**CASE TYPE: BAIL APPLICATION**

**CASE NAME: MOHD. IBRAHIM versus STATE (NCT OF DELHI)**

**CORAM: HON’BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**DATE OF DECISION: 27TH SEP, 2021**

Recently in the bail application heard by the Delhi High Court, the court weighed up the Explanation to Section 120A, assessing the ingredients of criminal conspiracy to decide the complicity of the accused. The matter surfaced in the bail application filed by the Petitioner against the accusation of being a part of mob violence took place in NCT of Delhi in the month of February 2020.

**Factual Matrix**

In the instant FIR filed the protest was on move near Chand Bagh moving towards the Main Wazirabad Road. When the police tried to intervene and stop, the protestors overlooked their legal warnings and started pelting stones at the police officials. The protestors even snatched lathis from the police, and started beating with it. Post the incident, the protestors fled away and injured were sent to the hospital for treatment. The investigation was completed and charge sheet was filed on 08.06.2020 wherein the Petitioner has been added. The Petitioner was arrested on under Sections 186/353/332/323/109/144/147/148/149/153A/188/333/336/427/307/308/302/201/120-B/34 of the IPC, read with 3/4 of the PDPP Act.

**Arguments of the Petitioner**

The Petitioner was falsely implicated, as the Petitioner is not visible in any footage showing his presence at the Scene of Crime.

It was submitted that the intention was not to participate into riots, but to defend their neighborhood from the deadly riots erupted against the Citizenship (Amendment) Act, 2019.

There is no record to show the Petitioner was part of the alleged organized mob. The video footage and the Cell ID location of the Petitioner are contradictory to each other.

**Arguments of the Respondent**

The Respondent submitted three video clips for drawing inference on how the assault on police personnel was pre-meditated. It was submitted how the CCTV cameras were planned to deactivate.

It was submitted that the identity of the Petitioner was confirmed by the injured police personnel under Section 161 Cr.P.C.

The Petitioner was in contact with the main organizer and was part of the meeting conducted to finalize the plan.

The absence of the accused from a video does not translate into absence of the accused from the scene of crime. Being a part of the unlawful assembly makes him equally liable for the crime committed, hence only meeting of minds is necessary to make one liable under Section 120-B IPC.

**Decision of the Court**

The court observed that in the instant case, the issue that whether or not the illegal act is the ultimate object of the agreement, or is incidental to it, is completely immaterial.

The Court observed that unless the statute not implicate so, no overt act is required to be done in furtherance of the conspiracy. The agreement to commit an offence where perpetrators expressly agree to do so makes them punishable under Section 120-B IPC.

The continuity of the conspiracy is held to be continued and renewed with regard to all its members wherever and whenever any single member does anything in furtherance of this common intention.

One need to be observed the circumstances before, during and after the occurrence in order to discern the complicity of the accused.

Hereby, the court was of the view that the grant of the bail is not be exercised in arbitrary manner and need to apply judicial mind. The evidence of footage and the statement given by the witness proves the presence of the Petitioner at the crime scene, was planned to cause disrupt the public law and order. It was calculated attempt to destabilize the society life and cause grievous hurt to other persons.

In view of the facts and circumstances of the case, the bail application of the Petitioner was dismissed.