

**In the Court of Dig Vinay Singh, Special Judge (PC Act) CBI-09,
MPs/MLAs Cases Rouse Avenue Courts, New Delhi**

SC No. 4/2022

FIR No. 227/1992

PS Janakpuri

CNR No. DLCT11-000578-2022

U/s 147/148/149/153A/295/436/395/307/302/120B of IPC.

State

Vs.

**Sajjan Kumar (Ex. MP)
S/o Ch. Raghunath Singh
R/o H. No. B-3/1, Mianwali Nagar,
Paschim Vihar, New Delhi**

Date of institution: 08.07.2022

Date of arguments: 22.12.2025

Date of judgment: 22.01.2026

JUDGMENT

FACTS

1. The above-named sole accused was charge sheeted (**in July 2022**) under two FIRs related to the 1984 Anti-Sikh Riots, under FIR No. 227/1992 of PS Janak Puri (dated 17.04.1992) and FIR No. 264/1992 of PS Vikas Puri (dated 25.06.1992). However, a common charge sheet was filed for both the FIRs. **The present judgment is directed in FIR No. 227/92 of PS Janakpuri only**, as the accused was discharged in the second FIR No. 264/1992 of PS Vikas Puri. These FIRs lodged in 1992 pertained to incidents of arson, looting, and murder that occurred after the assassination of the late Prime Minister Smt. Indira Gandhi on 31.10.1984.

The accused was charge-sheeted for offences under sections 147/148/149/153-A/295/395/436/307/302 & 120-B of the IPC.

- 1.1. **In 1985**, the Government of India established the Justice Rangnath Misra Commission of Inquiry to investigate allegations of violence in Delhi that followed the death of Smt. Indira Gandhi. During this inquiry, an **affidavit** was filed by Mr. Harvinder Singh, **dated 08.09.1985**.
- 1.2. His affidavit stated that on 01.11.1984, around 11.00 AM, a mob of 200-250 people arrived by a DTC bus and was led by some “*leader brand people*” in a white car and another red car. They attacked the Gurudwara in his neighbourhood, setting it on fire and looting it. When residents tried to extinguish the fire, the mob returned and attacked them with bricks, stones, and rods, injuring Harvinder Singh and his parents. The mob also attacked the house of Sardar Nath Singh, the President of the colony, looting household items and throwing his 15-16-year-old son, namely Gurucharan Singh, into a burning truck. The residents later rescued Gurucharan Singh. Harvinder Singh, his father Sardar Sohan Singh, and his brother-in-law sought refuge with an elderly Hindu woman, while his injured mother, Smt. Jaspal Kaur, was admitted to Rana Nursing Home.
- 1.3. He further stated in his affidavit that on 02.11.1984, in the morning, he, his father, and his brother-in-law rode bicycles they had borrowed. When they reached the Congress (I) Party office in Uttam Nagar at about 7.00 AM, a mob of 200-250 people surrounded them, beating them with rods and causing Harvinder Singh injuries to his head, leg, and hand. He managed to reach the Police Post, Uttam Nagar, and asked for help for his father and brother-in-law, but the police were reluctant. Around 3.15 P.M., S.P. arrived, bringing other injured people to the Police Post. Eventually,

Harvinder Singh and a few others were taken to Deen Dayal Upadhyay Hospital, Hari Nagar, Delhi, where they received treatment and were then sent back to the Police Post. Harvinder Singh further stated that 2-3 Constables were seen bringing looted articles into the Police Post, and the Police's attitude was carefree. During the incident, Harvinder Singh's brother-in-law, Avtaar Singh, and his father, S. Sohan Singh Kohli, lost their lives. Harvinder Singh became disabled.

- 1.4.** In 1990, the Delhi Administration formed the Justice J. D. Jain and Sh. D. K. Aggarwal Committee to review cases related to the 1984 Riots in Delhi. **The Committee reviewed Harvinder Singh's affidavit, recorded the statement of Harvinder and recommended registering two new cases,** noting that the incidents described had not been investigated or linked to the existing cases. The Committee also recommended that an independent agency investigate the matters rather than the local police. These recommendations were approved by the LG of Delhi, resulting in the registration of the two above-mentioned FIRs for those incidents, **as late as 1992.**
- 1.5.** Those FIRs were investigated by the Riot Cell of Delhi Police. Subsequently, **untrace reports** were filed, which were accepted on 05.01.1994 and 22.12.1992, respectively, qua the above mentioned two FIRs.
- 1.6.** Thereafter, in **December 2014**, the Government of India constituted the Justice G. P. Mathur Committee to address the need for a Special Investigation Team (SIT) for the 1984 Riots. The Committee was tasked with examining grievances, overseeing compensation, and determining additional assistance for victims.

- 1.7.** Based on the Committee's recommendations, the **SIT was established on 12.02.2015**. Its mandate was to re-investigate the serious criminal cases related to the 1984 Riots in Delhi that had been closed, to review the records afresh, and take measures for a thorough investigation, including filing charge sheets if sufficient evidence was found. The SIT office was then notified as a Police Station with jurisdiction over the entire National Capital Territory of Delhi. The SIT initiated investigations, issued Public Notices in leading newspapers across Delhi and Punjab inviting individuals and organisations with knowledge of the cases to provide evidence, and it also uploaded the case details to the Ministry of Home Affairs Website for widespread publicity.
- 1.8.** During its further investigation, the SIT examined the records of the two FIRs in question and, **in 2016, decided to restart the investigation** after informing the concerned Trial Courts at Dwarka District Courts.
- 1.9.** Efforts were made to locate Harvinder Singh, who was eventually found in Mohali, Punjab. His statement U/s 161 Cr.P.C was recorded on 05.09.2016, followed by a statement U/s 164 of Cr.P.C. In these statements, Harvinder Singh explicitly identified Sajjan Kumar, a Congress leader and accused in this case, as one of the individuals who led the mob on 01.11.1984. Harvinder Singh stated that the accused had visited their street and house multiple times because his (Harvinder's) father was a Congress worker, and that he recognised the accused very well. He also said that it was the accused who pointed towards the Gurudwara, after which the rioters attacked, looted and set it on fire. He recounted the events of both days, i.e. 01.11.1984 & 02.11.1984, including Police's reluctance to help. Harvinder Singh held the accused responsible

for the murder of his father and brother-in-law and urged that a case be filed against him. In his statement U/s 164 Cr.P.C recorded before SDJM, Mohali, Punjab, on 20.09.2016, Harvinder Singh confirmed his earlier statement U/s 161 Cr.P.C. He refused to come to Delhi to give his statement U/s 164 Cr.P.C alleging that he feared for his life from the accused, who was a very influential person in the then Congress Government.

- 1.10.** During further investigation, the SIT seized treatment documents and certificates for Harvinder Singh, his mother, Smt. Jaspal Kaur, and the death certificate of his father, S. Sohan Singh.
- 1.11.** The sisters of Harvinder Singh, namely Smt. Kawaljeet Kaur and Harjeet Kaur (widow of Avtaar Singh), as well as Smt. Jaspal Kaur (mother of Harvinder Singh), were also examined U/s 161 Cr.P.C. They too corroborated Harvinder Singh's version of events. Additionally, other witnesses were examined to corroborate the incidents. The statements of S. Manjeet Singh and Tejinder Singh, both sons of S. Nath Singh, were also recorded. They too corroborated Harvinder Singh's account of the incident, explicitly identifying the accused among the mob on 01.11.1984. Both Manjeet Singh and Tejinder Singh stated that their statements were never recorded during earlier investigations. They said that the accused directed the mob towards the Gurudwara, leading to looting, burning, and damage. Their father, who was Gurudwara Pradhan, and their family were attacked, their houses were burnt, and their belongings were looted. Their truck and scooter were set on fire, and their brother Gurucharan Singh was thrown into the burning truck, though neighbours saved him. Gurucharan Singh remained bedridden after the incident and later died on 17.02.2008,

allegedly due to his injuries. Tejinder Singh also sustained serious back injuries, resulting in Paralysis and being bedridden. Manjeet Singh provided certain photographs of the crime scene, medical/treatment documents for his father and brothers, and the death certificates for S. Nath Singh and Gurucharan Singh.

- 1.12.** Based on fresh statements from the individuals mentioned above, the SIT filed the charge sheet against the accused, asserting that the evidence gathered showed that the accused, who was then a Member of Parliament from Outer Delhi Constituency, had conspired to commit offences including spreading disharmony, rioting, arson, murder, & destruction of Sikh property, along with setting the Gurudwara on fire. The SIT concluded that the accused, along with 100-125 unidentified persons, formed an unlawful assembly for these common objects.
- 1.13.** After obtaining Prosecution Sanction U/S 196 of the Cr.P.C. for the offence U/s 153A of the IPC, the accused was charge-sheeted with the above-mentioned crimes.
- 1.14.** The two cases, for 01.11.1984 & 02.11.1984, were combined in the charge sheet, as they were seen by the Police as continuous parts of the same incident committed by the same group under the conspiracy orchestrated by the accused, despite falling under different Police Stations, and because both cases originated from the affidavit of Harvinder Singh submitted before Justice Rangnath Commission.

CHARGE

- 2.** The accused was discharged by the Ld. Predecessor Court for the second incident dated 02.11.1984, in FIR No. 264/1992 of PS Vikas Puri (dated 25.06.1992), vide order dated 23.08.2023, involving offences U/s 302 IPC

for murder of S. Sohan Singh and Avtaar Singh, and U/s 325 IPC for causing grievous injuries to the complainant Harvinder Singh. The discharge was based on the finding that there was no prima facie evidence connecting the accused to the second incident or the involved mob. Revision against the said order is stated to be pending before Hon'ble Delhi High Court.

3. For the **first incident dated 01.11.1984, in** FIR no.227/92 of PS Janakpuri, **charges were framed** against the accused by the Ld. Predecessor Court for offences U/s 147/148/149/153A/295/307/308/323/325/395/436 of IPC. Alternatively, the accused was also charged with abetment of the above offences U/s 109/114 of IPC. **The accused pleaded not guilty to the charges and claimed a trial.**
4. After framing of charges, on 21.09.2023 the accused admitted FIR no. 264/1992 of PS Vikaspuri, FIR no.227/92 of PS Janakpuri, Handing/ Taking Over Memo of dated 28.04.2016, Handing/ Taking Over Memo dated 16.11.2016, and Hindi translated version of statement u/s 164 Cr.PC of Harvinder Singh, which were given *Ext.*AD/1 to AD/5, respectively. In response to this admission and in response to the fact that charge was not framed against the accused qua the incident dated 02.11.1984, some of the witnesses were dropped by the prosecution and the Court.

