

**IN THE COURT OF SH. ARUN KUMAR GARG  
CHIEF METROPOLITAN MAGISTRATE  
(SOUTH-EAST), SAKET COURTS, NEW DELHI**

**IN THE MATTER OF :**

**STATE Vs. MOHD. JAMAL (USA)**

**FIR No. 63/20(4)**

**Case No. 1547/2020**

**PS : Crime Branch**

**U/s: 14 (b) Foreigners Act, 1946, Section 3 of the Epidemic Disease Act, 1897, Section 51 of the Disaster Management Act, 2005 & Sections 188/269/270/271 IPC.**

Date of reserving the judgment : 09.12.2020  
Date of pronouncement of judgment : 15.12.2020

**JUDGMENT**

1. Serial No. of the case : 1547/2020
2. Name of the Complainant : Inspector Mukesh Walia,  
SHO PS, H.N Din
3. Date of commission of offence : 12.03.2020 to 31.03.2020
4. Name of accused person : 1. Ahmed Binadullah  
Ali (USA having passport  
No. 544854876)  
2. Khushida Yusuf @  
Kushida Yusuf (USA  
having passport No.  
542520964).  
3. Mohd. Jamal @  
Mohammed Jamal (USA

having passport No.  
497467799)

4 Rashida Binty Usup Ali  
@ Rashida Bintyusup Ali  
(USA having passport No.  
544824731)

5. Yu Sup (USA  
having passport No.  
530945020)

5. Offence charged : U/s: Section 3 of the  
Epidemic Disease Act,  
1897, Section 51 of the  
Disaster Management  
Act, 2005 & Sections  
188/269 IPC.

6. Plea of accused : Not guilty

7. Final Order : Acquitted.

**BRIEF REASONS FOR ORDER:**

1. The present case was registered at PS Crime Branch on 31.03.2020 in pursuance to the complaint dated 31.03.2020 of Inspector Mukesh Walia, SHO P.S H.N Din, New Delhi for the offence punishable under Section 3 of the Epidemic Diseases Act, 1897, Section 51 r/w Section 58 of the Disaster Management Act, 2005 and Sections 188/269/270/271/120 B IPC. Initially, eight accused were named in the aforesaid FIR, however, during the course of the

investigation IO has interrogated various persons, who were allegedly evacuated from Markaz during the period 26.03.2020 to early morning of 01.04.2020. On completion of the investigation, IO has filed as many as 48 chargesheets and 11 supplementary chargesheets arraying 952 number of foreign nationals of different countries as accused alleging commission of offence u/s. 14 (b) Foreigners Act, 1946, Section 3 of the Epidemic Diseases Act, 1897, Section 51 of the Disaster Management Act, 2005 and Sections 188/269/270/271/120-B IPC by them. The chargesheets have been filed by the IO as per nationality of the accused persons *i.e.* all foreign nationals of a single country had been arrayed as accused in a single chargesheet so long as the number of accused did not exceed 50. In the later case, multiple chargesheets arraying 50 accused per chargesheet belonging to a particular country had been filed by the IO.

2. On the basis of the aforesaid chargesheets and supplementary chargesheets, coupled with the complaint of SDM under Section 60 of Disaster Management Act, 2005 and Complaint of ACP, Lajpat Nagar Sub-division under Section 195 Cr.P.C, Ld. Predecessor of this Court has taken cognizance for the offences under Section 14 (b) Foreigners Act, 1946, Section 3 of the Epidemic Diseases Act, 1897, Section 51 of the Disaster Management Act, 2005 and Sections 188/269/270/271 IPC and all the accused persons as per column no. 11 of the chargesheets were directed to be summoned. All accused appeared in response to summons of the Court and after compliance with the provisions of Section 207 Cr.P.C, number of accused in the aforesaid

chargesheets/Supplementary chargesheets had moved separate applications for plea bargaining and accordingly 908 accused were convicted by Ld. Plea Bargaining Judge on their plea of guilt. So far as the present chargesheet is concerned, the same was filed against five accused, all of which contested the case. Arguments on the charge were thereafter heard on behalf of State as well as accused persons. Subsequently, vide order dated 24.08.2020, charges under Section 3 of Epidemic Diseases Act, 1897, Section 51 of Disaster Management Act, 2005, Section 188 and Section 269 IPC were directed to be framed against the accused, whose names have been mentioned hereinabove. By the same order, they were discharged for the offences punishable under Section 14(b) of Foreigner Act, 1946 and for the offences punishable under Sections 270/271 IPC.

