

(2013) 04 DEL CK 0460

In the Delhi High Court

Case No : Writ Petition (Criminal) 516 of 2013

Mukesh and Another

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 22-04-2013

Acts Referred:

Constitution of India, 1950 — Article 14, 21, 22(1), 226

Criminal Procedure Code, 1973 (CrPC) — Section 161, 207, 209, 227, 239

Penal Code, 1860 (IPC) — Section 120B, 201, 302, 307, 34

Citation : (2013) 4 AD 149 : (2013) 4 JCC 2425

Hon'ble Judges : Pratibha Rani, J

Bench : Single Bench

Advocate : M.L. Sharma, for the Appellant; Dayan Krishnan, A.S.C., for the Respondent

Final Decision : Dismissed

Judgement

Pratibha Rani, J.—The present Writ Petition under Article 226 of Constitution of India read with Section 482 CrPC was filed on behalf of petitioners Mukesh and Akshay Kumar Singh through Mr. M.L. Sharma, Advocate praying for quashing of charge-sheet in case FIR No. 413/2012 under Sections 365/ 376(2)(g)/ 377/ 394/ 34 PS Vasant Vihar. Prayer has also been made for quashing of the order on charge dated 02.02.2013 and further orders dated 28.03.2013 and 01.04.2013 passed in the above-noted case by learned Addl. Sessions Judge (Fast Track Court). On 05.04.2013 when the Writ Petition came up for hearing before this Court, Mr. A.P. Singh, Advocate appeared and filed his Vakalatnama on behalf of petitioner No. 2 submitting that petitioner No. 2 Akshay Kumar Singh has withdrawn Vakalatnama in favour of Mr. M.L. Sharma, Advocate who filed this writ petition. Sh. A.P. Singh, Advocate also sought leave to withdraw this petition qua petitioner No. 2. Granting the leave as prayed, this petition was dismissed as withdrawn qua petitioner No. 2.

2. Now the petitioner before this Court is Mukesh who is being represented

through Mr. M.L. Sharma, Advocate.

3. Mr. M.L. Sharma, Advocate did not appear before this Court on 05.04.2013 but no adverse order was passed and matter was re-notified for 08.04.2013. On 08.04.2013 though Mr. M.L. Sharma, Advocate appeared but requested for time to place on record the copies of impugned order on charge and the subsequent orders dated 28.03.2013 and 01.04.2013. Allowing the request, matter was ordered to be listed on 17.04.2013.

4. However, prior to date of hearing i.e. 17.04.2013, Crl.M.A. No. 4404/2013 was filed by Mr. M.L. Sharma, Advocate praying for direction to appoint judicial inquiry which was listed before this Court on 10.04.2013. None appeared on behalf of the petitioner on 10.04.2013, hence the application was ordered to be listed on 17.04.2013 as the matter was already listed on that date.

5. On 17.04.2013 Mr. M.L. Sharma, Advocate failed to appear till 2:15 p.m. After hearing Mr. Dayan Krishnan, learned ASC for State, opportunity was given to the petitioner to file written synopsis by 18th April, 2013 by 12.00 noon and matter was listed for orders on 22nd April, 2013.

6. Written synopsis have been filed by Mr. M.L. Sharma, Advocate for the petitioner Mukesh and alongwith the written submission, he has also placed on record the copy of the orders dated 28.03.2013 and 01.04.2013. Mr. Dayan Krishnan, learned ASC for State has placed on record the copy of order on charge.

7. On behalf of state, Mr. Dayan Krishnan, learned ASC submitted that on 10.01.2013 Mr. M.L. Sharma, Advocate requested for furnishing the copy of the chargesheet in Hindi. Without contesting the application, on 14.01.2013 the chargesheet in Hindi was supplied to Mr. M.L. Sharma, Advocate representing the present petitioner and this fact is being recorded in the proceedings before learned Addl. Sessions Judge (FTC).

8. Highlighting that how the efforts for speedy trial by the Fast Track Court are being frustrated by Mr. M.L. Sharma, Advocate, Mr. Dayank Krishnan, learned ASC submitted that the chargesheet was filed on 10.01.2013. Arguments on charge commenced on 23.01.2013 and charge was ordered to be framed on 02.02.2013. Prosecution started examining witness w.e.f. 05.04.2013. Mr. Dayan Krishnan further submitted that prosecution has cited 90 witnesses in the list of witnesses annexed with the chargesheet. Till date 65 witnesses have been produced and out of them, 54 witnesses have been examined as well cross examined.

