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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 7026/2024**
ASHA RANI & ANR.

.....Petitioners
Through: Mr. Arman Sharma, Ms. Era Khatana,
Advocates.

versus
STATE OF NCT OF DELHI & ANR.

.....Respondents
Through: Ms. Richa Dhawan, Ld. APP for the
State with SI Harish P.S. Inderpuri.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **05.09.2024**

1. A Criminal Misc. Petition under Section 528 of BNSS has been filed on behalf of the petitioners to challenged the Order dated 27.05.2024 vide which the learned ASJ has upheld the framing of Charge under Section 325/34 IPC of the learned M.M on 20.03.2024.
2. Learned counsel for the petitioner submits that the fight amongst the neighbours took place on 10.06.2021 on account of the small passage which leads to the premises of the injured on the top floor. The incident happened on 10.06.2021 wherein even the two applicants/accused also suffered injuries. Moreover, the complainant was taken to the hospital and no x-ray was noted on the said date. It is only subsequently that the Doctor has opined on 05.07.2021 that the injuries are grievous. Even thereafter, the FIR has been registered on 27.07.2024. There is an inordinate delay of 47 days in registration of FIR. It is not believable that if a person had suffered a



fracture in the alleged incident, the same would not have been reported till 05.07.2021. It is, therefore submitted that the incident as reported by the complainant is highly improbable. Furthermore, the possibility of the quarrel having taken place on account of provocation by the complainant cannot be ruled out.

3. Submissions heard.

4. Undeniably an incident of fighting took place on 10.06.2021 and the two accused as well as the complainant went to Safdarjung Hospital, where the MLCs of all three were prepared. The MLC of the complainant Rizwana reflects that she had been recommended an x-ray of her left arm and wrist. The other medical documents are not on record, but an opinion has been given by the Doctor on 05.07.2021 that the injuries suffered were grievous.

5. Prima facie, the charges have been rightly framed under Section 325/34 IPC. In so far the delay in registration of FIR is concerned, it cannot be a factor to be considered at this stage to seek discharge. Since the happening of the incident on 10.06.2021 is not in dispute, it is a matter of trial for the prosecution to explain the reasons for which the delay has taken place.

6. In so far as the defence of grave and sudden provocation as has been agitated on behalf of the petitioners, it has to be proved by the petitioners at the relevant stage and cannot be taken as a ground for discharge.

7. There is no merit in the present petition, which is hereby dismissed.

NEENA BANSAL KRISHNA, J

SEPTEMBER 5, 2024/va