

**IN THE COURT OF SHRI PAWAN KUMAR MATTO,
ADDITIONAL SESSIONS JUDGE (SPECIAL JUDGE NDPS),
NORTH EAST DISTRICT, KARKARDOOMA COURTS, DELHI**

**SC No. 387/2022
STATE Vs. SABBIR KHAN AND OTHERS
FIR No. 431 /2015
PS KARAWAL NAGAR**

09.12.2022

ORDER ON CHARGE

1. Brief facts of the case are that FIR has been registered on the statement of complainant Smt. Mamta. On completion of investigation, the charge sheet against all the accused has been filed U/sec. 307/34 of IPC.
2. When the matter was fixed for hearing arguments on the charge, I have heard the Ld. Counsels for the parties.
3. Ld. Additional Public Prosecutor for State has submitted that in the case in hand, the FIR has been registered on the statement of complainant, namely Smt. Mamta, who is wife of the injured Azeem, as at that time, the injured was not fit for making statement and submitted that from the statement of the Mamta, it is clear that in the case in hand, in view of some dispute regarding flowing of water of drain in the street, all the accused quarreled with the complainant and her husband and the accused Alam and Babli Kinner, who are tenants of accused Sabbir Khan had caught to the Azeem, who is the husband of the complainant and accused Alam took out the knife from the house and gave stab blows on the abdomen of the injured Azeem and further submitted that the injury caused with the knife has been declared grievous. So, from the statements of the complainant, injured Azeem and from the MLC of the injured Azeem, it is clear that *prima facie* case U/sec. 307/34 of IPC is made out against all the accused, as

the injury has been caused in furtherance of their common intention and prayed for framing of charge U/sec. 307/34 of IPC against all the accused.

4. On the other hand, the Ld. Counsel for the accused Sabbir Khan has submitted that since it is alleged by the prosecution that the injury on the person of the injured was caused with the knife, but, the said knife has not been recovered. He has further submitted that on the date and time of occurrence, this accused Sabbir Khan was in his house and submitted that accused Alam and Babli Kinner are the tenants of accused Sabbir Khan and injury on the person of the injured is self-inflicted, so, no offence is made out U/sec. 307/34 of IPC and submitted that the accused Sabbir Khan is entitled to be discharged U/sec. 307/34 of IPC.

5. The Ld. Counsel for the accused Alam and Babli Kinner has also submitted that since alleged knife has not been recovered and injury caused on the person of the injured is self-inflicted and these accused Alam and Babli Kinner are the tenants of accused Sabbir Khan and they have been falsely implicated in the present case and prayed for discharge of the accused Alam and Babli Kinner U/sec. 307/34 of IPC.

6. I have given thoughtful consideration to the submissions made by the Ld. Counsels for the parties and perused the record.

7. The perusal of the record reveals that FIR has been registered on the statement of complainant Smt. Mamta, who is the wife of injured Azeem and statement of the Mamta reveals that in view of flowing of drain water in the street, the complainant felt to be aggrieved and since the drain was broken, near the house of Sabbir, so, the husband of the complainant had asked Sabbir Khan (accused) to get the same repaired and an altercation held between Azeem and

Sabbir and accused Babli Kinner and Alam also came out in favour of Sair and they all started quarreling with the complainant Mamta and Azeem and accused Sabbir and Babli are alleged to have caught to Azeem and accused Alam took out a knife from his house and caused injury on the abdomen of Azeem with knife and injured was taken to the GTB Hospital and since at that time, the injured was not fit for making statement, so, on the statement of wife of injured, FIR was lodged, since in the case in hand, the accused Sabbir Khan and Babli Kinner are alleged to have caught to the Azeem, who is the husband of the complainant and accused Alam took out the knife from house and gave stab blow on the abdomen of the injured and the injury caused with the knife has been declared grievous. So, even if, the IO has failed to recover the alleged knife, used in the commission of offence, the accused persons cannot be discharged. In the considered opinion of this court, *prima facie* case punishable U/sec. 307/34 of IPC is made out against all the accused, as the accused Sabbir and Babli Kinner in furtherance of their common intention are alleged to have caught to Azeem and the accused Alam is alleged to have given knife blow on the abdomen of the Azeem.

8. So, the charges U/sec. 307/of IPC r/w Sec. 34 of IPC are liable to be framed against all the accused.

**Announced in the open court
on 09.12.2022**

**(PAWAN KUMAR MATTO)
Additional Sessions Judge
(Special Judge NDPS)
North-East District,
Karkardooma Courts, Delhi.**