

**IN THE COURT OF SH. AJAY PANDEY  
ADDITIONAL SESSIONS JUDGE 04  
PATIALA HOUSE COURTS: NEW DELHI.**

**CNR No. DLND01-005695-2017**

SC No. 125/17

FIR No. 141/93

PS – Vasant Kunj (North)

U/s – 302/307/326/395/396/436/452/147/148/149/143 IPC read  
with section 120B IPC.

State

Vs

1. Naresh @ Naresh Sehwat  
S/o Sh. Devi Ram  
R/o A-337, 2nd floor,  
Main Road, Mahipalpur,  
Delhi.
  
2. Yashpal Singh  
S/o Sh. Hanumant Singh @ Hanuwant Singh  
R/o House No. 239/, Mahipal Pur

Delhi.

Date of Institution : 22.04.2017  
Date of Arguments : 30.10.2018  
Date of Judgment : 14.11.2018

**JUDGMENT:-**

**FACTS:-**

1. The present charge-sheet has been filed by Special Investigation Team constituted by the Government of India, Ministry of Home Affairs, vide its order No. 13018/13/2014-Delhi-1 (NC) dated 12.02.2015. The main body of charge-sheet is extracted as follows:-

“16. **BACKGROUND OF THE CASE:-**

a) This case vide FIR no. 141/93 u/s 147/148/395/302/201 IPC dated 29.04.1993, PS-Vasant Kunj was registered on the basis of hand written affidavit in Punjabi dated 09.09.1985 of deponent Sh. Santokh Singh filed before Justice Ranganath Mishra Commission of Inquiry, on the recommendation of Justice J.D. Jain and Sh. D.K. Aggarwal committee. The contents of

English translated version of the affidavit are as follows :-

“I Santokh Singh s/o Sh. Sohan Singh aged 37 years, resident of Khalsa Kirana Store, Mahipal Pur, New Delhi-37, at present Assistant Granthi, Gurudwara Sadar Bazar, Delhi Cantt., do hereby solemnly affirm and state on oath as under:-

1. That on 31.10.1984 at night, five/six persons came to our shop and threatened us that they would kill us, vacate the shops and go to Punjab. We went to Police Station, but they have not registered any report and ignored us.

2. On 01.11.1984, at about 10-30/11 am a mob of about 500 persons came. They were carrying iron rods, lathies, and kerosene oil tins in their hands their leader was J.P. (Congress-I), Dahiya, Dharampal, Harish were local leaders. Rajinder, Lori, Ghunna Baman, Naresh younger brother Devi Lal, Titto hotelwala, Nikkka Halwai, Jaidev, Lal Chand, Dharampal, Gobind. Hanumant Singh and his son Jaspal Singh, Inspector Kishori Lal Gulalia, constable, who had come from police chowki Mahipalpur. Our shops were looted in their

presence but they did not do anything. Out of them, Dharampal and Naresh had revolvers.

3. We concealed ourselves at the roof of adjacent house. The mob came thereafter us and killed my brother Hardev Singh aged 24 years and one customer Avtar Singh aged 26 years right there. The injured were Sangat Singh, Kuldip Singh, Dara Singh, Surjit Singh and Mohan Singh.

4. On 5<sup>th</sup> November, 1984, I accompanied by S. Udham Singh and photographer, took photographs of the Gurudwara. Guru Granth Sahib had been torn and burnt. I am sending photographs No. 1 to 10, of persons whose hairs were forcibly cut, who were murdered and who were injured. On the reverse of the photographs I have written that I am the granthi of Gurudwara Sadar Bazar, Delhi Cantt.”

(b) Sh. S.K. Malik, the then ACP, Special Riot Cell, Malviya Nagar, Delhi took up the investigation of the case.

(c) During the investigation of the case, in his statement dated 15.06.1993 recorded u/s 161 Cr.PC the deponent Sh. Santokh Singh stated that he was not

present at the place of occurrence at the time of incident and he had not witnessed the incident on 01.11.1984. He further mentioned that the names of accused persons mentioned in his affidavit were told to him by the villagers of Mahipal Pur.

(d) The case is related to the murder of Sh. Avtar Singh s/o Sh. Mahanga Singh and Sh. Hardev Singh s/o Sh. Sohan Singh, both then resident of Mahipal Pur. Besides the following three persons were injured in the incident:-

1. Surjeet Singh, S/o Sh. Milkhi Singh then resident of village Mahipal Pur.

2. Sangat Singh, S/o Sh. Sohan Singh then resident of village Mahipal Pur.

3. Kuldeep Singh, S/o Sh. Sohan Singh then resident of village Mahipal Pur.

(e) The incident was also investigated in case FIR No. 406/84 u/s 147/148/149/188/302/307/395/427/436/452 IPC dated 01.11.1984, PS-Mehrauli, registered on the complaint of SI Kishori Lal, I/C, Police Post, Mahipal Pur. After investigation of the case, a charge-sheet dated 23.02.1985 was filed against one Jai Pal Singh @ J.P.

Singh Singh s/o Sultan Singh resident of village Nawada, PS-Dankaur, District-Bulandshahar, UP, u/s 147/148/149/453/188/427/436/395/302/307 IPC. The case was committed to the court of Sessions by Ld. Magistrate vide his order dated 05.08.1985. Sh. Sangat Singh, Sh. Surjeet Singh and Sh. Kuldeep Singh were also cited as witnesses in the charge-sheet. Their statements were recorded in the court during trial of the above mentioned case.

(f) On completion of trial the accused Jai Pal Singh was acquitted by the Hon'ble Sessions Court vide Judgment and order dated 20.12.1986. The judicial records of the case have been weeded out by the court as per the report of Record In-charge, Record Room, Sessions, Tis Hazari Courts. However, photocopy of the certified copy of judgment dated 20.12.1986 is available in the case records of this case (FIR No. 141/93 PS-Vasant Kunj). At some places in the records of the court the case reference is wrongly mentioned as FIR No. 466/84 PS-Mehrauli.

(g) After investigation, of the instant case (FIR No. 141/93 PS-Vasant Kunj), the Anti Riot Cell, Delhi

Police sent the case as Untraced, which was duly accepted by the learned Metropolitan Magistrate vide his order dated 09.02.1994.

**CONSTITUTION OF SIT (1984 RIOTS) :-**

(h) The Government of India, Ministry of Home Affairs vide its order No. 13018/13/2014-Delhi-1 (NC) dated 12.02.2015 has constituted the Special Investigation Team for investigating/re-investigating the cases of 1984 Riots with the following terms of reference:-

(a) To re-investigate the appropriately serious criminal cases which were filed in the National Capital Territory of Delhi in connection with the 1984 Riots and have since been closed. For this purpose, SIT shall examine the records afresh from the Police Stations concerned and also the files of Justice J.D. Jain and Sh. D.K. Aggarwal Committee and take all such measures under law for a thorough investigation of the criminal cases:

(b) To file charge sheet against the accused in the proper court where after investigation sufficient evidence is found available.

(i) The office of Special Investigation Team (1984

Riots) was notified as a Police Station having jurisdiction over whole of National Capital Territory of Delhi by Lt. Governor of Delhi vide GNCT Delhi Notification No. 6/13/2015/2124 to 2131 dated 09.07.2015.

(j) The present case was examined thoroughly by the SIT and after scrutiny, it was decided that this case be further investigated.

### **FURTHER INVESTIGATION BY THE SIT**

#### **(1984 RIOTS) :**

(k) As the SIT decided to further investigate this case, an intimation regarding further investigation of this was given to the concerned court of Sh. Lovleen, the then learned MM, Patiala House Courts on 08.07.2016.

(l) A public notice was also published on 27th August, 2016 in the leading newspapers in Punjab and Delhi i.e. (1) Times of India – Delhi – English; (2) Hindustan Times – Delhi – English; (3) Indian Express – Delhi – English; (4) The Tribune – Chandigarh – English; (5) Punjab Kesri – Jalandhar – Hindi; (6) Punjab Kesri – Ludhiana – Hindi; (7) Punjab Kesri – Chandigarh – Hindi; (8) Daily Ajit – Jalandhar – Punjabi; (9) Punjabi Jagran – Jalandhar – Punjabi; (10) Hindustan – Delhi –

Hindi and (11) Dainik Jagran – Delhi – Hindi, requesting all individuals, group of persons, associations, institutions and organizations who are acquainted with the facts of the case to give evidence/depose about the same so as to facilitate further investigation. Subsequently, the public notice was again published in the leading newspapers on 11th Nov, 2016 giving reference of the above notice. The details of this case were also updated on the website of MHA, to give wide publicity.

(m) During course of further investigation the material witnesses were traced out, examined and their statements were recorded u/s 161 Cr.PC. During further investigation, documents including Safdarjung Hospital treatment slip dated 06.11.1984 in the name of Sangat Singh, Death certificate of Hardev Singh, photographs of deceased Hardev Singh, certificate issued by IO SI Kishori Lal regarding murder of Hardev Singh in case FIR no. 406/84, PS-Mehrauli etc. produced by Sangat Singh were taken on record through Seizure Memo. A rough site plan was also prepared at the instance of witness Sh. Sangat Singh. The postmortem reports of the

deceased victims were also collected from AIIMS, New Delhi. Efforts were made to collect the MLCs of injured persons in the case from Safdarjung Hospital but the complete medical record of year 1984 was weeded out as per report of CMO, MRD & TC, Safdarjung Hospital.

(n) During further investigation, from the statements of the witnesses, and other evidences available on record, it was revealed that on 01.11.1984 forenoon, the victims Hardev Singh, Kuldeep Singh and Sangat Singh were present at their Grocery shops at Mahipal Pur, when a violent mob of about 800-1000 persons armed with deadly weapons like Iron Rods, Lathis, Hockey Sticks, Stones, kerosene oil, etc. came towards their shops. On seeing the mob the victims closed their shops and rushed to the rented accommodation of Surjeet Singh located at the first floor of the house of Shri Ram Karan s/o Shri Mauji Ram of Mahipal Pur. The mob looted and set fire to their shops. After some time victim Avtar Singh also came there. They locked themselves inside the room. Later the mob came to the room of Surjeet Singh where five of them namely Hardev Singh, Avtar Singh, Surjeet Singh, Sangat Singh and Kuldeep

Singh had taken shelter. The mob forcibly entered the room and brutally assaulted them, with an intention to kill them. All five of them were thrown on the ground from 1<sup>st</sup> floor. The mob also looted the belongings of Surjeet Singh and set his room on fire. The police also reached the spot and the victims were shifted to Safdarjung hospital. Shri Avtar Singh and Hardev Singh died in the incident. Postmortem of their dead bodies were conducted on 05.11.1984. The dead body of Hardev Singh remained unidentified as his brothers were grievously injured in the incident and remained hospitalized. His dead body was cremated through Sewa Samity as unknown which was previously wrongly identified as of Mahinder Singh but it was later identified as of deceased Hardev Singh after seeing the photograph by his brothers Kuldeep Singh and Sangat Singh.

(o) The witnesses have identified Jai Pal Singh @ J.P. Singh, Naresh s/o Devi Ram who was working in post office Mahipal Pur and Yashpal S/o Hanumant Singh being members of the unlawful assembly armed with deadly weapons which committed the crime. Naresh s/o Devi Ram was carrying can of kerosene oil in his

hand. He poured the kerosene oil on the door of the room in which the victims had concealed themselves and burnt it.

(p) Jai Pal Singh has already faced trial in case FIR no. 406/84 u/s 147/148/149/395/302/307/325/452 IPC. However, he was acquitted by the Sessions Court vide judgment and order dated 20.12.1986. The other two accused namely Naresh and Yashpal have not faced trial as per the available records. From the judgment dated 20.12.1986, it is seen that the witness Sangat Singh (PW-20) and Kuldeep Singh (PW-21) had named Naresh as one of the accused, however, he was not summoned as accused by the trial court.

(q) The investigation has established that on 01.11.1984 an unlawful assembly of about 800-1000 persons comprising of J.P. Singh, Naresh, Yashpal and unknown others in criminal conspiracy with one another armed with deadly weapons committed the offences of rioting, dacoity, murder, grievous hurt, attempt to murder, mischief by fire to destroy shops, destruction of property at Mahipal Pur, causing death of Avtar Singh and Hardev Singh, grievous injury to Sangat Singh,

Kuldeep Singh and Surjeet Singh. They also looted and burnt down three grocery shops owned by deceased Hardev Singh, Sangat Sinng and Kuldeep Singh. The rioting continued from about 9.30 am till afternoon. The accused persons mentioned in column no. 11 i.e. Naresh Sehrawat and Yashpal Singh, who have not faced trial, were active members of the aforesaid unlawful assembly and committed the crimes u/s 120B/143/147/148/149/302/307/326/395/396/436/452 IPC.

(r) The above facts and circumstances, constitute commission of offences punishable u/s 120B/143/147/148/149/302/307/326/395/396/436/452 IPC and substantive offences thereof against accused Naresh Sehrawat (A-1) and Yashpal Singh (A-2).

(s) It is respectfully prayed that this Hon'ble court may be pleased to take cognizance of the offences as contained in this charge sheet filed u/s 173 of Cr.PC and issue processes against the accused persons Naresh (A-1) and Yashpal (A-2) in accordance with law so that prosecution against them can be started at the earliest”.

### **SUMMONING :-**

2. After receipt of this charge-sheet the learned MM took cognizance of the case vide order dated 04.03.2017 and summoned both accused persons. Since the accused persons were not arrested during investigation in view of the observations made by Hon'ble High Court of Delhi in **Court on its Own Motion Vs. Central Bureau of Investigation, CrI. M. (M) No. 3875 of 2003, 109 (2003) DLT 494**, accused persons were admitted to bail by learned MM.

**COMMITTAL :-**

3. After supplying the copies under section 207 Cr.PC and compliance of section 209 Code of Criminal Procedure, 1973 (hereinafter referred as The Code) the case was committed to Sessions by the learned Metropolitan Magistrate as the offences contained in charge-sheet were exclusively triable by the court of Sessions.

**CHARGES:-**

4. In view of the allegations against the accused persons in the charge-sheet, charge u/s

302/307/326/395/396/436/452/147/148/149/143 IPC read with section 120B IPC was framed against the accused persons that on 01.11.1984 at about 09:00am onwards both accused persons were part of unlawful assembly being a rioting mob of about 800 – 1000 persons who were armed with iron rods, sticks, danda, hockey sticks, stones and kerosene oil and both of them in pursuance of the criminal conspiracy broke open the door and window of the room of Sh. Surjeet Kumar within the jurisdiction of PS Vasant Kunj and took out the victims namely Mr. Avtar Singh, Mr. Surjeet Singh, Mr. Kuldeep Singh, Mr. Sangat Singh and Mr. Hardev Singh, who had concealed themselves inside the said room and started beating them with dandas, iron rods and hockey sticks and Karpan (small sword) which Karpan was snatched from Mr. Hardev Singh in which victims sustained injuries. Thereafter the mob threw the victims from first floor to ground which caused the death of Mr. Hardev Singh and Mr. Avtar Singh and injuries to other victims. The mob further looted the goods from the house of Surjeet Singh and from shops of Mr. Sangat Singh, Mr. Kuldeep Singh and Mr. Hardev Singh, set the house and shops on fire, at

that time accused Naresh Kumar being part of rioting mob was also carrying a can of Kerosene oil which he had poured over the door of the above said house. Thereby both accused persons were party to a criminal conspiracy to commit the offence of house breaking, murder, attempt to murder, grievous hurt, dacoity armed with deadly weapons, mischief by fire and were further the member of an unlawful assembly which committed these offences on the aforesaid date, time and place. Both accused persons pleaded not guilty and claimed trial.

