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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 135/2018, CRL.M.A. 3033/2018**
DILIP KUMAR SINGH & ORS Petitioners

Through: Mr. N.K. Gupta, Advocate.

versus

THE STATE GOVT OF NCT OF DELHI Respondent

Through: Mr. G.M. Farooqui, APP for Ms.
Radhika Kolluru, APP for State with
SI Shiv Prakash, PS-Anand Parbat.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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30.08.2018

The petitioners impugn the order dated 29.11.2017 framing the charges under sections 323/308/509/34 IPC against petitioner no. 1 and sections 308/323/34 IPC against petitioner nos. 2 and 3. The learned counsel for the petitioner submits that although, the victim/complainant had suffered simple injuries, since the said injury was on the head of the victim, charge under section 308 IPC was included.

It is the petitioners' case that the MLC Report and other documents on record after the incident, record two opinions: one of Orthopaedic Surgeon, according to which, on the basis of a radiological opinion, the nature of the injury was simple; similar is the opinion of the doctor of the Department of Surgery, the injured was administered pain killers and given tetanus injection, he had laceration on the left eyebrow and a little swelling on the toe of the foot. Neither of these could have been said to be of the

nature of injuries to invite a charge under section 308 IPC. The Court has seen the said documents. They speak of ostensible simple injuries. No grievous or major injury is recorded in the medical opinion. Nothing else is shown *prima facie* to make out a case for prosecution for under section 308 of the IPC. That being so, the charge under section 308 IPC would not be warranted. Accordingly, the impugned order is modified. The petitioners would not be tried for the charge under section 308 IPC.

The petition is allowed and disposed-off in the above terms.

NAJMI WAZIRI, J

AUGUST 30, 2018

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