

**IN THE COURT OF MS. DEEPALI SHARMA
ADDITIONAL SESSIONS JUDGE-04
EAST DISTRICT : KARKARDOOMA COURTS: DELHI**

CNR No. DLET01-005410-2022

Cr. Rev No. 115/2022

Puneet

S/o Kartar Singh

R/o P-37/38, Pandav Nagar,

Delhi-110091

..... Revisionist/Accused

Versus

State of NCT of Delhi

..... Respondent

Date of Institution : 10.06.2022

Date of reserving Judgment : 11.11.2022

Date of pronouncement : 19.11.2022

Appearances

For the Revisionist : Sh. Rudrashish Bhardwaj
advocate.

For the Respondent : Sh. Rakesh Mehta, Addl.P.P.
for the State.

JUDGMENT

1. The present revision petition has been filed by the petitioner assailing the order dated 24.03.2022 passed by the Ld. M.M. (East) in CR Case No. 4962/2019 titled as State v. Puneet in FIR no. 182/2019 PS Mayur Vihar.

2. It is urged that vide the impugned order dated 24.03.2022 the Ld. M.M. has framed charge against the revisionist / accused under section 429 IPC.

3. In the present case, FIR bearing no. 182/2019 was lodged at PS Mayur Vihar on 09.06.2019 by the complainant Ms. Pragati Khanna wherein it is alleged that one man who was driving white colour BMW car bearing registration no. UP 16AB 0040 had killed one stray dog at Mayur Vihar red light by his car climbing upon the dog twice. The dog was a white colour female dog. The incident took place on 08.06.2019 at 9:15 PM that person was driving his car at full speed. The complainant tried to stop him but he ran away. Complainant wanted an action to be taken against the accused.

4. On the basis of the complaint, the FIR was registered against

the revisionist u/s 428/429 IPC and eventually charge was framed against the applicant/ accused u/s 429 IPC vide the impugned order dated 24.03.2022.

5. It is contended by Ld. Counsel for the revisionist that section 429 IPC does not apply to stray dog without any owner. There was no intention or no knowledge as required for the offence of mischief as defined u/s 425 IPC. It is urged that the Ld. MM has not taken into consideration the difference between negligence and intention / knowledge as required u/s 429 IPC. It is stated that the ingredients of offence of mischief are not fulfilled in the present case. Admittedly, the dog was a stray dog and there was no owner of the said dog. It is argued that the said stray dog was not the property which could be subjected to the offence u/s 429 IPC as it did not fall under the category of the animals mentioned therein. It is accordingly prayed that the impugned order vide which charge has been framed against the revisionist u/s 429 IPC may be set aside and the accused may be discharged of the said offence.

6. On the other hand, Ld. Addl. PP for the State contends that the Ld. MM has rightly framed the charge against the petitioner as a dog was killed after being run over by the car, while he was driving his car at a high speed. Hence, the accused is liable to be charged for the offence u/s

429 IPC.

7. I have heard Id. Counsel for the revisionist and Id. Addl.P.P. for the State/respondent and perused the TCR.

8. Section 429 provides as follows:-

“429. Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees. - Whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.”

9. Accordingly, from a bare perusal of section 429 IPC, it is apparent that “mischief” is an essential ingredient for attracting offence mentioned u/s 429 IPC. Mischief has been defined u/s 425 IPC as follows:-

“425. Mischief- Whoever with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits “mischief”.”

10. Hence, in order to attract section 429 IPC, it is essential to prove the offence of mischief which is the main ingredient of section 429 IPC and hence, it is necessary to establish that the accused had the requisite intention or knowledge to cause wrongful loss or damage to public or person.

11. From a bare perusal of the FIR it is manifest that the accused was driving his car on the road itself and his car had accidentally hit the stray dog as a result of which the dog died. There is no allegation in the FIR that the accused had deliberately or intentionally hit the dog or that he had gone towards the dog to hit it. The accused was driving the car on the main road itself, even though at a high speed, however, it cannot be stated that he hit the dog in order to commit mischief as defined u/s 425 IPC which is an essential ingredient of an offence u/s 429 IPC.

12. Hence, in view of the aforesaid discussion, the accused is liable to be discharged for the offence u/s 429 IPC and the impugned order dated 24.03.2022 is accordingly set-aside.

13. Revision petition accordingly stands disposed of.

14. TCR be sent back alongwith copy of this judgment.

15. Revision file be consigned to the Record Room.

**(Pronounced in the open Court
on 19.11.2022)**

**(Deepali Sharma)
Additional Sessions Judge-04
East District, Court No. 10,
Karkardooma Courts, Delhi**