#### **EVIDENCE:-**

5. In support of its case prosecution examined 18 witnesses in total.
6. PW-1 Sh. Sangat Singh testified that in the year 1984, he was residing at Mahipal Pur and was running a general store in the name of Dashmesh Kirana General Store. His two brothers i.e. elder brother Sh. Hardev Singh was running Khalsa Kirana General Store in the same building and younger brother Sh. Kuldeep Singh was running store in the name of Baba Mehar Provision Store. They were living inside their shops only. On

01.11.1984 at about 09.00am, they were in their respective shops on main road Mahipal Pur. The shops were on rent and their landlord was Sh. Sukhbir Singh s/o Mr. Mir Singh. One Sh. Surjeet Singh who was their neighbour and was working in Cargo as electrician, came to their shops and informed them that the then Prime Minister Indira Gandhi had died and the Sikh community is targeted and their properties are being looted so it would be safe for them to close their shops. Surjeet also asked them to go to his house which was taken by him on rent from Sh. Karan Singh son of Mr. Mauzi Ram at first floor at some distance. He further testified that in the meanwhile people started gathering on the road and one bus stopped near the gathering of people. Jaipal Singh @ J.P who was the leader of then Congress got down from the bus along with other persons. He addressed the gathering of people and asked them to not to spare the Sikhs. They immediately closed down the doors of their shops. PW-1 already knew Jaipal Singh @ J.P. Singh as he was residing at Nangal Dairy and PW-1 was supplying eggs, bread, milk, biscuits at Nangal Dairy w.e.f. 1981 to 1984.

7. PW-1 further testified that accused Yashpal Singh who was present in the court and was correctly identified by witness, was also accompanying said J.P.Singh. PW-1 knew Yashpal Singh from before because he used to visit their shops. PW-1 further identified accused Naresh and testified that accused Naresh was also with said J.P.Singh. PW-1 also knew him since before as he was working in the Post Office of Mahipal Pur and was residing at Mahipalpur and was their neighbour also.
8. PW-1 further testified that the said J.P.Singh after getting down from the bus had asked accused Naresh to bring the kerosene oil cane from the bus. Naresh brought a cane from the bus. J.P.Singh and Naresh were leading the mob and were exhorting the mob to attack the Sikhs and to kill them. When the mob was moving towards their shops and was at some distance, they immediately bolted doors of their shops and started running. While they were running, one Avtar Singh another Sikh, who was their customer, also started running with them towards the house of Surjeet Singh in opposite direction of the mob. After some distance when they saw back, they noticed that the mob had started looting their shop. They

also saw that accused Naresh had poured kerosene oil on their shops and accused Yashpal had lit fire with a match stick. By the time he set their shops on fire they had reached to the turn towards the house of Surjeet Singh. PW-1 further testified that he, his brothers namely Hardev Singh, Kuldeep Singh and Sh. Avtar Singh reached the house of Surjeet Singh and bolted the door of his house from inside. There was a window in that house. After some time, they saw from the window that the mob of about 800-1000 people reached near their house and started pelting stones upon them. They closed the window. The mob was carrying stones, iron rods, hockey sticks and sticks etc. Jaipal Singh @ J.P. along with accused Naresh and accused Yashpal Singh climbed the stairs and reached at first floor where they had taken shelter. The mob followed them. They broke open the window with the help of an iron rod. Then J.P.Singh entered the house from the window. Thereafter Yashpal Singh and Naresh also entered the house and opened the door. Thereafter J.P. Singh caught hold of their brother Hardev Singh and started beating him. Somebody took out Kirpan of Hardev Singh and he was attacked with

the said Kirpan on his face. Somebody from the mob also attacked PW-1 on his face and hit him with said Kirpan. The mob then started beating all of them with the weapons carried by them. Thereafter, they were taken out to the open courtyard outside the room. The room of Surjeet Singh was also set on fire. They were badly injured and were thrown out of first floor to ground floor. They became unconscious. PW-1 further testified that he regained his consciousness on fifth day i.e. 05.11.1984 at Safdarjung hospital and found that Surjeet Singh and Kuldeep Singh were also with him who had already regained their consciousness. Avtar Singh and Hardev Singh were not there. PW-1 was told by Surjeet Singh and Kuldeep Singh that on 04.11.1984 their elder brother Santokh Singh who was working as a Granthi in Gurudwara Sadar Bazar, Delhi Cantt. came to meet them at hospital and had asked them to come to him at Sadar Bazar after their discharge from the hospital. On 06.11.1984 they were discharged from the hospital and thereafter they went to Gurudwara Sadar Bazar, Delhi Cantt to their brother Santokh Singh. A camp was already organized in the Gurudwara, Delhi Cantt. PW-1

alongwith Kuldeep Singh Santokh Singh and Surjeet Singh met SHO PS Nangal Dairy Mr. Kishori Lal. Said Kishori Lal showed some photographs to them including the photograph of their brother Hardev Singh informing them that Hardev Singh had died and had been already cremated by him. PW-1's photograph and photograph of Kuldeep Singh was also shown to them. The camp was closed on 31.12.1984 and PW-1 and Kuldeep Singh went to Punjab.

9. PW-1 further testified that on 27.08.2016, he saw a public notice in the daily newspaper Jagvani in Punjabi language that an SIT has been constituted for proper investigation of the 1984 Riots cases. The victim/witnesses of the FIR number 141/93 were also asked in the said public notice to contact the SIT on any working day. Accordingly, he and his brother Tirlok Singh visited SIT at Khan Market, New Delhi on 14.09.2016. One Insp. Jagdish Kumar recorded his statement Mark PW1/A. He also took Insp. Jagdish Kumar to Mahipalpur where the three brothers were running their shops. The building where the shops were being run was demolished and new construction was

raised there. PW-1 also took Insp. Jagdish Kumar to the place of then house of Surjeet Singh. The earlier house of Surjeet Singh was demolished and new construction was raised there. Insp. Jagdish Kumar prepared the Site plan at his instance.

10. PW-1 further testified that on 14.09.2016, PW-1 had also handed over photocopies of his OPD card Mark PW1/B, death certificate Mark PW1/C of his brother Hardev Singh issued by MCD, death certificate Mark PW1/D of his father Sohan Singh, photograph Mark PW1/E of his brother Hardev Singh and death certificates Mark PW1/F and Mark PW1/G issued by Incharge PP Mahipalpur. IO seized all the documents vide seizure memo Ex PW1/A.

11. PW-1 was cross-examined at length. All suggestions about not happening of the incidence and about non-involvement of accused persons were given to the PW-1, however he denied the suggestions put forward by learned defence counsel. Learned defence counsel confronted him with Mark PW1/B i.e. the copy of his OPD card and suggested that the said OPD card was belonging to one Sanjeet Singh as mentioned at point A in the card

and that the witness had fabricated the said card later on by cutting the name of Sanjeet Singh. Witness clarified "Earlier the name was incorrectly written by some doctor or the official. The same was noticed by Surjeet Singh. It was pointed out then and there, the name was corrected by officials of SJ Hospital". He admitted that FIR no. 406/1984 was registered on 01.11.1984 for the same incidence on complaint of PW-9 SI Kishori Lal. He however, denied that SI Kishori Lal with staff, was present at the spot and he stated that had the police been there, they would have been saved and stated that neither he saw police nor he heard any gun shot fired in air. He admitted that his brother Santokh Singh was not present at the spot. He further admitted that PW-9 SI Kishori Lal met him at Gurudwara Sadar Bazar, Delhi Cantt., and recorded his statement. He however, denied that he had not taken the names of accused Naresh and Yashpal in the said statement before SI Kishori Lal. He further denied that he had not told PW-7 Santokh Singh, the names of present accused persons. He denied that he had not seen accused persons at the spot and he was not knowing them. He admitted that his statement was

recorded in the year 1985-86 in the court of the then ASJ, in FIR no. 406/1984. He denied that his statement was also recorded in the present FIR by ACP S.K. Malik but in the next breath he stated "I cannot admit or deny that ACP S.K. Malik recorded my statement on 15.06.1993". He however denied that he had stated to ACP S.K. Malik in his statement dated 15.06.1933 that he did not know anyone in the mob which attacked them and stated "If the police officer had written so he had written wrong". In reply to a question by learned defence counsel that he, PW-3 and PW-4 were removed to hospital by PW-9 SI Kishori Lal, he stated "I got to know that we were taken to hospital by police when I regained consciousness in the hospital".

12. PW-2 SI Jaipal Singh, was working as duty officer on 29.04.1993 with PS-Vasant Kunj from 04.00 pm to 12.00 am. On that day at about 04.15 pm, he received a rukka brought by constable Om Parkash sent by ACP S.K. Malik for registration of the case. On the basis of said rukka, he recorded FIR bearing no. 141/1993 Ex.PW2/A u/s 147/148/149/302/307/325 IPC. PW-2 also made endorsement on the rukka and returned back the

copy of FIR and rukka to constable Om Parkash with directions to give the same to IO ACP S.K. Malik.

13. PW-3 Kuldeep Singh has deposed on the same lines as deposed by PW-1 except stating that at the time of recording of his statement u/s 161 Cr.PC by IO, Inspector Jagdish Kumar, he was not aware about the name of accused Yashpal, hence he did not mention his name in his statement recorded u/s 161 Cr.PC. However, accused Yashpal was known to him by face as he used to come to their shop. He also stated that he regained his consciousness at Safdarjung hospital on 04.11.1984 and was unable to stand for himself. He went to washroom with the help of cleaning staff of hospital and saw his face was blood stained, his head was injured, hairs of his head were burnt. In the night of 4-5/11/1984, his brother PW-7 Santokh Singh, who was working as granthi in Gurudwara Sadar Bazar, Delhi Cantt., came to hospital and asked him about the remaining brothers. He told PW-7 that he did not know where remaining brothers were. Demeanor of this witness was noted by the court and it is recorded that witness started weeping and wiping out his tears from his eyes which turned blood

red. He further stated that he told the names of his brothers to the cleaning staff which informed him that his brother Sangat Singh (PW-1) and Sh. Surjeet Singh (PW-4) were in the hospital itself. The staff took him to them. They were unconscious and were lying on the bed like dead (Demeanor of the witness was noted that he continued to weep). Then he stated that he shook PW-1 Sangat Singh, calling him loudly but PW-1 did not respond. The hospital staff sprinkled water on PW-1 and PW-1 responded "aa aa .....". He was unable to talk to

PW-1. He noticed that his clothes and clothes of PW-1 and PW-4 were torn and blood stained. According to him PW-4 Surjeet Singh, regained his consciousness on 05.11.1984 and they were all discharged from hospital on 06.11.1984.

14. PW-3 was also cross-examined at length suggesting him that he was deposing falsely about the incidence and about the involvement of accused persons. In his cross-examination he also admitted that his statement was recorded by police in FIR No. 406/1984 regarding the same incidence. He further stated that he did not remember that in the said statement before the police, on

13.11.1984 he stated that he came to know about the burning and looting of their shops when all of them (PW-1, PW-3, PW-4, deceased Hardev Singh and deceased Avtar Singh) were inside the room of PW-4 Surjeet Singh. He admitted that his statement was recorded in the present case FIR on 15.06.1993 and affidavit of his brother Santokh Singh was shown to him by the IO and in his statement dated 15.06.1993, he stated that he did not know the persons, whose names were mentioned in the affidavit of his brother Santokh Singh and that he did not know from where his brother Santokh Singh had obtained the names of persons mentioned in the said affidavit. He admitted the suggestion put by learned defence counsel that PW-7 Santokh Singh, met him on 04-05/11/1984 but stated "I do not know that he had also met Sangat Singh and Surjeet Singh". He also stated "It is correct that we used to talk to our brother Santokh Singh there in the said camp after reaching there".

15. PW-4 Sh. Surjeet Singh, has also deposed on the same lines as that of PW-1 and PW-3 so far as the sequence of events is concerned. However, he did not

identify any of the accused and stated that when the incidence took place on 01.11.1984, he was not able to identify anyone nor he was in his mental faculties to qualify as to who was on his side and who was against him.

16. PW-5 Inspector Yogesh Kumar, testified that on 09.01.2017, he was present at his SIT office, 2nd floor, Loknaya Bhawan, New Delhi and on that day, he joined the investigation of the present case. IO Inspector Jagdish had shown him affidavit dated 09.09.1985 of one Santokh Singh s/o Sh. Sohan Singh, which was in Punjabi language. On request of IO, he translated the said affidavit in English language. He read over the affidavit in English and the same was reduced into writing by IO in English language. He testified that since he was born and brought up in Punjab, as such he can read and write Punjabi language. He proved the translation of said affidavit as Ex.PW5/A.

17. PW-6 Sh. R.D. Verma, Public Relation Inspector, Post Office, Chanakyapuri, New Delhi testified that on 21.12.2016, a notice was received u/s 91 Cr.PC by Sr. Superintendent, Post Office, South West Division,

Post Office, Chanakyapuri, vide letter No.6/1/2016-SIT-T-6-779 dated 19.10.2016 and another letter no. 6/1/2016-SIT-T-6-822 dated 04.11.2016 to provide complete details and address of Naresh s/o Sh. Devi Dutt. PW-6 proved the replies dated 16.01.2017 and 23.01.2017 sent by the then Sr. Superintendent Sh. D.R. Sen as Ex.PW6/A and Ex.PW6/B.

18. PW-6 also produced the original pay bill register for the period December 1982 to January 1983. As per the said pay bill register no. 23/194, accused Naresh Sehrawat was posted at Mahipalpur as EDSPM (Extra Departmental Sub Post Master) from December 1982 to January 1983. He proved the certified copy of pay bill register as Ex.PW6/C (colly).

19. PW-7 Sh. Santokh Singh testified that on 30.10.1984, he shifted to Gurudwara Sadar Bazar, Delhi Cantt from main bazar Mahipalpur where he was running a general store in the name of Baba Mehar Singh Provisional Store. On the next day the death of Indira Gandhi, the then Prime Minister of India took place. Thereafter on 01.11.1984 riots erupted all over Delhi. On 01.11.1984 at about at about 09.30 am, he

along with one Udham Singh i.e. his friend, was coming to visit his brothers i.e. Hardev Singh, Sangat Singh and Kuldeep Singh who were running general store at main bazar Mahipalpur. When they reached near main road Mahipalpur some public personnel warned them to not to proceed further as the riots were going on and they were further informed that the shop of one Sikh has been set on fire and one Sikh had died also. When they proceeded little further they got to know that two Sikhs have died and that three Sikhs were injured. Thereafter, those people who informed them did not allow them to proceed further. They also saw the mob and did not proceed further as they were told that if they proceeded further they would be killed. They returned back to Gurdwara Sadar Bazar, Delhi Cantt. via forest area Mahipalpur.

