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

+ **CRL.REV.P. 481/2013**

AZAM

..... Petitioner

Through: Mr. Sheikh Israr Ahmad, Adv.

versus

STATE

..... Respondent

Through: Ms. Jasbir Kaur, APP for State.

ASI Vijender Kumar, P.S. Fatehpuri
Ber.

CORAM:

HON'BLE MS. JUSTICE VEENA BIRBAL

ORDER

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30.08.2013

CRL.M.A. No.12846/2013 (exemption)

Exemption as prayed is allowed, subject to just exceptions.

Application stands disposed of.

CRL.REV.P. No.481/2013

1. By way of present petition, challenge has been made to order dated 11.7.2013 by which charge has been framed under Section 308 IPC against the petitioner in SC No.8/2013 pending before learned District and Sessions Judge (South), Saket, New Delhi.

2. Learned counsel appearing for the petitioner has contended that the complainant and the petitioner/accused are young persons. Learned counsel further submits that the alleged incident happened in the heat of the moment

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and injuries on the victim are simple and as such at the most the charge under Section 323 IPC is made out against the petitioner and not under Section 308 IPC as has been framed by the learned trial court.

3. The impugned order shows that the learned trial court after considering the entire material on record including MLC of the victim, statement of the injured and the other witnesses has observed as under:-

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in the case at hand the evidence shows the accused had waylaid the first informant and the other injured person to create an opportunity for assault. He was not only armed with an iron rod in advance presumably with preparation to commit the assault but also virtually dared the first informant in the context of his demand of refund of money. It is not an essential ingredient of the offence of section 308 IPC for hurt to be actually caused. In the present case hurt has been caused and that too on a vital part of the body.”

4. As per the allegations, both the injured persons have sustained injuries on their vital part of the body i.e., head. The alleged weapon of offence used is an iron rod. At the time of incident one of the victims, namely, Arshad Ali was a student of 12th class and the other victim, namely, Mohd. Aziz were coming on a motor cycle. As per allegations, the petitioner was already present at the spot with the weapon of offence. It is alleged that the petitioner had stopped the motor cycle and had hit Mohd. Aziz with iron rod on his head and he fell down. He again started beating him with iron rod as a result of which he became unconscious. The charge has been framed after

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considering the material on record.

No illegality is seen in the impugned order which calls for interference of this court.

The revision petition is dismissed.

CRL.M.A. No.12847/2013 (stay)

In view of the order on the main revision petition, no orders are required on the present application.

The same stands disposed of accordingly.



VEENA BIRBAL, J

AUGUST 30, 2013

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