other material, a prima facie case is made out, against the accused, then the court has no option but to frame a charge against the accused persons.

(5) This standard test to my mind has been fully applied by the court below in arriving at a conclusion that each and every accused named in the report had played his part; the Court has sifted and weighed the evidence for a limited purpose of finding out whether or not a prima facie case against the accused has been made out. At this stage, the court below was not expected to make a roving enquiry in the pros and cons of the matter and weigh the evidence as if he was conducting a trial as is sought to be made out by the Id. counsel for the petitioner.

(6) In this case, the prosecution is armed with the statements of three witnesses, Miss Nirmal Sharma, the complainant, Km. Archana, the eyewitness of the occurrence and Bindeshwar, the gardener, who identified the accused persons. It is true that Miss Nirmal Sharma has not given either the names or description of all the accused persons in her First Information Report and, in my opinion, she could not have. All the accused persons were not previously known to her. She could not give their names or their complete description. However, on the very next day, all the three witnesses identified the accused persons who were present at the Police Station during the course of the enquiry. They came to know of their names there and then. This part of the case is mentioned in the supplementary statement of Miss Nirmal Sharma and Km. Archana.

(7) At this stage, it is not possible for this Court to express any opinion on the veracity of the statements of the witnesses or their identification of the accused. These are the questions which have to be gone into by the court below during the course of the trial. The fact remains that the Id. lower court has examined the case from all angles and has given valid reasons for the framing of charge. He was not expected to deal in minute details the defense which the accused may ultimately raise during the trial.

(8) On careful examination of the impugned order, I am satisfied that the evidence has been looked into from a right perspective and a correct conclusion has been arrived at. The impugned order cannot be said to be perverse. No interference at this stage is called for. The revision petition is hereby dismissed.