EVIDENCE, STATEMENT OF ACCUSED & DEFENCE EVIDENCE

5. In support of its case, the Prosecution examined a **total of 18 witnesses** as follows.

Prosecution Witness No.	Name of Witness	Description
PW1	Dr. S.K.Sharma	Formal witness
PW2	Dr. Anil Mehtani	Formal witness
PW3	Ms. Manjit Kaur	Eye-witness
PW4	Sh. Tilak Raj Narula	Eye-witness
PW5	Sh. Inderjeet Singh	Eye-witness
PW6	Smt. Harjeet Kaur	Eye-witness
PW7	Mr. Gur Pal Singh	Formal witness
PW8	Sh. Kuldeep Singh	Formal witness
PW9	Sh. Manjit Singh	Eye-witness
PW10	Dr. Rakesh Kumar Sharma	Formal witness
PW11	Sh. Tejender Singh	Eye-witness
PW12	Dr. Satbir Bedi	Formal witness
PW13	Smt. Kawaljeet Kaur	Eye-witness
PW14	Sh. P.S.Panch Pal	Formal witness
PW15	Sh. V.N.Dixit	Formal witness
PW16	Sh. Satish Kumar	Inspector, SIT
PW17	Ms. Balwinder Kaur Dhaliwal	Formal witness
PW18	Anil Kumar	Investigation Officer

- 5.1.** From the witnesses listed above, the public witnesses regarding the incidents are **PW3 to PW9, PW11, & PW13**. Their testimonies will be discussed later at the appropriate stage to avoid repetition. The other witnesses are more or less formal in nature.
- 5.2.** **PW1 Dr. S. K. Sharma** could not prove anything because the relevant medical records had been weeded out by the time they were requested from DDU Hospital.
- 5.3.** **PW2 Dr. Anil Mehtani** proved an OPD slip dated 13.12.1984 *Ext.* PW2/A for a patient named S. Nath Singh. It may be clarified here that

there seems to be an inadvertent error in the medical records proved by this witness where the name of patient is mentioned as Amarnath Singh in the OPD slip, but as Nath Singh in the Discharge Ticket. He testified that this patient was admitted to RML Hospital, Delhi on 06.11.1984 and discharged on 12.11.1984. The patient had suffered fractures of both forearm bones, fractures of the third & fourth metacarpals on the right side, and a burn to the chest. The discharge ticket was marked as Mark PW2/1.

- 5.4. PW10 Dr. Rakesh Kumar Sharma** was an orthopedic surgeon at DDU Hospital in 1984. He deposed that he issued a medical certificate, Mark PW10/1, concerning the complainant, Harvinder Singh Kohli, who had suffered fractures in both hands and the right shoulder. Later, on the request of the Investigating Officer (IO) in 2019, he replied to the IO under *Ext.* PW10/A, opining that the injuries suffered by the complainant were grievous.
- 5.5. PW12. Dr. Satbir Bedi** simply wrote a letter (*Ext.* PW12/A) to the Commissioner of Police, Delhi, on 06.04.1992, requesting the registration of new cases. Along with the letter, the witness attached the complainant's original affidavit, *Ext.* PW11/D3; the complainant's statement dated 22.11.1991, given before Justice J. D. Jain and the Aggarwal Committee, *Ext.* PW12/C; and a copy of a letter dated 07.02.1992 written by S. L. Chopra, *Ext.* PW12/B.
- 5.6. PW14 P. S. Panch Pal**, retired MLO, confirmed the registration certificate of the truck with registration no. DLL 8770, owned by S. Nath Singh's family. He also stated that the ownership of the scooter with registration no. DLU 8150 could not be found in the records.

- 5.7. PW15 V. N. Dixit** proved the statement of the complainant Harvinder Singh recorded by this witness on 22.11.1991 *Ext.* PW12/C, when the witness was working with Justice J. D. Jain and D. K. Aggarwal Committee.
- 5.8. PW16 Inspector Satish Kumar** proved the Sanction against the accused *Ext.* PW16/A dated 23.06.2022.
- 5.9. PW17 Ms Balvinder Kaur Dhaliwal** recorded the statement U/s 164 Cr.P.C of the complainant Harvinder Singh Kohli on 20.09.2016, when she was serving as Sub Divisional Judicial Magistrate (SDJM) in Mohali, Punjab. She marked the photocopy of the statement as Mark 17/A and her certificate as Mark 17/B. The original statement of the complainant was not proved by the Prosecution.
- 5.10. PW18 ACP Anil Kumar**, the investigating officer, testified about the investigation conducted in the case, including the recording of witnesses' statements after locating the complainant and his family members, as well as the family members of S. Nath Singh and others. Since the investigation carried out by the current investigating officer was conducted several decades after the incident and after the SIT was formed in 2015, no scientific evidence could be gathered by the IO. There is no need to burden this judgment with the detailed investigation sequence described by PW18. It suffices to note that PW18 was assigned this investigation on 08.07.2016, and thereafter he traced the witnesses, recorded their statements, and collected documents such as treatment records, death certificates, and photographs of the victims and the crime scene, under various seizure memos. He also inquired about the ownership details of the truck and scooter shown in the photographs provided by Manjeet

Singh, and collected medical records from different hospitals. The IO further testified about preparing a site plan, obtaining Sanction U/s 196 Cr.P.C, collecting records of the two FIRs, interrogating the accused, followed by his formal arrest as the accused had been granted anticipatory bail, conducting a polygraph test on the accused, and verifying various documents.

6. After the Prosecution's evidence, all the incriminating pieces of evidence were put to the accused U/s 351 of the BNSS, 2023 (Sec 313 of the Cr.P.C.). The accused denied the evidence against him and claimed he was neither present at the scene at the time of the incidents nor involved in them. He asserted that he had been falsely implicated in this case by his opponents for political reasons. He further asserted that he had not been named by any of the victims, their family members, or any eyewitnesses for decades, and that he was named for the first time only in 2016, i.e., 32 years after the incident, which he claims indicates he has been wrongly implicated.
7. The accused chose to present evidence in his defence and examined four defence witnesses.
- 7.1. **DW1 Shri Bhagwan** from the Newspaper Publication House Navbharat Times (Hindi) was examined to prove three news articles published on 05.11.1984, 08.11.1984 & 10.11.1984, respectively (*Ext.* DW1/2 to 4). These news articles mention a Peace March and Blood Donation by the accused.
- 7.2. **DW2 Dr Vijay Vats** from the Indian Red Cross Society was examined to prove that the accused donated blood during the aftermath of the Anti-Sikh riots.

- 7.3.** DW3 Dr. Bala Krishan Chetry from Newspaper Publication House Hindustan (Hindi) was examined to similarly prove certain news articles *Ext.* DW3/2 to 5 to show that Peace March were organized by the accused or that he participated in the same. These news articles are dated 05th, 08th, 09th, 10th of November, 1984.
- 7.4.** DW4 Pranava Priyadarshi is examined to prove a certificate U/s 63 of the BSA *Ext.* DW4/1, in support of the news articles proved by DW1, which are also proved by the witness as *Ext.* DW4/2 to 4.
- 8.** It is well-settled law that newspaper articles are not admissible as evidence, as they fall within the hearsay rule. Admittedly, neither DW1 nor DW3 nor DW4 were the reporters concerned, who might have observed or perceived the facts through their senses. They simply proved the relevant edition of the newspaper containing the news articles. The reporters have not been examined. Therefore, those newspaper reports cannot be given any weight.
- 8.1.** In the case of *Laxmi Raj Shetty and Anr. Vs. State of Tamil Nadu, reported in (1988) 3 SCC 319*, the Supreme Court, while examining the issue of admissibility of newspaper report, observed as follows:
- "..... We cannot take judicial notice of the facts stated in a news Item being in the nature of hearing secondary evidence, unless proved by evidence allunde. A report in a newspaper is only hearsay evidence. A newspaper is not one of, the documents referred to in Section 78(2) of the Evidence Act, 1872 by which an allegation of fact can be proved. The presumption of genuineness attached under Section 81 of the Evidence Act to a newspaper report cannot be treated as proof of the facts reported therein.*
- 8.2.** Even otherwise, had it been proved that the accused participated in Peace Marches, organised them, donated blood, or organised blood donation camps post the occurrence of riots, it cannot belie or belittle his

involvement, if he were involved in any of the occurrences during the riots. An accused may participate in a crime and then, after the crime, shed crocodile tears or organise such Peace Marches or Blood Donation Camps, but the Court would confine itself to determine whether the accused actually participated in the crime. His conduct post the occurrence shall have to be ignored. If such subsequent conduct is to be given any weight, any criminal may resort to such practices by initially committing the crime and then later presenting himself as a messiah. Therefore, in this case the only thing this Court would look into is whether the accused in any manner participated in the riots or was himself physically present during the riots, either instigating the mob or in any other manner.

8.3. Therefore, the testimonies of all four defence witnesses do not aid the accused in his defence in any manner.

9. The final arguments as presented by Ld. SPP for the State Sh. Manish Rawat, as well as Ld. Senior Counsel Sh. H. S. Phulka, for the complainant, and Ld. Counsel Sh. Anil K. Sharma for the accused, was heard.

SUBMISSIONS OF THE TWO SIDES

10. The **Prosecution argues** that despite the initial lodging of a common FIR regarding the incidents of Anti-Sikh riots in the area concerned, the specific grievances of the families of S. Nath Singh and S. Sohan Singh were not investigated until later Committees & Commissions, eventually leading to the formation of SIT in 2015. The Prosecution places heavy reliance on the fact that the defence has not cross-examined various witnesses or the defence did not challenge the core facts of the incidents, such as the looting and burning of the Nath family's property or the

injuries sustained by the victims. Relying on the precedent of *Sarwan Singh Vs. State of Punjab (2003) 1 SCC 240*, Ld. Prosecutor argues that the failure to cross-examine the witnesses on these issues implies an admission of the Prosecution's evidence. Citing the case of *Mahavir Singh Vs. State of Haryana (2014) 6 SCC*, it is contended that the legality or correctness of a fact cannot be questioned later if the witness was not cross-examined on the specific points during the trial. The prosecution also argues that the medical evidence presented by PW1, PW2 & PW10 and the medical certificates proving the grievous injuries and head trauma suffered by the victims is not disputed by the defence. To prove the specific role of the accused as an instigator, the Prosecution relies on the testimonies of PW9 Manjeet Singh and PW3 Manjeet Kaur, who identified the accused at the scene, leading the mob. Ld. The prosecutor argues that the statement of PW3, who heard from the crowd that the accused was present, is admissible under S. 6 of the Indian Evidence Act, as *Res gestae* evidence. In this regard, reliance is placed by the Ld. Prosecutor upon the case of *Balu Sudam Khalde & Anr. Vs. State of Maharashtra 2023 LiveLaw (SC) 279*, wherein it is held that spontaneous utterances made during or immediately after an incident forming part of the same transaction are relevant. Ld. Prosecutor argues that further corroboration is provided by witnesses from Sohan Singh's family, including PW6 Harjeet Kaur and PW11 Tejinder Singh, who saw the accused at the spot in a white car leading the mob. The prosecution claims that their testimonies are natural, coherent and mutually corroborative, especially regarding the destruction of the Gurudwara, and in this regard, reliance is placed upon the case of *Nitya Nand Vs. State of U.P.*

