

SC No.:750/2021
FIR:775/2021
PS: Burari
State Vs Kamal Shukla
CNR No.: DLCT01-018233-2021

27/07/2022

Present: Mr. Mohd. Iqrar, learned Addl.PP for the State.
Accused produced from JC.
Mr. Mritunjay Kumar, learned counsel for accused.

Fresh vakalatnama is filed on behalf of accused. The same be taken on record.

Learned Substitute Addl.PP for State has submitted that there is sufficient material to frame charge **U/s 302 IPC** against the accused.

Learned counsel for the accused has argued that the accused has been falsely implicated in the present case and no offence, as alleged, has been committed by the accused. It is further argued that as per the prosecution case itself there is no preplanning on the part of accused to commit the crime nor he has brought the weapon and it is the prosecution case that the accused has picked up the danda lying there which was used to assault the victim and as such, it is apparent that the act was done in the heat of anger and not with premeditation. It is also argued that the conversation was started by the deceased and he was the person who has instigated the accused. It is argued that the offence u/s 302 IPC is not made out as it is covered by the exceptions. It is, therefore, prayed that the accused may kindly be discharged.

Heard. Perused.

In the present case, it is the case of the prosecution that

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at about 8:30 PM one child came to the house of complainant and informed him that accused Kamal was beating Jitender with danda. Complainant went to the spot and found victim Jitender lying in the pool of blood at the corner of gali and one blood stained danda was also lying there. Complainant with the help of his son shifted the victim / injured to hospital where he was declared brought dead. Later on the statements of eye witnesses were recorded.

At the stage of framing of charge, this Court has to see whether there is sufficient ground for proceeding against the accused. It is axiomatic that even the strong suspicion that the accused has committed the crime, is sufficient to frame the charges. It is also well settled that the standard of proof adhered to at the final decision of the case is not to be adopted at the stage of framing of charge. The Court is not to appreciate or weigh the evidence, which the prosecution proposes to lead during the trial.

Considering the facts and circumstances of the case, this Court is of the considered view that prima-facie case is made out **U/s 302 IPC** against accused and accordingly, charge under the aforesaid section is framed against the accused to which he pleads not guilty and claims trial.

List the matter for PE for **10/10/2022**. Witnesses at Sl.No.1,6 & 7 be summoned for the next date of hearing.

(SUSHIL ANUJ TYAGI)
ASJ-04/DELHI/27/07/2022_(mk)