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

% *Date of Judgment: 28th September, 2020*

+ **CRL.REV.P. 301/2020**

VEERPAL

..... Petitioner

Through: Mr Rajiv Mishra, Advocate
with Mr Sandeep Kumar,
Advocate.

versus

STATE NCT OF DELHI

..... Respondent

Through: Ms Kusum Dhalla, APP for
State.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

[Hearing held through videoconferencing]

VIBHU BAKHRU, J. (ORAL)

1. The petitioner has filed the present petition, *inter alia*, impugning a judgment dated 11.08.2020 passed by the learned Additional Sessions Judge-4, North District, Rohini Court, Delhi (the Appellate Court). The petitioner also impugns the judgment dated 19.02.2020 passed by the learned Metropolitan Magistrate-6, North District, Rohini Courts, New Delhi (the Trial Court) in Case 5293546/2016 arising out of FIR No. 700/2014 under Section 325/34 of the IPC registered with PS Adarsh Nagar. The petitioner also

impugns the order on sentence dated 29.02.2020, whereby the petitioner was sentenced to serve six months simple imprisonment for committing an offence under Section 325 of the IPC.

2. The FIR in question was registered on 14.10.2014 at the instance of the injured/victim (Mr Tunna Lal). Mr Tunna Lal (hereafter the 'complainant') was examined as PW 1. He stated that he used to run a rickshaw. He testified that on 04.10.2014 at about 6.30 p.m. he reached Rameshwar Nagar, Azadpur for purchasing some vegetables. He purchased vegetables for ₹12/- and gave the seller (accused Veerpal - the petitioner herein) a currency note of ₹20/- and he asked him to return the change. The petitioner informed him that he did not have any change. On hearing this, the complainant placed the vegetables back on the *Rehri* (hand Cart) of the petitioner and started moving towards another vegetable vendor (*Rehri*). The complainant testified that on witnessing the complainant moving away, the petitioner got infuriated and started beating him and his associates also joined him. He deposed that the petitioner had hit him with a sharp edged weapon; resultantly he sustained injuries on his eye. He testified that he left his belongings and started moving away but the petitioner along with his associates again started beating him. After some time, they fled from the spot. He also stated that the police officials asked him to go to some hospital. Thereafter, he along with his relatives went to AIIMS hospital. After a few days he went to the police station and got his statement recorded (which was exhibited as Ex. PW 1/A). In his cross-examination he confirmed that the said statement was given to the police officials on 14.10.2014.

3. The complainant also testified that he had accompanied the police officials to the site on 29.11.2014 and had identified the accused Veer Pal (the petitioner herein) as the person who had hit his eye with a sharp edged weapon. He also confirmed that the police officials had prepared a site plan at his instance.

4. The petitioner was convicted by the Trial Court for committing an offence punishable under Section 325 of the IPC mainly on the basis of the testimony of the complainant (PW1). By an order dated 29.02.2020 he was sentenced to undergo simple imprisonment for a period of six months.

5. It is seen that the Trial Court also took into account the MLC of the complainant/injured, which established that the injury suffered by the complainant was grievous. The MLC also indicated that the injury was inflicted by a knife.

6. It was contended on behalf of the petitioner that (i) there was a delay in filing of the FIR; (ii) the other co-accused have not been apprehended; (iii) even though the incident had taken place at a crowded spot independent witnesses were not examined; and (iv) the knife in question has not been recovered. The Trial Court did not find any of the said contentions to be persuasive. There was a delay of ten days in lodging the FIR but the same was adequately explained by the complainant. He stated that he had proceeded to AIIMS Hospital for medical treatment after the incident, and therefore, could not go to the police station immediately for recording of his statement. The fact that the knife was not recovered and the co-accused could not be traced, did not in any manner raise a doubt as to the offence committed by the

petitioner.

7. The petitioner appealed against the judgment dated 19.02.2020 rendered by the Trial Court before the Appellate Court. The Appellate Court evaluated the evidence once again and upheld the appellant's conviction.

8. Mr Mishra, learned counsel appearing for the petitioner reiterated the submissions advanced before the Trial Court and the Appellate Court. He states that there is a delay of ten days in registration of the FIR; that the co-accused have not been traced; that there is no evidence apart from the testimony of the complainant that there were police officials at the spot who had advised him to go to a hospital; that no other eye-witnesses was included in the investigation though the area where the offence was allegedly committed is a thickly populated area; and that no knife has been recovered from the petitioner.