3. The aforesaid accused did not plead guilty to the charge and claimed trial. Though the prosecution had cited as many as 116 witnesses in the chargesheet, however, only 56 witnesses (as per Annexure A of this judgment) have been examined by Prosecution in support of the charges framed against the accused. The aforesaid witnesses have relied upon the documents mentioned against their names in Annexure A of this Judgment and were duly cross-examined by Ld. Counsel(s) for accused persons. Besides, documents as per Annexure-B to the judgment were admitted by accused persons in terms of Section 294 Cr.P.C vide statement dated 28.08.2020.

4. Subsequently, on the submission/statement of Ld. APP for the State, the prosecution evidence was closed vide order dated 12.11.2020

and matter was adjourned for recording of statements of accused persons under Section 313 Cr.P.C. Statements of Accused u/s 313 Cr.P.C. read with Section 281 Cr.P.C. were thereafter recorded on 01.12.2020 while putting entire incriminating evidence against them. Accused have denied all the allegations including knowledge of various notifications/regulations/orders for violation of which charges were framed against them. They even denied their presence at Markaz/Banglewali masjid during the relevant period. All the accused, chose not to lead any evidence in their defence and hence, the matter was adjourned for final arguments.

5. Final arguments on behalf of State as well as accused have subsequently been heard on 03.12.2020, 08.12.2020 and 09.12.2020.

6. It is submitted by Ld. Assistant/Additional PP for State that prosecution has been able to prove all the ingredients of the offence u/s 3 of the Epidemic Diseases Act, 1897, u/s 51 of the Disaster Management Act, 2005 and u/s. 188 and 269 of the IPC beyond reasonable doubts not only by way of admission of the accused but also by way of uncontroverted testimonies of prosecution witnesses more particularly PW-1, PW-8 and PW-35.

7. So far as the offence u/s 188 IPC is concerned, according to them, the testimony of PW-1 and PW-37 regarding promulgation of the order u/s 144 Cr.P.C. by PW-37 has remained uncontroverted and the only defence of the accused as per cross-examination of said witnesses and as per their statements u/s 313 Cr.P.C. is that the said order besides the other guidelines of Government of NCT of Delhi and

Govt. of India were not communicated to them. It is further submitted by them that what is contemplated under Section 188 IPC is promulgation of an order and not it's communication. Even otherwise, as per the Ld. Additional PP for the State, the court can take judicial notice of the fact that various guidelines under Epidemic Diseases Act, 1897, including but not limited to the restriction of public gathering (religious or non- religious) to a particular number, regarding use of mask, hand sanitizers and maintaining social distancing were specifically promulgated by Government of NCT of Delhi and Union of India through various means of communications such as in the form of caller tunes of the mobile phones, newspapers, TV, Radio and hence, prosecution has been able to prove that besides, promulgation of the order within the meaning of Section 188 IPC, the accused had acquired knowledge of the said guidelines through the aforesaid means of publication.

8. In response to the query of the court regarding the matters of which the court can take judicial notice, it was submitted by Ld. APP for the State that Section 56 of Indian Evidence Act, 1872, empowers the court to take judicial notice of certain facts and some facts on which judicial notice can be taken by the court are mentioned in Section 57 of Indian Evidence Act, 1872. The aforesaid list of facts, according to him, is not exhaustive and court can take judicial notice of the danger posed by epidemic of Covid-19 and preventive measures advised by WHO as well as UOI, besides, Government of NCT of Delhi being the matters of science as mentioned in the closing part of

the Section 57 of Indian Evidence Act. It is further submitted by him that the omission on the part of the accused persons in disclosing their travel history amounts to violation of the clause 8 and 9 of the notification dated 12.03.2020. He further submits that even if, it is assumed for the sake of the arguments that prosecution is not able to prove the guidelines requiring wearing of mask, maintaining social distance and use of hand sanitizers, gathering of more than 2000 persons in the Markaz premises for the religious purpose itself was a violation of Notification dated 13.03.2020 issued by Government of NCT of Delhi, which restricted such gathering to a maximum of 200 persons, notification dated 16.03.2020 of GNCT of Delhi which restricted such gatherings to a maximum of 50 persons and notification dated 19.03.2020 of GNCT of Delhi which restricted such gatherings to a maximum of 20 persons.

