

SC645/2021
STATE Vs. OM PARKASH
FIR no. 51 /2021
U/s 308/323/341/506(I)/34 IPC
PS Burari

21.02.2024

Present: Sh. Parvesh Ranga, Ld. Addl. PP for the State.

Accused Om Prakash Bhadoni, Rampati and
Vaishnavi in person.

Sh. Rajesh Bhatia, Id. Counsel for the complainant
along with the complainant.

Sh. M. L. Yadav, Id. Counsel for all the accused
persons.

IO SI Sukhbir is also present and undertakes to
supply pendrive to the Ld. Counsel for the accused persons.

In the case in hand, charges were framed by the Ld.
Predecessor of this Court against all three accused persons vide
orders dated 11.05.2022 u/s 506(I)/308/323/341/34 IPC.
Thereafter, the accused persons namely Vaishnavi and Rampati
preferred the Criminal Revision Petition No. 367/2022, CrI. M.A.
1159/2022 & 11593/2022 before the Hon'ble High Court of
Delhi and vide orders dated 02.06.2022, the Hon'ble High Court
of Delhi in paragraphs 5 and 6 thereof held as under:-

“5. As per FIR, the accused Om Prakash Badoni
was named in the FIR as the person who inflicted injury
on Kanta Prasad (who is injured). During investigation
the concerned IO also recorded the statement of Om
Prakash Pokhriyal and injured Kanta Prasa and they also
implicated the petitioners as well as Piyush (who is a
juvenile). IO after conclusion of investigation mentioned
in the charge-sheet that on the basis of material collected
during the investigation i.e., statement of the witnesses
and CCTV footage, no incriminating evidence could be
collected against the petitioners and Piyush who is
juvenile.

6. The trial court at the time of passing the impugned order dated 11.05.2022 did not consider the entire contents of the charge-sheet particularly in respect of the petitioners.”

After observing in paragraph 6 of the orders dated 02.06.2022, the Hon’ble High Court of Delhi set aside the order dated 11.05.2022 and directed this Court to reconsider framing of the charge after taking into consideration, material collected during investigation.

Arguments have been heard on the aspect of charge.

The FIR bearing No. 51/2021 u/s 308/341/506(1)/34 IPC has been lodged at the instance of the complainant Krishan Pokhariyal, who alleged that his Tau (uncle) Kanta Prasad and accused Om Prakash Badoni were having some property business in partnership but thereafter, accused Om Prakash Badoni separated his business and started running property business on his own. As per the incident dated 21.02.2021, the complainant has alleged that about 11:30 AM, Om Prakash Bodoni gave beatings on the head of injured Kanta Prasad with iron rod/pipe and injured got grievous injury, as per the MLC which is there on record.

The names of the accused persons namely Rampati and Vaishnavi have not been mentioned by the complainant Krishan Pokhriyal, at whose instance, the FIR in question has been lodged. However, thereafter, subsequently the statements of Kanta Prasad and Krishan Pokhriyal were recorded and as per the above said statements of the injured himself, the names of the above said two accused persons have been specifically named in their respective statements recorded by the police and they have

specifically stated that accused Rampati and Vaishnavi have given beatings to Om Prakash Pokhriyal.

During the course of the arguments, Ld. Counsel for the accused persons has argued that in the CCTV footage, no role has been assigned to the above said two accused persons namely Rampati and Vaishnavi by the IO and that is why, IO in the charge-sheet has stated that no role could be assigned to the accused Vaishnavi and Rampati and JCL Piyush.

Ld. Counsel for the accused persons has argued that the JCL has been discharged by the Juvenile Justice Board.

Whereas, on the other hand, Ld. Addl. PP for the state and Ld. Counsel for the complainant have vehemently argued that there are specific allegations against the accused Rampati and Vaishnavi in their statements recorded by the police of the injured Kanta Prasad and Om Prakash Pokhriyal and as such, the offences u/s 341/34 is also made out against the accused Rampati and Vaishnavi. The CCTV footage has been played in the court in the presence of the ld. Counsels for the parties. However, the entire incident is not captured in the CCTV Footage as it appears that the angle of the camera is not covering the entire incident.

From a perusal of the entire material available on record, the statements of the injured Kanta Prasad and Om Prakash Pokhriyal and from the CCTV footage as well, it is apparent that the accused Om Prakash Badoni had given beatings on the head of the injured Kanta Prasad as a result of which, the injured sustained grievous injuries, as per the MLC which is there on record.

From the statements of the injured Kanta Prasad and from the statement of Om Prakash Pokhriyal, I am of the opinion that there are specific allegations against the accused Rampati and Vaishnavi. However, to my mind, Section 308 of the IPC is not made out against the said accused persons.

Accordingly, it is held that the accused Om Prakash Badoni has to be charged for the offences u/s 308/323/341/506(I) of the IPC and the accused persons namely Rampati and Vaishnavi are to be charged u/s 323/341/506(I)/34 of the IPC.

There is sufficient material on record for the purposes of framing the charge against all the accused persons. Prima-facie case for the offence u/s. 323/341/506(I)/34 IPC is made out against the accused Om Prakash Badoni, Rampati and Vaishnavi and for the offence u/s 308 IPC is made out only against the accused Om Prakash Badoni. Accordingly, charge framed, read over and explained to all the accused persons to which they pleaded not guilty and claimed trial.

Witnesses at serial nos. 1, 2 and 3 in the list of the witnesses be summoned by the prosecution for the next date.

Now to come up for PE on **06.05.2024.**

(Raj Kumar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
21.02.2024