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

+ CRL.REV.P. 820/2016

MADAN MOHAN @ MUNNA & ORS. Petitioners

Through: Mr. Jatin Sapra, Adv.

versus

STATE

..... Respondent

Through: Ms. Meenakshi Dahiya, APP for State
with SI Manish Yadav, P.S. Vasant
Kunj (North).

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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24.08.2017

Petitioners are aggrieved by framing of charge against them by the trial court under Sections 452/308/323/34 IPC. Trial Court has held that there were sufficient grounds to frame charges against the petitioners under the aforesaid provisions. Trial court has noted that statement of complainant is corroborated by his MLC, MLC of his wife, statements of independent witnesses Smt. Chausar, Smt. Rameshwari Devi, Sh. Kalu Ram and Smt. Sampat w/o complainant. From the statements made by the witnesses during the investigation coupled with the circumstances, a grave suspicion arises against the petitioners to the effect that in furtherance of their common intention, they have trespassed the house of complainant after having made preparations for assaulting the complainant and causing hurt to

him and committed acts with such intention or knowledge and under such circumstances that if, they by that act they would have caused death of the complainant, then, they would be guilty of culpable homicide not amounting to murder and further also caused simple hurt on the person of Smt. Sampat w/o complainant. I do not find any illegality or irregularity in the impugned order. A perusal of MLC of the complainant would show that he sustained injuries (i) laceration over scalp measuring 3x2x1 cm, (ii) abrasion over right knee measuring 0.5x0.5 cm and (iii) abrasion over nose measuring 0.5 cm. The injuries show that a blow was given on the scalp which is a vital part of the body. Blow was given by an iron rod as has been stated by the complainant and other witnesses in their statements under Section 164 Cr.P.C. which have to be taken to be correct, at this stage. In my view, veracity of the statements of the witnesses have to be tested during the trial. Section 308 IPC envisages that whoever does any act with such intention or knowledge and under such circumstances that, if he by that act caused death, he would be guilty of culpable homicide not amounting to murder. The intention and knowledge have to be deduced from the circumstances in which injuries were caused. In this case, the assault was pre-meditated as is apparent from the perusal of FIR. Petitioners had forcibly entered the house

of complainant armed with iron rod and gave blows on the head.

In view of above discussions, petition is dismissed. Miscellaneous application is disposed of as infructuous.

A.K. PATHAK, J.

AUGUST 24, 2017
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