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

+ CRL.REV.P. 147/2014

BIJENDER SINGH

..... Petitioner

Represented by: Mr.Sahil Malik, Advocate with
Mr.Varun Kalia, Advocate

versus

THE STATE & ORS

..... Respondents

Represented by: Mr.Amit Ahlawat, APP with SI Punit
Kumar, PS Bawana
Mr.Akhilesh Arora, Advocate for R-2

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

ORDER

% **09.09.2016**

1. On a complaint dated October 13, 2011 lodged by Viresh Mohan, FIR No.353/11 dated October 13, 2011 for offences punishable under Sections 325/452/427/307/34 IPC read with Sections 25/27 of the Arms Act was registered against Bijender Singh, Satish Kumar, Azad Singh, Vedpal, Joginder, Ravinder and Vikas. In his supplementary statement Viresh Mohan named Dharmender also as a participant.
2. On December 07, 2011 Bijender Singh filed a complaint under Section 200 read with Section 190(1)(a) and Section 156(3) of the Code of Criminal Procedure against Viresh Mohan, Hemant Mohan, Deepak Mohan, Sidharath and Mohan Lal for offences punishable under Section 323/308/506/34 in relation to the same incident for which FIR No.353/11 had been registered. The Metropolitan Magistrate, Rohini Courts, Delhi

directed the police to register an FIR and accordingly FIR No.225/13 was registered by the police.

3. It is apparent that two cross FIRs are registered concerning the same incident.

4. From a perusal of the two cross FIRs the common case of the parties would be that there existed a property dispute between the family of Viresh Mohan and the families of Bijender Singh and Ravinder Sharma. As it has to be, both parties claim the other to be the aggressor. As per Viresh Mohan around 2 PM on October 13, 2011 while his father : Mohan Lal was supervising construction of a boundary wall between the plots, Bijender Singh, Satish Kumar and Azad Singh came and threatened Mohan Lal to stop the construction. Later at 5.15 PM, Bijender Singh, Satish Kumar and Azad Singh returned to the plot with Bijender Singh and Satish Kumar carrying sticks and Azad Singh carrying a jalli. It is alleged that Joginder also entered the plot with an iron rod soon after and thereafter, the named persons attacked Viresh Mohan, Mohan Lal and Viresh Mohan's brother Hemant Mohan. Specific roles have been ascribed to the assailants in the complaint. It is further alleged that that during the course of the attack Minu entered the plot and attacked Viresh Mohan, Mohan Lal and Hemant Mohan with a baseball bat. It is further alleged that during the course of the attack, Vikas also entered the plot and fired a pistol at Viresh Mohan. It also alleged that thereafter Ravinder also entered the plot and attacked Viresh Mohan, Mohan Lal and Hemant Mohan with bricks.

5. The version of events disclosed by Bijender Singh in the complaint case dated December 07, 2011 is that on October 13, 2011, upon receiving news that Hemant Mohan, Viresh Mohan, Deepak Mohan, Sidharath and

Mohan Lal were encroaching upon their land, Bijender Singh, Azad Singh and Satish Kumar reached the site of the property, where upon Bijender Singh raising objections to the encroachment, he was slapped by Sidharath. It is alleged that Azad Singh and Satish Kumar were also assaulted by Sidharath. It has also been alleged by Bijender Singh that thereafter on the instigation of Sidharath and Deepak to kill Brijesh Singh; Viresh Mohan, Mohan Lal and Hemant Mohan attacked Brijesh Singh, Azad Singh and Satish Kumar with lathis.

6. It would be relevant to note that Mohan Lal died on October 20, 2012.

7. The grievance is to the charge being framed against the accused only for the offence punishable under Section 323/34 IPC overlooking that the MLCs filed along with the charge-sheet clearly evince that Bijender, Azad and Satish suffered injuries on the parietal region.

8. I have perused the MLCs which clearly show clear lacerated wounds over the parietal region and thus in my opinion the charge ought to have been framed for the offences punishable under Section 304/208 IPC.

9. Accordingly the petition is disposed of directing the learned Court of Sessions to frame the charge against the accused in FIR No.225/2012 for the offence punishable under Section 308/34 IPC.

CrI.M.A.No.3893/2014

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

SEPTEMBER 09, 2016

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