

SC/2034/16
State V. Nageshwar etc
PS NFC

09.08.2016

I, Lokesh Kumar Sharma, ASJ-04, SED, New Delhi do hereby charge you Nagesh @ Nageshwar s/o Ramesh Chand as under:-

That on 7.2.2009, at around 6.00 PM, at Pahari No. 1, Jhuggi Indira Gandhi Camp, near Ganda Nala, you alongwith your co-accused Dev Kant Kamat (already convicted on 17.4.2015 and sentenced on 27.4.2015) and in furtherance of common intention of both of you, had allowed accused Dev Kant (convict) causing injuries on the chest of Nazrul by means of a sharp edged weapon with such intention/knowledge and under such circumstances that if he had caused the death of Nazrul by his aforesaid act, then both of you would have been guilty of murder and thereby you had committed an offence u/s 307/34 IPC and within my cognizance.

Secondly, that on the aforesaid date, time and place, you in furtherance of your common intention with aforesaid co-accused had voluntarily caused grievous hurt to complainant Mohd. Rana and thereby you had committed an offence punishable under section 325/34 IPC and within my cognizance.

Thirdly, that on the aforesaid date, time and place, you in furtherance of your common intention with aforesaid co-accused had voluntarily caused hurt to one Javed Mohd and thereby you had committed an offence punishable under section 323/34 IPC and within my cognizance.

I hereby direct that you be tried for the said offences.

(LOKESH KUMAR SHARMA)
ASJ-04 & Spl. Judge (NDPS) Act, South East
New Delhi/09.08.2016

Charge has been read over and explained to the accused and is questioned as under:-

Q Do you plead guilty or claim trial?

Ans. I plead not guilty and claim trial.

RO&AC

(LOKESH KUMAR SHARMA)
ASJ-04 & Spl. Judge (NDPS) Act, South East
New Delhi/09.08.2016

Case No. 2034/2016
SC No. 52/2016
State Vs. Nagesh @ Nageshwar
FIR No. 49/2009
PS : New Friends Colony

09.08.2016

Present : Sh. Pravin Rahul, Ld. Addl. PP for the State.

Accused produced from J/C with Counsel Sh. Udai Raj Singh.

IO/SI Lokender Tyagi.

Arguments on charge heard.

Ld. Counsel appearing for accused has submitted that no offence u/s 307 IPC is made out against the accused as only allegation against him is regarding giving beatings to the injured persons with a 'danda' and not by any sharp edged weapon as allegedly used by co-accused Dev Kant Kamat in commission of offence.

However, Ld. Addl. PP for the State has drawn attention of this Court to the invocation of Section 34 IPC in the present case.

Ld. Defence Counsel has submitted that there was no previous enmity between the parties, which could have given motive to the accused to commit assault upon injured.

From the perusal of Section 34 IPC, no prior meeting of minds is required and common intention can be formed at the spur of moment. Therefore, I am of considered opinion that prima facie there is sufficient material to frame the charge for offences u/s 307/325/323/34 IPC against accused. Accordingly, the charge for the aforesaid offence framed against the accused to which he had pleaded not guilty and had claimed trial.

Put up on **16.09.2016** for Prosecution Evidence.

Injured/victim be summoned first.

(LOKESH KUMAR SHARMA)
ASJ-04 & Spl. Judge (NDPS) South East,
New Delhi : 09.08.2016