9. On behalf of State, it has been submitted that 11 witnesses are yet to be cross examined by Mr. M.L. Sharma, Advocate representing the petitioner/accused Mukesh and thus resulting in harassment to the witnesses and delay in trial. Learned ASC for State submitted that every accommodation is being provided to Mr. M.L. Sharma, Advocate by the Fast Track Court and despite that he prefers

not to appear before the Court though the accused persons, prosecutors and defence counsels for other accused persons remain present in the Court for conducting trial in this case. Learned ASC further submitted that the problem is being faced for the reason that on one pretext or other Mr. M.L. Sharma, Advocate prefers not to appear so much so that on 16.04.2013 till afternoon (post-lunch session) Mr. M.L. Sharma, Advocate preferred not to appear and the junior advocate appearing on his behalf informed that he was busy in Supreme Court. Mr. Dayan Krishnan has placed on record the copy of the Daily Cause List of the Supreme Court of the Bench of Hon"ble The Chief Justice, Hon"ble Mr. Justice Anil R. Dave and Hon"ble Mr. Justice Vikramajit Sen to bring on record that on that date, the sitting of the Bench was only upto 1:00 p.m but Mr. M.L. Sharma, Advocate did not appear in the post lunch session. Copies of proceedings have been filed on record to bring on record the hurdles being created by Mr. M.L. Sharma, Advocate in the speedy trial of this case.

10. It has been submitted by learned ASC that petitioner has prayed for quashing of the order on charge. The learned Trial Court has, vide its detailed order dated 02.02.2013, given the reasoning on the basis of which prima facie a charge for the offence punishable under Sections 120-B IPC and 365/ 366/ 376(2)(g)/ 377/ 307/ 302 IPC and 396/ 395 read with Section 397/ 201 read with 120-B IPC and u/s 412 IPC was made out and charges framed against the petitioner and his co-accused. Referring to the order dated 28.03.2013, learned ASC submitted that as per provision of Section 309 CrPC, the case being Session Trial, it is to be continued from day to day until all the witnesses have been examined unless for the reasons to be recorded by the Court for adjournment beyond the following day. He further submitted that in view of the provision u/s 309 CrPC, this being a gang rape case, trial, as far as possible, has to be completed within two months from the date of commencement of examination of witnesses.

11. Referring to the order dated 01.04.2013, Mr. Dayan Krishana, learned ASC submitted that the request for adjournment on the ground that he intended to file revision against the order dated 28.03.2013, was declined by the Court and the petitioner is impugning both the orders i.e. orders dated 28.03.2013 and 01.04.2013.

12. Shri M.L. Sharma, Advocate has filed written synopsis along with case law referred to in the written synopsis.

13. Quashing of the chargesheet as well as charge have been prayed for by the petitioner mainly on the ground that the petitioner has been falsely implicated in this case and an innocent person cannot be hanged in place of the real accused persons. It is submitted that it was for the judicial system to ascertain about the real accused persons, to protect the life and liberty of the innocent and prevent miscarriage of justice. The main grounds taken in the written synopsis are:-

(i) The State has played fraud upon the petitioner and due to public agitation and

media trial that affected the mindset of the residents of Delhi including the constitutional authorities i.e. the judiciary which has resulted in miscarriage of justice to the petitioner and endangered the life of the petitioner.

(ii) Bite marks on the body of the deceased belong to the four other boys who have not been arrested till date and the dental report obtained from Dental Forensic Lab, Karnataka is forming part of the supplementary chargesheet dated 02.02.2013 filed on 05.02.2013.

(iii) The petitioner has been falsely implicated under threat to kill his family members and by planting Shri V.K. Anand, Advocate to represent the petitioner and his brother Ram Singh (deceased).

(iv) The petitioner was prohibited to engage a lawyer of his choice which is in violation of Article 22(1) of the Constitution and Section 303 Cr.P.C.

(v) The petitioner was not provided with legible copy of the chargesheet dated 03.01.2013 and its Hindi version with documents and Hindi version of the statements of witnesses recorded in English.

