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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV. P. NO.828/2017**

Order reserved on : 13th November, 2017
Order pronounced on : 20th November, 2017

AKIL AHMAD & ORSPetitioners
Through: Mr. Jai Kumar Sinha, Advocate.
Versus

THE STATE OF NCT OF DELHIRespondent
Through: Ms. Anita Abraham, APP for the
State with ASI Moolchand, P.S.
Madhu Vihar.

CORAM:
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

1. The present Criminal Revision Petition has been filed under Section 397/482 of the Code of Criminal Procedure (hereinafter referred 'Cr.PC.'), challenging the order dated 06.09.2017 passed by the Additional Sessions Judge-04 (Shahdara), Karkadooma, New Delhi (hereinafter referred to as 'ASJ') in FIR No. 1362/2014 whereby the petitioners were convicted for the offence punishable under Sections 308/34 of the Indian Penal Code, 1860 (hereinafter referred as 'IPC') registered at Police Station Madhu Vihar, New Delhi.
2. The brief and necessary facts of the case are that on 18.11.2014 at about 10:30 p.m., the brother of the complainant, Abdul Rahim and the brother-in-law of the complainant Pappu were to come and meet him at his place of residence. The petitioner who was residing

in the same house went to put a lock on the entrance, and when the wife of the complainant, Smt. Hansa, requested him not to lock the gate, he started abusing her. Just then the brothers of the petitioner, Aleem, Shakeel and JCL-S arrived and started abusing the brother and relative of the complainant. When this act was protested, the petitioner and JCL-S started assaulting the complainant, his wife and brother with iron rods. Consequently, the police was called and they were brought to Lal Bahadur Shastri Hospital where they were examined medically. Subsequently, the FIR was lodged.

3. Vide impugned order dated 06.09.2017, the ASJ, framed charges under Section 308/34 IPC against the petitioners. The petitioners preferred a revision petition against the said order. Hence, the present Criminal Revision Petition.
4. Assailing the impugned order, Mr. Jai Kumar Sinha, learned counsel for the petitioners contended that the complainant lodged a false complaint in connivance with the police with an ulterior motive to implicate the petitioners due to existing feuds between the two families to which the two Civil Suits are pending between the parties; that as per the MLC reports the nature of injuries sustained by the complainant were 'simple' and could thus not be fatal; that the police failed to recover the alleged iron rod from the appellant; that the incident occurred on 18.11.2014 but the FIR was lodged in the morning of 19.11.2014.
5. Per Contra, Ms. Anita Abraham, learned APP for the State submitted that the impugned order does not suffer from any

jurisdictional infirmity or material irregularity to exercise the jurisdiction vested upon the Appellate Court.

6. I have given my considered thought to the submissions made by counsel for parties and perused material available on record.
7. At the outset, it is relevant to peruse **Section 308** of the IPC which reads as under :-

“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, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.”

8. Further, **Section 34 of the IPC** lays down the legal provisions regarding Acts done by several persons in furtherance of common intention and reads as under:-

“When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.”.

9. According to the MLC, the complainant, Mr. Abdul Hakim sustained multiple injuries on his head measuring CLW of 5cm x 0.5cm over vertex and CLW of 3cm x 0.5cm x 0.5cm over the parietal region, the wife of the complainant, Mrs. Hansha sustained two injuries on the front region of the scalp measuring (1) CLW of 5cm x 1cm x 0.5cm and (2) CLW of 3cm x 0.5cm x 0.5cm. Further,

the brother if the complainant, Abdul Raheem also sustained injuries on the parietal region. The complainant and his family members suffered from Multiple Lacerated Wounds on sensitive body parts, which implies that they were repeatedly assaulted by the appellant. Thus it can be assumed the appellant had knowledge that his act could have caused the death of the appellant, yet he indulged in it. On perusal of the FIR and the MLC report a prima face case U/s 308 can thus be made out.

10. In view of the above, I am of the considered view that the reasons recorded by the learned Trial Court in the impugned order, do not suffer from any illegality whatsoever and accordingly, the present Criminal Revision Petition shall stand dismissed.
11. Ordered accordingly.

CRL.M(A).17923/2017

In view of the aforesaid order, the present application is rendered infructuous.

Application stands disposed of.

SANGITA DHINGRA SEHGAL, J.

NOVEMBER 20, 2017

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