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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.REV.P. 618/2018, CRL.M.A. 28396/2018, CRL.M.A. 28398/2018

AJAY SHARMA & ORS Petitioners
Through: Mr. Siddharth Aggarwal, Mr.
Himanshu Nailwal and Mr. Chetan
Sharma, Advocates.

versus

STATE (GOVT OF NCT OF DELHI) Respondent
Through: Ms. Radhika Kolluru, APP for State
with SI Arun Kumar, PS-Ghazipur.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **24.07.2018**

CRL.M.A. 28397/2018 (Exemption)

Allowed, subject to all just exceptions.

The application stands disposed-off.

CRL.REV.P. 618/2018, CRL.M.A. 28396/2018, CRL.M.A. 28398/2018

The petitioners impugn an order dated 03.02.2018 passed by Ld. Additional Session Judge framing charges against them and listing the matter for trial in FIR No. 153/2014 registered under sections 147/148/149/307/308/34 IPC and sections 27/59 of the Arms Act, 1959 at Police Station, Gazipur.

It is the petitioner's case that two complaints were filed apropos the same incident. The petitioners were assaulted and fired upon in their own residential premises by the complainant party; the injury to the petitioners is not in doubt; the Forensic Report at page nos. 121 & 122 of the petition in



para 8 (iv) establishes that the complainant, Satbir Sharma had ‘Nitrite’ residue in his hand from a gun-shot. According to the petitioners this residue related to the gun shot fired upon them. It is further argued that apart from mere allegations of the complainant, that the petitioner had fired from a gun, the Chargesheet does not refer to or allude to any evidence to support the said allegation. In other words, no gun has been produced, which is said to have been fired by the petitioners nor was any such evidence collected, incriminating any of the petitioners of firing a gun at the respondents.

The learned counsel for the petitioner submits that in the absence of any evidence in the Chargesheet – even to allude, let alone establish, any of the charges framed, further proceedings and the trial would be an exercise in futility; that the impugned order has erred and should be set aside.

Issue notice. Ms. Radhika Kolluru, the learned Additional Public Prosecutor for the State accepts notice. A Status Report be filed before the next date.

At the request of the learned counsel for the petitioner, the complainant-Mr. Satbir Sharma is impleaded as respondent no. 2. Amended Memo of Parties be filed within a week.

Issue notice to respondent no. 2 through ordinary process, Speed Post, approved courier and *dasti*, through counsel as well, returnable on 02.11.2018.

Till the next date of hearing, further proceedings before the Trial Court shall remain stayed.

NAJMI WAZIRI, J

JULY 24, 2018/RW