(vi) Counsel representing the petitioner has not been given enough time to prepare the defence.

(vii) The learned Metropolitan Magistrate did not follow the procedure under Sections 207 and 209 Cr.P.C., as legible clear copies of the charge-sheet and Hindi version of the statements of witnesses was not supplied to him which has vitiated the proceedings.

(viii) The petitioner was not heard on the point of charge which is in violation of Section 227 Cr.P.C.

(ix) The order on charge is violative of Article 22(1) of the Constitution and secured by the State by playing fraud on the petitioner.

(x) FIR does not contain name of the petitioner.

(xi) The petitioner was arrested on 17.12.2012 at Karoli, but his arrest was declared on 18.12.2012 at Safdarjung Hospital and search memo was also prepared on 18.12.2012 for planting materials upon him.

(xii) The petitioner was tortured in police custody and also in jail to extract confession.

(xiii) TIP of the petitioner was also manipulated.

(xiv) The learned ASJ wrongly recorded in the impugned order dated 28.03.2013 that the petitioner withdrew his demand for supply of copy of Hindi translation of statements of witnesses recorded in English.

(xv) Improved material is impermissible in law as held in Sajjan Kumar vs. CBI.

14. At the outset, I find it necessary to mention that vide order dated

02.02.2013, learned Addl. Sessions Judge (FTC) has dealt not only with incident but also the material produced by the prosecution against the accused persons. Referring to the present petitioner/accused Mukesh, the Court recorded as under :-

On 18.12.2012 accused Mukesh was apprehended at Karoli, Rajasthan and a Samsung Galaxy Tend DUOS Bule Black Mobile belonging to the complainant was recovered from him. Later on 23.12.2012 accused Mukesh got prepared a route map of the route on which he drove the bus at the time of incident. He also got recovered his blood stained clothes he was wearing at the time of incident from the garage of his brother at Anupam Apartment, Saidulajab, Saket, New Delhi. Accused Mukesh was identified in TIP.

15. The Court has also referred to the version of the prosecutrix as well the TIP proceedings, medical opinion, opinion of weapon, DNA and thereafter the case law relied upon by learned defence counsel in support of their submissions made at the stage of charge.

16. First I would deal with the contention of the petitioner praying for quashing of the charge-sheet and discharge. In this case, as informed by learned Addl. Standing Counsel for the State, statements of 65 witnesses has been recorded. The charge-sheet contains enough material against the accused persons on the basis of which cognizance was taken by learned M.M. The order taking cognizance of the offence was never impugned before the Court by any of the accused persons charge-sheeted in case FIR No. 413/2012. Non-mention of name in the FIR is no ground to quash the charge-sheet/charge, as FIR is registered in respect of commission of cognizable offences. Rest is subject matter of investigation as to who committed the crime.

17. It is settled legal position that while considering the application for quashing of the charge-sheet, the allegations made in the first information report and the materials collected during the course of the investigation are required to be considered. Truthfulness or otherwise of the allegation is not fit to be gone into at this stage as it is always a matter of trial.

18. The petitioner is seeking discharge on the grounds referred to in para-14 above. At the stage of framing of charge, the learned ASJ while exercising power u/s 227 Cr.P.C. has to consider whether on the basis of material on record adduced by the prosecution prima facie disclosing the constituents of the offence for which he is charged. The Apex Court in Palwinder Singh Vs. Balwinder Singh and Others, held that the jurisdiction of the learned Sessions Judge while exercising power u/s 227 Cr.P.C. is limited. Charges can also be framed on the basis of strong suspicion. Marshalling and appreciation of evidence is not in the domain of the Court at that point of time.

19. There cannot be any quarrel about the legal position enumerated in the decisions relied upon by Ld. counsel for the petitioner in support of his contentions to seek discharge for the petitioner. But at the same time the facts of

the present case are to be looked into to ascertain whether it is a case wherein charge has been framed with no material available against the petitioner or the material only gave rise to suspicion or on the basis of material collected during investigation two views could be possible.

