



\$~85

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

+ **CRL.REV.P. 1315/2024**

JAI CHAND

.....Petitioner

Through: Mr.Atul Sharma, Advocate

versus

STATE GNCT OF DELHI & ANR.

.....Respondents

Through: Mr.Hemant Mehla, APP for the State
alongwith SI Kamal Chaudhary, P.S.-
Prem Nagar

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

27.11.2024

%

CRL.M.A. 35426/2024 (Exemption)

Exemption allowed subject to just exceptions.

The application stands disposed of.

CRL.REV.P. 1315/2024 & CRL.M.A. 35427/2024 (Stay)

1. Present petition has been filed challenging the impugned order dated 22.08.2024 whereby the learned trial Court has ordered for framing of charge under Section 308/34 IPC in relation to FIR no. 726/22 registered at Police Station Prem Nagar.
2. Learned counsel for the petitioner submitted that the petitioner was not present at the time of incident and his name has falsely been implicated. Learned counsel for the petitioner, in support of his arguments, has relied upon the judgment passed by this Court vide judgment dated 21.09.2023 in CRL REV P. 123/2017 titled as *State*



vs. Raju @ Lokpal & Ors.

3. Issue notice. Learned APP accepts notice and submits that the revision petition of another accused namely Savitri Devi bearing CRL.REV.P. 1312/2024 challenging the same impugned order was dismissed by this Court by a detailed order passed on the previous day i.e. on 26.11.2024. It is submitted that the name of the petitioner has specifically appeared in the FIR and there is a specific allegation that the present petitioner along with other accused persons had beaten the complainant with brick, *silli* and *danda*.
4. This Court while deciding the earlier revision petition has *inter alia* held as under:-

“20. In the present case, the learned Principal District and Sessions Judge, after carefully examining the rival contentions and the case record, has framed charges against the accused under Sections 308/34 IPC via the impugned order. The court, taking into account the statements of witnesses, observed that the accused, acting on the exhortation of Shiv Kumar, assaulted Rajendri, her husband Anokhe Lal, and son Ravi Kumar by striking their heads with dandas, bricks, and silli. The Medical Legal Certificates (MLCs) were found to corroborate these statements, showing that Rajendri sustained a lacerated wound on the right parietal region of her head, while Ravi Kumar and Anokhe Lal suffered lacerated wounds on the left parietal regions of their heads.

21. It is pertinent to note that the Learned Sessions correctly noted that intention or knowledge cannot be directly evidenced and must be inferred from the facts and circumstances presented in the evidence at the time of Trial. The injuries inflicted on the victims' vital body parts, i.e., their heads, with the aforementioned objects, establish a prima facie case under Sections 308/34 IPC against the accused.



22. In view thereof, this Court does not find any illegality or perversity in the order of the learned Trial Court and accordingly, the present petition is dismissed.”

5. In view of the above, it is clear that the Revisional Court cannot sit as an Appellate Court and start appreciating the evidence by finding out inconsistency and lacunas in the case of the prosecution. In assessing whether charges have been properly framed in accordance with the law, the Revisional Court is generally reluctant to intervene unless there is incorrectness, illegality, or perversity in the Trial Court's order. In these circumstances the present petition along with any pending applications stands dismissed.

DINESH KUMAR SHARMA, J

NOVEMBER 27, 2024

Dy/kr..