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Ex. No. 6

IN THE COURT OF DISTRICT & SESSIONS JUDGE KARACHI WEST

Sessions Case No. 1288/2014
Sessions Case No. 1289/2014

The State.....Vs.....Nishoo & others.....Accused

FIR No. 26/2011
U/S: 376/302/34 PPC
PS: Piyaro Lund, Tando Allayar

FIR No. 48/2014
U/S: 201/297/34 PPC
PS: Piyaro Lund, Tando Allayar

AMENDED CHARGE

1, Ghulam Mustafa Memon, Sessions Judge, Karachi-West, do hereby charge you:

1. Nishoo son of Bhooro.
2. Ramjee son of Samoon.
3. Dhano son of Beegal
4. Akhtar son of Jan Muhammad.
5. Imtiaz son of Ghulam Mustafa.

as under:-

That on 7th April, 2011, at about 7:30 a.m. while Shireematti Dhani aged about 13 years, daughter of the complainant Jheema, left the house, situated at the land of Maqsood Qaimkhani, adjacent to Village Ghulam Hussain Lund, Dch. Sheikh Moosa, Sultantabad, District Tando Allayar, to pluck ladyfingers from the field situated at the distance of five acres, in the way, you accused Nishoo and Ramjee, in furtherance of your common intention, caught hold her, forcibly dragged her into bananas crops and committed rape upon her, thereafter, administered Kerato (spray/pesticide used for killing of insects) to her, due to which she lost her breath in the way towards Hospital, thus, you have committed an act of rape so also intentionally and knowingly caused death of the said baby Shireematti Dhani punishable under sections 376, 302 & 34 PPC within the cognizance of this Court.

I, further charge that during the span from 7th April to 6th May, 2011, you accused Nishoo, Dhano, Akhtar and Imtiaz, in furtherance of your common intention with connivance to accused Haji Magsood, Rajoo, SIP Ghulam Muhammad, Ramjee and Dr. Agha Nasim (whose name shown in column No. 2 of charge sheet with blue ink), trespassed in the burial place near to the house of the complainant, excavated the grave of Shireematti Dhani, uplifted her dead body and hidden the same at some unknown place with sole object that the said dead body may not be exhumed by the Medical Board to ascertain the real cause of her death, more particularly, the act of rape committed upon her and administered poison to her on 7th April, 2011, thereby an attempt was made to convert murder of Shireematti Dhani as natural death, thus, you have wounded the feelings of the complainant and also disrespect the dead body, similarly, removed the dead body of Shireematti Dhani from her grave with intention to disappear the material evidence with object to screen you accused Nishoo and Ramjee from legal punishment and thereby you have committed offences punishable under sections 201, 297 & 34 PPC within the cognizance of this Court.

And I hereby direct that you be tried by this Court on the aforesaid charge.

Dated 22.11.2014


(Ghulam Mustafa Memon)
Sessions Judge Karachi-West

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ORDER FOR AMALGAMATION OF CASES

The learned DDPP for the State through caption application sought indulgence of this Court to amalgamate Sessions Case No. 1288/2014 correspondence to FIR No. 26/2011 registered under sections 376/302/34 PPC at police station Piyaro Lund, Tando Allayar and Sessions Case No. 1289/2014 correspondence to FIR No. 48/2011 registered under sections 201/297/34 PPC at police station Piyaro Lund, Tando Allayar (re-The State..Vs..Nishoo & others), on the score that the main accused in both the cases are one and same, so also the facts and issues are identical, the second crime was committed to screen the first crime, therefore, both the cases may be tried together, thereby avoid conflict of opinion.

On notice, learned advocates for accused entered appearance and recorded no objection for amalgamation of both cases, similarly, learned advocate for the complainant in open Court expressed verbal consent.

Indeed, the first FIR was registered against accused two in numbers namely Nishoo and Ramjee under section 376/302/34 with the allegations that on 7th April, 2011, at about 7:30 a.m. while Shireematti Dhani aged about 13 years, daughter of the complainant Jheema, left the house to pluck ladyfingers from the field situated at the distance of five acres, in the way, both the said accused caught hold her, forcibly dragged her into bananas crops and committed rape upon her, thenceforth administered Kerato (spray/pesticide used for killing of insects) to her, due to which she lost her breath in the way towards Hospital, whereas the second FIR was recorded against accused Nishoo, Dhano, Akhtar, Imtiaz, Haji Maqsood, Rajoo, SIP Ghulam Muhammad, Ramjee and Dr. Agha Nasim under section

201/297/34 PPC with the allegations that accused Nishoo, Dhano, Akhtar and Imtiaz with connivance to accused Haji Maqsood, Rajoo, SLP Ghulam Muhammad, Ramjee and Dr. Agha Nasim, trespassed in the burial place near to the house of the complainant, excavated the grave of Shireematti Dhani, uplified her dead body and hidden the same at some unknown place with sole object that the said dead body may not be exhumed by the Medical Board to ascertain the real cause of her death, more particularly, the act of rape committed upon her and administered poison to her on 7th April, 2011, thereby an attempt was made to convert murder of Shireematti Dhani as natural death and removed the dead body of Shireematti Dhani from her grave with intention to disappear the material evidence with object to screen accused Nishoo and Ramjee from legal punishment. The I.O on completion of investigation of this crime did not arraigne accused Haji Maqsood, Rajoo, SLP Ghulam Muhammad, Ramjee and Dr. Agha Nasim and referred their names in column No. 2 of charge sheet with blue ink. Resultantly, both the Sessions Cases were registered for trial.

The facts indicated above expressly disclosed that both the crimes are obviously linked together, the second crime has been committed to cover the first crime, thus both crimes were complementary to each other, therefore, fall in same series of acts which constituted two different offences.

Section 235 Cr.P.C. speak about the joint trial and conferred discretion in the Court to try offences of the kind indicated there in jointly. In such state of affairs, it would be in the interest of justice that the above two Sessions cases be tried together, hence, Sessions Case No. 1288/2014 and Sessions Case No. 1289/2014 are amalgamated/clubbed. The charge be framed jointly and Sessions Case No. 1288/2014 be treated as main case and evidence will be recorded in the said case.

Announced in Open Court, on this 22nd day of November, 2014


(Ghulam Mustafa Memon)
Sessions Judge Karachi-West