20. In a recent Report *Sheoraj Singh Ahlawat and Others Vs. State of U.P. and Another*, the Apex Court had an occasion to deliberate upon the scope of the power of the Court at the stage of charge in warrant trial cases and also in the context of Sessions trial cases. The above case was a matrimonial dispute wherein the husband and parents-in-law were charged for the offence punishable u/s 498-A IPC. The contention of petitioners in the said case before the Apex Court was that Section 498-A IPC is a much abused provision to falsely implicate, harass and humiliate the husband and his relatives. Discharge was prayed on the ground that there was an inordinate delay in filing the complaint and the statements of the witnesses recorded u/s 161 Cr.P.C. were contradictory in nature and the two Investigating Officers found the allegations to be false. Thus, there was no reason for the Court to believe the story set up by the complainant/wife. The Apex Court quoted Section 239 Cr.P.C. which provides when accused can be discharged in a warrant trial case i.e. after hearing the prosecution and the accused persons if the charge is found to be groundless. The Apex Court also considered whether the material produced by the accused can be considered by the Court at the stage of charge and earlier decisions on the subject were referred to in the Report from para 11 onwards:

11. A plain reading of the above would show that the Court trying the case can direct discharge only for reasons to be recorded by it and only if it considers the charge against the accused to be groundless. Section 240 of the Code provides for framing of a charge if, upon consideration of the police report and the documents sent therewith and making such examination, if any, of the accused as the Magistrate thinks necessary, the Magistrate is of the opinion that there is ground for presuming that the accused has committed an offence triable under Chapter XIX, which such Magistrate is competent to try and which can be adequately punished by him. The ambit of Section 239 Code of Criminal Procedure and the approach to be adopted by the Court while exercising the powers vested in it under the said provision fell for consideration of this Court in *Onkar Nath Mishra and Others Vs. State (NCT of Delhi) and Another*, . That too was a case in which a complaint under Sections 498-A and 406 read with Section 34 of the Indian Penal Code was filed against the husband and parents-in-law of the complainant-wife. The Magistrate had in that case discharged the accused u/s 239 of the Code of Criminal Procedure, holding that the charge was groundless. The complainant questioned that order before the Revisional Court which directed the trial Court to frame charges against the accused persons. The High Court having affirmed that order, the matter was brought up to this Court. This Court partly allowed the appeal qua the parents-in-law while dismissing the same qua the husband. This Court explained the legal position and the approach to be adopted by the Court at the stage of framing of charges or directing discharge in

the following words:

11. It is trite that at the stage of framing of charge the court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, taken at their face value, disclosed the existence of all the ingredients constituting the alleged offence. At that stage, the court is not expected to go deep into the probative value of the material on record. What needs to be considered is whether there is a ground for presuming that the offence has been committed and not a ground for convicting the accused has been made out. At that stage, even strong suspicion founded on material which leads the court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged would justify the framing of charge against the accused in respect of the commission of that offence.

(Emphasis supplied)

12. Support for the above view was drawn by this Court from earlier decisions rendered in *State of Karnataka Vs. L. Muniswamy and Others*, *State of Maharashtra, Etc. Etc. Vs. Som Nath Thapa, Etc. Etc.*, and *State of Madhya Pradesh Vs. Mohanlal Soni*, In *Som Nath's case (supra)* the legal position was summed up as under:

if on the basis of materials on record, a court could come to the conclusion that commission of the offence is a probable consequence, a case for framing of charge exists. To put it differently, if the court were to think that the accused might have committed the offence it can frame the charge, though for conviction the conclusion is required to be that the accused has committed the offence. It is apparent that at the stage of framing of a charge, probative value of the materials on record cannot be gone into; the materials brought on record by the prosecution has to be accepted as true at that stage.

(Emphasis supplied)

13. So also in *Mohanlal's case (supra)* this Court referred to several previous decisions and held that the judicial opinion regarding the approach to be adopted for framing of charge is that such charges should be framed if the Court *prima facie* finds that there is sufficient ground for proceeding against the accused. The Court is not required to appreciate evidence as if to determine whether the material produced was sufficient to convict the accused. The following passage from the decision in *Mohanlal's case (supra)* is in this regard apposite:

8. The crystallized judicial view is that at the stage of framing charge, the court has to *prima facie* consider whether there is sufficient ground for proceeding against the accused. The court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused.

