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

Judgment delivered on: 14th October, 2015

+ **CRL.M.C. 4087/2015**

ADITYA RAO GAUTAM Petitioner
Represented by: Mr. Shree Niwas Sharma,
Advocate.

Versus

STATE OF NCT OF DELHI & ANR Respondents
Represented by: Mr. Amit Chadha, APP for
the State with SI R. N.
Pathak, PS Jagatpuri.

CORAM:
HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. Vide the present petition filed under Section 482 of the Code of Criminal Procedure, 1973, petitioner seeks directions thereby to amend the charge for the offences punishable under Sections 323/506/34 IPC in case bearing FIR No.326/2013 registered at Police Station Jagatpuri.
2. Learned counsel appearing on behalf of the petitioner submits that as per the time of alleged FIR, and the MLC, the incident dated 13.07.2013 is in contradiction of the prosecution case. The complainant was not admitted for a single day in the hospital despite allegedly having been received the grievous injuries.
3. Moreover, the father of the petitioner filed a RTI regarding the

overwriting and cutting of opinion of Dr. Neha Jain. The reply filed by GTB Hospital vide letter No.F.2/RTI/PIO/GTBH/ID-2421/2015-5840 dated 28.07.2015, it is stated that there is no over writing and cutting on the MLC No. B-2795/13. However, there was overwriting or cutting over the signature upon the original MLC.

4. Learned counsel further submits that instead of framing charge under Section 308 IPC, the charge should have been framed under Section 323/506/34 IPC.

5. Admittedly, in view of the provisions of Section 216 of the Code of Criminal Procedure, 1973, the petitioner can move an application seeking amendment of charge if there is material in his favour. However, the petitioner has not taken any steps before the learned Trial Court.

6. It is not in dispute that four other cases, three with the same Police Station and the fourth one with Police Station Jahangir Puri, are pending against the petitioner.

7. In the case of ***Bharat Parikh Vs. C.B.I., AIR 2009 SC (Supp) 523***, the Apex Court held that at the stage of framing charge, roving and fishing inquiry is impermissible and a mini trial cannot be conducted at such stage. At the stage of framing of charge, submissions on behalf of the accused have to be confined to the material produced by the investigating agency. The accused will get an opportunity to prove the documents subsequently produced by the prosecution on the order of the Court, but the same cannot be relied upon to re-open the proceedings once charge has been framed or for invocation of the High Court's powers under Section 482 of the Code of Criminal Procedure.

8. In view of the above discussion, if the prayer made by the petitioner is accepted, it amounts to conduct mini trial in these proceedings which is

impermissible in law.

9. Therefore, finding no merit in the instant petition, the same is dismissed. However, liberty is granted to the petitioner to have recourse to the legal remedies available to him, if so advised.

**SURESH KAIT
(JUDGE)**

OCTOBER 14, 2015
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