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

+ **CRL.REV.P. 751/2019 and CRL.M.A. 31409/2019**

SAROJ NAHAR ..... Petitioner

Through: Ms Monika Nahar, Advocate.

versus

STATE & ANR ..... Respondents

Through: Ms Meenakshi Chauhan, APP for State.

SI Bijender, PS Shalimar Bagh.

Mr J.C. Mahindro, Ms Cherry Singh and Mr Shubham Agarwal, aDvocates for R-2.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**ORDER**

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**07.02.2020**

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 11.03.2019 passed by the learned ASJ, rejecting the petitioner's application under Section 216 of the CrPC for altering the charge.
2. The Trial Court was of the view that no occasion arose to review the earlier order framing charge, especially as there was no change in the circumstances subsequent to framing of the charges.
3. Ms Nahar, the learned counsel appearing for the petitioner submits that charges were framed by the order dated 28.11.2018 and subsequently, evidence has been led, which would establish that the respondent had made a false allegation in view of certain property disputes. She further submits that there is no material on record that the accused persons (including the petitioner) had used any iron rod in inflicting blows on the injured person. And, in fact an iron rod had not been recovered.

4. At this stage, it is not necessary to examine whether the evidence led would result in acquittal of the petitioner. The limited question to be examined is whether the Trial Court had erred in rejecting the petitioner's application for altering the charge.

5. A plain reading of the order dated 28.11.2018, by which the charges were framed, indicates that the Trial Court had considered the materials on record and had noticed that it was alleged the accused persons had reached the house of the victims with rod in their hands and had delivered blows on the head of the victims.

6. The Trial Court had also taken note of the MLC which indicated that one of the victims, Sumit Singh, had suffered two head injuries at different places and the other injured (Gagandeep Kaur) had sustained one head injury.

7. Considering the aforesaid, the Court had framed charges under Sections 308/354/509/34 of the IPC against two accused. The fact that certain evidence, which may be considered to be in favour of the petitioner has been led subsequently, does not warrant in any alteration in the charges. If after examining the evidence, it is found that the charges are not established beyond the reasonable doubt, the petitioner would be acquitted. However, there is no requirement for alteration of the charge.

8. The petition is unmerited and is, accordingly, dismissed. The pending application is also disposed of.

**VIBHU BAKHRU, J**

**FEBRUARY 07, 2020/RK**