20. PW-7 further testified that he did not get any information of his brothers for 3-4 days. After that he got to know that some injured and dead bodies were taken to Safdarjung hospital. On 04.11.1984, he visited Safdarjung hospital and when he was about to return from the hospital as he did not find any of his brothers, he heard the voice of Surjeet Singh who was residing at

Mahipalpur at that time 'Paa ji iddhar aaoo (brother come here)'. He saw and found Surjeet Singh, Sangat Singh and Kuldeep Singh sitting on their bed in general ward of Safdarjung hospital and were talking with each other. He could not identify them earlier because their face and head were swollen and as such he could not identify them. Then they narrated to him that their shops which were run by Hardev Singh, Sangat Singh and Kuldeep Singh were looted by a mob led by the then Congress leader J.P., whose complete or real name he do not know and after looting the shops Naresh Sherawat poured kerosene oil and Yash Pal put the same on fire by match stick. They also told him that all his brothers alongwith one Avtar Singh, who was one of their customer had taken shelter in the rented house of Surjeet Singh owned by Sh. Karan Singh s/o Sh. Mauzi Ram. However, PW-7 stated in again said that Karan Singh was young boy of 30-35 years at that time and the house was of Mauzi Ram. The mob chased them. They also informed him that the mob was carrying lathi, danda, iron rods, hockey sticks and Kirpan etc. On reaching the house of Surjeet Singh mob had broken open the window

of his house with the help of iron rod where Surjeet Singh, Avtar Singh and his brothers had kept them hidden by bolting the door from inside. J.P, Yashpal and Naresh went inside the house. They further told him that J.P., Yashpal and Naresh removed the turban of Hardev Singh and took out his kirpan and attacked on his head and face with his kirpan. Hardev Singh carry the kirpan as he was Amritdhari Sikh. Sangat Singh, Kuldeep Singh were also attacked. The remaining mob also entered the room. Hardev Singh died from the injuries given by the mob. It was also informed that after beating them with kirpan and rods mob lifted body of Hardev Singh as Hardev Singh was already dead, Sangat Singh, Avtar Singh, Kuldeep Singh and Surjeet Singh and threw them at ground floor from first floor. They also informed that they became unconscious and the mob left the spot considering them dead.

21. PW-7 in his examination recorded in post-lunch session clarified that the incidence of meeting with Surjeet Singh, Sangat Singh, Kuldeep Singh at Safradrjung hospital as mentioned in his examination recorded in pre-lunch session took place on 05.11.1984

and not on 04.11.1984. He stated that due to passage of time he forgot to mention that he visited the hospital on 04.11.1984 also but could not find his brothers on the said date.

22. PW-7 further testified that the mob had also set the house of Surjeet Singh on fire but he did not know as to who had lit the house on fire. On 06.11.1984 his brothers and Surjeet Singh were discharged from the hospital and they came to him at Gurdwara Sadar Bazar Delhi Cantt. and they all stayed in the camp there.

23. Thereafter, on 12.11.1984 police officials from police post of PS Mahipalpur met him at Gurudwara, Sadar Bazar, Delhi Cantt and showed him some photographs of dead bodies and injured persons and from the said photographs, he identified the dead bodies of his brother Hardev Singh and Avtar Singh. The dead body of Hardev Singh was not found by them. From the said photograph he became sure that his brother Hardev Singh had died.

24. PW-7 further testified that on the next day, he alongwith Udham Singh went to their shops and found that shops were destroyed and house of Surjeet Singh was also found burnt. He also inquired from nearby

shopkeepers and at that time they told him about the names of the assailants. Thereafter, on 16.12.1984, he gave a written complaint Mark PW7/A to SHO Mehraulli through PP Mahipalpur, Delhi. At that time his FIR was not recorded by the Police. As no action was taken by the police on his complaint so he gave an affidavit Ex.PW7/A in Gurumukhi before Justice Ranganath Mishra Commission for inquiry in September, 1985. Even after giving of his affidavit before the Commission no action was taken.

25. PW-7 further testified that in the month of September, 1993 ACP Malik came to their village in Punjab and recorded his statement. At that time, he handed over him photocopies of photographs marked as Mark PW7/B (colly) of his brothers and photocopies of medical record marked as Mark PW7/C and Mark PW7/D of his brothers Sangat Singh and Kuldeep Singh which were given to him by the hospital. Thereafter, he was again called by the ACP at Delhi and at that time ACP alongwith his team visited their said shops and the room of Surjeet Singh at Mahipalpur, Delhi. At that time, ACP Malik also inquired from nearby shopkeepers and at that

time the names of assailants which PW-7 had stated in the court were also revealed to him but despite that no action was taken by the police.

26. PW-7 further testified that on 15.07.1993, he also handed over photocopy of death certificate Mark PW7/E of Hardev Singh which was issued by Incharge PP Mahipalpur and Photocopy of complaint dated 16.12.1984 which was addressed to SHO PS Mehrauli and photocopy of medical record of Sangat Singh and Kuldeep Singh were handed over to ACP. The same were seized by him vide seizure memo Ex PW7/B. Thereafter, on 21.09.2016 Insp. Jagdish came at their village and inquired from him and recorded his statement.
27. In his cross-examination by defence counsel he admitted that he did not witness the incident. He was thus a hearsay witness only.
28. PW-8 Dr. D.N. Bharadwaj, Professor, Forensic Medicine, AIIMS Hospital, New Delhi, testified that on 17.01.2017, Inspector Jagdish from SIT came to his office and inquired about Dr. S.D. Sharma, who conducted the postmortem of two persons. He had shown PW-8 two copies of postmortem report No. 1372/84 and 1373/84 and

postmortem register. PW-8 had seen the postmortem reports and stated that the said postmortems were conducted by the then Dr. S.D. Sharma. He testified that Dr. S.D. Sharma had left the hospital in the year 1986 and his present whereabouts were not known. He proved the postmortem report No. 1372/84 and 1373/84 as Ex.PW8/A and Ex.PW8/B respectively. As per the postmortem report, the cause of death in both the cases were coma due to antemortem head injury which could be caused by blunt force.

29. PW-9 Sh. Kishori Lal, is the retired SI from Delhi Police. He retired on 28.02.1989, PS-Najafgarh, South-West District. He testified that in the year 1984, he was incharge of PP-Mahipalpur and was posted as ASI. On 01.11.1984, due to death of then Prime Minister Smt. Indira Gandhi, the riots had taken place in the city and they came to know that mob was killing Sikhs. Thereafter, he along with his staff went in the area of Mahipal Pur. There they saw the mob of about 2000-3000 and the said mob was lead by Jai Parkash @ J.P., the then Congress leader. They tried to control the mob but mob entered in another street. Lateron, they came to

know that 04 Sikhs have been killed (Hume pata laga chaar sardaaro ko maar dia), and the mob was setting things on fire and was harming the Sikhs. Thereafter, he along with staff reached in the house of Mauji Ram and found that 05 Sikhs were lying there, two of them were already dead and three were injured. SHO also reached at the spot and the injured persons were taken to hospital in his Jeep. Dead bodies were forwarded for postmortem. He further testified that both the bodies were unknown to him and they prepared the papers according to the particulars as were told by the people. One of the body was identified as Hardev Singh and another was Avtar Singh. Thereafter, the dead body of Hardev Singh, was cremated as there was no claimant for the same and he took the action as was required. PW-9 also issued death certificate of late Sh. Hardev Singh.

30. PW-10 Dr. Monalisa Behra, Medical Officer, Safdarjung hospital, Delhi, was authorized by Dr.S.P. Kataria, HoD/CMO, Medical Oncology Department, Safdarjung Hospital to appear and depose. After seeing the letter no. 2-19/16-BHT-795-MR dated 11.11.2016, issued to Inspector Jagdish Kumar, PW-10 stated that

complete medical record of the year 1984 has been weeded out. She proved the said letter as Ex.PW10/A. She also proved the letter no. F.No. Z-28015/6/2014-MH-I dated 10.02.2014, issued by Directorate General of Health Services, Govt. of India, as Ex.PW10/B whereby the medico legal registers are supposed to be preserved for 10 years only.

31. PW-11 Sh. Ashok Kumar, testified that on 07.11.2016, he was posted at Subroto Park Post Office as Post Master. In the year 1984, he was posed at Vasant Vihar, Post Office as Mail OSER. He testified that he knew accused Naresh Sehrawat s/o Sh. Devi Ram being his co-villager and that accused was residing in his village since birth and he was also residing in the same village since his birth. He testified that accused Naresh was working as Branch Post Master at village Mahipal Pur but he could not tell the period for which he was working there.

32. PW-12 is Retd. ACP Sh. Santosh Kumar Malik, who testified that in the year 1992-94, he was posted in Anti Riot Cell, Malviya Nagar as ACP. That on 17.01.2017, Inspector Jagdish from SIT (1984 riots) came at his house

and showed him the letter no. F-10/R68/31/93-HP to Home (Police-II) Department dated 26.08.1993 of Dr.

M.M. Kutti (Joint Secretary Home) to the Commissioner of Police, Delhi. He proved the rukka as Ex.PW12/A, which was shown to him by Inspector Jagdish. He testified that he had sent the said rukka for registration of case and on the basis of said rukka, the present FIR was registered at PS-Vasant Kunj. He conducted the investigation of the said case and seized the documents i.e. photocopy of death certificate of Hardeep Singh (incorrectly written by typographical mistake instead of Hardev Singh) issued by Incharge, PP, Mahipalpur, photocopy of complaint dated 16.12.1984 addressed to SHO Mehrauli by complainant Santokh Singh Mark PW12/B regarding looting of shops at Mahipalpur. The photocopy of two papers of hospital record of Sangat Singh and Kuldeep Singh as Mark PW12/C and Mark PW12/D respectively were seized by him from PW-7 Santokh Singh. He further testified that on 29.04.1993, he filed untrace report Ex.PW12/E in case FIR no. 141/93, which was accepted by the then learned MM vide order dated 09.02.1994 in presence of complainant Sh. Santokh

Singh.

33. PW-13 Dr. Sudhir Kumar Gupta, HoD, Forensic Medicine, AIIMS hospital, testified that on 19.11.2016, in reply to letter dated 04.11.2016 of Inspector Jagdish Kumar, he had provided photocopy of postmortem report no. 1372/84 and 1373/84 along with copy of postmortem register page having basic entry of both the said postmortem reports. He proved his letter addressed to Inspector Jagdish Kumar, in this regard as Ex.PW13/A.
34. PW-14 Sh. Jaipal Singh, stated that he was posted as SHO PS-Mehrauli during the year 1984-85. On 01.11.1984 when riots broke out in the area after the assassination of the then Prime Minister Smt. Indira Gandhi, he along with other staff was present in the area of PS-Mehrauli to control the situation and maintain the law and order situation. On that day in the afternoon on receiving a wireless message he met SI Kishori Lal, Incharge of PP, Mahipal Pur along with other staff at the house of one Ram Karan in the lane of village Mahipal Pur. There he saw 05 Sikh persons were lying at the courtyard of said house in injured condition. Out of 05 Sikhs, two Sikhs were already expired while the other

Sikhs were unconscious due to injuries. Thereafter, PW-14 with the help of other staff shifted those Sikhs to Safdarjung hospital in his Jeep.

35. PW-15 Sh. Ashok, Junior Judicial Assistant, Record Room Sessions, Tis Hazari Courts, testified that on 15.09.2016, CA form for seeking certified copies of record pertaining to case FIR no. 406/1984 under section 147/148/149/492/188/427/436/302/307/34 IPC with goshwara no. 118 was received in their branch. Thereafter, on 16.09.2016, the said application was assigned to him and after going through the record he found that the required record of FIR No. 466/84 has been destroyed by Weeding out Cell on 09.06.2005. He proved the report to this effect as Ex.PW15/A. PW-15 further testified that from the record, he found that except the FIR number other particulars of the case mentioned in CA form were correct and matched with their record of Goshwara register entry no. 118 maintained for the period July, 1986 to December, 1986. He proved the copy of said entry as Ex.PW15/B.

36. PW-16 Dr. Adarsh Kumar, Professor, Forensic Medicine and Faculty Incharge Medico Legal Records,

AIIMS Hospital, testified that on 18.11.2016 in reply to letter dated 04.11.2016 of Inspector Jagdish Kumar, he provided attested photocopy of postmortem reports No. 1372/84 and 1373/84 along with copy of postmortem register. Thereafter, on 07.02.2018 at the request of IO Inspector Jagdish Kumar, he had provided attested copy of above said postmortem reports and the relevant page of the postmortem register along with certificate Ex.PW16/A dated 05.04.2016 showing disposal of medico legal record since they have digitally stored scanned copies of various medico legal records as per the DGHS guidelines for the period 1968 to 1990. He also proved the details of the documents of disposal of medical legal/official record dated 05.05.2016 which were sorted out to be destroyed as Ex.PW16/B. He further testified that on 07.02.2018, he also issued certificates Ex.PW16/C and Ex.PW16/D u/s 65B of the Evidence Act in respect of above said postmortem reports and copy of postmortem register respectively.

37. PW-17 Inspector Jagdish Kumar, is the IO of the case who has deposed on the lines of charge-sheet filed by him. He proved the constitution of SIT vide order

Ex.PW17/A, order of Hon'ble Lt. Governor of Delhi declaring SIT as PS as Ex.PW17/B, letter dated 26.03.1993 of Sh. M.M. Kutty, Joint Secretary (Home) as Ex.PW17/1, intimation to MM informing him for further investigation as Ex.PW17/C, site plan as Ex.PW17/D, application to MS AIIMS hospital for providing two postmortem report no. 1372/84 and 1373/84, as Ex.PW17/E, application to MS Safdarjung Hospital for providing MLCs of Kuldeep Singh, Sangat Singh, Surjeet Singh and Satnam Singh as Ex.PW17/F, letter to Sr. Superintendent of Post Office, South-West Division for providing complete details of accused Naresh S/o Devi Chand as Ex.PW17/G.

38. PW-18 Sh. Ratan Singh, is the brother of deceased Avtar Singh. When he appeared in the court it was noticed that he was shivering and was able to walk with support of another person. He was made to sit on chair and on inquiry he informed that he was suffering from Parkinsen disease. He testified that somebody informed him that his brother was killed. He went to AIIMS hospital and identified dead body of his brother Avtar Singh, which was lying in the postmortem wing of

mortuary at AIIMS along with several other dead bodies.

### **STATEMENT OF ACCUSED PERSONS:-**

39. The entire incriminating evidence was put to accused persons at the time of recording of their statement u/s 313 Cr.PC. Accused persons denied incriminating evidence against them and stated that they have been falsely implicated in the present case.
40. Accused persons chose not to lead evidence in defence.

### **ARGUMENTS:-**

41. It is submitted by learned Sh. S.K. Kain, Addl. PP duly assisted by learned Addl. PP Sh. Gaurav Singh and learned APP Sh. Surender Mohit Singh for SIT that prosecution has been able to prove its charges against both accused persons beyond reasonable doubt by consistent testimonies of PW-1, PW-3 and PW-4 and no material contradiction has been brought on record in the cross-examination of these witnesses by learned defence counsel.
42. It is submitted on behalf of the prosecution that in

this case, court is required to keep in mind special facts and circumstances while appreciating the evidence. It is argued that SIT was constituted by Government of India, in view of the long pending demands of a fair investigation by Sikh community in respect of 1984 Sikh riots, where official figures confirmed killing of more than 2500 Sikhs. Learned prosecutors argued that court has to consider that it is dealing with a case of 34 year old where earlier no proper investigation was conducted. Had there been proper investigation, there was no necessity for constitution of an independent SIT.

