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

+ CRL.REV.P. 589/2022 and CRL.M.A. 18368/2022

BRAHAM PRAKASH@KHARGOSH Petitioner

Through: Mr.Paranjay Chopra, Adv.

versus

STATE GOVT NCT OF DELHI Respondent

Through: Mr. Amit Sahni, APP for the State.
SI Naveen Kumar, PS Keshav Puram

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Date of Decision: 06.09.2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. The present petition has been filed under section 397 of Cr.P.C. read with section 401/482 of Cr.P.C. seeking setting aside/quashing the order dated 27.05.2022 passed by the Ld. ASJ-3, Rohini Court Delhi, framing Charge against the petitioner under section 307 of Indian Penal Code in SC No. 291/2022.
2. Briefly stated, on 14.09.18 at night about 9.50 PM that the Complainant/Respondent No. 2 was talking on mobile phone while standing in Gali No. 94, when the Petitioner i.e.: Braham Prakash @ Khargosh, who is known to complainant, came to the nearby shop for

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buying bread and asked the complainant to step aside and further told that he is an old criminal of the area, and warned complainant to not come in his way, however, the Complainant ignored him and continued talking on his phone. It has been further alleged that the Petitioner took out knife and came towards the Complainant i.e., Respondent No. 2 and said that today he will remove complainant's stubbornness and tried to attack on him from knife but complainant stopped his hand and thereafter he attacked again with knife on complainant's left side hip and it starting bleeding. Petitioner fled from the spot. Thereafter the present FIR was registered.

3. Learned counsel for the petitioner submits that the order dated 27.05.2022 is not sustainable in the law as the learned trial court has not given any reasoning for framing the charges under Section 307 IPC. Learned counsel submits that though the detailed order is not required but the learned trial court is required to give some reasoning for the framing of the charge.
4. Learned counsel for the petitioner has also submitted that even as per the FIR there was a single stab wound on the hip of the victim and as per the MLC, the nature of the injury was simple in nature.
5. Learned APP has vehemently opposed and submitted that since the knife was used as a weapon, the learned trial court has rightly framed the charge under Section 307 IPC. Therefore, the present petition should not be allowed.
6. Section 307 of IPC provides as under:

307. Attempt to murder.—Whoever does any act with such



intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to 1[imprisonment for life], or to such punishment as is hereinbefore mentioned. Attempts by life convicts.—2[When any person offending under this section is under sentence of 1[imprisonment for life], he may, if hurt is caused, be punished with death.]

7. In the case of ***State of M.P. v. Laxmi Narayan***, (2019) 5 SCC 688, wherein, the apex court *inter-alia* held as under:

“...it would be open to the high court to examine as to whether incorporation of section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under section 307 IPC. for this purpose, it would be open to the high court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used, etc. however, such an exercise by the high court would be permissible only after the evidence is collected after investigation and the charge-sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paras 29.6 and 29.7 of the decision of this court in Narinder Singh v. State of Punjab, (2014) 6 SCC 466; should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove”

8. In view of the above, I consider that at the outset impugned order cannot sustain in the eyes of the law. Learned ASJ has not given any reasoning for the framing of the charge under Section 307 of IPC. It



seems to be a mechanical order. Though the learned trial court is not required to give detailed reasons but there have to be some reasons which satisfy the ingredients of the offence. The injuries are simple in nature as per the MLC issued by Maharaja Agrasen Hospital, Punjabi Bagh. There is a single stab injury that too on the hip. Further, Respondent No. 2 was discharged from the Hospital on the same date after some first aid.

9. I consider that in the facts and circumstances, the necessary ingredients satisfying the requirements of Section 307 of the Indian Penal Code are not made out in the present case, further there is no sufficient reasoning for framing the charges under Section 307 of IPC. Hence, the impugned order dated 27.05.2022, passed by Ld. ASJ-3, Rohini Courts, Delhi is liable to be set aside. Accordingly, the impugned order is quashed. However, the matter is remanded back to the Ld. Trial Court for consideration of charge under the appropriate provisions of law after giving the parties an opportunity to be heard.
10. Parties are directed to appear before the Ld. Trial court on 16.10.2023
11. The petition stands disposed of.

DINESH KUMAR SHARMA, J

SEPTEMBER 06, 2023

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