2024:INSC:655 and Haribhau @ Bhausahab Dinkar Kharuse & Anr. Vs. State of M.P. 2025:INSC:1266 to support the credibility of these victim testimonies. It is also argued that the independent witnesses further corroborated the events, such as PW4, who provided bicycles to transport the injured to the hospital, and PW14, who confirmed the ownership of the burnt truck. The State argues that the accused's defence witnesses should be disregarded as they are not proved according to law and is hearsay, which has already been addressed by this court above. In conclusion, the prosecution argues that the case against the accused has been proved beyond a reasonable doubt. Relying on the case of *Pappu Tiwary Vs. State of Jharkhand, Crl. Appeal No. 1492 of 2021*, decided by the Hon'ble Supreme Court on 31.01.2022, it is argued that the Court should not find excuses for acquittal. Finally, the Prosecutor points to the accused's previous convictions in similar riot-related cases, including the judgment in *State Vs. Sajjan Kumar and Ors. 2018 SCC OnLine Del 12930*, as relevant for his involvement in the 1984 violence. Prosecution argues that the incidents in the 1984 riots were not merely isolated, but were a systemic assault where the accused's role as an instigator acted like a spark in a dry forest, turning a gathered mob into a directed force of destruction against specific targets. The Prosecution also urges the Court to consider the following circumstances when appreciating the testimonies of the victims:

- *The victims were severely beaten and injured.*
- *Sohan Singh and Avtar Singh were murdered.*
- *Their homes and properties were damaged and destroyed.*
- *Police officials did not provide immediate help.*
- *There was no prior enmity between the victims and the accused, removing the motive for false implication.*

- *A significant amount of time has passed between the incident and the court depositions.*
- *The age of the witnesses at the time they gave their testimony.*
- *The significant trauma experienced by the victims and witnesses during both the investigation and the trial.*

- 11.** Additionally, the **counsel for the complainant** relied upon the case of *Sajjan Kumar Vs. CBI 171 (2010) DLT 120*, wherein the Hon'ble Delhi High Court, while considering the approach of the Court at the time of framing of charge, made certain observations in the facts and circumstances of that case.
- 11.1.** Complainant also relies upon the case of *State Vs. Sajjan Kumar and Ors. 2018 SCC OnLine Del 12930*, wherein, in a similar incident of anti-Sikh riots that occurred in a different area and constitutes a distinct offence, the Hon'ble Delhi High Court, while overturning the Trial Court's acquittal, made various observations.
- 11.2.** The complainant also relies on the case against this very accused in another incident, in which the Ld. Predecessor of this Court convicted the accused in Sessions Case No. 03/21 by judgment dated 12.02.2025.
- 11.3.** The complainant also relies on the case of *Govt. of Peoples Republic of Bangladesh Vs. Abdul Quadar Molla LEX/BDAD/0004/2013*, decided on 17.09.2013 by the Supreme Court of Bangladesh (Appellate Division).
- 11.4.** The complainant also relies upon the case of *Prith Pal Singh Vs. State of Punjab (2012) 1 SCC 10 and Dulichand Vs. State, 1997 (43) DRJ (DV)* from Delhi, to point out that the police did not perform its duties during riots, which led to the setting up of various commissions of inquiry, therefore, the omissions and improvements have to be seen in the light of the peculiar circumstances of that case, and undue significance cannot be

attached to defects in the investigation if, otherwise, the prosecution has been successful in proving its case beyond reasonable doubt.

- 11.5.** The complainant also relies on the case of *Narayan Chetanram Chaudhary and Anr. Vs. State of Maharashtra (2000) 8 SCC 457*.
- 11.6.** Attention of the Court is also drawn to certain orders passed by the Hon'ble Supreme Court in the case of *S. Gurlad Singh Kahlon vs. Union of India WP (Crl) 9/2016* regarding improper investigations, reopening of cases, and scrutiny of various cases by a supervisory Board comprising former Supreme Court judges to examine the cases that had been closed and whether there was any justification for closing them, etc.
- 11.7.** The complainant also relies on *Anthony Sawoniuk (2000) 2 Cr. App. R. from the United Kingdom Court of Appeal; Antonio Cassese and Ors., International Criminal Law, Critical Concepts in Law, 2015 (1st Edition); and Pieter N Drost, The Crime of State- Panel Protection for Fundamental Freedoms of Persons and People, 1959*.
- 12.** On the other hand, Ld. Counsel for the **accused** contended that the case against the accused is the result of manufactured accusations for political reasons and gross embellishments.
- 12.1.** He argues that the investigation can be divided into three phases, and throughout the first two phases, spanning 1984 to 2014 (i.e., 30 years), the accused was never named by any witness or the complainant. It is further argued that neither in the affidavit filed by the complainant before the Justice Rangnath Commission in 1985, nor in his statement recorded before Justice J. D. Jain and the Aggarwal Committee in 1991 did the complainant mention the accused's involvement. It is also argued that the investigation conducted by the Anti-Riot Cell, which included statements

from 26 witnesses, including family members of the deceased, did not implicate the accused. The Courts had previously accepted Untrace Reports in both the FIRs.

- 12.2.** It is argued that the SIT conducted a de novo or reinvestigation under the guise of further investigation, which is legally impermissible without an order from a higher court. Citing the precedent of *Vinay Tyagi Vs. Irshad Ali @ Deepak and Ors. AIR 2013 SCW 220*, it is argued that the power to direct a fresh or further investigation does not vest with a Magistrate, and further investigation U/s 173(8) of Cr.P.C has to be limited to discovering fresh evidence in continuation of the original case, rather than revisiting the same witnesses to obtain altered versions.
- 12.3.** It is argued that PW3, PW6, PW9 & PW11 named the accused for the first time in 2016, i.e., after a delay of 32 years. It is argued that there is no plausible explanation for this huge delay. Citing *State of Punjab Vs. Bawa Singh (2015) 3 SCC 441*, it is argued that there is a strong suspicion of false implication as delay in naming accused is not explained, indicating that the allegations are an afterthought.
- 12.4.** Besides, inconsistencies in the testimonies of the witnesses are claimed, arguing that they demonstrate fabrication. For instance, PW9, who claims to be an eyewitness in 2016, made no mention of the accused in his original complaint in 1984. Similarly, PW13 was declared hostile as she did not support the Prosecution's narrative regarding the involvement of the accused or the injuries.
- 12.5.** It is argued that the testimonies of PW3, PW5, PW7 & PW8 are hit by the principle of hearsay, as they were based on what they supposedly heard

from the crowd or public persons, and it is claimed that the same does not fall within the principle of *Res gestae* as it was not a spontaneous reaction.

- 12.6.** The accused also relies on his Polygraph test, which did not support the Prosecution. Qua this, it is also argued that although the Prosecution sought this scientific method to prove its case, they chose to keep the Polygraph test result as unreliable once the test failed to support the Prosecution.
- 12.7.** Finally, the defence argues that the fundamental legal principle is the presumption of innocence of an accused, and that the Prosecution has failed to prove its case beyond reasonable doubt. In this regard, the accused also relies upon the case of *Jacob Mathew Vs. State of Punjab 2005 Crl LJ 3710*, and *Dilavar Hussain Vs. State of Gujarat AIR 1991 SC 56*.
- 12.8.** The accused relies upon the case of *Somasundaram @Somu Vs. State AIR 2020 SC 3327*, on the point that a statement u/s 164 Cr.PC of a witness cannot be used as substantive evidence in the absence of examination of the person in the trial. There can be no dispute with the said legal position.
- 12.9.** The accused also relies upon the case of *Dilavar Hussain (supra)*, wherein it is held that sentiments or emotions, however strong, are neither relevant nor have any place in a Court of law. Acquittal or conviction depends on the proof or otherwise of the criminological chain, which invariably comprises why, where, when, how, and who. Each knot of the chain has to be proved beyond the shadow of a doubt to bring home the guilt. Any crack or loosening in it weakens the prosecution, and each link must be consistent with the only conclusion that the accused is guilty. It is also held by the Supreme Court that the credibility of the witnesses has to be

measured with the same yardstick, whether it is an ordinary crime or a crime emanating due to communal frenzy. The law does not make any distinction either in the leading of evidence or in its assessment. The rule is one and only one, namely, if depositions are honest and true. Whether the witnesses who claim to have seen the incident would be the issue.

- 12.10.** The accused also relies upon the case of *Harendra Sarkar Vs. State of Asaam AIR 2008 SC 2467*, wherein it is held that the Courts, in order to do justice between the parties, must examine the materials brought on record in each case on its own merits. Marshaling and appreciation of evidence must be done strictly in accordance with law; the provisions of Cr.PC and Evidence Act must be followed. Simply because an offence is committed during a communal riot, the provisions of Cr.PC and Evidence Act cannot be applied differently vis-à-vis an ordinary case. They are meant to be applied in all situations. Appreciation of evidence must be on the basis of materials on record and not on the basis of some reports which have nothing to do with the occurrence in question. It was also held that only because in some parts of the country police investigations attracted severe criticism, the same in no manner should be applied in all the cases across the country. Each accused person, even if a terrorist, has his human right and must be tried in accordance with law. The right to a fair trial of an accused requires that his case must also be examined keeping in view the ordinary law of the land. It is also held that an accused cannot be made to suffer punishment in view of the past experience, and an accused cannot be held guilty without material on record simply because of the past experience. The Supreme Court held that in such cases the norms of appreciation of evidence cannot be applied differently. It is also held that,

save and except those cases where the statute applies the doctrine of reverse burden, the Courts cannot employ the same, and doing so would be violative of the Universal Declaration of Human Rights and also a breach of the fundamental right of an accused under Article 21 of the Constitution of India. It is also held that the presumption of innocence is a human right which cannot be thrown aside under any situation.

- 12.11.** The accused also relies upon the case of *Kailash Gour and Ors. Vs. State of Asam AIR 2012 SC 786*, wherein it is also held that one of the fundamental principles of criminal jurisprudence is that an accused is presumed to be innocent till he is proved to be guilty. Suspicion, however strong, can never take the place of proof. There is a long distance between an accused ‘may have committed the offence’ and ‘must have committed the offence’, which must be traversed by the prosecution by adducing reliable and cogent evidence. The presumption of innocence has been recognized as a human right which cannot be wished away.
- 12.12.** On the point of distinction between further investigation and reinvestigation, the accused relies upon the case of *Vinay Tyagi (supra)*, and the case of *Robert Lalchungnunga Chongthu Vs. State of Bihar 2025:INSC:1339*. In the latter case, it was also held that a prolonged investigation of over a decade violates the right to speedy trial.
- 12.13.** The accused also relies upon the case of *Mohammad Wajid and Anr. Vs. State of UP and Ors. AIR 2023 SC 3784*, wherein in a quashing petition it was held that the past criminal record of the accused and his antecedents were immaterial.
- 12.14.** The accused also relies upon the case of *Allauddin and Ors. Vs. State of Assam and Ors. 2024:INSC:376*, wherein the evidence of that matter

stood appreciated and no reliable evidence was found. The said case is completely distinguishable on facts.

