

SC 329/2023
STATE Vs. BHARAT
FIR No. 1 /2023
PS Gandhi Nagar
01/06/2023

Pr. Sh. Gaurav Pandey, Ld. Addl. PP for the State.

Accused on bail with counsel Sh. Amit Kain.

Heard arguments on charge.

Ld. Counsel for the accused submits that there is delay of 4 days in lodging of FIR. He submits that the complainant has suffered simple injury. He submits that initially a Kalandra under Section 107/151 Cr.P.C. was made against the accused on the basis of incident and thereafter this FIR was lodged and chargesheet was filed. He submits that as per the complaint, the complainant has admitted that he was drunk on 30.12.2022 and necessary ingredients of Section 308 IPC are not there against the accused.

Ld. Addl PP submits that the complainant has suffered 2 injuries on his face. It is not case of simple injury. As per complainant, he was repeatedly given blow on his head and other parts of the body with iron rod. He submits that necessary ingredients of Section 308 IPC are there against the accused.

As per complaint dated 02.01.2023 made by Atul, it is alleged that on 30.12.2022, he had taken drink and at about 1.30 p.m., he was going to his house. His neighbour Bharat met him and when he asked him where he was going, Bharat got angry and he pushed him and when he asked why he was pushing him, on this Bharat picked up an iron rod lying on the way and hit on his head. He fell down. Even after that, Bharat assaulted him on his feet and thereafter he ran away from there. After that, some neighbour calle his mother and his mother called the Police.

PCR van took him to SDN Hospital where his statement was recorded.

As per MLC of the complainant, he suffered CLW 6X 0.5 cm over left parietal region of scalp, CLW 2 x 0.5 cm over right fronto parietal region of scalp, bruises over left knee. Injuries were opined to be simple in nature.

The complainant has specifically stated that even after he fell down on the road, accused kept on assualting him with iron rod. He has suffered injuries on vital parts of his body i.e. head and feet.

One of the main contentions raised on behalf of the accused is that complainant was drunk and his testimony does not inspire confidence.

MLC of the complainant shows that smell of alcohol was positive but it is nowhere mentioned that complainant was under influence of liquor.

Keeping in view the complaint of the complainant, nature of injuries suffered by the complainant and other material available on record, prima facie a case for charge under section 308 IPC is made out against the accused.

Charge under Section 308 IPC framed separately to which accused pleads not guilty and claim a trial.

Put up for PE on **23.08.2023**.

(Sanjay Garg-I)
Principal District & Sessions Judge,
East District, KKD Courts, Delhi.
01/06/2023 (mk)