43. Learned Sh. O.P. Sharma, counsel for accused persons on the other hand has submitted that constitution of the SIT and the investigation carried out by the same is all together illegal and accused persons have been falsely implicated. Learned Sh. Sharma has submitted that the affidavit of PW-7 might have been filed in 1985 only for receiving the compensation. He argued that FIR is a vital document and PW-7 i.e. the author of FIR was not even eye-witness. He further argued that even the affidavit Ex.PW7/A did not mention the name of either of accused and that only the name of

Naresh, younger brother of Devi Lal was mentioned in that affidavit. Accused Naresh is not any younger brother of Devi Lal. Rather he is son of Devi Ram. He further argued that even the name of Yashpal, the second accused was not mentioned in the said affidavit and there may be many persons in the name of Naresh, younger brother of Devi Lal, in village Mahipal Pur but the IO had not conducted any inquiry in this regard. Learned Sh. Sharma, further argued that a thorough investigation was conducted in respect of present case incidence vide FIR no. 406/1984 and only one persons namely Jai Pal Singh @ J.P. Singh was charge-sheeted. That statement of all three star witnesses were recorded by then IO in FIR No. 406/84 on 13.11.1984. Thereafter, all the star witnesses of the present case were examined on oath by the court of the then learned ASJ. All these witnesses were disbelieved and only accused Jai Pal Singh @ J.P. Singh in the said FIR 406/84, was acquitted vide judgment dated 20.12.1986, passed by then learned ASJ. Learned Sh. Sharma further argued that the names of accused persons have been falsely added in the present FIR. In their statements u/s 161 Cr.PC, as well as in the

respective testimonies in the court in FIR no. 406/84, PW-1 and PW-3 did not include the names of present accused persons. Sh. Sharma, further argued that no appeal was preferred by the prosecution against the judgment of acquittal of Jai Pal Singh @ J.P. Singh in FIR no. 406/84 and the fresh testimony in respect of the same incidence are not permissible and reliable.

44. Learned Sh. Sharma, also argued that even the present FIR no. 413/1993, registered on the basis of Ex.PW7/A, was thoroughly investigated by PW-12, the then ACP S.K. Malik and he filed untrace report in the presence of complainant PW-7 Sh. Santokh Singh. PW-7 Santokh Singh was examined by the then learned Metropolitan Magistrate (MM). The learned MM after due consideration and the inquiry from PW-7 and after perusing the statements of witnesses, which included the statements of PW-1 and PW-3 u/s 161 Cr.PC, accepted the untrace report. The prosecution did not challenge even the said untrace report. He argued that fresh investigation or re-investigation by the SIT on the same facts and incidence, without permission from any court and without challenging the acceptance order of untrace

report dated 09.02.1994, is apparently illegal. Learned Sh. Sharma further argued that FIR in the present case was registered on directions contained in Ex.PW17/A written by Dr. M.M. Kutti, Joint Secretary (Home). He submitted that the said Joint Secretary had no authority or power to issue directions for registration of FIR and therefore the registration of FIR without any complaint of victim was all together illegal.

45. Learned Sh. Sharma, further argued that the present investigation cannot be said to be covered u/s 173 (8) Cr.PC as the prosecution cannot be permitted to re-investigate a case which was already closed vide order dated 09.02.1994 of the then MM. In support of his arguments that SIT was re-investigating this case, learned Sh. Sharma had relied upon the reply to his application for directions to prosecution to supply the documents. He submitted that accused persons filed an application for supply of copies of statements of witnesses recorded in the present FIR by the then ACP S.K. Malik (PW-12), which were part of his untrace report dated 23.08.1993. In reply to the said application it was stated by the prosecution that the said documents were not

relied upon while preparing the present charge-sheet. Learned Sh. Sharma has submitted that this reply of prosecution is itself enough to reflect that investigation was not taken by SIT, in furtherance of the previous investigation and it was all together fresh investigation or re-investigation in FIR no. 141/93, which is not permissible under law.

46. Learned Sh. Sharma, further argued that there is no mention in the entire FIR that the previous IOs of FIR no. 406/1984 or the IO Sh. S.K. Malik (PW-12) in the present FIR did not investigate the case properly. Had it been so, they should have been made accused in the present case. Nowhere in his testimony or in the charge-sheet, IO has written that case was not properly investigated earlier. He submits that once case was duly investigated earlier, as admitted by the IO in his cross-examination, there was no occasion to frame his clients in the present case. He further argued that malafide intention of prosecution are clear because the previous record of FIR no. 406/84 was intentionally and deliberately concealed. Inquiry conducted by ACP S.K. Malik, in the present FIR was intentionally and

deliberately concealed. It is strange that the police file only had the copy of judgment passed by, the then ASJ and not the other papers i.e. the testimony of witnesses etc. In support of his submissions learned Sh. Sharma; has referred to the cross-examination of PW-15 Sh. Ashok Kumar, Judicial Assistant, Record Room, Sessions, in which witness stated "It is correct that as per my report the files which have been destroyed was of FIR No. 466/1984. It is also correct that in goshwara register there is no mention of police station of which FIR No. 466/1984 belongs. Voltd. The said portion is in torn condition i.e. why PS is not visible. I can not say if PS was mentioned in the goshwara register or not". He thus argued that IO had applied for the record of FIR no. 466/1984 and not for the record of FIR No. 406/1984 PS-Mehrauli.

47. On merits, learned Sh. Sharma, submitted that in view of the judgment passed by the then learned ASJ on 20.12.1986, in the case of State Vs Jai Pal Singh @ J.P. Singh, wherein PW-1, PW-3 and PW-4 were examined, their testimonies in this case are not reliable. He argued that all these witnesses have stated the facts

contradictory to their statements recorded u/s 161 Cr.PC in FIR no. 406/1984 and in the present FIR as recorded by PW-12, the then ACP S.K. Malik. He also argued that though as per prosecution the then Congress leader Jai Pal Singh @ J.P. Singh reached at the spot through the bus, but no investigation about the bus was conducted. No bus was seized by the IO. No witness was examined from the village nor owner of the house where Hardev Singh and Avtar Singh died and PW-1, PW-3 and PW-4 were injured, was examined. Similarly, owner of the shops of PW-1, PW-3 and deceased Hardev Singh was not examined. No efforts were made for recovery of weapon of offence i.e. lathi, iron rod, sticks, kirpan etc. No spot investigation was conducted nor any efforts were made for collection of blood, blood stained clothes of injured/deceased. Learned Sh. Sharma also argued that no TIP for identification of accused was conducted and the identification of the witnesses for the first time before the court is useless. Learned Sh. Sharma, referred to the discharge summary of PW-3 Kuldip Singh in which "H/o being assaulted by some people, H/o unconsciousness/vomiting/bleeding". He submitted that

even at the time of discharge the victims did not name the accused persons. Hence, the name in the charge-sheet are manipulated and are after thought. He also referred to the statements purportedly recorded u/s 161 Cr.PC in the present FIR by PW-12 ACP S.K. Malik. Such statements were put to PW-12 during his cross-examination. Statements u/s 161 Cr.PC recorded by ACP S.K. Malik of PW-1 Sangat Singh, PW-3 Kuldip Singh and PW-4 Surjeet Singh was respectively proved as Ex.PW12/DC, Ex.PW12/DD and Ex.PW12/DE in the testimony of PW-12.

48. Learned Sh. Sharma has referred to the testimony of PW-1 in his cross-examination, wherein the witness admitted that in his OPD card Mark PW1/B, the name Sangat Singh was written after cutting the name 'Sanjeet Singh'. He submitted that the documents have been fabricated by the prosecution in order to falsely implicate his clients.

49. Learned Sh. Sharma has relied upon the following judgments:-

1. **Rabindra Kumar Dev Vs State of Orissa, AIR 1977 (SC) P 170 (174)**, to submit that three

cardinal principle of Criminal Jurisprudence were strictly required to be proved :-

(A) Prosecution is bound to prove its case beyond shadow of reasonable doubt.

(B) Burden on prosecution never shifts.

(C ) Accused is presumed to be innocent till he is found guilty.

Learned Sh. Sharma submitted that trial in the present case involves offence with murder which may entail death penalty against accused persons or imprisonment for life. He argued graver the offence, stricter the proof is required, and prosecution miserably failed to prove any offence against accused persons.

2. **State of NCT of Delhi Vs Rakesh and ors., 2012 (2) JCC 1334**, to submit that the State is not supposed to be partisan and that the role of police is not merely to collect the evidence which implicates to a particular suspect but is to explore and analyse all the materials which come to light during investigation and that the police and the prosecutor have to be fair and advance the cause of justice, which ultimately has to prevail irrespective of whether the material advances its

hypothesis or exonerates the accused.

3. **Panna Lal Vs State, 2014 (3) JCC 1896**, to submit that prosecution has to traverse the distance between may and must and that if there is any possibility in favour of accused or that two views are possible, one favouring the accused must be taken by the court.

4. **State of UP Vs Bhagwant and Ors., 2003 (2) JCC 816 (SC)**, to submit that testimony of highly interested witnesses should be properly scrutinized and no reliance should be placed on the uncorroborated testimony of interested witnesses.

5. **State Vs Sanjay and Ors., 2011 (4) JCC 2478**, to submit that if two views are reasonably possible, the view favouring the accused has to be taken.

6. **Surender Kumar Vs State, 1997 JCC 45**, to submit that court is not supposed to act as mouth piece of prosecution.

7. **Ramachandran Vs R. Uday Kumar and Ors., 2008 (2) JCC 1430**, to submit that there are no powers for re-investigation or fresh investigation conferred upon police/prosecution u/s 173 (8) of The Code.

8. **Vikas Gupta Vs State of Punjab, 2002 Cri.,**

**L.J. 4165**, to submit that further investigation or re-investigation of the case, once charge-sheet has been filed and/or charges have been framed against accused, without prior permission to Magistrate is not permissible.

50. This Court has considered arguments advanced by learned Sh. S.K. Kain, Addl. PP for State, assisted by learned Sh. Gaurav Singh, Addl. PP and learned Sh. Surender Mohit Singh, APP for SIT and Sh. O.P. Sharma, learned counsel for accused persons and has carefully gone through the evidence and material available on record.

51. From the arguments advanced by learned counsels for parties and facts and material on record, following points for determination are framed u/s 354 (1) (b) Cr.PC:-

**POINTS FOR DETERMINATION (PD) :-**

- 1) Whether the registration of FIR no. 141/1993 is illegal?
- 2) Whether the investigation in the present case is not covered u/s 173 (8) Cr.PC ?
- 3) What is the effect of the statements of the witnesses recorded u/s 161 Cr.PC in FIR no. 406/84 and

in the present FIR recorded by ACP S.K. Malik?

4) What is the effect of the testimonies of witnesses and the judgment dated 20.12.1986, passed by the then learned ASJ in FIR No. 406/84?

5) Whether the investigation has not been fair and IO has purposely concealed material facts and documents, if so, its effect?

6) Whether prosecution has been able to prove any offence against the accused persons?

52. Now let us take the points for determination (PD in short) one by one.

**PD-1:-**

**WHETHER THE REGISTRATION OF FIR NO.**

**141/1993 IS ILLEGAL :-**

53. Learned prosecutors have fairly conceded to the submissions of learned defence counsel that Sh. M.M. Kutti, Joint Secretary (Home) had no authority or power to direct the police to register the FIR. They, however argued that no such directions were passed vide Ex.PW17/1.

54. For the purpose of convenience, letter Ex.PW17/1 is

extracted as follows:-

CONFIDENTIAL

GOVERNMENT OF NATIONAL CAPITAL  
TERRITORY OF DELHI

No. F.10/R-68/31/93 – H.P. II

Home (Police-II Department

5, Sham Nath Marg, Delhi-54.

Dated, the 26.03.93

To,

The Commissioner of Police,

I.P. Estate, New Delhi.

Sub: Regarding - registration of a case on the basis of the  
affidavit of Sh. Santokh Singh s/o Sh. Sohan Singh.

Sir,

I am directed to enclose an affidavit in original of  
Sh. Santokh Singh along with his statement before the  
Committee and a copy of letter of recommendation of the  
Justice Jain – Shri Aggarwal Committee in the above.

2. In this case the Committee has recommended

registration of a fresh case u/s 147, 148, 149, 302, 307 & 325 IPC and its investigation by an officer of the rank of Assistant Commissioner of Police. This recommendation of the Committee has been accepted by the Lt. Governor.

3. Accordingly, you are requested to take further necessary action in the matter under intimation to this office.

Yours faithfully,

sd/-

(Dr. M.M. Kutty)  
Joint Secretary (Home)

55. It is rightly submitted by learned prosecutors for State that letter Ex.PW17/1 is merely a forwarding letter, through which the affidavit Ex.PW7/A of PW-7 Santokh Singh, along with recommendations of Justice Jain Aggarwal Committee, was forwarded to the Commissioner of Police. If English translation of the affidavit of PW-7 Santokh Singh is perused, it is revealed that various cognizable offences including murder, injuries, rioting, mischief by fire etc. were disclosed in the said affidavit. The noting on Ex.PW17/1 reflects that the

then Commissioner of Police (CP) had marked the said letter to Additional CP CID on 29.03.1993. Thereafter, the Addl. CP (CID) marked the said letter to DCP, Riot Cell. Hence, Ex.PW17/1 makes it clear that this forwarding letter along with original affidavit of PW-7 reached in the hands of competent police officials vested with the authority to register FIR u/s 154 Cr.PC. Once the document disclosing various cognizable offences including murder, rioting, looting, mischief by fire etc., reached in the hands of competent officials, they had no option but to register the FIR as per mandate of section 154 Cr.PC. Hence, the court prima facie do not see any illegality in registration of present FIR No. 141/93.

56. It is rightly submitted by learned public prosecutors that it is not necessary that author of FIR must be an injured, victim or eye-witness. It has been held by Hon'ble Superior Court in catena of judgments including in the case of **Jitender Kumar Vs State of Haryana, AIR 2012, SC 2488**, that primary object of FIR is to set the criminal law into motion and it may not be possible to give every minute detail with unmistakable precision in the FIR. FIR itself is not the proof of a case, but is a piece

of evidence which could be used for corroborating the case of the prosecution. FIR need not be an encyclopaedia of all the facts and circumstances on which the prosecution relies. It only has to state basic case.

57. In the case of **Mukesh Vs NCT of Delhi, AIR 2017 SC 2162**, it was held that even the absence of names of accused persons in FIR cannot be a ground to raise doubt about the prosecution case.

58. In the case of **Shambu Dass Vs State of Assam, AIR 2010 SC 3300**, it was held that FIR under section 154 of the Code is not a substantive piece of evidence. Its only use is to contradict or corroborate the matter thereof.

59. In the case of **Patai @ Krishna Kumar Vs State of Uttar Pradesh, AIR 2010 SC 2254**, it was held that In order for a message or communication to be qualified to be a FIR, there must be something in the nature of a complaint or accusation or at least some information of the crime given with the object of setting the police or criminal law in motion. It is true that a First Information Report need not contain the minutest details as to how the offence had taken place nor it is required to contain

the names of the offenders or witnesses. But it must at least contain some information about the crime committed as also some information about the manner in which the cognizable offense has been committed. A cryptic message recording an occurrence cannot be termed as FIR.

60. On perusal of affidavit of PW-7 Santokh Singh, which was forwarded with Ex.PW17/1, it is seen that there is sufficient material and allegations in the same for setting the police or criminal law in motion. On receipt of such documents containing serious allegations, the competent police officials, which include the officers to the rank of Commissioner of Police, had no option but to register the FIR in the case. It is important to mention here that police officers superior in rank to an Officer Incharge of Police Station (PS), may exercise the same powers throughout the local area to which they are appointed, as may be exercised by the officer Incharge of PS within the limits of his station. Reference in this respect is made to section 36 Cr.PC which provides as follows :-

### **36. Powers of superior officers of police –**

Police officers superior in rank to an officer in charge of a police station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

61. Hence, every action taken by Worthy Commissioner of Police, Addl. Commissioner of Police, Deputy Commissioner of Police, SHO in regard to registration of FIR on the basis of affidavit of PW-7 was in accordance with law.