- 12.15.** Reliance placed by the accused on the case of *Tehsildar Singh and Anr. Vs. State of UP AIR 1959 SC 1012* is on the point as to what are omissions and contradictions in terms of Section 145 of IEA and Section 162 of Cr.PC.
- 12.16.** Reliance is also placed by the accused on the case of *S. K. Yusuf Vs. State of West Bengal AIR 2011 SC 2283* on the point that in a case of circumstantial evidence the Court must bear in mind that the prosecution's case must stand or fall on its own legs and it cannot derive any strength from the weakness of the defence, and that all the circumstances ought to be established fully so as to complete the chain pointing out that the accused committed the offence.
- 12.17.** The accused also relies upon the case of *Brahma Nand Gupta Vs. Delhi Administration 41 (1990) DLT 212 (Division Bench)*, relying on para 52 of the said decision to lay stress on the point that the committee was not authorized to accept or act on any fresh allegations against individuals pertaining to the incidents of rioting in 1984. This decision of the Hon'ble Delhi High Court was upheld by the Hon'ble Supreme Court when it dismissed the appeal on 08.02.1996 in Civil Appl no. 38/1990.
- 12.18.** The accused also relies upon the case of *Sajjan Kumar Vs. CBI (2010) 9 SCC 368*, wherein the Hon'ble Supreme Court expunged the observations in the case of *Sajjan Kumar Vs. CBI 171 2010 DLT 120*. This is in response to the reliance by the complainant on the latter case.
- 12.19.** The accused also relies upon the case of *Shakti Singh and Anr. 1995(57) DLT 731* to point out that even after conviction of the accused in that case

arising out of the riots in 1984, one of the deceased victims was later found alive, and, qua him, the conviction had to be overturned. The accused also relies upon the order of appeal of the Hon'ble Supreme Court in the case of *Shakti Singh, under Crl. Appl no. 86 of 1996 titled as Delhi Administration Vs. Shakti Singh and Anr., dated 10.04.1996*, wherein it is observed that the statement of witnesses, for the first time made in the Court, that the respondents were part of the mob, was rightly not accepted by the High Court in a serious charge u/s 302 of IPC, which would have visited the respondents with the sentence of at least life imprisonment.

- 12.20.** Lastly, the accused relies upon the case of *Hoor Begum Vs. State (NCT of Delhi) 2011 (3) JCC 2131*, that there is a distinction between further investigation and reinvestigation. While reinvestigation would mean revisiting the evidence which has already been collected by the investigating agency, which is not permissible within the domain of further investigation u/s 173 (8) of Cr.PC, further investigation would mean to investigate the matter further from the point where it was left in the previous investigation.

ANALYSIS, REASONING AND CONCLUSION

- 13.** It may be mentioned here that it is well settled that it is one of the fundamental principles of criminal jurisprudence that an accused is presumed to be innocent till he is proved to be guilty. It is also well settled that suspicion, however strong, can never take the place of proof. There is a long distance between the fact that the accused 'may have committed the offence' and 'must have committed the offence', which is to be proved by the prosecution by adducing reliable and cogent evidence. The presumption of innocence is recognised as a human right which cannot be

wished away. (*Refer; Narender Singh & anr. Vs. State of M.P. (2004) 10 SCC 699; Ranjtsingh Brahamjeet Singh Sharma Vs. State of Maharashtra & Ors. (2005) 5 SCC 294; Ganesan Vs. Rama S. Raghuraman & Ors. (2011) 2 SCC 83 and; State of U.P. Vs. Naresh & Ors. (2011) 4 SCC 384; State Vs. Gulzari Lal Tandon AIR 1979 SC 1382*).

14. Here, it becomes appropriate to discuss the **testimonies of the eye witnesses/victims /public witnesses, to find out whether they or any of them is reliable enough as to the presence and/or the participation of the accused in the crime.** As mentioned above, other witnesses are formal, and their testimonies have also been briefly addressed above.
15. **PW3 Manjeet Kaur**, daughter-in-law of Sardar Nath Singh, testified about the incident on 01.11.1984. She stated that on that day, at Gulab Bagh in Navada, Delhi, a mob gathered around 10:00 AM, and the Gurudwara there was damaged. The mob then attacked her house, where she was living with her family, including her mother-in-law, father-in-law S. Nath Singh, husband S. Trilochan Singh, and brothers-in-law S. Manjit Singh, S. Pritpal Singh, S. Tajender Singh, and S. Gurcharan Singh. Her brother-in-law, S. Gurcharan Singh, was thrown alive into a burning truck but was later saved. However, he remained bedridden until he died in 2008. Her father-in-law, S. Nath Singh, was severely beaten with iron and burning rods, sustaining multiple injuries. Her husband, S. Trilochan Singh, was brutally beaten with wooden sticks, and his legs had to be plastered, leaving him barely able to walk. Her brother-in-law, S. Manjit Singh, was also beaten, suffering ear injuries. Her brother-in-law, S.

Tajinder Singh, was mercilessly beaten, sustaining spinal injuries, becoming paralysed, and remaining bedridden until his death about five years before her testimony. She also deposed that she later learnt that S. Sohan Singh Kohli, a neighbour of hers, and his son-in-law were taken away by the mob and killed.

- 15.1.** She did not personally witness the incident involving S. S. Kohli and his son-in-law, so her account is barred by hearsay principles. **She admitted she did not see the accused at the scene and said the mob was large, with outsiders arriving by truck, not from their area. Regarding the accused, she heard his name from others in the crowd. She also stated that before 2016, she and her family had never mentioned the accused's name.** Although she claimed to have told the police everything she saw and heard, her testimony clearly shows that she did not see the accused at the scene on 01.11.1984.
- 15.2.** She explained that she had not named the accused earlier because the police had never recorded her statement. When confronted with a statement dated 17.12.1992 (Mark PW3/D1), which she allegedly made to Delhi Police Riots Cell officials, she denied making that statement. **Even if it is assumed that her pre-2016 statements, particularly the one dated 17.12.1992, were not recorded, her testimony clearly shows that she did not see the accused herself at the scene on 01.11.1984. This makes her testimony regarding the accused's presence inadmissible under the hearsay rule.**
- 15.3.** Her testimony would have been admissible under Section 4 of the Bharatiya Sakshya Adhinyam, 2023 (BSA) (corresponding to Section 6 of the Indian Evidence Act, 1872) if her account met the criteria for '*res*

gestae’ evidence. To qualify, it must be shown that what was said or heard occurred during or near the incident, which is not clearly established here. In simple terms, for a statement to be relevant under this provision, it must be made concurrently with or immediately after the relevant fact and in relation to it. **If there is a delay between the fact and the statement, it cannot be regarded as part of the “*res gestae*” doctrine.** The key criterion for admissibility under “*res gestae*” is whether the statement is sufficiently linked to the fact to form part of the same transaction. To understand “*res gestae*,” one has to consider whether the fact can be described as being “created at the same time as the event,” consists of “actions directly connected to the fact,” or involves “acts seen as part of the event,” such as exclamations of pain, requests for help, expressions of disbelief, cautioning, or spontaneous reactions like shouting or crying out about the fact. These natural responses occur spontaneously at the moment. (*State of Maharashtra v. Kamal Ahmed Mohammed Vakil Ansari, (2013) 12 SCC 17*).

15.4. PW3 stated she heard the accused’s name from others in the crowd. However, she did not clarify whether she heard it during the occurrence, immediately thereafter, or after a sufficient gap. It remains unclear whether she heard the name during or immediately after the occurrence, or only after a sufficient interval. This makes her testimony not admissible as ‘*res gestae*’.

15.5. Her claim that she heard the name of the accused from others in the crowd is uninspiring for the reason that if she heard it at the time of the incident, she remained quiet for three decades. Even in her first statement dated 21.10.2016, even after 32 years, the accused was not

named, and only in the second statement dated 23.11.2016 was he mentioned. She admitted that the name of the accused did not appear in her statement dated 21.10.2016, but it was only recorded in her second statement on 23.11.2016. She clarified that her family also mentioned the accused's name only in 2016.

15.6. If they had seen the accused at the scene or heard his name at the time of the incident, it raises questions about why the accused was not named before 2016. Even if her statement was not recorded prior to that year, her family could have informed higher authorities, but they did not. Moreover, even in 2016, the accused was not named in her first statement dated 21.10.2016; he was only named in the second. **It is puzzling why PW3 would not have named the accused in her initial statement if it was her first-ever statement.**

15.7. **Accordingly, this court finds PW3 unreliable as to the presence of the accused or his participation in the crime.**

16. **PW 4, Tilak Raj Narula**, is another alleged eyewitness to the incident, **but his testimony is of no help to the prosecution for the following reasons.**

16.1. **He neither witnessed the occurrence nor named the accused.** He stated that on 02.11.1984, the complainant, Harvinder Singh @ Shammi, a neighbor, came to borrow two bicycles to take his injured father to the hospital during the riots. PW 4 first advised the complainant to ensure a safe passage. As the complainant couldn't do this himself, he asked PW 4 to accompany his sister, Ms. Kanwaljeet Kaur, to verify the route. They then cycled to Janak Puri, found no rioters or danger en-route, and

returned. Later, PW 4 provided two bicycles to the complainant, who, along with his father, brother- in- law, and PW 4' s servant, Ajit, headed towards Janak Puri. Subsequently, Ajit returned and informed PW 4 that in Uttam Nagar, the rioters had surrounded them, causing Ajit to flee, and that he didn' t know what had happened to the complainant, his father, or his brother- in- law.

- 16.2.** PW 4 later learned that the complainant' s father and brother- in- law had been killed by the rioters. PW 4 testified that, due to fear and the tense situation, most people remained hidden in their homes.
- 16.3.** PW 4 couldn't provide any further testimony, and after that, he was cross-examined by the learned prosecutor, who declared him hostile. During cross-examination by the learned prosecutor, PW 4 confirmed that riots broke out in their area on 01.11.1984, targeting only shops and houses belonging to the Sikh community. He was unsure whether the houses of Sohan Singh and Nath Singh had been attacked. He later heard that Nath Singh' s house was attacked, and he also learned of an attack on the local Gurudwara, Nath Singh's truck being set on fire, and his son being thrown into the burning truck.
- 16.4.** **PW 4 did not testify that the accused was present at the scene or that he saw the accused on 01.11.1984. His statements regarding the attack on the Gurudwara, the houses of Sohan Singh and Nath Singh, and the burning of Nath Singh's truck, including his son being thrown into it, are barred by hearsay. His testimony cannot even be considered U/s 4 of BNSS.**
- 16.5.** **Accordingly, even PW 4 does not prove the presence of the accused or his participation in the crime.**

17. **PW5 Inderjeet Singh**, similarly, did not witness the incident himself and did not testify against the accused. **He neither witnessed the occurrence nor named the accused. Even his testimony is affected by the hearsay rule.**
- 17.1. He stated that on 01.11.1984, he **heard** from members of the public that rioters damaged and set fire to the Gurudwara and attacked Nath Singh's house, and that Nath Singh's truck was set on fire, with his son being thrown into the burning truck. He claimed ignorance about whether Sohan Singh's house was attacked by the rioters.
- 17.2. **Even PW5 did not depose that whatever he heard from members of the public about the incident was concurrent with the occurrence or immediately thereafter, or that it was heard after a sufficient gap. His testimony cannot even be considered U/s 4 of BNSS.**
- 17.3. **Therefore, the testimony of PW5 is also of no help to the prosecution.**
18. **PW7, Gur Pal Singh**, is also of no assistance to the Prosecution. **He too neither witnessed the occurrence nor named the accused.**
- 18.1. He was not even living in Mohan Garden at the time of the incident. He moved there in 2004/2005. Before that, he resided in Sudarshan Park near Moti Nagar, Delhi.
- 18.2. He stated that his area was safe and that he experienced no riots during that period, remaining confined to his house or the locality. Mohan Garden is located 12-13 km away from his residence. He began volunteering at the Gurudwara in Mohan Garden in 2014. **Through conversations with the 'Sangat' (public visitors or volunteers to Gurudwara), he learned**

about the events during the 1984 riots concerning the Gurudwara. He claimed that rioters looted the Gurudwara at Mohan Garden on 01.11.1984 and set it on fire.