14. In *State of Orissa Vs. Debendra Nath Padhi*, , this Court was considering whether the trial Court can at the time of framing of charges consider material filed by the accused. The question was answered in the negative by this Court in

the following words:

18. We are unable to accept the aforesaid contention. The reliance on Articles 14 and 21 is misplaced...Further, at the stage of framing of charge roving and fishing inquiry is impermissible. If the contention of the accused is accepted, there would be a mini trial at the stage of framing of charge. That would defeat the object of the Code. It is well-settled that at the stage of framing of charge the defence of the accused cannot be put forth. The acceptance of the contention of the learned Counsel for the accused would mean permitting the accused to adduce his defence at the stage of framing of charge and for examination thereof at that stage which is against the criminal jurisprudence. By way of illustration, it may be noted that the plea of alibi taken by the accused may have to be examined at the stage of framing of charge if the contention of the accused is accepted despite the well settled proposition that it is for the accused to lead evidence at the trial to sustain such a plea. The accused would be entitled to produce materials and documents in proof of such a plea at the stage of framing of the charge, in case we accept the contention out forth on behalf of the accused. That has never been the intention of the law well settled for over one hundred years now. It is in this light that the provision about hearing the submissions of the accused as postulated by Section 227 is to be understood. It only means hearing the submissions of the accused on the record of the case as filed by the prosecution and documents submitted therewith and nothing more. The expression "hearing the submissions of the accused" cannot mean opportunity to file material to be granted to the accused and thereby changing the settled law. At the state of framing of charge hearing the submissions of the accused has to be confined to the material produced by the police....

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23. As a result of aforesaid discussion, in our view, clearly the law is that at the time of framing charge or taking cognizance the accused has no right to produce any material....

(Emphasis supplied)

15. Even in Smt. Rumi Dhar Vs. State of West Bengal and Another, , reliance whereupon was placed by counsel for the Appellants the tests to be applied at the stage of discharge of the accused person u/s 239 of the Code of Criminal Procedure, were found to be no different. Far from readily encouraging discharge, the Court held that even a strong suspicion in regard to the commission of the offence would be sufficient to justify framing of charges. The Court observed:

...While considering an application for discharge filed in terms of Section 239 of the Code, it was for the learned Judge to go into the details of the allegations made against each of the accused persons so as to form an opinion as to whether any case at all has been made out or not as a strong suspicion in regard thereto shall subserve the requirements of law....

16. To the same effect is the decision of this Court in Union of India (UOI) Vs. Prafulla Kumar Samal and Another, where this Court was examining a similar question in the context of Section 227 of the Code of Criminal Procedure. The legal position was summed up as under:

10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:

(1) That the Judge while considering the question of framing the charges u/s 227 of the Code has the 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:

(2) Where the materials placed before the Court disclose 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.

(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.

(4) That in exercising his jurisdiction u/s 227 of the Code the Judge which under the present Code is a senior and experienced Judge cannot act merely as a Post Office or a mouth-piece 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 appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

21. After summarizing the legal position on the subject, the Apex Court held that whether or not the allegations are true, is a matter which cannot be determined at the stage of framing of charge. Any such determination can take place only at the conclusion of the trial. While answering the contention of the petitioner that Section 498A IPC is a much abused provision and declining the prayer for discharge, it was observed as under:-

Whether or not those allegations are true is a matter which cannot be determined at the stage of framing of charges. Any such determination can take place only at the conclusion of the trial. This may at times put an innocent party, falsely accused of commission of an offence to avoidable harassment but so long as the legal requirement and the settled principles do not permit a discharge the Court would find it difficult to do much, conceding that legal process at times is abused by unscrupulous litigants especially in matrimonial cases where the tendency has been to involve as many members of the family of the opposite

party as possible. While such tendency needs to be curbed, the Court will not be able to speculate whether the allegations made against the accused are true or false at the preliminary stage to be able to direct a discharge.

22. The grounds taken by the petitioner Mukesh while seeking his discharge in the present case can only be considered after the cross-examination of the witnesses is over and at this stage merely because the petitioner claims that his confession was taken after torturing him or TIP was manipulated are subject matter of trial. The learned Addl. Sessions Judge (Fast Track Court) has dealt with the available material to form an opinion whether prima facie case against the accused persons including the present petitioner is made out for the offences for which they have been charged. So far as the present petitioner is concerned, apart from other materials on the basis of which prima facie satisfaction has been recorded while framing charge against him, the vital circumstance that he was identified during TIP, was sufficient to frame the charge against the present petitioner.