62. Before registration of FIR police was not supposed to investigate the allegations in the affidavit. FIR was registered on the basis of the affidavit of PW-7 Santokh Singh and not on the directions of or on the basis of letter of Sh. M.M. Kutty, Joint Secretary, same is clear from the charge-sheet itself where it is categorically mentioned that “This case vide FIR no. 141/93 u/s 147/148/395/302/201 IPC dated 29.04.1993, PS-Vasant Kunj was registered on the basis of hand written affidavit in Punjabi dated 09.09.1985 of deponent Sh. Santokh Singh filed before Justice Ranganath Mishra Commission of Inquiry, on the recommendation of Justice J.D. Jain and Sh. D.K. Aggarwal committee”.

63. The affidavit of PW-7 Santokh Singh contained all allegations about the commission of various cognizable offences. Registration of FIR cannot be faulted just because this affidavit reached in the hands of competent authority through Hon'ble Justice Jain and Sh. D.K. Aggarwal Committee or through some Joint Secretary of Home Department.

64. The registration of FIR cannot be said to be illegal just because previous FIR No. 406/84 was also registered on the same case incidence.

65. Learned Sh. Sharma has argued that there could not have been two FIRs of the same incidence. He submitted that FIR no. 406/84 was registered for the same incidence and the case was closed by judgment dated 20.12.1986 of the then ASJ. Hence, fresh FIR No. 141/93 was illegal.

66. Court is of the opinion that generally two FIRs cannot be registered for the same incidence. However, it is held by Hon'ble Supreme Court in the case of **T.T.**

**Antony VS State of Kerala and Ors., 2001 (6) SCC 18**

that counter FIR giving different version of the same incidence may be registered on behalf of opposite party.

67. Court is however, of the opinion that in exceptional circumstances two FIRs may be registered. Whether the registration of the second FIR is justified or not is always a mixed question of fact and law.

68. In the case of **Nirmal Singh Kahlon Vs State of Punjab and ors., decided on 22.10.2018, Civil Appeal Nos. 6198-6199 of 2008 (Arising out of SLP (C) Nos. 24777 - 24778 of 2005)**, one FIR was registered by the State police. Second FIR was also registered by the CBI on the same incidence. In the said case Hon'ble Supreme Court held that registration of second FIR on the same incidence is not generally desirable but is legally permissible. Hon'ble Supreme Court in para no. 59 observed as follows:-

59. The second FIR, in our opinion, would be maintainable not only because there were different versions but when new discovery is made on factual foundations. Discoveries may be made by the police authorities at a subsequent stage. Discovery about a larger conspiracy can also surface in another proceeding, as for example, in a case of this nature. If the police authorities did not make a fair investigation and left

out conspiracy aspect of the matter from the purview of its investigation, in our opinion, as and when the same surfaced, it was open to the State and/or the High Court to direct investigation in respect of an offence which is distinct and separate from the one for which the FIR had already been lodged.

69. In the opinion of court registration of second FIR in this case is not illegal because of the following reasons:-

(1) At the time of registration of FIR no. 141/93, concerned authorities were not aware that FIR no. 406/84 was registered qua the same incidence.

(2) The complainant in FIR no. 406/84 and the present FIR are different. FIR no. 406/84 was registered on the complaint of SI Kishori Lal, Incharge, PP, Mahipalpur. Whereas, the present FIR was registered on the basis of affidavit of PW-7. The said affidavit was filed by PW-7 before the Ranganathan Mishra Commission for inquiry. The same was scrutinized by Justice Jain-Aggarwal Committee and was forwarded to the competent authorities along with their recommendations for registration of FIR. Hence, the complainant and

complaint in case FIR no. 406/84 and in the present case are different.

(3) FIR no. 406/84 is general in nature wherein Incharge, PP-Mehrauli is generally reporting the deaths of two Sikhs in his jurisdiction. No name of victims are mentioned. No accused except one Jai Pal Singh @ J.P. Singh is identified. There is no mention of looting of property or setting the same on fire. However, affidavit of PW-7 is specifically mentioning the name of victims, which died, who were injured and the particulars of property damaged/looted by the rioters.

(4) The time of incidence in both the FIRs are different. In FIR no. 406/84, the time of incidence is mentioned as 2.15 pm. Whereas, in the affidavit of PW-7 on the basis of which second FIR was registered time of incidence is mentioned as 10.30-11.00 am.

(5) The accused in case FIR no. 406/84 and in the present case are different.

(6) No specific details of the incidence are available in FIR no. 406/84, whereas affidavit of PW-7 contains much particulars and details of the incidence. By the time FIR no. 141/93 was registered, no

proceedings in respect of FIR no. 406/84 were pending before the police or before any court of law.

70. Court is further of the opinion that investigation in the allegations contained in the affidavit of PW-7 was necessary in the interest of justice and fair play and this case involves extraordinary circumstances justifying the registration of second FIR on the incidence allegedly taking place on 01.11.1984 within the area PP-Mahipalpur, PS-Mehrauli.

71. During the course of arguments learned prosecutors have filed copy of order passed by Division Bench of Hon'ble High Court of New Delhi in the case of **Court On Its Own Motion vs Dhanraj and Ors, decided on 29.03.2017**. In para no. 108 of the said judgment, Hon'ble High Court observed as follows:-

108. During the course of hearing Crl.A.Nos.715/2013,753/2013, 831/2013, 851/201, 861/2013, 1099/2013 and 710/2014, we have repeatedly queried counsels as to who was killed, or even how many died in the violence which erupted after the 31st of October, 1984? We have got no firm answer at all. The complaints in SC No. 10/86 (lodged by Daljit Kaur); 11/86

(lodged by Swaran Kaur –widow); 31/86 (lodged by Jagir Kaur – widow); 32/86 (lodged by Sampuran Kaur – widow) and 33/86 (lodged by Baljit Kaur – daughter) show that only adult male members of families of one community were killed. The complaints disclose horrifying crimes against humanity. The complaints also point out that male members of one community were singled out for elimination. This suggests that these were no ordinary crimes, or ‘simple’ murders (if ever a murder could be termed as ‘simple’). Treated as individual cases, while the culprits got away scot free, everybody else, the police, the prosecutors, even the courts, appear to have failed the victims, and, most importantly society. Perhaps, had these terrible offences in 1984 been punished and the offenders brought to book, the history of crime in this country, may have been different. We are of the view that if we fail to take action even now, we would be miserably failing in our constitutional duty as well as in discharging judicial function.

72. It appears to be rightly submitted by learned prosecutors that had the investigation been properly conducted and had the cases of 1984 Anti Sikh Riots would have been properly prosecuted, there might not

have been necessity for constitution of SIT. Learned prosecutors referred to the copy of judgment dated 20.12.1986 passed by then learned ASJ in FIR no. 406/84 at page no. 43, learned ASJ was referring to the testimony of PW-1 (who was examined as PW-20 in the said case). It is written in the judgment in reference to deposition of PW-20 "That one Naresh Kumar postman was there and that Naresh Kumar was having a tanki of Kerosene oil, that about 12 in the noon, on 01.11.1984, Naresh Kumar postman had sprinkled kerosene oil on the door leaf of the house of Surjit Singh and that was set on fire".

73. Learned prosecutors submitted that if the observations of learned ASJ are believed correct, the prosecutors in the case FIR no. 406/84 could have moved an application u/s 319 Cr.PC for summoning Naresh Kumar, Postman as additional accused, but they did not do so. Learned prosecutors also submitted that no appeal was preferred against the judgment dated 20.12.1986. They have also submitted that in the case of **Court On Its Own Motion Vs Dhanraj and Ors.** (supra), court has noted various irregularities conducted by IOs and/or

the trial courts in conduct of trial of 1984 riots cases.

74. This court has no authority or competence to comment on the judgment passed by the court of concurrent jurisdiction. However, the court cannot ignore that the name of one Naresh Kumar, Postman is referred by then learned ASJ in the judgment of case FIR no. 406/84.

75. The present accused persons were never charge-sheeted nor they ever appear before any court prior to the filing of the present charge-sheet. It appears that in addition to Jai Pal Singh @ J.P. Singh, who was acquitted in the case FIR no. 406/84, the witnesses in the said case had taken names of some other persons including one Naresh Kumar, Postman. In the facts and circumstances, this court is of the opinion that ends of justice could not have been met if no investigation would have been conducted on this aspect.

76. It has been held in catena of judgments that the discovery, vindication and establishment of truth are main purpose of the existence of the courts of justice. Fair trial should not be fair to the accused persons only. Victim and society is also entitled to the fair treatment.

The fair trial for a criminal offence consists not only a technical observance of law but also in recognition and just application of its principles in substance to find out the truth and prevent miscarriage of justice. Fair trial always entails of accused, victim and the society. Victims of mass genocide cannot be left at lurch and fair hearing of their allegations is necessary. Justice should not only be done but should be seem to have been done.

77. In the case in hand; the peculiar circumstances; non pendency of any proceedings before any authority qua FIR no. 406/84; the specific and detailed narration in affidavit of PW-7 as against general narration of facts by PW-9 Kishori Lal before registration of FIR No. 406/84; separate complaints and separate accused in both FIRs and other factors as already discussed, justify the registration of fresh FIR on the incidence dated 01.11.1984 at PP-Mahipal Pur, PS-Vasant Kunj. Court has already discussed ratio laid down in the case of

**Nirmal Singh Kahlon Vs State of Punjab and ors**

(supra) that second FIR on the same incident is not impermissible under law.

78. The accused persons are not prejudiced by the

investigation or trial in this case as neither they were charge-sheeted nor they were summoned and they had complete and fair trial having competent lawyer and ample opportunity to defend themselves.

79. Hence, registration of second FIR is not illegal and the police has all the powers to investigate upon the said FIR as per law.

**PD-2 :-**

**WHETHER THE INVESTIGATION IN THE PRESENT CASE IS NOT COVERED U/S 173 (8)**

**CR.PC :-**

80. Section 173 (8) of The Code provides as under:-

**173. Report of police officer on completion of investigation – (1)** Every investigation under this Chapter shall be completed without unnecessary delay.

[(1A) The investigation in relation to rape of a child may be completed within three months from the date on which the information was recorded by the officer in charge of the police station.]

(2) (i) As soon as it is completed, the officer in charge of the police station shall forward to a Magistrate

empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government.

.....

(8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2).

81. It is rightly submitted by learned prosecutors that this provision confers plenary powers of further investigation upon a police officer.

82. Court is not in agreement with the submissions of learned defence counsel that because the untrace report of PW-12 ACP S.K. Malik was accepted by the then MM vide order dated 09.02.1994, therefore SIT had no power

or authority to investigate the present case without specific permission from the court.

83. The constitution of SIT is not in challenge before this court. Vide Ex.PW17/A, SIT was constituted and vide Ex.PW17/B i.e. an order from the worthy Lt. Governor of Delhi, SIT was declared to be a police station and its officers were conferred with the powers of Officer In-charge of police station for registration and investigation of all cases of 1984 riots.
84. For the purpose of their true purport both the documents i.e. Ex.PW17/A and Ex.PW17/B are referred.
85. Ex.PW17/A is extracted herein below:-

No.13018/13/2014-Delhi-I (NC)  
Government of India/Bharat  
Sarkar  
Ministry of Home Affairs/Grih  
Mantralaya

North Block, New Delhi  
Dated the 12th February, 2015

ORDER

The competent authority has

accepted the recommendations of the Justice G.P. Mathur Committee and decided to constitute a Special Investigate Team (SIT) for investigating/re-investigating the cases of 1984 riots comprising of the following:

- (i) Shri Pramod Asthana, IPS (MT:86) – Chairman
- (ii) Shri Rakesh Kapoor, Retd. Distt. & Sessions Judge – Member.
- (iii) Shri Kumar Gyanesh, Addl. DCP (Security/PM) – Member.

2. The terms of the reference of the Special Investigation Team will be as under:-

- (a) To re-investigate the appropriately serious criminal cases which are filed in the National Capital Territory of Delhi in connection with 1984 riots and have since been closed. For this purpose, the SIT shall examine the records afresh from the Police Stations concerned and also the files of Justice J.D. Jain and Sh. D.K. Aggarwal Committee

and take all such measures under law for a thorough investigation of the criminal cases;

(b) To file charge-sheet against the accused in the proper Court where after investigation sufficient evidence is found available.

3. The SIT shall assesses the requirement of field staff viz Assistant Sub Inspector, Sub Inspectors and Inspectors of police to assist the team in the discharge of its function and convey the same to the Ministry of Home Affairs for placing their services at the disposal of the SIT.

4. The SIT shall complete the above exercise within a period of six months from the date of issue of this Order.

-sd-  
(Rakesh Mittal)  
Director to the Government of  
India.

86. Ex.PW17/B is also extracted herein below:-

(TO BE PUBLISHED IN PART  
IV OF DELHI GAZETTE)  
(EXTRAORDINARY)  
GOVT. OF NATIONAL CAPITAL  
TERRITORY OF DELHI

(HOME POLICE  
(1)/ESTABLISHMENT  
DEPARTMENT)  
5TH LEVEL, C-WING, DELHI  
SECRETARIATE, I.P. ESTATE NEW  
DELHI

F. No. 6/13/2015/2124 to 2131 Delhi,  
Dated the 09/09/2015

#### NOTIFICATION

F. No. 6/13/2015 In exercise of the powers conferred by clause(s) of section 2 of the Code of Criminal Procedure, 1973 (2 of 1974), read with the Government of India, Ministry of Home Affairs, Notification No. U-11011/2/74-UTL (1), dated the 20th March, 1974, the Lieutenant Governor of National Capital Territory of Delhi, hereby directs and declares that office

of the Special Investigation Team (SIT) (1984-Riots) constituted by Ministry of Home Affairs vide order No. 13018/13/2014-Delhi-I(NC) dated the 12th February, 2015 to be a police stations presently situated at Vigyan Bhawan Annexe, Maulaza Azad Road, New Delhi or at any other place/places where office is shifted in future and further that its officers shall enjoy the powers of officer in-charge of the Police Station for registration and investigation of all cases which will be within the purview of SIT (1984-Riots) for exercising powers under the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) and shall have jurisdiction over whole of the National Capital Territory of Delhi.

By order and in the name of the  
Lieutenant Governor of National  
Capital Territory of Delhi

-sd-  
(YASHPAL GARG)  
Special Secretary, Home

87. The opening paragraph of Ex.PW17/A clarifies that

the competent authority i.e. the Govt. of India, had accepted the recommendations of Justice G.P. Mathur Committee and decided to constitute SIT for investigating/re-investigating the cases of 1984 riots.

88. It is rightly submitted by learned prosecutors that the 'investigation' includes further investigation also. Hence, the intention of the competent authority was to confer powers upon the SIT to investigate, further investigate or re-investigate 1984 riots cases. Whether a case was further investigated or re-investigated depends upon the facts and circumstances of the particular case.

89. It is rightly submitted by learned prosecutors that the ultimate supervisory jurisdiction over investigation for an offence vests with the State and it can get a case further investigated through proper investigating agency. This was reiterated by Hon'ble the Apex Court in **Nirmal Singh Kahlon Vs State of Punjab Ors.** (supra) in para 54, which is reproduced herein below:-

54. The question can be considered from another angle. If the State has the ultimate supervisory jurisdiction over an investigation for an offence and if it intends to hand over a further investigation even after filing of the

chargesheet, it may do so. However, it appears from the records that those officers including the Chief Secretary who were dealing with the public interest litigation were not aware that the chargesheet had been filed in the earlier case. The State Government and the High Court had proceeded on the basis that the investigation was to be handed over to the CBI. The High Court came to know thereof only when an application for modification was filed by the appellants therein. It may be true that the High Court proceeded on the basis that although the CBI had lodged the FIR, the same would be deemed to have been lodged only for the purpose of carrying out further investigation, but, in our opinion, for the views we have taken, its conclusions are correct.

