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

*Date of Order: February 20, 2015*

+ **CRL.M.C. 636/2015 & Crl. M.A. No. 2440/2015 and Crl. M.A. No. 2441/2015**

RIYAZUDDIN & ORS.

..... Petitioners

Through: Mr. Aman Usman, Advocate

versus

STATE & ANR.

..... Respondents

Through: Ms. Nishi Jain, Additional Public  
Prosecutor for respondent-State  
with SI Anand Pushkar

**CORAM:**

**HON'BLE MR. JUSTICE SUNIL GAUR**

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**ORDER**  
**(ORAL)**

Vide impugned order of 15<sup>th</sup> November, 2014, learned Revisional Court has directed that petitioner be tried for the offence under Section 325 of IPC also in FIR NO. 46/2012 under Section 341/323/506(1)/34 of IPC registered at police Station Jamia Nagar, Delhi.

At the hearing, the challenge to the impugned order by learned counsel for petitioner is on the ground that the opinion of the Doctor regarding the nature of injury is not binding on the Court. Reliance is placed upon decision in “*Gurbax Singh & Anr. Vs. State, 190(2012) DLT 538*”.

Learned Additional Public Prosecutor for respondent-State supports the impugned order and submits that there is no illegality and ambiguity in it.

Upon hearing and on perusal of charge-sheet of this case and MLC of the injured, I find that the injury suffered by the injured has been opined grievous in nature. At the stage of framing of charge, a prima facie case only is to be seen and no meticulous examination of the material on record is to be undertaken. No doubt, medical opinion is not binding on the court but at the charge stage, the nature of offence committed is not to be scrutinized as if the matter is at the final stage. Law permits framing of alternate charge where there is doubt as to whether the offence falls under one provision of law or another.

In the considered opinion of the Court, there is no palpable error in the impugned order. This petition and applications are dismissed while not commenting on merits.

**(SUNIL GAUR)**  
**JUDGE**

**FEBRUARY 20, 2015**

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