

15 CR CASES 807/2020

CNR Number: DLNE02-001449-2020

STATE VS NEERAJ @ KASHI AND ORS.

FIR NO. 167/2020

PS BJHAJANPURA

Physical hearing is conducted in terms of Order No.700/RG/DHC/2021 dated 30.09.2021 of Hon'ble High Court of Delhi and in terms of order of order no. 5873-5888/Judl./NE/JJD/DELHI dated 01.10.2021 of Ld. Principal District & Sessions Judge NE.

12.10.2021

Present: Sh. Sanjeev Sahai, Ld. SPP for State.

IO SI Rahul in person.

Accused Neeraj @ Kasi in person with counsel Sh. Ashok Kumar.

Accused Manish @ Rahul in person with counsel Sh. Devinder Dutta and Sh. Sachin Rajput.

Accused Amit Goswami produced from JC assisted by counsel Ms. Mukta Arora.

Accused Sunil Sharma in person alongwith counsel Sh. Rajender Kasana.

Accused Sonu, Mukesh & Shyam in person alongwith counsel Sh. Yogesh.

Accused Rakesh produced from J.C.

Fresh V/N filed on behalf of accused Manish. Same is taken on record.

Matter is listed today for arguments on charge, however, a request for adjournment is made on behalf of State on the ground that further investigation in the present case is

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being carried out in the wake of observations made by Ld. ASJ-03 North East in his order dt. 10.09.2021 passed in Sessions Case No. 148/2021. In fact a status report has been filed by IO SI Rahul duly forwarded by SHO PS Bhajan Pura. Although the said report is titled as Status Report, however, towards the end of the status report, a prayer has been made to this court for grant of permission as well as time for further investigation of the present case thoroughly and to investigate the complaint of Faizan Khan separately. No advance copy of the aforesaid status report has been supplied to either of the accused and upon direction, only one copy of the status report has been supplied to all the counsels for the accused collectively today in the court.

Submissions on the aforesaid prayers of the IO heard.

It is submitted by Ld. SPP for State that further investigation in the present case has been necessitated due to observations made by Ld. ASJ -03 in Para No. 4 (iv) and Para No. 2 (ix) of his order dt. 10.09.2021. He submits that as per the aforesaid paragraphs since the complaint of the complainant Akil Ahmad is pertaining to the incident dated 25.02.2020, the investigation in the aforesaid complaint could not have been clubbed with the present FIR.

However, the status report filed by the IO and forwarded by SHO PS Bhajan Pura, tells a different story in as much as it has been stated by the IO that all the complaints

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received in the present case except the complaint of original complainant Faizan Khan are in respect of the same place of incident, whereas, there is no mention of any specific date and time of incident at the shop of Faizan Khan and hence the same has been segregated. There is no whisper in the aforesaid report regarding the segregation of complaint of complainant Akil Ahmad.

IO was accordingly directed to produce the case diary so as to show the investigation carried out by him after the order dt. 10.09.2021 of Ld. Sessions Court, however, it is submitted by him that no such case diary has been written in the present case after 10.09.2021. On the other hand, it is submitted by Ld. SPP for State that the supplementary charge sheet qua the complaint of Faizan Khan is almost ready and shall be filed within a period of 3 days from today. In view of inconsistency in the submissions made on behalf of IO as well as Ld. SPP regarding segregation of investigation qua the complaint of Akil Ahmad on the one hand and of the complainant Faizan Khan on the other, it is apparent that the prosecution is still not sure as to how it should go about further investigation/prosecution in the present case and in the only purpose for seeking permission for further investigation is to derail the further proceedings in the present case. It is significant to note that the observations were made by Ld. ASJ-03(NE) in the present case way back on 10.09.2021, however, till date no steps have been taken by the IO to seek

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permission of the court for further investigation and for segregation of the complaint of Faizan Khan or for that matter of complainant Akil Ahmad. Repeated directions have already been issued by this court not only to DCP(NE), Joint Commissioner of Police (Eastern Range) and Commissioner of Police, Delhi seeking their personal intervention in the matters pertaining to the North East riots, however, it appears that all the aforesaid directions have fallen on deaf ears.

Under the aforesaid circumstances, I deem it appropriate to direct the Commissioner of Police to furnish a detailed report regarding steps taken by him to ensure proper investigation/prosecution of the cases pertaining to North East riots and their expeditious trial within a period of seven days from today.

In the meantime, the request of IO for segregation of the complaint qua the accused Faizan Khan and for further investigation in the present case is allowed, however, considering the delay in moving the present application leading to undue harassment of the accused persons, two of whom are still running in JC, the said request is allowed subject to adjournment cost of Rs. 25,000/- to be paid by the State to all the seven accused in equal proportion on the next date.

This court is not oblivious of the fact that the burden of the aforesaid cost shall ultimately fall on public exchequer.

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Accordingly, I deem it appropriate to direct the Secretary(Home) Union of India to order an inquiry to fix the responsibility for imposition of the aforesaid cost and deduction of the same from the salary of the responsible officer under intimation to this court.

Put up for further proceedings on 20.11.2021.
Rehnumai of accused Amit Goswami and Rakesh before Ld. Duty MM (NE) on 26.10.2021 and 09.11.2021.

Copy of the order be uploaded on the CIS Server.

(ARUN KUMAR GARG)
Chief Metropolitan Magistrate
NE/KKD/DELHI/12.10.2021