90. The State, in its wisdom vide Ex.PW17/B has conferred upon the officers of SIT, all powers of officer-in-charge of a police station for registration and investigation of all cases which would be within the purview of SIT (1984 riots). The SIT further has jurisdiction over whole of the National Capital Territory of Delhi.

91. In view of Ex.PW17/B, it is clear that the SIT is

empowered for registration of the case i.e. to start fresh investigation. It also has the powers to investigate pending cases. Pending cases includes the cases which remained unsolved or which were sent as untraced.

92. Hence, SIT was empowered to further investigate this case.

93. Now to consider whether the investigation in the present case is further investigation or re-investigation, the first and foremost document is Ex.PW17/C. This is an intimation dated 08.07.2016 by IO Inspector Jagdish Kumar to concerned MM, informing him for further investigation in the present case FIR. This is the first document available for judicial scrutiny, prior to start of effective investigation. In para 3 of the said document Ex.PW17/C, IO categorically mentioned “3. That the present case was examined thoroughly at all levels in the office of SIT. And after scrutiny it has been decided that this case be further investigated”. (emphasis supplied).

94. It is rightly submitted by learned prosecutors that under the law there is no mandatory requirement by the SHO/concerned police official to intimate the concerned Magistrate. No formal order of the Magistrate for further

investigation is necessary. Reliance in this respect by learned prosecutors is placed upon in the case of **Rama Chaudhary Vs State of Bihar, (Arising out of SLP (Cri.) No. 370 of 2009, decided on 02.04.2009.** In the said case the police filed a charge-sheet against the appellant and 05 other accused persons. When the trial was at the stage of closure, another charge-sheet was submitted by the Police in the court of Chief Judicial Magistrate, Siwan, against the charge-sheeted accused persons adding names of eight new witnesses in the charge-sheet. In the said report/charge-sheet, Police did not mention name of any accused. The learned Chief Judicial Magistrate, Siwan, without proceeding under section 190 Cr.P.C. forwarded the second charge-sheet to the court of Session/Special Court, Siwan. Thereafter, the prosecution filed an application in the already pending Sessions Trial to summon the prosecution witnesses named in the second charge-sheet. The appellant filed a reply contending that the application filed by the prosecution is not maintainable and the same was filed with mala fide intention. The learned Sessions Judge, Special Court allowed the said application to summon the

witnesses by observing that the goal of criminal trial is to discover the truth and to achieve that goal the best possible evidence is to be brought on record. The learned trial Judge issued summons to the newly added witnesses and posted the case to 23.02.2008. Being aggrieved by the said order, a Criminal Revision No. 437 of 2003 under sections 397 and 401 of Cr.P.C. was filed before the Hon'ble High Court. By the impugned judgment and order dated 10.12.2008, the Hon'ble High Court dismissed the said revision. Aggrieved by the same, an SLP was filed. While dismissing the SLP the Hon'ble Apex Court held:-

13) The law does not mandate taking prior permission from the Magistrate for further investigation. It is settled law that carrying out further investigation even after filing of the charge-sheet is a statutory right of the Police. [vide K. Chandrasekhar vs. State of Kerala and Others, (1998) 5 SCC 223.] The material collected in further investigation cannot be rejected only because it has been filed at the stage of trial. The facts and circumstances show that the trial Court is fully justified to summon witnesses examined in the course of further investigation. It is also clear from section 231 of the Cr.P.C. that the prosecution is entitled to produce any person as witness even

though such person is not named in the earlier charge-sheet. All those relevant aspects have been taken note of by the learned Magistrate while summoning the witnesses based on supplementary charge-sheet. This was correctly appreciated by the High Court by rightly rejecting the revision. We fully agree with the said conclusion. (emphasis supplied).

95. In **Hasanbhai Valibhai Qureshi Vs State of Gujarat and Ors., (2004) 5 SCC, 247**, it was held that the police had the power to conduct further investigation de-hors any direction from the court even after the court had taken cognizance.

96. In **Amrutbhai Shambubhai Patel Vs Sumanbhai Kantibhai Patel and Ors., Criminal Appeal No. 1171/2016**, decided on 02.02.2017 by Division Bench of the Hon'ble Apex court, the position was reiterated and the court referred its earlier decision in **Dinesh Dalmia Vs CBI, (2007) 8 SCC 770** that the power of the investigating officer to make a prayer for conducting further investigation in terms of section 173 (8) of the Code was not taken away only because a charge-sheet had been filed under section 173(2) and a

further investigation was permissible even if cognizance had been taken by the Magistrate. The Court, therefore summed up by enouncing that once a charge-sheet was filed under section 173(2) Cr.P.C and either charges have been framed or the accused have been discharged, the Magistrate may on the basis of a protest petition, take cognizance of the offence complained of or on the application made by the investigating authority, permit further investigation under section 173(8), but he cannot suo motu direct a further investigation or order a re-investigation into a case on account of the bar of section 167(2) of the Code.

97. Court is in agreement with the submissions of learned prosecutors that whenever any new fact comes to light about the commission of offence or about the involvement of any person, any untrace file can be opened. Police is always at liberty to further investigate any untrace file and/or to file challan as and when any clue about the incidence or the persons involved, is found. Even the order dated 09.02.1994, heavily relied upon by learned defence counsel concludes with "Considering the totality of circumstances, the prayer as made by Sh. S.K.

Malik ACP, is allowed and case be filed as untraced. He will be at liberty to file challan as and when accused persons are arrested.” (emphasis supplied).

98. Hence, learned MM was also well conscious about the powers of police and had specifically mentioned in his order dated 19.02.1994, the liberty to police to file challan as and when accused persons are arrested. Hence, it is rightly submitted by learned prosecutors that there was no need to challenge the order dated 09.02.1994 for doing further investigation in the present case FIR. There was further no need to obtain a formal order for further investigation from the court. Police had all powers to further investigate the case on their own.

99. Though there is no challenge to the acceptance of untrace report before this court, however, it is observed that untrace report refers to the examination of PW-7 Sh. Santokh Singh. It appears from the untrace report that in his said examination PW-7 had categorically mentioned before the Magistrate that though he was not an eye-witness to the incidence but his brothers Sangat Singh (PW-1) and Kuldip Singh (PW-3) had been eye-witness and they had witnessed the incidence. In the case

of **Amrutbhai Shambubhai Patel Vs Sumanbhai**

**Kantibhai Patel and Ors.**(supra) Hon'ble Apex court

has quoted catena of judgments, clarifying that the Magistrate has powers to call the victims or injured of the incidence before acceptance of untrace/closure report by the police.

100. The Hon'ble Apex Court in para no. 26 held as follows:-

26. Be that as it may, this Court held that whereas neither the informant nor the injured nor the relative of the deceased in case of death, would be prejudicially affected in case the Magistrate decides to take cognizance of the offence and to issue a process, they would certainly be prejudiced in case, the Court holds the view that there is no sufficient ground for proceeding further and is inclined to drop the proceeding. Having regard to the scheme of sections 154, 157 and 173 in particular of the Cr.PC and the pattern of consequences to follow in the two contingencies referred to herein above, this Court propounded that in case the Magistrate is not inclined to take cognizance of the offence and issue process, the informant must be given an opportunity of being heard so that he can

make his submissions to persuade the Magistrate to take cognizance of the offence and issue process. Qua the requirement of issuance of such notice to the injured person or to a relative of the deceased, in case of death, who is/are not the informant(s) who had lodged the first information report, it was elucidated that it would be open for the Magistrate in the exercise of his discretion, if he thinks fit, to give such notice. However, the locus standi of the injured person or any relative of the deceased, though not entitled to notice on the Magistrate to apply for the Court at the time of consideration of the report, if he/they otherwise come to know of such stage of the proceeding, was recognized, so much so that in case he/they would want to advance any submission with regard to the report, the Magistrate would be bound to hear him/them as the case may be.

101. In the case in hand, victims and eye-witnesses Sangat Singh and Kuldip Singh were not produced by the IO before the concerned MM nor the concerned MM summoned those witnesses. IO had merely produced the complainant, who was only a hearsay witness before the learned MM.

102. Complainant PW-7 insisted before the than

Magistrate that PW-1 and PW-3 are eye-witnesses and they witnessed the incident. As per FIR PW-1 and PW-3 were injured and not PW-7. But these injured were never brought by IO nor were summoned by Magistrate.

103. In the absence of production of PW-1 and PW-3, before the concerned MM, even it cannot be said that their alleged statement u/s 161 Cr.PC recorded by the then IO, ACP S.K. Malik, were actually made by these witnesses. PW-1 has categorically denied that he had made any statement u/s 161 Cr.PC as reflected in the order dated 09.02.1994.

104. In the facts and circumstances, submissions of learned Sh. Sharma do not hold any ground on law or on facts. The court is of the opinion that while accepting untrace report vide order dated 09.02.1994, neither the statements of PW-1, PW-3 and PW-4 were verified to be made u/s 161 Cr.PC to ACP S.K. Malik, nor there is any bar in taking up further investigation u/s 173 (8) Cr.PC by SIT without any specific order from the court. Rather it appears that the manner in which the untrace report was presented and accepted, itself justifies further investigation by SIT.

105. The investigation by SIT is thus covered under section 173(8) Cr.PC.

**PD-3 :-**

**WHAT IS THE EFFECT OF THE STATEMENTS OF THE WITNESSES RECORDED U/S 161 CR.PC IN FIR NO. 406/84 AND IN THE PRESENT FIR RECORDED BY ACP S.K. MALIK :-**

106. Section 162 of The Code is reproduced as follows:-

**162. Statements to police not to be signed – use of statements in evidence –** (1) No statement made by any person to a police officer in the course of an investigation under this Chapter, shall, if reduced to writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police diary or otherwise, or any part of such statement or record, be used for any purpose, save as hereinafter provided, at any inquiry or trial in respect of any offence under investigation at the time when such statement was made:

Provided that when any witness is called for the

prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, any part of his statement, if duly proved, may be used by the accused, and with the permission of the Court, by the prosecution, to contradict such witness in the manner provided by section 145 of the Indian Evidence Act, 1872 (1 of 1872); and when any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination.

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of clause (1) of section 32 of the Indian Evidence Act, 1872 (1 of 1872), or to affect the provisions of section 27 of that Act. (emphasis supplied).

107. It is rightly submitted by the learned prosecutors that a bare reading of section 162 (1) Cr.PC makes it clear that the proved statements u/s 162 Cr.PC can only be used for the purpose of contradicting the witnesses in the manner provided by section 145 of the Indian Evidence Act and for no other purpose.

108. As already observed while deciding point for

determination no. 2 that recording of statements of PW-1, PW-3 and PW-4 u/s 161 Cr.PC by ACP S.K. Malik, was not proved before the then MM at the time of accepting untrace report vide order dated 09.02.1994. The said witnesses were never produced before the then learned MM. In the present case also PW-1 has categorically denied that his statement was recorded by PW-12 ACP S.K. Malik. He categorically stated that if police officer had written that he did not know anyone in the mob which attacked them, the police officer had written wrong. Hence, this court is of the opinion that statement u/s 161 Cr.PC purportedly recorded by PW-12 ACP S.K. Malik on 15.06.1993 in the present FIR is not proved being categorically denied by the witness.

109. PW-3 in respect of his statement u/s 161 Cr.PC recorded by police in FIR no. 406/84 on 13.11.1984, stated that he did not remember that he stated to police that he came to know about burning and looting of their shops when they were inside the room of Surjeet Singh.

110. Court has to keep in mind that the witness was examined on 20.03.2018 i.e. after about 33-½ years of incidence. He could not have remembered the specific and

minute details of the statement, recorded by the police around 33 years prior to his deposition. Hence this statement u/s 161 Cr.PC recorded in FIR no. 406/84 have not been proved.

111. Learned defence counsel then heavily relied upon cross-examination of PW-3 wherein he stated "It is correct that my statement was recorded in the present case FIR on 15.06.1993. It is correct that affidavit of my brother Santokh Singh was shown to me by the IO and the names of several persons were mentioned in the said affidavit. It is correct that I have stated in my statement Mark PW3/DC that I did not know the persons the names of whom were mentioned in the affidavit of my brother Santokh Singh and I had also stated in the said statement that I did not know from where my brother Santokh Singh had obtained the names of the persons mentioned in the said affidavit".

112. Court is in agreement with the learned prosecutors that testimony of witnesses should be read as a whole and the cumulative effect is required to be seen.

113. Court is of the opinion that extract of the cross-examination relied upon by learned defence counsel de-

horse the context is not in much favour of accused persons. For this purpose the court recapitulates the paragraph 2 of the affidavit of PW-7 Santokh Singh, in which names of some persons are mentioned as follows:-

2. On 01.11.1994, about 10-30/11 A.M. a mob of about 500 persons came. They were carrying iron rods, lathies, and kerosene oil tins. Their leader was J.P. Congress-I, Daya, Dharampal, Harish, Jai Narain were the local leaders. Rajinder, Lohari, Khuna Brahmin, Naresh younger brother Devi Lal, Titto hotelwala, Nikka halwai, Jaidev, Lal Chand, Dharampal, Gobind. Hanumant Singh and his son Jaspal Singh, Inspector Kishori Lal Gholalia, constable, who had come from police chowki Mahipalpur. Our shops were looted right in their presence but they did not do any thing to stop that. Out of the above named persons, Dharmpal and Naresh had revolvers.

114. As many as, 18 persons appear to have been referred by PW-7 Santokh Singh in his affidavit. It is the contention of the learned defence counsel that none of the accused persons has been correctly named. In such

circumstances, if PW-3 made a statement to IO S.K. Malik that he did not know the persons whose names were mentioned in the said affidavit and that he did not know from where his brother PW-7 Santokh Singh had obtained the names of said persons, is immaterial. Learned prosecutors have relied upon **V.K. Mishra and ors. Vs State of Uttarakhand and Ors., Criminal Appeal Nos. 1247 and 1248 of 2012, decided on 28.07.2015**, to highlight how the contradictions with reference to earlier statement u/s 161 Cr.PC, by a witness, are to be proved. In the said case the Hon'ble Apex court in para no. 18 observed as follows:

18. Under section 145 of the Evidence Act when it is intended to contradict the witness by his previous statement reduced into writing, the attention of such witness must be called to those parts of it which are to be used for the purpose of contradicting him, before the writing can be used. While recording the deposition of a witness, it becomes the duty of the trial court to ensure that the part of the police statement with which it is intended to contradict the witness is brought to the notice of the witness in his cross-examination. The attention of witness is

drawn to that part and this must reflect in his cross-examination by reproducing it. If the witness admits the part intended to contradict him, it stands proved and there is no need to further proof of contradiction and it will be read while appreciating the evidence. If he denies having made that part of the statement, his attention must be drawn to that statement and must be mentioned in the deposition. By this process the contradiction is merely brought on record, but it is yet to be proved. Thereafter when investigating officer is examined in the court, his attention should be drawn to the passage marked for the purpose of contradiction, it will then be proved in the deposition of the investigating officer who again by referring to the police statement will depose about the witness having made that statement. The process again involves referring to the police statement and culling out that part with which the maker of the statement was intended to be contradicted. If the witness was not confronted with that part of the statement with which the defence wanted to contradict him, then the court cannot suo moto make use of statements to police not proved in compliance with section 145 of Evidence Act that is, by drawing attention to the parts intended for contradiction.

