
(1996) 04 DEL CK 0030

In the Delhi High Court

Case No : Criminal Revision Appeal No. 95 of 1992

Narender Kumar

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 25-04-1996

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 239

Citation : (1996) RLR 330

Hon'ble Judges : Jaspal Singh, J

Bench : Single Bench

Advocate : Geeta Mittal and M.S. Butalia, for the Appellant;

Judgement

Jaspal Singh, J.

(1) On May 6, 1992 the learned Addl Sessions Judge framed charge u/S. 147/148/149 and u/S. 302 read with S. 149 of the Indian Penal Code . against the present petitioners. Feeling dissatisfied, they have preferred this criminal revision.

(2) Even the learned Counsel for the State has, I must record, found the order indefensible, The order justifying the framing of charges runs.

"ARGUMENTS on the point of charge have been heard. A prima facie, case is made out against the accused persons. Let the charge be framed accordingly "

(3) As would be borne out from the order itself there is no discussion over the facts and the law. The order does not even mention as to what the rival contentions were. It does not even provide reasons in support of the order. Merely saying that "prima facie" case is made out cannot be treated as enough. There is thus nothing to assure application of judicial mind. I don't treat it as a speaking order. Positively it is not. More so, when facts are taken note of.

(4) On a report that a quarrel was taking place in a school, Asi Jodha Singh went to the spot. He found Narender and Balraj two of the accused and deceased

Rajesh scuffling with each other He tried to pacify but to no effect and ultimately arrested them u/S. 107 read with S. 151 of the Cr. P.C. He got them medically examined also and significantly on the person of Rajesh only simple injuries were found. While they were in police custody Rajesh was taken ill. He was thus rushed to Din Dayal Upadhyay Hospital who referred him to Ram Manohar Lohia Hospital. At Ram Manobar Lohia Hospital he was again medically examined. But then, soon thereafter he died which led to a post mortem report. As per that report the injuries on the person of the deceased had been caused by a blunt weapon and were simple in nature. What is of greater significance is that as per that report none of the injuries was sufficient to cause death in the ordinary course of nature. The doctor also opined that the death was due to "hepatic failure following viral hepatitis "I don't think the Additional Session Judge took note of this. A least the order docs not show so. What should then be done? I feel the best course would be to accept the revision quash the charge framed, direct Additional S.J. to do what he is expected to do and that is, to apply his judicial mind first to the facts & circumstances of the case, examine them on the scale of law and then proceed to pass orders and while doing so we do expect not a detailed or learned dissertation but an order delineating reasons in sufficient detail to lend assurance to the accused, the public and the court that sufficient judicial thought is at its back Consequently, the charges framed stand quashed. Let the petitioners appear before the Additional S.J. on 9th May, 1996 and let him thereafter proceed to hear arguments afresh on the question of charge. Nothing more need be said.