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

+ CRL.REV.P. 891/2018, CRL MA 34121-22/2018

RAVINDER KUMAR Petitioner

Through Mr. Rao Ranjeet Singh &
Mr. Tapashwar Vats, Advs

versus

STATE (NCT OF DELHI) Respondent

Through Dr. M.P. Singh, APP for State

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **11.10.2018**

Petitioner is aggrieved by framing of charge under section 307/34 IPC against him. It is contended that as per the FIR itself, a sudden quarrel took place between the petitioner and his co-accused with the complainant wherein petitioner had allegedly picked up a bottle from the road and hit it on the neck of complainant resulting injury to him. Learned counsel submits that only single blow was given by the petitioner and the petitioner was not armed with any weapon. It is contended that ingredients of offence under section 307 IPC are not attracted in this case. Learned Trial Court has erred in framing the charge under sections 307/34 IPC. Reliance has been placed on “Tejeshwar Sharma vs. State (NCT of Delhi) & Anr.” 2015 [4] JCC 2419.

I have perused the judgment and find the same to be in the context of different fact and in my view, same is of no help to the petitioner.

A perusal of FIR shows that petitioner had picked up a bottle and hit the complainant on his neck. Injury has been opined as grievous. Neck is a vital part of the body. It is trite law that intention and knowledge is to be gathered from the nature of weapon used, the intention expressed by the accused at the time of the act, the motive of commission of offence, the nature and size of the injuries, the parts of the body of the victim selected for causing injuries, severity of the blow or blows and the conduct of the accused are important factors which may be taken into consideration in coming to a finding whether in a particular case, the accused can be proceeded under section 307 IPC.

In the instant case, victim was hit on the vital part of his body, that is, the neck. Injury is grievous as the use of bottle can prove fatal. There is sufficient material to form a prima facie view, at the stage of charge, that petitioner had committed offence under Section 307 IPC.

For the foregoing reasons, petition is dismissed. Miscellaneous applications are disposed of as infructuous.

A.K. PATHAK, J

OCTOBER 11, 2018

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