115. In the case in hand the witness had only admitted that he did not know the persons the names of whom were mentioned in the affidavit. It is worth to mention that witnesses PW-1 and PW-3 identified accused Naresh as working in post office and not as “Naresh younger brother Devi Lal”. PW-3 categorically stated that he was not aware about the name of accused Yashpal so he did not mention his name in his statement to the IO. In his statement u/s 161 Cr.PC also PW-3 did not mention the name of accused Yashpal. If in the facts and circumstances, PW-3 stated that his statement was recorded by earlier IO and he told earlier IO that he did not know the persons whose names were mentioned by his brother in affidavit Ex.PW7/A, is insignificant. There is no specific question put by learned defence counsel that PW-3 did not inform the IO that accused Naresh was not involved in the crime. Except the then Congress leader Jai Pal Singh @ J.P. and accused Naresh s/o Devi Ram, PW-3 did not mention the name of any other rioter in his statement u/s 161 Cr.PC, recorded by present IO. Hence, it was natural for him to state to the IO that he did not

know the names mentioned in the affidavit Ex.PW7/A. The witness never denied the involvement of accused persons facing trial before this court in the alleged crime.

116. The court has further to keep in mind the background of the witness and his state of mind. Deep impact of the incidence upon the mind of the witness is clear from his demeanor which was recorded by the court on 12.01.2018, during his evidence. The witness was profusely weeping and wiped out his tears from his eyes. His eyes turned blood red due to weeping, while he was narrating the inquiries about his brother from the hospital staff. He was continuously weeping till he narrated the incidence of meeting with this brother PW-1 Sangat Singh and PW-4 Surjeet Singh, when both these persons were unconscious, lying like dead in the hospital. The witness denied the suggestions of learned defence counsel about non-involvement of accused persons in the present case. His testimony has remained unshaken and consistent. Each and every aspect of testimony was corroborated with the testimony of PW-1. Hence, court is in agreement with the submissions of learned prosecutors that merely because the witness admitted that he made a

statement on 15.06.1993 to the previous IO, his entire testimony cannot be brushed aside. More so when the said statement is not materially significant.

117. No previous statement of PW-4 u/s 161 Cr.PC was confronted to him.

118. PW-7 was not an eye-witness and he stated that he drafted his affidavit on the basis of the information received from other persons. Hence, he is only a hearsay witness of the incidence, who stated that the shops run by PW-1, PW-3 and deceased Hardev Singh were belonging to him. It has been already observed that the criminal law in this case was set into motion by his affidavit. It is further already observed that the name of accused persons in the FIR are not necessary and it is not necessary that the first informant should be an eye-witness.

119. In the facts and circumstances, the court is of the opinion that no material contradiction from the previous statements recorded u/s 161 Cr.PC in FIR no. 406/1984 or in the present FIR are proved to disbelieve the testimony of the witnesses in the present case. The testimonies are therefore required to be independently evaluated, as per

record.

120. This point for determination is decided accordingly.

**PD-4 :-**

**WHAT IS THE EFFECT OF THE TESTIMONIES OF WITNESSES AND THE JUDGMENT DATED 20.12.1986, PASSED BY THE THEN LEARNED ASJ IN FIR NO. 406/84 :-**

121. Chapter-II Section 40 to section 44 The Indian Evidence Act deals with the relevancy of previous judgments. Section 43 provides as follows:-

**43. Judgments, etc., other than those mentioned in sections 40 to 42, when relevant –** Judgments, orders or decrees, other than those mentioned in sections 40, 41 and 42, are irrelevant, unless the existence of such judgment, order or decree, is a fact in issue, or is relevant under some other provisions of this Act.

122. The judgment dated 20.12.1986 passed by then learned ASJ in FIR no. 406/84 does not fall in any category as mentioned in section 40, 41 and 42 Indian

Evidence Act. The accused persons before this court, were never summoned or tried in FIR no. 406/84. No charge was framed against them, hence there was no question of their identification before the court. The learned prosecutors in that case, could have chosen to confine them to bring the relevant material against the only accused Jai Pal Singh @ J.P., who was charge-sheeted in the said case. Hence, the court is of the opinion that in view of section 43 Indian Evidence Act, the earlier judgment and findings therein are not relevant. The record and testimony available in this case are required to be evaluated independently. It is rightly submitted by prosecutors that the judgment rendered by the court of concurrent jurisdiction on 20.12.1986 in FIR no. 406/84 is not a binding precedent. No reliance can be placed upon the same either in favour of or against any of accused.

123. The testimonies of witnesses recorded in said FIR no. 406/84 could have been used to contradict the witnesses. As already observed the trial in the said case was confined to one Jai Pal Singh @ J.P., hence the learned prosecutors might not be conscious to bring on record material against the other accused persons,

because they might not actually be aware of the involvement of any other person. Otherwise also the testimonies in Sessions case arising from FIR no. 406/84 are not available. Hence, the court cannot verify the exact deposition of the witnesses. Mere reference to the deposition by the then learned ASJ is not enough to conclude or speculate the exact testimonies of the witnesses. Hence, the court has to confine its judgment to the facts, evidence and material brought on record in this case either by the prosecution or by the defence. Court is not supposed to be influenced by the judgment dated 20.12.1986, passed by the then ASJ, nor is supposed to speculate about the testimonies of the witnesses in the said case.

**PD-5:-**

**WHETHER THE INVESTIGATION HAS NOT BEEN FAIR AND IO HAS PURPOSELY CONCEALED MATERIAL FACTS AND DOCUMENTS, IF SO, ITS EFFECT:-**

124. Learned defence counsel Sh. O.P. Sharma, has submitted that IO did not make any fair investigation;

that he examined only interested witnesses; that he did not make any investigation about the bus, when it was alleged that the Congress-I leader Jai Pal Singh @ J.P., had come to the spot in a bus; that he did not make any attempt to seize the said bus; that he did not examine any eye-witness from village despite admitting that village Maipal Pur is a thickly populated area; that he did not make any attempt to recover the weapons of offence i.e. lathi, danda, iron rods, kirpan etc.; that no efforts for collection of blood, blood stained clothes were made; that no Test Identification Parade before sending accused persons to trial, was got conducted by the IO. Sh. Sharma, therefore submitted that IO filed the charge-sheet after unfair investigation without sufficient material to frame the accused persons falsely.

125. Court is in agreement with the submissions of learned prosecutors that it cannot be oblivious of the fact that when the investigation was taken by the SIT and was handed over to the IO Inspector Jagdish Kumar, around 33 years had already lapsed from the date of incidence. During this period the population and construction demography of the villages of Delhi also

materially changed. The same must have happened at village Mahipal Pur also. The testimonies of the witnesses also reflects towards the same. PW-1 has categorically stated that he took IO Inspector Jagdish Kumar to Mahipal Pur, where his brothers were running their shops; the building where the shops were being run was demolished and new construction was raised. He further stated that he took the IO to the place of the then house of PW-4 Surjeet Singh. The earlier house was demolished and new construction was raised there. In the facts and circumstances, it can be said that IO had conducted the spot investigation whatever was possible. He prepared the site plan at the instance of PW-1. There was no opportunity with him for collection of blood spots, blood stained earth or clothes etc. The matter pertain to 33 year old, when investigation was taken by IO. Seizure of the bus, weapons etc., was practically impossible. Hence, the investigation cannot be faulted for the same.

126. Court is in agreement with the submissions of learned prosecutors that PW-1, PW-3 and PW-4 are natural eye-witnesses and cannot be said to be interested witness just because no other witness from the village

was examined.

127. Court has to keep in mind the horrifying events which took place in the worst riots in Delhi. When the mob of 800-1000 people was looting and killing people, burning them alive, it was difficult for any person with good conscience to witness the same. There is further a hurdle in finding the other eye-witnesses except the victims or their relatives, because any other person would either be a part of the rioting mob or may be considered to be so. When the persons present at the spot declared their intention beforehand and are violent, looting and killing people, it is difficult that any peace loving person would stay with such mob or would witness what a few people out of the mob are doing.

128. In this context section 149 IPC is also relevant, which provides as under :-

**149. Every member of unlawful assembly guilty of offence committed in prosecution of common object**

– If any offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in

prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

129. When a mob of 800-1000 people is killing and looting, in furtherance of its common object, the possibility that even an innocent onlooker present at the spot, can be considered part and parcel of the rioting mob, cannot be all together ignored. In such circumstances, it would be more difficult to find any independent witness, who was present with the mob, but was not a part of the unlawful assembly. Hence, merely because no independent witness except the victims themselves have testified, do not render their testimonies doubtful.

130. Unnecessary multiplication of witnesses repeating the same incidence was otherwise also not required. In this regard reliance is also placed on the judgment delivered by Hon'ble Apex Court in **Harbeer Singh Vs Sheeshpal and Ors, Criminal Appeal Nos. 1624-1625** with **State of Rajasthan Vs Sheeshpal and ors., Criminal Appeal Nos. 217-218 of 2013**, wherein Hon'ble Apex Court observed :-

20. However, we do not wish to emphasize that the corroboration by independent witnesses is an indispensable rule in cases where the prosecution is primarily based on the evidence of seemingly interested witnesses. It is well settled that it is the quality of the evidence and not the quantity of the evidence which is required to be judged by the Court to place credence on the statement. (emphasis supplied).

131. Further, in **Raghubir Singh Vs State of UP (1972) 3 SCC 79**, it has been held that the prosecution is not bound to produce all the witnesses said to have seen the occurrence. Material witnesses considered necessary by the prosecution for unfolding the prosecution story alone need be produced without unnecessary and redundant multiplication of witnesses.

132. In the peculiar facts and circumstances and considering the long time gap, this court is of the opinion that the prosecution has been able to produce the best and natural witnesses of the incidence and investigation cannot be faulted on this aspect.

133. There is no previous enmity of witnesses with accused nor any such suggestion has been put to any witness, to rope the accused persons falsely. The court do not see that either of the witness would derive any benefit to falsely implicate the accused persons or to safeguard the real culprits. It has to be kept in mind that the real brother of PW-1 and PW-3, who was working along with them had expired. PW-1 and PW-3 were themselves severely injured. Their testimony therefore cannot be doubted. In the facts and circumstances, it is rightly submitted by learned prosecutors that PW-1 and PW-3 cannot be said to interested witnesses. Reliance in this respect is placed upon the case of **State of Rajasthan Vs Kalki, AIR 1981 SC 1390**, wherein the Hon'ble Apex Court had held that a witness who is a natural one and is only possible eye-witness, in the circumstances of the case, cannot be said to be interested witness as he had no interest in protecting the real culprit and falsely implicating the respondents.

134. Similarly, the court is not in agreement with the submissions of learned defence counsel that accused persons are prejudiced because no TIP was conducted

prior to sending them to trial. The witnesses i.e. PW-1 and PW-3 had named accused Naresh Kumar S/o Devi Ram who was working in the post office, Mahipal Pur, in their respective statements u/s 161 Cr.PC. IO established the identity of Naresh Kumar S/o Devi who was working in Post Office, independently by collecting the relevant record and by examining PW-11 Ashok Kumar, who is a co-villager of accused Naresh Kumar and identified that he was residing in the same village since his birth and that accused Naresh Sehrawat was working as Branch Postmaster at village Mahipal Pur. The record collected including the pay bill register of accused Naresh Sehrawat was also proved by calling PW-6 Sh. R.D. Verma, Public Relations Officer, Post-Office, Chanakyapuri. Similarly, when the particulars of other accused were available and verified by IO, it is rightly submitted on behalf of State that there was no need of any Test Identification Parade.

135. The court is further not in agreement with the submissions of learned Sh. Sharma, that IO has purposely concealed the material documents. The statements of witnesses u/s 161 Cr.PC recorded by the

then ACP S.K. Malik, were not relied in the present charge-sheet. They were not filed initially along with the charge-sheet. However, on an application by accused persons and on directions of court the same were produced and the copy of same was supplied to accused persons. Possibly these statements were not relied because there is serious doubt about the witnesses i.e. PW-1 and PW-3, making these statements. PW-1 has categorically denied making any such statement to ACP S.K. Malik. PW-3 also never admitted that he did not disclose the names of accused persons to ACP S.K. Malik. No such suggestion was put to him. If name of one Naresh had occurred in the testimony of PW-1, in the case FIR no. 406/84, the court do not see any reason that he would not disclose the said name to ACP S.K. Malik during investigation in present FIR.

136. The conduct of the witnesses is itself reflective that they were anxious to get justice in the case. It is important to mention here that PW-1 as well as IO has categorically testified that PW-1 had himself approached the IO in the office of SIT after reading the advertisement in the newspaper that the SIT is further

investigating this FIR. Had PW-1 been not interested or had PW-1 been not aware of any culprit, he could not have come from Punjab to Delhi office of SIT to get his statement u/s 161 Cr.PC recorded. These doubtful statements of PW-1 and PW-3, might be a reason for which they were not relied in the present case. The court has already observed that even the then learned MM did not verify that those statements were actually made, while or before accepting the untrace report vide order dated 09.02.1994.

137. IO appears to have made sincere and honest efforts to trace the witnesses in the present case. There is nothing to suggest that he has manipulated any witness or the document in order to falsely implicate anyone including the accused persons.

138. It is important to mention here that when the present case was taken for further investigation, IO initially did not visit any witness. Only public notices in newspapers were issued in Delhi and Punjab asking the victims to contact SIT on any working day. PW-1 Sangat Singh himself approached SIT at Khan Market, Delhi. IO had no occasion to contact him or even to verify about his

present whereabouts prior to his visit to SIT office.

139. The impartiality of the IO is further apparent on the record from the fact that he did not make any attempt to exaggerate the statements u/s 161 Cr.PC in order to include the name of any of accused. PW-1 in his statement u/s 161 Cr.PC as well as in his testimony before the court, named both accused persons and stated that he knew both the accused persons from before. PW-3 in his statement u/s 161 Cr.PC did not take the name of accused Yashpal. In the court he identified accused Yashpal and stated that he did not mention his name in his statement to IO because he was not aware about his name, however, he was known to him by face as he used to come to their shop. PW-4 in his statement u/s 161 Cr.PC as well as in his testimony before the court could not name or identify any person. Hence, there is nothing to suggest that either of the accused was identified by these witnesses at the instance of IO. It appears that IO has recorded the statements of witnesses honestly, as narrated by them. PW-7, who was a witness of hearsay was shown only as a hearsay witness even in the statement u/s 161 Cr.PC.

140. It is rightly submitted by learned prosecutors that the discrepancy qua not naming both the accused persons, in their respective statements u/s 161 Cr.PC by all witnesses is normal and natural. Reliance in this respect is placed upon **State of Rajasthan Vs Kalki (supra), State of U.P. Vs Naresh and Ors., (2011) 4 SCC 324**, wherein Hon'ble Apex court observed that some discrepancies are bound to occur in criminal cases due to normal errors of observation, errors of memory, lapse of time. It is quite natural that PW-1 and PW-3 were knowing more persons in the locality because they were running grocery shop there and large number of customers might be visiting them. Their may be individual rapport of the shopkeeper with any particular customer. Said shopkeeper might remember that customer's name, whereas the neighbouring shopkeeper may not. Similarly, it is natural that PW-4 may not be in contact with so much of local people because he was working as electrician at Central Warehouse Corporation. His routine would have been confined to work in his office and to return home. Therefore, he would naturally be not able to identify as many persons

in the mob, as may be identified by PW-1 and PW-3.

