

State vs. Vinay Kaushik & Ors.

CNR No.: DLCT01-015988-2021

SC No. 631/2021

FIR No. 721/2021

Under Section 308/34 IPC

PS Burari

25.04.2022

Present : Mr. Amit Dabas, Ld. Addl. PP for the State.
Mr. Lucky Nigam, Advocate with Mr. Sunny Sachdeva,
Advocate with all three accused persons.
IO ASI Umesh Kumar is present.

ORDER ON CHARGE

1. The case of the prosecution is that on 24.08.2021 at about 11.00 p.m., at Nathupura Mode, near Hanuman Mandir, Amrit Vihar, Burari, Delhi, all of you alongwith your associate, namely, Rahul Sisodia (*absconding*), in furtherance of your common intention, caused head injuries to the complainant, namely, Tejbir Rana with a stone.
2. The prosecution charge-sheeted the accused persons for *offence* under Section 308/34 IPC.
3. Ld. Addl. PP for the State contended that statement of the injured, namely, Tejbir Rana, MLC, nature of object used for causing injury, nature of body part where injury was caused and number of injuries, *prima facie*, disclose commission of *offence* under Section 308 IPC.
4. Ld. Counsel for the accused persons contended that there is no public witness to the incident despite the fact that the said road has high vehicular movement. He contended that the nature of injury is '*simple*'.

5. Ld. Counsel for the accused persons contended that the complainant is a police official and for that reason, a case under Section 323 IPC is converted into a case under Section 308 IPC. He prayed for discharge or in the alternative, framing of charge under Section 323 IPC.

6. The incident in question had taken place on a public road in thick of night at 11.00 p.m. FIR was registered on the statement of the injured. Non-association of a public witness is not material.

7. According to statement of the injured and MLC, the injured was assaulted with a stone on his head and he started bleeding. There are as many as 6 injuries on person of the injured. Moreover, injury No. 1, on occipital region, is not only 6 cm in length and 2 cm in depth. Such an injury, if resulted in death of the injured, a case under Section 304 IPC would have been made out.

8. Therefore, *prima facie*, there is sufficient material on record to proceed against the accused persons under Section 308 IPC. The charge under Section 308 read with Section 34 IPC is framed against the accused persons to which they have pleaded not guilty and claimed trial.

9. The roster of examination of the witnesses is as under:

Sl. No.	List of Witnesses	Date
1.	PW at Sl. No. 1 to 4	01.07.2022
2.	PW at Sl. No. 5 to 8	20.07.2022
3.	PW at Sl. No. 9 to 13	22.07.2022
4.	PW at Sl. No. 14 and 15	26.07.2022

Sanjay Sharma-II
ASJ-03, Central District,
Tis Hazari Courts, Delhi
25.04.2022