9. This Court is of the view that the contentions advanced on behalf of the petitioner do not in any manner raise any doubt as to the testimony of the injured victim (the complainant). It is established that the complainant had suffered a grievous injury and there is no dispute that the MLC does establish the same. It is well settled that the testimony of the injured witness has to be given a very high weightage and unless it is found that there is any reason to doubt it, the same should be accepted.

10. In ***Abdul Sayeed vs State Of M.P.:(2010) 10 SCC 529*** the Supreme Court had held as under:

28. The question of the weight to be attached to the evidence of a witness that was himself injured in the course of the occurrence has been extensively discussed by this Court. Where a witness to the occurrence has himself been injured in the incident, the testimony of such a witness is generally considered to be very reliable, as he is a witness that comes with a built-in guarantee of his presence at the scene of the crime and is unlikely to spare his actual assailant(s) in order to falsely implicate someone. "Convincing evidence is required to discredit an injured witness". (Vide Ramlagan Singh and Ors. v. State of Bihar AIR 1972 SC 2593; Malkhan Singh and Anr. v. State of Uttar Pradesh AIR 1975 SC 12; Machhi Singh and Ors. v. State of Punjab AIR 1983 SC 957; Appabhai and Anr. v. State of Gujarat AIR 1988 SC 696; Bonkya alias Bharat Shivaji Mane and Ors. v. State of Maharashtra (1995) 6 SCC 447; Bhag Singh and Ors. (supra); Mohar and Anr. v. State of Uttar Pradesh (2002) 7 SCC 606; Dinesh Kumar v. State of Rajasthan (2008) 8 SCC 270; Vishnu and Ors. v. State of Rajasthan (2009) 10 SCC 477; Annareddy Sambasiva Reddy and Ors. v. State of Andhra Pradesh AIR 2009 SC 2261; Balraje alias Trimbak v. State of Maharashtra (2010) 6 SCC 673).

29. While deciding this issue, a similar view was taken in, Jarnail Singh v. State of Punjab MANU/SC/1584/2009 : (2009) 9 SCC 719, where this Court reiterated the special evidentiary status accorded to the testimony of an injured accused and relying on its earlier judgments held as under:

28. Darshan Singh (PW 4) was an injured witness. He had been examined by the doctor. His testimony could not be brushed aside lightly. He had given full details of the incident as he was present at the time when the assailants reached the tubewell. In Shivalingappa

Kallayanappa v. State of Karnataka MANU/SC/0053/1995 : 1994 Supp (3) SCC 235, this Court has held that the deposition of the injured witness should be relied upon unless there are strong grounds for rejection of his evidence on the basis of major contradictions and discrepancies, for the reason that his presence on the scene stands established in case it is proved that he suffered the injury during the said incident.

29. In State of U.P. v. Kishan Chand MANU/SC/0652/2004 : (2004) 7 SCC 629, a similar view has been reiterated observing that the testimony of a stamped witness has its own relevance and efficacy. The fact that the witness sustained injuries at the time and place of occurrence, lends support to his testimony that he was present during the occurrence. In case the injured witness is subjected to lengthy cross-examination and nothing can be elicited to discard his testimony, it should be relied upon (vide Krishan v. State of Haryana (2006) 12 SCC 459). Thus, we are of the considered opinion that evidence of Darshan Singh (PW 4) has rightly been relied upon by the courts below.

30. The law on the point can be summarized to the effect that the testimony of the injured witness is accorded a special status in law. This is as a consequence of the fact that the injury to the witness is an in-built guarantee of his presence at the scene of the crime and because the witness will not want to let his actual assailant go unpunished merely to falsely implicate a third party for the commission of the offence. Thus, the deposition of the injured witness should be relied upon unless there are strong grounds for rejection of his evidence on

the basis of major contradictions and discrepancies therein.

11. In the present case, a plain reading of the testimony of the complainant and his cross-examination indicates that he had identified the petitioner as the person who had inflicted injury to his eye. He has also deposed the reasons that had led the petitioner to become furious and assault him. The fact that public witnesses were not included in the investigation do not in any manner raise any doubt as to the testimony of the complainant.

12. Admittedly, there is no material on record, which would indicate any plausible reason for the complainant to file a false complaint against the petitioner.

13. The fact that the co-accused have not been traced or that the weapon used to inflict the injury had not been recovered, are not sufficient to cast any doubt as to the testimony of the complainant.

14. In view of the above, the decision of the Trial Court and the Appellate Court cannot be faulted.

15. The petition is, accordingly, dismissed. The pending application is also disposed of.

VIBHU BAKHRU, J

SEPTEMBER 28, 2020

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