23. Thus, prayer of the petitioner seeking his discharge in the above-noted case is hereby declined.

24. The petitioner is also seeking quashing of order dated 28.03.2013 (Annexure P-3 to the written submissions). The grievance of the petitioner before the learned Trial Court was that evidence was being recorded in English and the accused/petitioner does not know and understand English. Request was made for providing Hindi translation of the statements of the witnesses recorded in Court in English. Although, in the order it is recorded that this prayer was withdrawn by the counsel for the accused, in this petition it has been contended that it has been wrongly recorded by the learned Trial Court. If it was so, the appropriate remedy available with the petitioner was to move the concerned Court to seek redressal of his grievance and not to raise this issue in this writ petition. The petitioner has already been supplied copy of complete charge-sheet and the statements of the witnesses. Trial Court has already recorded that learned counsel for the accused have been allowed meetings with accused in the Court during cross-examination and learned Special P.P. has no objection to the legal meetings of the accused with their counsel. I do not find any justification for this grievance which seems to have been made just to prolong the trial of the case. Accordingly prayer of the petitioner for quashing order dated 28.03.2013 is declined.

25. Prayer has also been made by the petitioner for quashing of order dated 01.04.2013. Order dated 01.04.2013 passed by the learned Trial court seems to have been impugned by the petitioner before this Court for the reason that the learned counsel for the petitioner requested for adjournment till 04.04.2013 to enable him to file revision against the order dated 28.03.2013. The prayer was declined by the learned Trial Court for the reason that the matter is listed for hearing on day-to-day basis. There is no illegality or infirmity in the order dated 01.04.2013 in view of the legal position that matter is a Sessions Trial case and

the learned Trial Court is proceeding with the trial in accordance with provisions of Section 309 Cr.P.C. Even otherwise, on 01.04.2013, prayer made was to adjourn the matter till filing of the revision which was disallowed. The said relief has become infructuous.

26. During the pendency of the instant writ petition, application bearing Crl. M.A. No. 4404/2013 has been filed on behalf of the petitioner which appears to be not in consonance with the proceedings dated 05.04.2013 when Mr. A.P. Singh, Advocate appeared and filed his vakalatnama on behalf of petitioner No. 2 Akshaya Kumar Singh and withdrew the petition on his behalf. No judicial enquiry is required to be conducted as vakalatnama in favour of Shri M.L. Sharma, Advocate already stands withdrawn, the application is not filed and signed by Akshaya Kumar Singh who was earlier petitioner No. 2 and he is not having any grievance in this regard. In the proceedings dated 05.04.2013, it is recorded that Akshaya Kumar Singh had withdrawn vakalatnama in favour of Shri M.L. Sharma, Advocate.

27. Crl.M.A. No. 4404/2013 is accordingly dismissed being devoid of any merit.

28. After going through the proceedings before the learned Trial Court, copies of which have been placed on record by the learned Addl. Standing Counsel for the State, it can be gathered that every effort is being made on behalf of the petitioner Mukesh and his counsel Mr. M.L. Sharma, Advocate to delay the trial or create hurdles in speedy trial. Filing of application to appoint judicial enquiry by Mr. M.L. Sharma, Advocate claiming himself to be counsel for the petitioners knowing fully well that on 05.04.2013 petitioner No. 2 Akshaya Kumar Singh has withdrawn vakalatnama of Mr. M.L. Sharma, Advocate and availed the services of Mr. A.P. Singh, Advocate in whose favour vakalatnama was signed by petitioner. Prayer made in Crl. M.A. No. 4404/2013 to this Court to conduct an enquiry into the circumstances in which vakalatnama was signed in favour of Shri A.P. Singh, Advocate by petitioner No. 2 Akshaya Kumar Singh is another attempt to distract the attention of the Court by raising unnecessary issues which have nothing to do with the trial of the case.

29. The writ petition is dismissed.

30. Any observations made hereinabove shall not be treated as an expression of opinion on the merits of the case at any stage by the Trial Court.

31. No costs. Copy of this order be given dasti under signatures of the Court Master, as prayed for by Mr. M.L. Sharma, learned counsel for the petitioner.