141. The court is further not in agreement with the submissions of learned Sh. Sharma, that IO had concealed the record of FIR no. 406/84. Learned defence counsel has raised misconceived reliance upon the extract of cross-examination of PW-15 Jr. Judicial Assistant, Record Room, Sessions to submit that IO had applied for file pertaining to FIR no. 466/1984. The IO had applied for the certified copy pertaining to case FIR no. 406/1984 PS-Mehrauli. The report about non-availability of record was made on the back side of his application form. The court has carefully perused the application form. All particulars have been correctly filled up by the IO. The files in record room are traced through goshwara number. From, the testimony of PW-15 it appears that by mistake the FIR number was written in goshwara register as 466/84 instead of 406/84. The mistake might have occurred because in the judgment passed by then ASJ on 20.12.1986, the FIR number is by mistake written as 466/84 though the other particulars of case are same. Hence, the submissions of learned defence counsel in this regard are unfounded. Same is clear from examination in

chief of PW-15 also where he clearly stated that IO applied for certified copy of case file of FIR No. 406/84, PS-Vasant Kunj.

142. Even it cannot be said that Mark PW1/B i.e. the OPD card of PW-1 Sangat Singh was fabricated. Though there was a cutting in the OPD card which reflected that his name was written after cutting the name of some Sanjeet Singh, but PW-1 clarified the same and stated “earlier the name was incorrectly written by some doctor or official. The same was noticed by Surjeet Singh. It was pointed out then and there, the same was corrected by the official of SJ Hospital”.

143. Testimony of the witness is required to be read as a whole and not in piecemeal.

144. Similarly, the reliance upon the discharge summary of PW-3 Kuldip Singh in which “H/o being assaulted by some people, H/o unconsciousness/vomiting/bleeding”, is mentioned, is misplaced by Sh. Sharma. It is rightly submitted by learned prosecutors that in the discharge summary the statements of injured as to the cause of injuries, were not required to be recorded. At the time when the injured were admitted in the hospital, the

history of injuries were told by the police personnel who admitted them to hospital. The injured were unconscious and therefore not in a condition to state anything to the doctors or hospital staff at the time of their admission. Hence, the injured could not have named any accused persons at the time of admission. The discharge slip was required to be prepared on the basis of admission papers and the treatment provided in the hospital. Hence, the name of the accused persons would naturally be absent from the discharge summary unless the police personnel admitting the accused persons had told those names. There is nothing to suggest that the police, while admitting injured Kuldip Singh was aware of the names of accused Naresh Sehrawat and Yashpal Singh, hence their names could not have occurred in the discharge summary/slip. Hence, the IO cannot be said to have falsely implicated the accused persons just because their names do not appear in the discharge summary of PW-3 Kuldip Singh.

145. Hence, this court is of the opinion that IO has conducted a free, fair and honest investigation. He has recorded the statement of the witnesses as narrated by

them. All relevant documents, as possible were collected and produced before the court.

**PD-6:-**

**WHETHER PROSECUTION HAS BEEN ABLE TO PROVE ANY OFFENCE AGAINST THE ACCUSED PERSONS :-**

146. Testimony of PW-1 and PW-3 is consistent that on 01.11.1984, when they along with their elder brother Hardev Singh (deceased) were present in their shops, PW-4 Surjeet Singh asked them to go to his (Surjeet Singh's) house as Sikh Community and its properties were looted and targeted. Both witnesses are specific that meanwhile people started gathering on the road and one bus also stopped near the gathering of people; Jai Pal Singh @ J.P., a leader of then Congress got down from the bus along with other persons; he addressed the gathering of people asking them not to spare the Sikhs. Both the witnesses further testified that accused Naresh was also with said Jai Pal Singh. PW-1 categorically stated that accused Yashpal was also accompanying said J.P. Singh. He also stated that he was knowing accused Yashpal

Singh before because he used to visit their shops. Testimony of PW-1 was corroborated by PW-3 on all except that PW-3 stated that he was not knowing the name of accused Yashpal but identified him by face because he was visiting their shops.

147. Both witnesses further testified that accused Naresh brought kerosene oil and J.P. Singh and Naresh were exhorting the mob to attack the Sikhs and to kill them; both PW-1 and PW-3 along with deceased Hardev Singh closed their shops and started running; meanwhile one Avtar Singh another Sikh, who was their customer also started running with them; after some distance they saw that accused Naresh had poured kerosene oil on their shops and accused Yashpal lit the fire with matchstick.

148. No material contradiction has been brought on record in cross-examination of these witnesses. The suggestions put by learned defence counsel are denied by these witnesses and they remained stick to their version in examination in chief. The court do not see any reason to falsely implicate the accused persons by these victims. It has already been discussed that they are natural and

best possible witnesses. This much of testimony establishes that the accused persons were part of an unlawful assembly with the common object of killing the people of Sikh community and looting their goods. It is also established that the said assembly in furtherance of its common object committed dacoity and mischief by fire.

149. PW-1 and PW-3 further stated that they along with Hardev Singh and Avtar Singh went to the house of Surjeet Singh and bolted the door of his house from inside. After some time, they saw from the window that the mob of about 800-1000 people reached near their house and started pelting stones upon them. They closed the window. The mob was carrying stones, iron rods, hockey sticks and sticks etc. Jaipal Singh @ J.P. along with accused Naresh and accused Yashpal Singh climbed the stairs and reached at first floor where they had taken shelter. The mob followed them. They broke open the window with the help of an iron rod. Then J.P.Singh entered the house from the window. Thereafter Yashpal Singh and Naresh also entered the house and opened the door. Thereafter J.P. Singh caught hold of their brother Hardev Singh and started beating him. Somebody took

out Kirpan of Hardev Singh and attacked with the said Kirpan on his face. Somebody from the mob also attacked PW-1 on his face and hit him with said Kirpan. The mob then started beating all of them with the weapons carried by them. Thereafter, they were taken out to the open courtyard outside the room. The room of Surjeet Singh was also set on fire. They were badly injured and were thrown out of first floor to ground floor. Thereafter, they became unconscious.

150. There is little natural variation in the testimony of PW-1 and PW-3. Same is quite natural due to the individual observation faculties and the fact that the large mob was attacking the 05 persons and each of the person must have been confined and surrounded by the mob separately.

151. These testimonies of PW-1 and PW-3 have been corroborated by PW-4 on all aspects except that he stated that when the incidence took place he was not able to identify anyone nor was in his mental faculties to qualify as to who was on his side and who was against him.

152. The court has already observed that non-identification by PW-4 and identification of some faces by

PW-1 and PW-3 is quite natural considering their respective backgrounds. PW-1 and PW-3 were running grocery shops and were supplying eatables in the locality, they would usually come in contact with large number of local people. PW-4 was working in office as electrician so his circle of people would be normally small.

153. This part testimony positively proves the offences of house breaking, hurt with dangerous weapons or means, attempt to murder, mischief by fire by unlawful assembly and that both the accused persons were voluntary members of that assembly in furtherance of its common object.

154. PW-1, PW-3 and PW-4 all further deposed that they regained their consciousness in the hospital on 04-05-06/11/1984. There is slight variation in the versions of these witnesses as to when each one of them regained consciousness. However, the court is in agreement with the submissions of learned prosecutors that these minor discrepancies are insignificant and do not create any reasonable doubt about the truthfulness of their testimonies. Reliance in this respect is placed upon recent judgment of the Hon'ble Apex Court in **Smt. Shamim Vs**

**State (GNCT of Delhi), Criminal Appeal No. 56 of 2018**, wherein the Hon'ble Supreme Court held that while appreciating the evidence of witness the approach of court must be to see whether the evidence of the witness read as a whole inspires confidence. It was held "The prosecution evidence may suffer from inconsistencies here and discrepancies there, but that is a shortcoming from which no criminal case is free. The main thing to be seen is whether those inconsistencies go to the root of the matter or pertain to insignificant aspects thereof. In the former case, the defence may be justified in seeking advantage of incongruities obtaining in the evidence. In the latter, however, no such benefit may be available to it". It was further held that once an impression is formed that the testimony of the witness as a whole inspires confidence, the court is to scrutinize the evidence more particularly keeping in view the drawbacks, deficiencies and infirmities and to evaluate them to find out whether it is against the general tenor of evidence and whether the earlier evidence is taken to render it unworthy of belief. Minor discrepancies of trivial matters not touching the core of the case, hypertechnical approach by taking

sentences torn out of context here and there from the evidence, attaching importance to some technical error without going to the root of matter would not ordinarily permit rejection of the evidence.

155. In the present case the variation of one day , in the testimonies of witnesses about regaining consciousness in Safdarjung hospital is insignificant and do not go to the core of the matter. PW-1 stated that he regained consciousness on 05.11.1984, by the time PW-3 and PW-4 already regained their consciousness. PW-4, however stated that he regained consciousness on 06.11.1984. Due to lapse in time there may be mistake by PW-4 in remembering the date of regaining the consciousness. However, this is not a discrepancy which may raise any reasonable doubt, if the overall tenor of the testimonies of all witnesses is seen cumulatively. There is no material variation till the offences by accused persons are narrated by these witnesses.

156. Learned prosecutors have relied upon **State of U.P. Vs Krishan Gopal, AIR 1988 SC 2154** to submit that the doubts must be reasonable and not imaginary. In the said case Hon'ble Apex court held "Doubts would be

called reasonable if they are free from a zest for abstract speculation. Law cannot afford any favourite other than truth. To constitute reasonable doubt, it must be free from an over emotional response. Doubts may be actual and substantial doubts as to the guilt of the accused-person arising from the evidence, or from the lack of it, as opposed to mere vague apprehensions. A reasonable doubt is not an imaginary, trivial or a merely possible doubt; but a fair doubt based upon reason and common-sense. It must grow out of the evidence in the case”.

157. The court also relies upon the landmark judgment of **Iqbal Moosa Patel Vs State of Gujrat (2011) 2 SCC 198**, wherein the Hon'ble Apex Court held as under:-

That degree is well settled. It need not reach certainty, but it must carry a high degree of probability. Proof beyond reasonable doubt does not mean proof beyond a shadow of a doubt. The law would fail to protect the community if it permitted fanciful possibilities to deflect the course of justice. If the evidence is so strong against a man as to leave only a remote possibility in his favour which can be dismissed with sentence of course, it is possible but not in the least probable, the

case is proved beyond reasonable doubt

.....

It is true that under our existing jurisprudence in a criminal matter, we have to proceed with presumption of innocence, but at the same time, that presumption is to be judged on the basis of conceptions of a reasonable prudent man. Smelling doubts for the sake of giving benefit of doubt is not the law of the land.

158. In the case of **Sucha Singh and Anr. Vs State of Punjab (2003) 7 SCC 643**, it was held by Hon'ble Apex court :-

..... Exaggerated devotion to the rule of benefit of doubt must not nurture fanciful doubts or lingering suspicion and thereby destroy social defence. Justice cannot be made sterile on the plea that it is better to let a hundred guilty escape than punish an innocent. Letting the guilty escape is not doing justice according to law. (See Gurbachan Singh V. Satpal Singh AIR 1990 SC 209). Prosecution is not required to meet any and every hypothesis put forward by the accused. A reasonable doubt is not an imaginary, trivial or merely possible doubt, but a fair doubt based upon reason and

commonsense. It must grow out of the evidence in the case. If a case is proved perfectly, it is argued that it is artificial; if a case has some flaws inevitable because human beings are prone to err, it is argued that it is too imperfect. One wonders whether in the meticulous hypersensitivity to eliminate a rare innocent from being punished, many guilty persons must be allowed to escape. Prof beyond reasonable doubt is a guideline, not a fetish.

159. PW-1, PW-3 and PW-4 further deposed that on 06.11.1984 they went to the camp at Gurudwara Sadar Bazar, Delhi Cantt. They have testified that after some days PW-9 Kishori Lal visited the camp and had shown photographs of Hardev Singh and Avtar Singh informing them that both of them had died and their bodies were cremated. PW-9 also testified about the death of these two Sikhs namely Hardev Singh and Avtar Singh and stated that he issued death certificate of Sh. Hardev Singh s/o Sohan Singh, copy of which was Mark PW1/F.

160. PW-18 Sh. Rattan Singh was also examined by prosecution to prove identification of dead body of Sh.

Avtar Singh, who was killed in the incidence.

161. From the testimonies of these witnesses it is clearly established that deceased Hardev Singh and Avtar Singh were murdered by the intentional acts of the unlawful assembly, to which accused Naresh and Yashpal were active participants. The common object of the unlawful assembly amongst others was to murder the people of Sikh community, which is clear from the slogans raised by its leader(s) and the manner in which the members carried out its object. Hence, prosecution has successfully proved the offence of murder also against both accused persons.

162. It is thus held that prosecution is able to prove beyond reasonable doubt that both accused persons were part of the unlawful assembly and participated in the common object of said assembly and on 01.11.1984 at about 09:00 am onwards said assembly of about 800 – 1000 persons, armed with iron rods, sticks, danda, hockey sticks, stones and kerosene oil, in prosecution of its common object broke open the door and window of the room of Sh. Surjeet Singh within the jurisdiction of PS Vasant Kunj and took out the victims namely Mr. Avtar

Singh, Mr. Surjeet Singh, Mr. Kuldeep Singh, Mr. Sangat Singh and Mr. Hardev Singh, who had concealed themselves inside the said room and injured them with dangerous weapons or means. The prosecution is further able to prove that in furtherance of its common object the mob also, with the intention to kill victims, threw them from first floor to ground, which caused the death of Mr. Hardev Singh and Mr. Avtar Singh. It further caused injuries to other victims with such intention or knowledge and under such circumstances that if the victims Sangat Singh, Kuldip Singh and Surjeet Singh, had died, each member of unlawful assembly would have been guilty of murder. The unlawful assembly mob further looted the goods from the house of Surjeet Singh and shops of Mr. Sangat Singh, Mr. Kuldeep Singh and Mr. Hardev Singh, set the house and shops on fire, at that time accused Naresh Kumar being part of the unlawful assembly was also carrying a can of Kerosene oil which he had poured over the door of the above said house. Accused Yashpal also lit matchstick to ignite fire.

163. Hence, both accused persons were active members of unlawful assembly and committed the offences of :-house breaking after preparation for hurt, assault or wrongful restraint u/s 452 IPC; murder u/s 302 IPC; attempt to murder u/s 307 IPC; voluntarily causing hurt with dangerous weapons or means u/s 324 IPC; dacoity u/s 395 IPC; mischief by fire u/s 436 IPC, all read with section 149 IPC.

164. Both accused persons are accordingly held guilty for the offences u/s 324, 452, 436, 307, 302, 395 IPC, all read with section 149 IPC.

165. Before parting with this case this court appreciates and acknowledges the able and effective assistance rendered by learned Addl. PP Sh. S.K. Kain, learned Addl. PP Sh. Gaurav Singh for SIT, learned APP Sh. Surender Mohit Singh for SIT, IO of the case who presented himself on every date and learned defence counsel Sh. O.P. Sharma, for timely conclusion of trial.

166. Accused persons are taken into custody. Their bail bonds and surety bonds stands cancelled.

167. Copy of this judgment is being supplied to them immediately.
168. Let them be heard separately on the point of sentence.

Announced in the open court  
on the 14th day of November, 2018

AJAY  
PANDEY

Digitally signed by  
AJAY PANDEY  
Date: 2018.11.14  
14:29:02 +0530

**( Ajay Pandey )**  
Addl. Sessions Judge -04,  
New Delhi District, Patiala House Courts,  
New Delhi