

08.05.2025 (*through hybrid mode*)

Present: Sh. Pradeep Kumar, Ld. Addl. PP for the State.
All three accused with Ld. Counsel Sh. A. K. Pandey.

ORDER ON CHARGE

1. It is the case of prosecution that on 16.05.2023, a DD No. 19A was received wherein caller stated that a person attempted to commit theft at his house and had been apprehended. On receipt of said DD, IO alongwith other staff reached the spot i.e. gali behind shop of Shahid कबाड़ी and found a boy being cordoned off by a crowd of people and some persons were extending beatings to the said boy while shouting चोर चोर . Mother of the said boy namely Shama Pravin asked the police officials for help to save his son from the crowd. ASI Praveen Kumar took the said boy to Dr. Hedgewar Hospital where during treatment, the said boy succumbed to his injuries.

2. Statement of mother of complainant Shama Pravin was recorded wherein she stated that on 15.05.2023 at about 05:00 PM his son Sahil left the house and did not return home. Next morning i.e. on 16.05.2023 at about 05-06:00 AM, one Habib Barber resident of New Sanjay Amar Colony made a call to her and informed that her son was caught by public persons on the allegation of theft. When she reached the spot, she found that her son had been cordoned off by the crowd and 2-3 boys were slapping, punching and kicking him. She came to know the names of said boys as Kamil, Sobi and Sameer. Thereafter, her son was shifted to hospital by police officials.

3. During investigation, accused Kalim, Sobi and Sameer were arrested. One stick/danda was recovered at the instance of accused Kalim which was allegedly used by him for hitting the victim/deceased Sahil multiple times. One rope also stood recovered at the instance of accused Kalim allegedly used by the accused persons for tying the victim/deceased. Accused Nasim @ Sobi got recovered one scissor alleged to have been used by accused Sameer for cutting hair of victim/deceased. DVR of CCTV footage installed outside a shop near the spot was also seized wherein part of incident was captured.

4. Ld. Addl. PP for the State reiterated the submissions made in the chargesheet and argued that the victim/deceased died due to the injuries caused to him by the accused persons and thus, a fit case to charge all the accused for the offence punishable u/s 304/34 IPC is made out.

5. It is argued by Ld. Defence Counsel that accused persons have been falsely implicated in the present case and there is no concrete incriminating material to connect any of the accused to the death of victim. It is also argued that as per the MLC, victim was in drunken condition and died due to some previous ailment and not by the alleged beatings given by the accused persons. It is submitted that as per the chargesheet, the CCTV footage collected by IO did not capture the alleged incident and only public persons can be seen going/rushing towards the spot.

6. Ld. Defence Counsel also asserted that the allegedly recovered danda, rope and scissor did not find mention in the statement

of complainant Shama Pravin, eye witness Habeeb and the police officials. It is vehemently argued that neither the allegations of beating the victim with danda nor tying him using rope nor cutting his hair using allegedly recovered scissor was stated/disclosed by any of the witnesses. It is, thus, requested that in terms of abovesaid contradictions and deficiencies, no case to charge any of the accused person is made out and accordingly, they be discharged.

7. Submissions heard. Record perused.

8. It is observed that there are categorical allegations against the accused persons that all three of them in furtherance of their common intention, mercilessly extended beatings upon victim/deceased Sahil S/o Shahid wherein accused Kalim hit danda on various parts of his body. Further, the beatings extended by all three accused caused various injuries on the body of victim/deceased Sahil S/o Shahid which ultimately led to his death.

9. Court has perused the MLC(s) of victim/deceased Sahil wherein injuries were mentioned as “ Left leg swelling and bruise over left ankle joint” and “Multiple bruises/abrasion present over face and neck”.

Court has also gone through Postmortem Report where concerned doctor has opined as follows :-

Reddish Contusion 7 X 4.2 cm present at left side of face at maxillary region involving lower eyelid. On dissection : infiltration of blood present.

Reddish Contusion 2.5 X 2 cm present at outer aspect of

right upper cyclid. On dissection : infiltration of blood present.

10. Considering the statements of eye witnesses, the MLC and Postmortem report of victim/deceased Sahil and documents annexed with the present challan, prima facie case to frame charge against the accused persons under **Section 304/34 IPC** is made out. The contentions raised by Ld. Defence Counsel, and the contradictions pointed out by Ld. Counsel in the chargesheet, rais triable issues and can only be considered during trial at the touchstone of testimony of witnesses. Accordingly, charge has been framed against the accused to which they pleaded not guilty and claimed trial.

11. Issue summons to witnesses mentioned at Sl. No. 1 & 2, 9, 10 & 11 (with relevant records) alongwith MHC(M) for **PE on 03.09.2025.**

(ARVIND BANSAL)
ASJ-05, Shahdara, Karkardooma,
Delhi-08.05.2025