

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: January 21, 2015

+ **CRL.REV.P. 44/2015 & CrI.M.As.926-927/2015**

PRAMOD SINGHAL

..... Petitioner

Through: Mrs. Gouri K. Mohanti and Ms.
Anu Gupta, Advocates

versus

STATE & ANR

.....Respondents

Through: Mr. Vinod Diwakar, Additional
Public Prosecutor for respondent-
State with SI Bhagwan Shankar

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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21.01.2015

In this petition, learned counsel for petitioner assails the impugned order vide which charge has been framed for the offences under Section 308/323 of IPC in FIR No.20/2013 registered at P.S. Janak Puri, Delhi on the ground that even if prosecution case is taken as it is, still the offence which is made out, would fall under Section 323 of IPC only and not under Section 308 of IPC.

Attention of this Court is drawn to the MLC (*Annexure P-2*) of the injured to point out that he had sustained only abrasions and swelling on his left shoulder and the prosecution case of injured being hit by petitioner by driving his car at a fast speed is not substantiated from the medical evidence on record.

Learned Additional Public Prosecutor for State supports the impugned order and submits that petitioner had knowledge that by his

deliberate act of his car hitting against the complainant, who was the Chowkidar, would bring his case within the ambit of Section 308 of IPC and that there is no substance in this petition.

Upon hearing and on perusal of the impugned order, I find that trial court has rightly opined in the impugned order that the version of petitioner is not to be seen at this stage and all that has to be seen is whether a prima facie case is made out or not.

Apex Court in *Amit Kapoor v. Ramesh Chander and Another* (2012) 9 SCC 460 has reiterated the parameters which govern the framing of a charge. The pertinent observations made by the Apex Court in *Amit Kapoor* (supra) are as under: -

"At the initial stage of framing of a charge, the court is concerned not with proof but with a strong suspicion that the accused has committed an offence, which, if put to trial, could prove him guilty. All that the court has to see is that the material on record and the facts would be compatible with the innocence of the accused or not. The final test of guilt is not to be applied at the stage."

Applying the dictum of the Apex Court to the facts of the instant case, I find that a prima facie case for the offences under Section 308/323 of IPC is made out against petitioner.

Finding no illegality or infirmity in the impugned order, this petition and the applications are dismissed.

(SUNIL GAUR)
JUDGE

JANUARY 21, 2015

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