



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: May 19, 2026

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Pronounced on: May 29, 2026

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CRL.REV.P. 49/2024, CRL.M.A. 1246/2024

LUCKY DAGAR & ANR.

.....Petitioners

Through: Mr. Ramesh Gupta, Sr. Adv. with
Mr. Surya Pratap Singh and Mr.
Ishaan Jain, Advs.

Versus

THE STATE(NCT OF DELHI) & ANR.

.....Respondents

Through: Mr. Satish Kumar, APP with Ms.
Upasna Bakshi, Ms. Divya Bakshi,
Mr. Aditya Vikram Singh and Mr.
Gourav Singh, Advs. With SI-
Himanshu, PS: Najafgargh
Mr. B.P. Vaishnav, Mr. M.S.
Birjesh Sharma and Mr. Vinod
Kataria, Advs. for R-2

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. By virtue of present petition under *Sections 397/401* of the Code of Criminal Procedure 1963¹, the petitioners seek setting aside of the order dated 23.12.2023² passed by learned ASJ-05, South-West District, Dwarka Courts, New Delhi³, whereby framing of charges under *Sections 308/34* IPC has been directed.

2. *Succinctly put*, it is the case of the petitioners that they were implicated in FIR No.526/2019 dated 21.10.2019 under *Sections 308/34* of

¹ Hereinafter as "*Cr.P.C.*"

² Hereinafter as "*impugned order*"

³ Hereinafter as "*learned ASJ*"



the Indian Penal Code, 1860⁴, registered at PS.: Najafgarh, Delhi, due to a road rage, pursuant whereunto, the petitioner no.1 had attacked the respondent no.2 on the head with a brick. Pursuant thereto, after the completion of investigation, charge-sheet was filed before the learned ASJ and the matter was listed on point of charge, whereby the learned ASJ *vide* order dated 23.12.2023 directed framing of charges against the petitioners.

3. The petitioners being aggrieved, have filed the present revision petition.

4. Mr. Ramesh Gupta, learned senior counsel for the petitioners submitted that the learned ASJ erred by not considering the fact that as per MLC the nature of injury was “*simple*” and there was only a single blow to the head of the respondent no.2 making the case under *Section 323* of the IPC at best. More so, the essential ingredients of common intention cannot *prima facie* be deduced since the genesis of the injury inflicted upon respondent no.2 arose due to road rage. Reliance in this regard is placed upon the judgment(s) passed by Co-ordinate Benches of this Court in ***Rajiv Sharma v. State of NCT of Delhi & Anr.***,⁵ ***Sheila Devi & Ors. v. State***⁶ and ***Abhishek Tanwar v. State of Delhi (NCT of Delhi)***.⁷ The learned senior counsel, as such, submitted that there was no sufficient material on record to indicate that a *prima facie* case is made out against the petitioners so as to proceed for trial.

5. Lastly, Mr. Ramesh Gupta, learned senior counsel submitted that the impugned order is therefore liable to be set aside, especially, in view

⁴ Hereinafter as “*IPC*”

⁵ 2015 SCC OnLine Del 12138

⁶ 2015 SCC OnLine Del 12280

⁷ 2019 SCC OnLine Del 9652



of the judgment passed by the Hon'ble Apex Court in ***Union of India v. Prafulla Kumar Samal***,⁸ wherein it has been held that although the Court cannot sift evidence meticulously and supplant its view, however, if upon appraisal of the material on record, the Court finds that the evidence gives rise to mere suspicion and not to grave suspicion, the Court would be well within the bounds of law in ordering discharge.

6. *Per contra*, Mr. Satish Kumar, learned APP for the State, whilst relying upon the Status Report submitted that there was, *prima facie*, sufficient material available on record to warrant the learned ASJ to proceed with the trial, particularly, considering the nature of the allegations and the role attributed to the petitioners. The learned taken this Court through various documents on record. In view thereof, the learned APP prayed that the present petition is liable to be dismissed.

7. Mr. B.P. Vaishnav, learned counsel for respondent no.2, in agreement with the learned APP for the State, submitted that the petitioner no.1 had hit the respondent no.2 with a brick on his head and as per the MLC there was a 3 cm and 4 cm cut mark on frontal bone of the head. *Ergo*, since there was sufficient material on record to indicate a *prima facie* case against petitioners, the present petition ought to be dismissed.

8. This Court has heard the learned counsel for the parties as also learned APP for the State and also perused the documents on record including the judgment(s) relied upon and the Status Report.

9. The record reveals that the allegations levelled against the petitioners arises out of an incident of road rage that occurred in the heat of the moment during an altercation on the road. Things happened at the

⁸ (1979) 3 SCC 4



spur of the moment as it started because the respondent no.2 *allegedly* did not permit the Car of petitioner no.1 to overtake his vehicle, and which resulted in the petitioner no.1 stepping out of the vehicle, engaging in a verbal altercation with respondent no.2, and, thereafter striking him on the head with a brick. This injury, as per MLC, is undeniably “*simple*” in nature.

10. This is all a result of a simple scuffle and sudden quarrel between two factions driving on road in their respective Cars trying to overtake/ have a right of way. Hence, it is difficult to conclude that the petitioners had the intention to inflict such injury as was likely to cause the death of the respondent no.2 to come within the ambit of *Section 308* of the IPC. The same gains more significance as the injury inflicted is a consequence of the petitioner no.1 inflicting only a single blow on the head of the respondent no.2 with no more bodily injury.

11. Therefore, it would be far-fetched to infer that the petitioner no.1 had the knowledge that his act was likely to result in death of respondent no.2 especially, the nature of the injury, as per the MLC, is “*simple*”. Consequently, the acts attributed to the petitioners, would at best fall within the ambit of *Sections 323/324* of the IPC, which pertains to voluntarily causing hurt, and they may accordingly be proceeded with respect to the same. The said position has been affirmed by the Co-ordinate Benches of this Court in ***Abhishek Tanwar (supra)*** and ***Sheila Devi (supra)***.

12. As such, taking a holistic view of the materials on record and the legal position, since sufficient grounds are made out for interference, the impugned order dated 23.12.2023 passed by the learned ASJ is hereby set



aside.

13. Thus, the present petition, alongwith the pending application, is disposed of.

14. A copy of the present judgment be sent to Court of the learned ASJ-05, South-West District, Dwarka Courts, New Delhi for information *forthwith*.

SAURABH BANERJEE, J

MAY 29, 2026/Ab/aks