18.3. Therefore, even PW7's testimony does not aid the Prosecution in any manner. He neither witnessed the crime first-hand nor saw the accused at the scene. His testimony cannot even be considered U/s 4 of BNSS.

19. PW8 Kuldeep Singh, similar to PW7, did not witness the crime and gave hearsay testimony. He too neither witnessed the occurrence nor named the accused.

19.1. PW8 stated that he has been living in Mohan Garden since 1995/1996, prior to which he lived in Karol Bagh. During the anti-Sikh riots in Delhi in 1984, PW8 used to visit the Gurudwara in Mohan Garden once a week. He was told by the Sangat that the Gurudwara was damaged and set on fire by rioters. PW8 also heard that Nath Singh was the President of the Gurudwara at that time. However, what he heard regarding the damage to the Gurudwara was after a sufficient gap from the incident.

19.2. Therefore, even PW8's testimony is entirely hearsay and inadmissible.

20. PW6 Smt. Harjeet Kaur is the widow of Avtar Singh and the daughter of S. Sohan Singh, both of whom were killed in the incident dated 02.11.1984, when they, along with her brother, the complainant Harvinder Singh, were travelling towards Janakpuri.

- 20.1.** She admitted that she was not present at the scene of the incident on 02.11.1984, and her testimony about that event is based on what she heard from her surviving brother, Harvinder Singh, who later passed away. As mentioned above, the charges framed against the accused relate only to the incident dated 01.11.1984, and not to 02.11.1984, for which he has already been discharged.
- 20.2. Regarding the incident dated 01.11.1984,** she stated that around 12 to 12:30 PM, she heard that the nearby Gurudwara in Mohan Garden had been set on fire. When she stepped outside her house onto the street, **she saw** two cars moving, followed by a DTC bus, with “**accused Sajjan Kumar and five other persons**” inside the cars. **She then went back into her house** because she had a 27-day-old baby.
- 20.3.** Later, her brother, Harvinder Singh, her father, Sohan Singh, and her husband, Avtar Singh, returned home injured. Her mother, Jaspal Kaur, was admitted to a nursing home after sustaining a stone injury. Later, an elderly female neighbour provided shelter to the male members of her family for the night.
- 20.4.** Thereafter, she describes the incident that occurred the next day, stating that on the morning of 02.11.1984, her brother, father, and husband went towards the Uttam Nagar area, accompanied by a boy on borrowed bicycles, and were ambushed by a mob, resulting in the murder of her husband and father. Her brother, Harvinder Singh, who survived the attack on 02.11.1984, returned home after 10 days and then narrated the events of that day.
- 20.5. It is only in the Court for the first time that she claimed the presence of the accused at the spot, leading the mob on 01.11.1984.**

- 20.6.** During cross-examination, PW6 stated that her brother had told her he saw the accused Sajjan Kumar with other people in cars on 01.11.1984, right after they came out of their house. She clarified this statement, saying she also saw the accused in the moving car that day and could identify him because he was from the Congress Party. She claimed that her family had also traditionally voted for the Congress Party, therefore, she was able to identify him.
- 20.7.** She also testified that her statement was never recorded by the police before 2016, and it wasn't until 2016 that it was recorded. However, when confronted with her previous statements, she admitted that a statement dated 23.04.1992, recorded by an official of the Riots Cell, was indeed her statement (*Ext.PW6/D1*). The witness also admitted her other statement dated 20.08.2016 (*Ext.PW6/D2*), recorded by the IO of the present case. She was unsure about other statements she made in 1992 & 1993 (Mark PW6/D4 & D5). It is pertinent to note that she did not expressly deny these two statements, Mark PW6/D4 & D5.
- 20.8.** Admittedly, in none of these four statements is the name of the accused mentioned. PW6 admitted that in her statement dated 23.04.1992, as well as in the subsequent two statements recorded in 1992 & 1993, she stated that the rioters were outsiders and that she could not recognise anyone among them. To be more precise, she stated that in all her prior statements, she had told the officials of the Riots Cell that she did not identify any of the rioters.
- 20.9.** She though claimed that she also told the Police that she can identify the person who was leading the rioters and that the Police did not record that fact in those earlier statements, but during cross-examination she even

admitted that she had never made a complaint to anyone about it. Instead, she claimed that her father-in-law used to make such complaints and write correspondence regarding compensation, a compensatory job for her, and the compensatory house she received. During cross-examination, she even admitted that she was a 27-year-old graduate **at the time of the incident.**

- 20.10. One wonders why would she not name the accused in her statements recorded on 23.04.1992 (Ext. PW6/D1), her other statements recorded in 1992 & 1993, as well as her statement recorded by the SIT on 20.08.2016 (Ext. PW6/D2), particularly when she herself admits that the accused was a known politician and that she and her family were traditional supporters of the party to which the accused belonged. She herself admitted that she could identify the accused as he was from a particular political party.**
- 20.11. Therefore, it is evident that, despite the accused's well-known identity in the area and the witness's clear knowledge of him, she did not name him for as long as 32 years. Her last statement was recorded on 20.08.2016 (Ext. PW6/D2), yet even in that statement, the accused is not named or indicated. No plausible explanation is even put forth in this regard.**
- 20.12. It is only in the Court for the first time that she claimed the accused's presence at the spot, leading the mob. Her statement was recorded in the Court on 11.01.2024, i.e. 39 years after the incident.**
- 20.13. When a witness names an accused after almost four decades, even though the accused is clearly known to the witness, such an identification ought to be rejected and cannot be relied upon.**

20.14. Therefore, the testimony of PW6 also does not help the Prosecution in any manner and it would be completely unsafe to rely on the testimony of this witness as to the presence of the accused at the crime scene on 01.11.1984 or his identification.

21. **PW9 Manjit Singh**, son of S. Nath Singh, stated that he lived in Gulab Bagh with his family during the incident, comprising his parents, the late Sardar Nath Singh (father) and the late Smt. Jaswant Kaur (mother), and four brothers: Sh. Trilochan Singh, Sh. Prithpal Singh, Sh. Tejinder Singh, and Sh. Gurcharan Singh.

21.1. He stated that on 01.11.1984, between 10 and 11 AM, he and his family heard noises outside their house. They saw a mob chanting slogans in support of the late Prime Minister Indira Gandhi, calling for Sikhs to be killed. The mob was coming from Navada and heading toward Kakrola. Two DTC buses and two cars stopped near their house. **Four people, including the accused Sajjan Kumar, who was the MP for their area, emerged from a white car.** The accused pointed towards the Gurudwara, prompting the mob to run toward it. The crowd began damaging its property. The Gurudwara's articles were destroyed, glass was broken, and the cemented roof sheets were damaged, but the Gurudwara was not set on fire. PW9's father, who was the President of the Gurudwara and the local area, went to see what was happening, accompanied by PW9 and others. The mob attacked them, and they returned home. The mob then followed and attacked their house and shops, setting their house, a scooter, and a truck on fire. The mob beat PW9 and his male relatives with stones and iron rods, causing injuries.

- 21.2.** PW9 deposed that his brother, Gurcharan Singh @ Pintu, was thrown by the mob into the burning truck, but neighbours saved him. He sustained severe burn injuries, remained bedridden for 28-29 years, and ultimately succumbed to the effects of those injuries. Tejinder Singh, another brother of PW9, was hit on the back with an iron rod. He sustained severe injuries and died around five years before the date of this witness's testimony, purportedly due to the injuries suffered on 01.11.1984.
- 21.3.** PW9 himself ran to an open plot to save his life, fell into a pit, and lost consciousness. His cousin later rescued him. The next day, when he regained consciousness, he learnt that his father, brother Gurcharan Singh, and other brothers had been admitted to different hospitals. He also stated that his uncle, Santokh Singh, who had visited them on the day of the incident from Khurja in U.P., was killed in the riots on the same day.
- 21.4.** During his deposition, PW9 said that he handed over a few photographs, *Ext.* PW9/B, to the IO, which were seized vide a seizure memo, *Ext.* PW9/A, along with the treatment papers of his father and brothers, *Ext.* PW9/D to F, and the death certificate of Gurcharan Singh, *Ext.* PW9/G. He also mentioned that the treatment papers of his brother, Gurcharan Singh, *Ext.* PW9/J, were seized by the police vide another seizure memo, *Ext.* PW9/H.
- 21.5.** During examination-in-chief, the accused objected to the mode of proof of *Ext.* PW9/B, D, E, F, G & J. Additionally, the admissibility of *Ext.* PW9/B was challenged. Those objections should have been decided during the evidence of PW9, but were not. Anyway, let them be decided now.

- 21.6. During final arguments, the accused did not raise the issue of the mode of proof of those documents or the admissibility of *Ext.PW9/B*. In effect, the accused dropped the challenge by not arguing the admissibility or mode of proof of these documents during final arguments. Nevertheless, it is the duty of the Court to decide those objections.
- 21.7. *Ext.PW9/B* consists of photographs depicting arson and looting of PW9's family property, including vehicles, and the injuries sustained by PW9's brother, Gurcharan Singh. Those photographs are physical printouts. Negatives of those photographs were not collected and have not been proved. PW9 admitted that the photographs marked *Ext. PW9/B* did not have a date of when they were taken, negatives were unavailable, and they were taken by someone from Sharma Studios. Therefore, strictly speaking, those photographs have not been proved in accordance with the law, and **the accused's challenge to the mode of proof of the photographs is sustainable.**
- 21.8. As far as the challenge to the **admissibility** of the photographs is concerned, it has to be rejected in favour of the prosecution, as photographs can indeed form documents which can be proved legally. There is no legal provision that bars the admissibility of the photographs. However, since the prosecution did not address their mode of proof even after the accused raised an objection to this witness's testimony, they are not legally proved.
- 21.9. *Ext.PW9/D* are treatment papers of Gurcharan Singh, brother of PW9, from different hospitals/ nursing homes. *Ext.PW9/E* are medical documents of another brother of PW9, namely, Tejinder Singh. *Ext.PW9/F* are medical treatment documents of S. Nath Singh (father of

PW9). *Ext.*PW9/G is the death certificate of Gurcharan Singh, brother of PW9 and *Ext.*PW9/J is the medical treatment document of Gurcharan Singh.

