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**(2006) 10 DEL CK 0023**

**Delhi High Court**

**Case No:** Writ Petition (Criminal) No. 1522 of 2006

Ashok Kumar Manachanda

APPELLANT

Vs

State and Others

RESPONDENT

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**Date of Decision:** Oct. 9, 2006

**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 307, 323, 342, 506

**Citation:** (2006) 92 DRJ 527

**Hon'ble Judges:** S.N. Aggarwal, J

**Bench:** Single Bench

**Advocate:** V.D. Tyagi, for the Appellant; Rajdipa Behura and Akshai Malik, for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

S.N. Aggarwal, J.

Status report filed. Copy given.

2. This writ petition has been filed for directions to the S.H.O. (respondent No. 2) to insert Sections 307/506 IPC in FIR No. 345/2006 registered against Som Nath Sharma with Police Station Preet Vihar. The petitioner has also made a prayer for transfer of investigation of the aforementioned FIR to any other independent Investigating Agency like DIU, Crime Branch or CBI for a fair and impartial investigation of the case.

3. The facts of the case giving rise to this writ petition are that the Complainant-Shri Ashok Kumar Manchanda on the date of incident was working as Chief Accounts Officer in MTNL and on that day at around 2.30-PM he had served the transfer order of the accused Som Nath Sharma through his P.A. Smt. Pushpa. However, the accused refused to take the transfer order and at around 2.40 PM, he bolted the Chamber of the Complainant and started abusing him in filthy language and when the petitioner asked him to behave in proper manner, the accused Som Nath

Sharma got hold of his neck as a result of which his chair over-turned and thereafter the accused started giving fist blows in his stomach.

4. The petitioner, who was the Complainant, gave a complaint to the Police in regard to the above incident which is at page 42 of the paper book and on the basis of the said complaint, the aforementioned FIR was registered against accused Som Nath Sharma with Police Station Preet Vihar. The investigation of the case was carried out by the local police and during investigation, statement of the witnesses were recorded. The injured was also got medically examined. The injuries, allegedly suffered by the Complainant in the incident were opined to be simple. The status report reveals that the investigation into the case has now been completed and the charge-sheet is likely to be filed shortly before the Trial Court.

5. I have considered the entire material on record. I do not find any shortcoming in the investigation carried out by the local Police regarding the incident reported to the Police. The question as to what particular offence is made out on the basis of material collected by the Investigating Agency against the accused shall be considered by the Magistrate having jurisdiction to take cognizance of the offence and before whom the challan is likely to be filed. This Court cannot direct the Investigating Agency at this stage to convert the FIR in question from u/s 323/342 IPC to u/s 307/506 IPC. This aspect is left open to be considered by the Magistrate before whom challan is likely to be filed.

6. In view of the above, I do not find any merit in this writ petition and the same is, therefore, dismissed.