

Devender Mohan Sharma vs State Of Nct Delhi & Ors on 25 August, 2021

Author: Yogesh Khanna

Bench: Yogesh Khanna

\$~27 and 28 (Common)

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 1672/2021 & Crl.M.A.No.11743/2021
+ CRL.M.C. 1673/2021
DEVENDER MOHAN SHARMA

Through : Mr.Tanveer Ahmed Mir,
Venu, Mr. Saud Khan
Berry, Advocates.

versus

STATE OF NCT DELHI & ORS.

Through : Mr.Amit Ahlawat, APP f
with Inspector Ajay
Inderpuri.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% 25.08.2021

1. The hearing has been conducted through Video Conferencing.
2. This order shall be read in continuation of earlier order dated 30.07.2021 passed by this Court in Crl.MC.No.1672/2021.
3. Before proceeding further, let me go through the prayers made in Crl.MC. No.1672/2021. Prayer B is qua the setting aside of the impugned order dated 19.07.2021 passed by learned Magistrate and of allowing the protest petition and summoning of respondent No.2 for the offence under Section 120B IPC in addition to Section 302/307/498A/ 34/419/328 IPC besides Section 498A/34 IPC. The prayer C is for further investigation under Section 173(8) Cr PC qua the murder of Priyanka Sharma by collecting relevant forensic and scientific evidence for the reasons delineated in protest petition.
4. There has been no investigation on the aspect of murder of deceased Priyanka, learned Magistrate in the impugned order has held:-

The complainant has further prayed that further investigation be directed to be conducted against the doctors who attended deceased Priyanka Sharma as they intentionally fabricated the reports in order to screen accused no. 1 and 2. It is prayed that the police be directed to video graph the confrontation between doctors who attended to Ms. Priyanka and the ones who attended to Ms. Divya and Ms. Anita and

an independent medical board be constituted at AIIMS to give their findings. It is also prayed that medical documents be seized from BLK pertaining to deceased Priyanka.

Prima facie, the medical documents of Ms. Priyanka are on record and as pointed out by Ld. APP that in absence of Post Mortem Report, the contention raised by the complainant cannot be substantiated. Moreover, it is already on record that the deceased had complained of pain in her limbs and was treated for the same at BLK Hospital. The symptoms of Guillain-Barre Syndrome are also very similar. There is no ground made out at this stage to direct further investigation against the attending doctors.

5. I disagree with the observations made by learned Magistrate. Since the symptoms shown by deceased Priyanka were similar to the symptoms shown by deceased Anita and Divya, as discussed hence it would be appropriate if an independent medical board be constituted by the Director, AIIMS, New Delhi to examine the medical documents of deceased Priyanka on record and correlate it with medical documents of deceased Anita and Divya to find out as to if the death of Priyanka was also a case of administration of Thallium Sulphate. The medical board so constituted shall be comprising of specialist doctors in fields as determined by the Director, AIIMS, New Delhi. The medical board shall be constituted within a week from the receipt of copy of this order and thereafter the report of medical board be prepared, preferably, within two months and be handed over to the Investigating Officer so that it may be filed before the learned Magistrate.

6. Qua the further investigation to the role of accused Jiya Arora, learned APP for the State refers to the status report filed, which inter alia notes:-

6. During investigation Bank a/c statements of Co-accused Jiya Arora and PhaimaffiHate Analytic Pvt. Ltd. Company were collected and revealed that accused Varun Arora had transferred twice (Rs.22131/- on 18.12.2020 and Rs.13,440/- on 01.03.2021) to the said company from his mother Jiya Arora's Kotak Mahindra bank a/c through IMPS (Immediate Payment Service). Mobile number of accused Varun Arora was registered with Kotak Mahindra bank a/c of Co-accused Jiya Arora.

7. During investigation, the money transfer shop owner namely Marshal was examined, who stated that Titu had deposited the amount Rs-22131/- in the bank a/c of Pharmaffiliate Analytic Pvt. Ltd. company on 08.02.2021.

Hence, in this regard, details were collected from Bankit online money transfer company.

8. During the investigation DTDC Courier Service delivery boy was examined in this case, who has identified the accused in AIIMS Hospital and stated that he has delivered the Thallium/courier to the said Varun Arora and his employee Titu at E-1/7, DLF, Phase-1st , Gurugram, Haryana. His employee/watchmen namely Titu was also examined in this case, who stated that he received the courier from the courier boy on direction of accused Varun Arora and same was handed over to

Varun Arora. On 08.02.2021, Varun Arora, gave him Rs.22131/- to deposit the same, in the a/c of Pharmaffiliate company. He deposited the said amount in the a/c of Pharmaffiliate Analytic Pvt. Ltd. through money transfer shop, Gurugram.

7. The above status report do show it was Varun Arora, who had made the payment using the bank account of his mother Jia Arora through his own mobile phone.

8. The learned APP for the State submits this fact has also been supported by disclosure statement of Varun Arora as also by his extra judicial confession, which fact is not being disputed by the learned counsel for the petitioner.

9. The Investigating Officer present today submits after the arrest of accused Varun Arora, accused Jia Arora is not doing any net-banking and whatever transactions are being made, those are only through cash/cheque. Let the Investigating Officer place on record the statement, if any, recorded in this regard along with the supplementary report before learned Magistrate.

10. To above extent, the impugned order dated 19.07.2021 passed by learned Magistrate stands modified.

11. The proceedings for committal of the case before learned Session's Court shall remain in abeyance till the supplementary report is filed by the Investigating Officer in terms as stated above. The Investigating Officer/SHO concerned shall promptly coordinate with the Director, AIIMS, New Delhi for constitution of a Board.

12. In view of above, both the above petitions are disposed of. Pending application, if any, also stands disposed of.

13. Copy of this order be communicated electronically to the Director, AIIMS, New Delhi and learned Trial Court for information and compliance.

YOGESH KHANNA, J.

AUGUST 25, 2021 M