- 21.10.** Indeed, the challenge to the **mode of proof** of these documents by PW9 is worth considering, as neither PW9 claims to have witnessed the execution of any of these documents in his presence nor is he the executant of any of them. Once the defence raised an objection to the mode of proof of these documents, the prosecution ought to have ensured that those documents were legally proved. Except for the treatment papers of S. Nath Singh, which were proved by one of the Doctors, these documents were not legally proved, **and the challenge to the mode of proof of these documents raised by the accused is sustainable.**
- 21.11.** **Assuming these documents are legally valid, the case's outcome does not change in any way.** Therefore, this Court refrains from taking any steps to have these documents proved by other means at this stage. The reasons for the decision not to alter, even if these documents are taken to be proved validly, are mentioned above and below. The prime reason is the absence of admissible, reliable evidence proving the accused's presence at the crime scene or his participation in any other manner.
- 21.12.** PW9 claimed he filed a complaint at PS Janak Puri a few days after the incident. He admitted to the complaint dated 13.11.1984 (*Ext.* PW9/C), which he signed. He also acknowledged that he had not filed any complaint before 13.11.1984.
- 21.13.** **When asked why he did not name the accused Sajjan Kumar in the complaint dated 13.11.1984 (*Ext.* PW9/C), he explained that he had prepared an earlier complaint that included the accused's name, but**

the police rejected it and asked him to submit a complaint without naming the accused. He admitted that it was the first time he had claimed that the police did not accept the earlier complaint, and that before his deposition he had never stated that the police refused to accept any complaint containing the accused's name.

- 21.14.** As mentioned above, the identity of the accused was well known to the entire family, as admitted by other members of the family, specifically mentioning that the accused was a sitting Member of Parliament from the same constituency where the incident occurred, and that the family was a traditional voter for the party to which the accused belonged. The other members of PW9's family clearly admitted that the accused's identity was not an issue.
- 21.15.** **When the identity of the accused was known to the entire family, and had the earlier complaint of PW9 specifically naming the accused not accepted by the Police, one wonders why the name of accused is missing even in the affidavit given by the complainant Harvinder Singh long after the occurrence and why his name is missing in the statement of Harvinder Singh also which was recorded before a Commission of the highest level. One also wonders as to why, for almost four decades, the name of the accused did not figure in the statements made by family members of PW9, which are admitted statements.**
- 21.16.** During cross-examination, PW9 admitted that he became aware of the Justice Rangnath Mishra Commission and the Justice Nanavati Commission. **He stated that he never submitted any affidavit or**

statement to these commissions, neither naming the accused nor otherwise.

- 21.17.** The claim of PW9 that his complaint naming the accused was not accepted, and he then filed another complaint on 13.11.1984, *Ext.PW9/C*, without the name of the accused, is uninspiring. Had there been truth in this claim, PW9 or his family members would have taken steps to communicate with higher authorities about the conduct of the Police. Even if it is accepted that immediately after the occurrence PW9 might not have named the accused because of fear, that fear must have subsided once the entire family shifted out of Delhi and particularly when some of the members of the family did muster courage to give complaints (including PW9), to give affidavit (by the complainant), and to give statements to the Commission of highest level. **From 13.11.1984 till 2016, i.e. for 32 years, PW9 or his family members never raised this claim that they were asked to withhold or drop the name of the accused from the complaint dated 13.11.1984.**
- 21.18.** Even PW9's later police statements recorded on 25.10.2016, 09.11.2016, 24.11.2016, and 14.01.2019 (*Ex.PW9/DA to DD*) do not clarify whether he ever named the accused in his first complaint dated 13.11.1984 (*Ext. PW9/C*) or in any earlier complaint, or whether the police ever refused to accept any such complaint naming the accused. Admittedly, he also never provided this fact in writing to any authorities from November 1984 until his deposition.
- 21.19.** PW9 tried to explain the delay in naming the accused by saying that all the male family members were injured and they later moved to Mohali in Punjab. Since he became the only earning member responsible for the

family, he claimed there was no time left to file an affidavit or complaint naming the accused. However, he also admitted that he and his family moved to Mohali only in 1986, which was more than a year after the incident.

- 21.20.** During cross-examination, PW9 clarified that, due to a typographical error, his complaint dated 13.11.1984 (*Ext.* PW9/C) stated that his uncle Santokh Singh was thrown into the burning truck, whereas it was actually his brother, Gurcharan Singh @ Pintu, who was thrown into the burning truck. He stated that he became aware of this mistake only when he testified in court and that he did not understand English. He explained that he narrated the complaint in Hindi to a typist, who translated it into English. PW9 also admitted during cross-examination that no complaint was made by the family members of Santokh Singh regarding his killing in the incident, and no death certificate of Santokh Singh was submitted.
- 21.21.** He further admitted that, apart from the complaint dated 13.11.1984 (*Ext.* PW9/C), no other complaint or affidavit was filed by him or his family members with any authority. He also acknowledged that his father was the President of the Gurudwara and the local community, yet he did not file any complaint with any authority regarding the incidents, particularly naming the accused.
- 21.22.** During cross-examination, PW9 claimed that to obtain compensation of Rs. 11,000 under a Red Card and to secure an additional Rs. 2 Lakh, written applications narrating the incident were submitted. He also admitted that before the compensation was granted, an inquiry into the incident was conducted. However, he could not provide copies of any such complaints or applications, particularly those that named or described the

accused. Although PW9 tendered an application for a Red Card (*Ext.* PW9/D1) during cross-examination, it did not include the name or description of the accused that could identify him. PW9 further admitted that he personally informed the Mayor of Delhi about the incident and handed over an application for compensation, but he did not retain a copy of that application.

21.23. It would therefore be unsafe to rely on the fact claimed by PW9 that, prior to his complaint dated 13.11.1984, he had filed another complaint containing the name of the accused, which was allegedly not accepted by the Police.

21.24. Therefore, the testimony of PW9 does not help the Prosecution in any manner, and it would be highly unsafe to rely on this witness's testimony regarding the accused's presence at the crime scene or his identification.

22. PW11, Tejinder Singh, was about 15 years old and in 8th grade at the time of the incident. He was at his home in Gulab Bagh with his family, which included his father, S. Sohan Singh Kohli; his mother, Smt. Jaspal Kaur; his brother, Harvinder Singh Kohli (the complainant); and his brother-in-law, S. Avtar Singh. His sister, Harjeet Kaur, was also present.

22.1. He deposed that around 9:30 to 10 am, a mob approached their house. **However, PW11 was not allowed to go outside because he was a child, so he stayed inside.** His other family members went outside and saw the mob setting fire to the Gurudwara and destroying items inside. They also witnessed DTC buses and a white Ambassador car arriving in their neighbourhood, reportedly with the accused Sajjan Kumar present and

leading the mob. The family members of PW11 also saw the mob pelting stones at people gathered near the Gurudwara, which led to injuries among PW11's family members.

- 22.2. Admittedly, PW11 did not witness any of those incidents himself, including the accused's presence at the scene.** He testified that he learned of it from other family members. The information provided to PW11 by his family members was given only after the incident. Throughout the prosecution's evidence, there are no clear timelines showing how long it was between the family members seeing the accused, going to the Gurudwara, and later returning home after sustaining injuries. Therefore, even Section 4 of BSA 2023 cannot be applied, and the principle of *res gestae* also cannot be invoked qua the testimony of PW11.
- 22.3.** PW11 also stated that when the mob returned to the area later and began destroying, looting, and attacking the houses of Sikhs, he fled his house out of fear and took shelter with a neighbouring Hindu family about 3-4 streets away. He testified that he remained hidden there for 3-4 days, and when he finally came out, he learned that his family members had been injured. He also later found out that his father and brother-in-law were attacked along with the complainant Harvinder Singh on 02.11.1984 while they were on bicycles going to the hospital.
- 22.4. Therefore, the testimony of PW11 is affected by the principles of hearsay, as he did not witness either the presence of the accused or the incidents himself.**
- 22.5.** During cross-examination, PW11 stated that, apart from his two statements recorded under Section 161 Cr.P.C. dated 09.11.2016 and 24.11.2016 (*Ext.PW11/D1 & D2*, respectively), he had not made any

statement to the police. **He also admitted that in Ext.PW11/D1 & D2, the accused was not named. It is important to note that, even after 32 years, when SIT recorded the witness's statement in November 2016, the witness did not name the accused.** During cross-examination, PW11 was properly confronted with his previous statements in *Ext.PW11D1 & D2* regarding the arrival of the accused at the scene in a white Ambassador car, as there is no such fact recorded even in his own statements. **During cross-examination, PW11 even admitted that he first named the accused before the court.**

22.6. Had immediately after the occurrence or during the occurrence, the family members of PW11 told him that any of them saw the accused at the crime scene, there is no reason as to why PW11 would not name the accused in his statements recorded by SIT, even after 32 years of the incident. By the time the fear of the accused, if any, must have subsided and it is unbelievable that the fear still lingered after 3 decades particularly when the accused was no longer in power and he had been arrested in other cases and also it was widely published that the accused had been arrested in other matters and even convicted by then in some of the matters. The fact that the accused was arrested in other cases and was on the run in custody ought to have allayed any fear, if any.

22.7. **The fact of not naming this accused even in the statements recorded by SIT in 2016 is an important fact which cannot be lost sight of, particularly in view of the fact that even in the affidavit submitted by the complainant before Justice Ranganath Commission on 08.09.1985, there is no mention of the name of the accused.**

- 22.8.** PW11 also admitted that the affidavit (*Ext.PW11/D3*) was provided by his brother, complainant Harvinder Singh, on 08.09.1985 before Justice Ranganath Misra Commission. **He also acknowledged that the affidavit did not mention the name of the accused, and that the statement was made by PW11 after reviewing Harvinder Singh's affidavit, which is in Gurmukhi.** Although PW11 claimed that the affidavit references “some Neta,” he quickly admitted that the word “Neta” is not in the affidavit.
- 22.9.** He further confirmed that the affidavit was signed by Harvinder Singh and that Harvinder Singh appeared in court, possibly in 1993 or 1994, but expressed ignorance about whether his brother Harvinder named the accused or any other local leader before the court.
- 22.10.** It is also important to note that even in the orders passed by the Ld. Magistrate, there is no mention that Harvinder Singh named the accused while expressing dissatisfaction with the investigation conducted. There was no protest petition filed by Harvinder Singh or any other member of the victims naming the accused in those untrace reports, or any communication sent to the investigating agency, senior Police officers, higher authorities, including Courts of Law.
- 22.11.** When PW11 was questioned about why his elder sisters, mother, and other family members, who appeared before the investigating agencies and participated in the investigation at various times, did not name the accused in their statements, the witness replied that, because the accused is a powerful person, his family members may not have named him out of fear. However, as mentioned above, that fear must have subsided over time,

particularly when the accused was no longer in power and was arrested in various other matters.

22.12. When PW11 was questioned about the various persons named as part of the unlawful assembly, such as Sabar Khan, P.C. Gupta, Jaswinder Singh, Mahinder Kumar, Narinder Kumar, Madan Lal, Babu Ram and Narayan Dutt, but no one named the accused, PW11 claimed ignorance.

