

Special Case No. 1/2019

22.01.2020

Case is fixed today for order on charge.

Accused Mahesh Barkakati is present along with his Ld. engaged Counsel.

I have already heard the Ld. Counsels of both sides on the point of charge. Perusal of record and the Case Diary reflects that one Tapan Deka on 13/12/16 lodged an FIR before the O.C., V&AC, Assam inter alia stating that he has information that accused Mahesh Barkakati, Teacher of Silabandha Balak Majaliya Bidyalaya can arrange appointment of the complainant as a Co-Ordinator under Swachha Bharat Abhiyan Mission under the Panchayat and when the complainant on 09/12/16 met the accused person he demanded Rs. 60,000/- as bribe from the Complainant along with his Bio-Data for appointment and demanded him to pay Rs. 25,000/- at the earliest. The Complainant accordingly prayed the O.C., V&AC, Assam to take necessary action. Perusal of Case Diary reflects that the O.C., V&AC, Assam registered ACB PS. Case No. 21/2016 U/S 7/13(1)(d)/13(2) of P.C. act, 1988 and investigated into. Record also reflects that after registration of the case one trap team was constituted and on 14/12/16 the accused person was caught red handed while accepting tainted bribe money of Rs. 20,000/- from the Complainant. The record also reflects that hand wash of the accused person was done in the place of occurrence and the colour of the hand wash turned into pink. Record further reflects that the I.O. has seized the hand wash solutions of the accused person as well as the tainted money recovered from his possession. Record further reflects that the said seized articles were sent to FSL for expert opinion and the expert opinion gave positive test regarding presence of phenolphthalein powder in the said exhibits.

Record and Case Diary also reflects that I.O. during course of

investigation has seized the Memory Card containing the videography as well as conversation between the complainant and the accused person. The Investigating Officer during investigation also sent the Memory Card to FSL for forensic opinion and the expert has given positive opinion regarding the contents of the said Memory Card. I.O. also recorded the 161 Cr.P.C statement of the witnesses and the 161 Cr.P.C. statement of the witnesses supports the prosecution case regarding the demand and acceptance made by the accused person. Record also reflects that the Competent Authority i.e. the Director of Elementary Education, Assam has accorded Prosecution sanction U/S 19 of the P.C. Act, 1988 to prosecute accused Mahesh Barkakati U/s 7/13(1)(d)/13(2) of P.C. Act, 1988.

After going through the record and in view of the above discussions I have found sufficient prima facie materials to proceed against accused Mahesh Barkakati, the then Teacher of Silabandha Balak Majaliya Bidyalaya U/S 7/13(1)(d)(ii)/13(2) of P.C. Act, 1988. Accordingly, charge is framed against accused Mahesh Barkakati U/S 7/13(1)(d)(ii)/13(2) of P.C. Act, 1988.

On being read over and explained the accused pleaded not guilty and claimed to be tried.

Issue summon to the witnesses accordingly.

Fixing 25/02/2020 for evidence.