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

+ CRL.REV.P. 504/2013 & CRL.M.A. 13407/2013

STATE

.....Petitioner

Through: Mr. Utkarsh, APP for the State with Insp.
Lekhraj Singh, ASI Vikram Singh,
P.S.Karawal Nagar.

versus

BADLE SINGH & ORS

.....Respondents

Through: Mr. Anurag Jain & Ms. Radha Parihar,
Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

19.03.2025

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1. Petition under Section 397 read with Section 482 Cr.P.C has been filed to challenge the Order on Charge dated 20.02.2013 whereby charges have been directed to be framed under Section 325/34 IPC while it has been held that no offence under Section 302/34 IPC is made out.

2. Briefly stated, on 18.05.2012 at about 9 PM, Complainant Maam Chand was coming back home after parking his vehicle, when he saw Phool Kumar, son of his uncle being beaten by Bhule Singh, Badle Singh, Satpal and Naresh. He intervened to rescue Phool Kumar on which he was slapped by Bhule Singh. Maam Chand ran away and raised an alarm to call the family members. By the time the family members reached the spot, accused persons had already left and had gone back to their house. Phool Kumar was found lying unconscious on the road. PCR call was made and FIR No.164/2012 under Section 304/34 IPC was registered. The injured Phool Kumar was immediately taken to GTB Hospital but was declared "Brought Dead". The investigations were duly carried out including the Post-Mortem of the deceased and also the "subsequent Opinion" about the cause of death, was obtained.

3. The grounds of challenge of Order on Charge essentially is that no



roving Enquiry can be conducted into the facts of the case which have to be only prima facie considered.

4. Furthermore, the nature of injury suffered by Phool Kumar indicate that they were caused with an intent to kill the deceased. There were multiple injuries on his body. Rampal in his statement under Section 161 Cr.P.C, had stated that accused persons had beaten the deceased with kicks, sticks and dandas and it has wrongly been observed that the deceased was assaulted by kicks and blows only.

5. Furthermore, the “**subsequent Opinion**” of the Board of Doctors have clearly stated that the possibility of death of Phool Kumar having been precipitated by the bodily injuries, cannot be ruled out. Therefore, the impugned Order not framing charges under Section 302/34 IPC is bad in law and the impugned Orders be accordingly directed to be modified for framing of charge under Section 302/34 IPC.

6. **Reply has been filed on behalf of the Respondents** who have asserted that the learned ASJ has in detail, referred to the statements of the witnesses and the medical record, to rightly conclude that no case under Section 302/34 IPC is made out. There is no infirmity in the impugned Order and the Petition is liable to be dismissed.

7. **Submissions heard and record perused.**

8. In the impugned Order, the learned ASJ referred to the statements of the prosecution witnesses who did not disclose that the deceased was suffering from any heart disease and rightly concluded the knowledge of the ailment of the deceased could not have been attributed to the accused persons.

9. Further, reference is also made to the Post-Mortem Report and the “Subsequent Opinion” dated 15.09.2012 wherein it was clearly opined that the cause of death was “*shock as a result of Coronary Artery disease and its sequelae. Injuries Nos.1 to 22 were caused by blunt force impact and are collectively or independently not sufficient to cause death in ordinary course of nature*”.



10. It is evident from the statements of the witnesses as also from the medical record and “Subsequent Opinion” that the death was due to heart ailment about which none of the accused persons had any knowledge. The death was not caused due to 22 injuries inflicted on various parts of body. Learned ASJ rightly concluded that no prima facie case under Section 302/34 IPC was made out and directed framing of charges under Section 325/34 IPC.

11. There is no infirmity in the impugned Order and the Revision Petition is hereby dismissed.

NEENA BANSAL KRISHNA, J

MARCH 19, 2025/rk