22.13. **Therefore, the testimony of PW11 does not help the Prosecution in any manner, and it would be highly unsafe to rely on this witness's testimony regarding the accused's presence at the crime scene or his participation.**

23. **During cross-examination, PW18, the IO, admitted that the accused's name was not mentioned in Harvinder Singh's affidavit (PW11/D3), nor in his statement recorded in 1991 (Ext.PW12/C), nor in the records of the two FIRs investigated by the Anti-Riots Cell. He also acknowledged that the accused's involvement was not indicated by any witness in the untrace reports (Ext. PW18/Y & Z), which were also accepted by the courts.** He admitted that the complainant, Harvinder Singh, later expressed dissatisfaction with the investigation, leading to a further inquiry and a **supplementary charge sheet filed in 1994, but even this supplementary charge sheet did not name Sajjan Kumar as an accused.** PW18 stated that the complainant and his family members did not file any individual complaints regarding the incident between 01.11.1984 and 09.09.1985. He claimed that witnesses generally stated they had not lodged any complaints before Harvinder Singh's affidavit to the Justice Ranganath Commission, as the authorities had not heard them.

- 23.1.** Even if one were to believe that out of fear or for any other reason, the accused was not named by any member of the complainant's family or the complainant, had the accused been seen, at least in the affidavit filed on 08.09.1985, *Ext.PW11/D3*, the name of the accused would have been mentioned. It would have been mentioned had the accused been spotted at the crime scene by the complainant or anyone from his family. **There is no reason as to why the complainant would omit naming the accused in his affidavit filed before the commission ten months after the incident.**
- 23.2.** A good 6 years after filing the affidavit, the complainant even gave his statement in 1991 before the Commission *Ext.PW12/C*. Even in that statement, there is no reference to the accused. Even if one assumes that, by the time the affidavit was given, the fear was still alive in the minds of the complainant and his family, it would have subsided by 1991, which is a good 6 years after the crime.
- 23.3.** Not naming the accused in the affidavit or in the statement of the complainant is an important factor while assessing the reliability of the prosecution witnesses.
- 23.4.** PW18 also admitted that he applied for a lie detector/polygraph test of the accused, stating that otherwise it was "very difficult to conclude the investigation". The accused consented to the test, which was conducted, but the SIT did not rely on the results. PW18 explained that the lie detector report was not relied upon because the CFSL officer did not ask all the questions suggested by the SIT, and a complaint was subsequently filed against the CFSL official for this omission. However, the questions posed by the SIT and the complaint were not included in the charge sheet.

- 23.5. Had all the questions suggested by the SIT not been put to the accused under a lie detector test, nothing would have stopped the investigating agency from asking the accused to undergo the test again with the proper set of questions. But even it was not done. There is no written report submitted to the Court about any such omission by CFSL officer.
24. **Unfortunately, before the victim, Harvinder Singh, could be examined, he passed away.** Nevertheless, his affidavit and his statement recorded in 1991, which are proved in this case, do not support the prosecution's case, and no plausible explanation is offered as to why the accused was not named for a long period spanning over 3 decades. The reason sought to be put forth by the prosecution that since the accused was an MP of the area and was a powerful person in the Congress Party, would have held the water for some time or maybe a few years. But it cannot be accepted as a sufficient reason for decades. It is particularly important, as mentioned above, that in other cases the accused was arrested and in custody, which would have addressed any fear factor, if any. It is also particularly important that the arrest of the accused was published widely in newspapers, and therefore, one cannot even take shelter under a plea that the complainant and other victims were not aware that the person who is feared is no longer a free man. When the complainant and his family members came to know that the accused had been arrested in other cases, there was no reason for them to have held them back against filing a complaint naming the accused specifically.
25. The argument of the complainant and the prosecutor, that the accused has been found guilty in other similar offences, cannot aid the prosecution in

any manner. A man may be convicted of 100 crimes, but to be held guilty of the 101st crime, proof beyond a reasonable doubt in that crime is required. One cannot be found guilty merely because in the past he was involved in similar offences. Past criminal background or the commission of other offences are separate and can have some value in sentencing a person, but they cannot be considered by a Court of law in holding a person guilty of another crime.

26. The finding of guilt of the accused in this case must be solely judged based on the evidence led in the present matter. Unfortunately, most of the witnesses examined by the prosecution in this case are hearsay, and/or those witnesses who failed to name the accused for 3 long decades. Relying on the identification of the accused by such persons would be risky and may lead to a travesty.
27. **Thus, there is no reliable evidence in the present matter that the accused was present at the crime scene for which he has been charged on 01.11.1984, or that he was seen there by anyone. There is no evidence of instigating any such mob. There is no evidence of conspiracy so far as the incident in question is concerned, and this Court has no hesitation in holding that the prosecution has not met the standard of proof required in a criminal trial to prove the guilt beyond a reasonable doubt.**
28. Merely because the accused is an Ex-Member of Parliament or that he was involved in similar instances at other locations, this Court cannot lower the standard of proof required in this case to hold him guilty. The law remains the same for all criminals, whether they are ordinary men or influential people. When it comes to judging the involvement of an

accused beyond a reasonable doubt, there can be no two standards for an ordinary man or an influential person. Rather, the law is settled that the more serious the offence charged, the more stringent the standards must be met to hold the person guilty. A conviction in a criminal matter can be founded only when there remains no doubt that the accused before the Court must have committed the crime, and it cannot be founded merely on suspicion.

- 29.** The argument of Ld. Prosecutor, that while appreciating evidence in such cases, appropriate weightage must be given to the circumstances, such as the victims were severely beaten and injured; two persons were killed; their homes and properties damaged and destroyed; police officials not providing immediate help, is accepted. But then, even if that allowance is given in favour of the witnesses, still, there is no satisfactory justification for not naming the accused for 3 long decades. While appreciating evidence of this case, this court did consider all those factors, yet this court finds it unconvincing that the injuries, loss of life, and loss of properties weighed with the witnesses for so long that they were not even able to name the perpetrator of the crime. Rather, a witness who has suffered the loss of a family member at the hands of a criminal would not spare such a criminal and would try to name the criminal at the earliest opportunity. Therefore, even if the fear of the influence of the accused got reduced in a few years, there is no reason why the members of the families who suffered human loss and who were also eyewitnesses would fail to name the accused for so long.
- 30.** Merely because there is no prior enmity between the victim and the accused, it can't be said conclusively that there is a lack of motive for false

implication. It is well-nigh possible that, given the accused's alleged involvement in various similar riots against a particular community during the relevant period, the accused has been named in this case as well. After all, an accused cannot be physically present at multiple locations simultaneously. The trauma suffered by the victims and their families is well understood, but that trauma cannot come in the way of this Court's decision, which has to be sans emotions.

31. The Learned Prosecutor relies upon the case of *Sarwan Singh Vs. State of Punjab (Supra)*, and the case of *Mahavir Singh Vs. State of Haryana (Supra)*, on the point that where a party declines to avail the opportunity of cross-examining a witness on a particular point, it must follow that the evidence tendered on that issue ought to be accepted, and that if a question is not put to the witness in cross-examination who could furnish an explanation on a particular issue, the correctness or legality of the said fact/issue could not be raised at a later stage. Both those judgments are distinguishable on the facts. In the case of *Sarwan*, the fact that S & B called out the deceased and one M and then compelled them to accompany to the fields where the murder took place was not contradicted by the accused during trial, and therefore it was held that this fact cannot be contended by the accused at the Appellate stage. In the case of *Mahavir*, various issues were raised regarding the recovery of certain articles and regarding discrepancies, whereas during trial no question in that regard was put to the relevant witnesses, including the IO, who could have furnished an explanation for such discrepancies.

31.1. The Ld. Prosecutor also relies upon the case of *Balu Sudam Khalde (Supra)*, wherein the Hon'ble Supreme Court laid down principles for

appreciating oral evidence, particularly in a criminal trial, in paras 25 to 27. There is no disagreement on that aspect of the matter. The Ld. Prosecutor further relies on this judgment for the principles of *Res gestae*, as provided in Sec. 6 of the Indian Evidence Act, and relies upon paras 46 to 50 of the said judgment, where that principle is discussed. However, even this judgment is distinguishable on facts and on the point of *Res gestae*, and does not help the prosecution in any manner so far as the present case is concerned. Indeed, had there been any piece of evidence in this case which could have qualified the principles of *Res gestae*, it could have been considered, but in the present case, there is none.

31.2. The Learned Prosecutor also relies upon the cases of *Nitya Nand (Supra)* and; *Haribhau @ Bhausahab Dinkar Kharuse (Supra)*, on the point that Sec. 149 of the IPC makes all members of an unlawful assembly liable for any offence committed by any member 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. It recognises vicarious liability of all the members of an unlawful assembly when the above-mentioned conditions are satisfied. However, to attract such vicarious liability, it has to be proved by the prosecution that the accused was a member of any such assembly before invoking liability. In the present matter, the participation of the accused in any such assembly is the question, and that fact could not be established by the prosecution. When the prosecution fails to prove, through cogent evidence, the presence of the accused at the spot or in the unlawful assembly, there can be no question of vicarious liability.

- 31.3.** Lastly, Ld. Prosecutor relies upon the case of *Pappu Tiwary (Supra)*, wherein it is held that the test of proving the case beyond reasonable doubt does not mean that the endeavour should be to pick and choose and somehow find an excuse to obtain acquittal. There cannot be any dispute even qua that principle; however, the prosecution has to establish its case beyond reasonable doubt at least before any such picking and choosing can be called into question.
- 32.** Similarly, the precedents relied upon by the **counsel for the complainant** in the case of *Sajjan Kumar Vs. CBI 171 (2010) DLT 120; State Vs. Sajjan Kumar and Ors. 2018 SCC OnLine Del 12930*; on the case against this very accused in another incident, in which the Ld. Predecessor of this Court convicted the accused in Sessions Case No. 03/21 by judgment dated 12.02.2025; *Govt. of Peoples Republic of Bangladesh Vs. Abdul Quadar Molla LEX/BDAD/0004/2013*, decided on 17.09.2013 by the Supreme Court of Bangladesh (Appellate Division); *Prith Pal Singh Vs. State of Punjab (2012) 1 SCC 10*; *Dulichand Vs. State, 1997 (43) DRJ (DB)*; *Narayan Chetanram Chaudhary and Anr. Vs. State of Maharashtra (2000) 8 SCC 457*; *S. Gurlad Singh Kahlon vs. Union of India: Anthony Sawoniuk (2000) 2 Cr. App. R. from the United Kingdom Court of Appeal*; *Antonio Cassese and Ors., International Criminal Law, Critical Concepts in Law, 2015 (1st Edition)*; and *Pieter N Drost, The Crime of State- Panel Protection for Fundamental Freedoms of Persons and People, 1959*, are all distinguishable and are of no help to the prosecution.
- 33.** Once the evidence led by the Prosecution fails to prove beyond a reasonable doubt the presence of the accused at the spot or instigation or conspiracy or that he was a member of unlawful assembly, the other

arguments raised lose significance and become academic, they may be briefly dealt with.

