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

Date of decision: 27.09.2019

+ CRL.REV.P. 102/2019

STATE

..... Petitioner

Through Mr.Hirein Sharma, APP for State.
ASI Suphal Ram PS Harsh Vihar.

versus

JEEWANI & ANR.

..... Respondents

Through None.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (O R A L)

1. Vide the present petition, the petitioner/state seeks setting aside the order dated 12.09.2018 passed in SC No.245/18 in FIR No.332/2015 registered at Police Station Harsh Vihar.

2. The present petition is filed on the ground that the learned Trial Court, while passing the impugned order, ignored and did not look into the statement of the complainant Kapil dated 21.06.2015 and that of the sister of the complainant Smt. Anju dated 21.06.2013, recorded by the Investigating Officer. Ld. Trial Court has also ignored the statement of Rajhans Kumar who is the eye witness and signatory of the site plan and recovery memo and

of Kavita, both of whom have specifically supported the version of the prosecution.

3. Learned prosecutor appearing on behalf of the petitioner/State submits that the impugned order is not only against the provisions of the statute but also against the settled principles of law elucidated by the Hon'ble Supreme Court and this Court on the point of framing of charge. The Trial court had not considered the fact that at the time of framing of charge, the court is bound to look into all the material placed before it by the Investigating Officer for adjudication and that no defence could be looked into at that stage.

4. On perusal of the impugned order, I note that during the local inquiry, the IO did not find any incriminating evidence against the respondent/accused persons and that is why he did not arrest them. He under mistaken impression named the accused persons in column no. 11, whereas as per law, he was required to mention their names in column no. 12.

5. The local inquiry into the matter revealed that the complainants themselves had assaulted each other and had also destroyed a wall. They were in illegal possession of a plot in Gali no. 1, khasra no. 121, Saboli,

Pratap Nagar and in order to regain illegal possession they had lodged the present false complaint against the accused persons.

6. It is not in dispute that during investigation, one Bittoo @ Anil from the complainant side along with one Lala Bhatri had themselves fired on the gate of a room constructed in the plot. Also, wife of Ishwar who complained about her clothes having been torn by the accused had in fact herself torn her clothes. During investigation, it was revealed that the incident as alleged by the complainant side was untrue and none of the accused persons was seen at the disputed property on the date of the incident.

7. It is pertinent to mention here that the injuries alleged to be inflicted by the accused persons were not at all inflicted by them. Learned Trial Court perused the medical papers which showed that while Anju did not suffer any external injury, the victim Kapil suffered only tenderness and swelling on his left forearm and one superficial abrasion over the chest which in these circumstances, could well have been self inflicted.

8. Keeping in view reasons recorded above, the learned Trial Court has rightly discharged the respondent of offences under sections 307/308/323/34 IPC.

9. Accordingly, I find no merit in the present petition and the same is, accordingly, dismissed.

(SURESH KUMAR KAIT)
JUDGE

SEPTEMBER 27, 2019
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