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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 339/2024**
MOHD. AYUB

..... Petitioner
Through: Mr.Hemant Chaudhary,
Mr.Mujmmil & Mr.Akhil
Kumar, Advs.

versus

STATE GOVT. OF NCT OF DELHI & ORS.

..... Respondents
Through: Mr. Shoaib Haider, APP.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **12.03.2024**

CRL.M.A. 7649/2024 (exemption)

1. Allowed, subject to all just exceptions.

CRL.REV.P. 339/2024 & CRL.M.A. 7648/2024

2. This petition has been filed under Sections 397/401 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.'), challenging the order dated 07.12.2023 passed by the learned Principal and Sessions Judge, North-East District, Karkardooma Court, in SC 290/2023 titled *State v. Akram & Ors.*, arising out of FIR No. 662/2021 registered with Police Station: Khajuri Khas, North-East Delhi under Sections 308/34 of the Indian Penal Code, 1860 (in short, 'IPC').

3. It is the case of the prosecution that, the son of the petitioner/complainant works as a mechanic repairing motorcycles in front of his house. The adjacent shop is being run by the accused



persons, that is, respondent nos. 2 to 4 herein, also for the purposes of repairing motorcycles. On 27.09.2021, at about 10:00 PM, one customer came to get his motorcycle repaired, because of which the son of the petitioner had a fight with the respondents. Upon hearing the fight, the petitioner came out to save his son, however, the accused persons together started beating the petitioner, because of which the petitioner got injured and he was taken to Guru Teg Bahadur Hospital. Based on the said complaint of the petitioner, the above-mentioned FIR was registered.

4. The learned counsel for the petitioner, placing reliance on the photographs of the petitioner in the injured state, and also submitting that the petitioner was, in fact, hospitalized for three days due to the injuries suffered, submits that the learned Trial Court has erred in not framing a charge under Section 307 of the IPC against the accused, that is, respondent nos. 2 to 4 herein.

5. I find no merit in the said contention. As is evident from the complaint/FIR itself, this was a case of a sudden fight, which took place between the son of the petitioner and the accused persons. The petitioner is stated to have tried to intervene in the same and suffered grievous injuries, including a fracture of the fronto temporal bone. The accused cannot be said to have the intention to cause the death of the petitioner or knowledge that in case death of the petitioner would have been caused due to the injury suffered, they would have been guilty of murder. The learned Trial Court, therefore, has rightly framed charges under Section 308 of the IPC against the accused and not under Section 307 IPC. I find no infirmity in the impugned order.



6. Accordingly, the petition is dismissed. The pending application is also disposed of.

NAVIN CHAWLA, J

MARCH 12, 2024/rv/RP

Click here to check corrigendum, if any