- 34.** The accused vehemently argues that the final report submitted by the SIT in the present matter is legally unacceptable, as no permission was sought from the concerned Court for further investigation. It is argued that in the two applications moved by the IO before the concerned Ld. Magistrate qua the two FIRs on 11.08.2016 and 22.11.2016 (*Ext.PW18/A & B*), no reason for further investigation was mentioned. It is argued that the scope of further investigation is restricted to the discovery of fresh oral or documentary evidence, which does not include revisiting the complainant and witnesses who have already been examined or reintroducing a new version as to the involvement of the accused, therefore, what the SIT actually did was reinvestigation and not further investigation.
- 34.1.** The argument of the accused that under the guise of further investigation, a complete re-investigation has been conducted by revisiting the witnesses and inviting or prompting a fresh version of the crime has to be rejected at this stage of the matter. The accused never challenged the scope of the further investigation carried out, either after the cognizance was taken or after charges were framed, and this argument is being raised now at the fag end of the trial. Once the accused chose not to challenge the nature of the investigation at the appropriate stage, he cannot now raise this plea after the entire evidence has been led. This argument, therefore, must be rejected.
- 34.2.** Even otherwise, this argument has to be rejected for several reasons. First of all, no permission from the Magistrate was required for an investigating agency to conduct further investigation, and the law is well settled that

further investigation u/s 173(8) of Cr.PC can be conducted by an investigating agency without seeking the Magistrate's permission. Secondly, the order dated 12.02.2015 by the Govt. of India *Ext.PW18/D1* allowed the SIT to investigate/reinvestigate cases of the 1984 riots, and to reinvestigate the appropriately serious criminal cases that had been closed. The SIT was further mandated to examine the records afresh from the Police Station concerned, as also the files of Justice J. D. Jain and D. K. Agarwal Committee, and to take all measures for a thorough investigation and then to file a chargesheet where, after investigation, sufficient evidence is found. Thus, there is no question of any permission sought from the Magistrate to further investigate the matter.

34.3. The authority relied upon by the accused, namely, *Vinay Tyagi (supra)* does not help the accused in any manner. In that case, there were two conflicting final reports, one submitted by the Special Cell of the Delhi Police implicating the accused and another submitted by the CBI recommending the closure of the FIR. In the present matter, there was no earlier final report in terms of Section 173(2) of the Cr.PC wherein the accused was named or any closure was filed in his favour. Rather, the earlier final reports were untraceable reports, indicating that no evidence could be found against anyone, and no offender could be traced, therefore, an untraceable report was preferred. It is not a case where the accused was exonerated in any manner by the earlier untraced reports. Therefore, there is no question of filing a supplementary chargesheet, as contended by the accused, nor of filing final reports in which the accused is facing trial after re-investigation, following the mandate of *Ext.PW18/D1* is appropriate.

35. Similarly, merely because the prosecution chose not to rely on the lie detector test cannot be a ground to disbelieve the prosecution. After all, the law allows an accused to summon and prove the unrelayed documents at the appropriate stage, even if the prosecution chooses not to rely on them. In the present matter, the lie detector test report is a report admitted by the prosecution itself; therefore, the prosecution cannot go beyond it. The said report was also admitted at the stage of admission/denial. Even otherwise, in law, the evidentiary value of a lie detector test is not substantial.

CONCLUSION

36. Sum and substance is that the prosecution has not met its burden of proof against the accused beyond a reasonable doubt, which is essential for conviction in a criminal trial. **Resultantly, because of a lack of credible evidence as to the presence of the accused in the crime in question or a part of the unlawful assembly or his involvement in any manner, either through instigation, conspiracy, or abetment of any other nature, he is acquitted of the charges.**

*Announced in the Open Court
on 22nd day of January 2026.*

**Dig Vinay Singh
Special Judge (PC Act) CBI-09
(MPs/MLAs Cases)
Rouse Avenue Courts/ New Delhi (r)**

Chart For Witnesses Examined

Prosecution Witness No.	Name of Witness	Description
PW1	Dr. S.K.Sharma	Medical documents of complainant Harvinder Singh Kohli
PW2	Dr. Anil Mehtani	Medical documents of deceased S. Nath Singh
PW3	Ms. Manjit Kaur	Eye-witness
PW4	Sh. Tilak Raj Narula	Eye-witness
PW5	Sh. Inderjeet Singh	Eye-witness
PW6	Smt. Harjeet Kaur	Eye-witness
PW7	Mr. Gur Pal Singh	Eye witness
PW8	Sh. Kuldeep Singh	Eye witness
PW9	Sh. Manjit Singh	Eye-witness
PW10	Dr. Rakesh Kumar Sharma	Medical documents of complainant Harvinder Singh Kohli
PW11	Sh. Tejender Singh	Eye-witness
PW12	Dr. Satbir Bedi	Formal witness who forwarded affidavit of complainant and his statement requesting registration of fresh case based on statement of complainant given before Justice Jain & Aggarwal Committee
PW13	Smt. Kawaljeet Kaur	Eye-witness
PW14	Sh. P.S.Panch Pal	Formal witness, who proved registration documents of the two vehicles in question.
PW15	Sh. V.N.Dixit	Formal witness, who recorded statement of complainant before Justice Jain & Aggarwal Committee
PW16	Sh. Satish Kumar	Proved Sanction
PW17	Ms. Balwinder Kaur Dhaliwal	Formal witness, who recorded statement U/s 164 Cr.P.C of complainant
PW18	Anil Kumar	Investigating Officer

Chart For Exhibited Documents

Exhibit No.	Description of the Exhibit	Proved/ Attested by
PW1/A	Written reply dated 02.04.2019	PW1
PW1/B	Certificate/office order No. 831 issued by DDU Hospital	PW1
PW2/A	OPD Slip dated 13.12.1984 r/o Amarnath Singh	PW2
PW3/DA	Statement of Manjit Kaur dated 21.10.2016	PW3
PW3/DB	Statement of Manjit Kaur u/s 161 dated 23.11.2016	PW3
PW5/A	Statement of Inderjeet Singh dated 05.12.2016	PW5
PW5/B	Statement of Inderjeet Sing dated 21.10.2016	PW5
PW6/D1	Statement of Smt. Harjeet Kaur dated.23.04.1992	PW6
PW6/D2	Statement of witness dated 20.08.2016	PW6
PW9/A	Seizure Memo dated 09.11.2016	PW9
PW9/B (Colly)	13 photographs attached with above seizure memo	PW9
PW9/C	Complaint dated 13.11.1994	PW9
PW9D (Colly)	09 medical treatment papers of Gurcharan Singh	PW9
PW9/D1 (Colly)	Red Card with application & Supporting affidavit	PW9
PW9/DA	Statement of Manjit Singh dated 25.10.2016	PW9
PW9/DB	Statement of Manjit Singh dated 09.11.2016	PW9
PW9/DC	Statement of Manjit Singh dated 24.11.2016	PW9
PW9/DD	Statement of Manjit Singh dated 14.01.2019	PW9
PW9/E (Colly)	04 treatment papers Tejinder Singh	PW9
PW9/F (Colly)	11 treatment papers – Sardar Nath Singh	PW9
PW9/G	Death Certificate of Gurcharan Singh	PW9
PW9/H	Seizure memo dated 14.01.2019	PW9
PW9/J	Treatment card of Pintoo dated 12.06.1996	PW9
PW10/A	Written reply	PW10
PW11/D1	Statement of Tejinder Singh dated 09.11.2016	PW11
PW11/D2	Statement of Tejinder Singh dated 24.11.2016	PW11

PW11/D3	Affidavit dated 08.09.1985	PW11
PW12/A	Letter No. F.10(R-68)/15/92-H.P.II, Delhi dated 06.04.1992	PW12
PW12/B	Affidavit, copy of letter dated 07.02.1992	PW12
PW12/C	Statement of Harvinder Singh dated 22.11.1991	PW12
PW14/A	Letter No. F.1 MLO(HQ)/TPT/2017/856 dated 20.12.2017	PW14
PW16/A	Order dated 23.06.2022 issued /signed by Sh. Goutam Palit	PW16
PW18/A	Intimation regarding further investigation dated 10.08.2016	PW18
PW18/A1	Request for interrogation/arrest the accused person	PW18
PW18/A2	Arrest memo of FIR 264/92	PW18
PW18/A3	Arrest memo of FIR 227/92	PW18
PW18/A4	Verified copy of death certificate of Sohan Singh	PW18
PW18/A5	Application with death certificate No. 1164	PW18
PW18/A6	Verification report of death certificate of Avtar Singh	PW18
PW18/B	Notification dated 09.07.2015	PW18
PW18/C	Letter dated 18.08.2016 regarding issuance of public notice	PW18
PW18/D	Letter dated 23.08.2016	PW18
PW18/D1	Order dated 12.02.2015	PW18
PW18/D2 (Colly)	Reply dated 24.08.2022 with documents/statements	PW18
PW18/D3	Application dated 17.03.2018 conducting lie detector/polygraph test	PW18
PW18/D4	Reply of the said application	PW18
PW18/D5	Rejoinder dated 10.05.2018 to the reply	PW18
PW18/D6	Report of lie detector/polygraph test	PW18
PW18/E	Public Notice	PW18
PW18/F	Seizure memo dated 09.11.2016	PW18
PW18/G (Colly)	Documents collected through above seizure memo	PW18
PW18/H	Application for recording statement u/s 164 Cr.PC	PW18
PW18/I	Copy of statement u/s 164 Cr.PC of Harvinder Singh	PW18
PW18/J	Copy of application dated 28.10.2024	PW18
PW18/K	Request for translation from Punjabi to Hindi	PW18
PW18/L	Application for providing ownership of vehicles	PW18

PW18/M	Letter dated 11.01.2019	PW18
PW18/N	Reply of the letter dated 11.01.2019	PW18
PW18/O	Letter dated 08.12.2016 to the MS, ESI Hospital	PW18
PW18/P	Written reply of above letter	PW18
PW18/Q	Letter dated 08.12.2016	PW18
PW18/R	Reply of the above letter	PW18
PW18/S	Letter dated 08.03.2019	PW18
PW18/T	Site plan dated 23.12.2016	PW18
PW18/U	Letter dated 19.01.2017 seeking postmortem reports	PW18
PW18/V	Letter dated 08.02.2017	PW18
PW18/W	Attested copy of report	PW18
PW18/X	English translation of affidavit of Harvinder Singh	PW18
PW18/Y (Colly)	Untrace report related to FIR No. 227/92	PW18
PW18/Z (Colly)	Untrace report related to FIR No. 264/92	PW18

Admitted Documents (vide order dated 21.09.2023)

Exhibit No.	Description of the Exhibit	Proved/ Attested by
AD/1	FIR 264/1992 of PS Vikas Puri	Admitted by Ld. Counsel for the accused vide his separate statement recorded on 21.09.2023
AD/2	Photocopy of FIR 227/1992 & Original FIR 227/1992	Admitted by Ld. Counsel for the accused vide his separate statement recorded on 21.09.2023
AD/3	Handing/taking over memo of documents dated 28.04.2016	Admitted by Ld. Counsel for the accused vide his separate statement recorded on 21.09.2023
AD/4	Printed invoice of handing/taking over memo of documents	Admitted by Ld. Counsel for the accused vide his separate statement recorded on 21.09.2023
AD/5	Hindi translated version of statement of S.Harvinder Singh	Admitted by Ld. Counsel for the accused vide his separate statement recorded on 21.09.2023

Chart For Exhibited Materials

Material Object No.	Description of the Exhibit	Proved/ Attested by
NIL	NIL	NIL