9. So far as the identification of the accused persons as violators of the aforesaid guidelines is concerned, it is submitted by him that identification of the accused persons has been established by register Ex.PW-53/B (colly), besides the testimonies of PW-1, PW-8 and PW-35, which has further been corroborated by the list of evacuees tendered by PW-48 and PW-53 in their evidence.

10. It is further contended by Ld. APP that through the uncontroverted testimonies of prosecution witnesses, the prosecution has been able to prove beyond reasonable doubts that accused while staying at Markaz, being fully aware of the aforesaid guidelines, had flouted the guidelines regarding maintaining social distance, wearing

masks and using hand sanitizers with impunity. It is further submitted on behalf of the State that prosecution through the testimonies of SHO PS H. N Din, Tehsildar concerned and all the Doctors from medical team, who had visited the Markaz premises before and after promulgation of the lockdown, has been able to prove that they had regularly briefed the accused persons requesting them to follow guidelines of the Government, however, they refused to do the needful in this regard.

11. It is further submitted by him that even if, it is assumed for the sake of the arguments that accused before this court were asymptomatic at the time of their evacuation from Markaz premises, considering the documents proved by prosecution witnesses that evacuees from Markaz, who were not initially symptomatic, were later on found to be Covid-19 positive and six of them have also died due to Covid-19, it was incumbent upon all the officials of the Markaz, including the present accused, to bring the said fact of some of them being symptomatic/covid-19 positive to the notice of concerned authorities. Since, according to them, the accused have failed to bring the said violations to the notice of competent authorities, they are liable for negligence within the meaning of Section 269 of the IPC.

12. Once, according to him, prosecution has proved the presence of accused at Markaz premises, the onus of proof that the accused were not present at the Markaz premises at the relevant period got shifted to the accused persons which they have failed to discharge and hence, the adverse inference needs to be drawn against the accused persons, since



they have failed to lead any evidence to prove their presence elsewhere, within the meaning of Section 114(g) of the Indian Evidence Act.

13. He further submits that when the accused takes a false plea in his statement u/s 313 Cr.P.C. about the facts exclusively known to him, such circumstance is a vital additional circumstance against the accused. He further submits that though the accused had right to maintain silence, however, his silence will go against him if he fails to disclose the facts to controvert the evidence led by prosecution.

14. Placing reliance on the judgment of Hon'ble Delhi High Court in *Shambir & Ors. State (2018) 254 DLT 488*, Ld. Additional PP for State further submits that the Covid -19 pandemic has given rise to extraordinary circumstances which calls for an extraordinary response from the Court in as much as the Court cannot insist on compliance by the prosecution of normal rules of evidence and law need to evolve so as to meet the extraordinary situation. He submits that merely because some of the doctors from the medical team visiting Markaz have not been examined by the prosecution, the same by itself is not sufficient to throw away the entire case of prosecution being doubtful, in as much as, it is the reasonable doubt and not every fanciful doubt about the veracity of the prosecution case, which enures for the benefit of accused in a criminal trial.

15. The prosecution has thus prayed for conviction of the accused persons for all the offences with which they have been charged.

16. On the other hand, it has been submitted by counsel for accused

persons that present case has been registered on the complaint of SHO PS H.N Din despite the fact that he was not authorized under the relevant regulations/orders to give the complaint for violation of the notification Ex. PW-1/A. He further submits that the provision of the Section 3 of Epidemic Diseases Act and Section 188 IPC, requires the complaint under Section 195 Cr.P.C and though the complaint u/s 195 Cr.P.C. in the present case has been given by ACP Lajpat Nagar, besides complaint of SDM, Defence Colony, under Section 60 of Disaster Management Act, however, both the aforesaid complaints had been given at the instance of the IO. The aforesaid fact, according to Ld. Counsel for accused points towards malicious prosecution of the accused persons at the instance of a particular political party since they are foreign nationals belonging to a particular community.

17. He submits that no negligence has been proved by prosecution on the part of accused in terms of Section 269 IPC in as much as none of the accused were found symptomatic at the time of their alleged evacuation even as per the list of evacuees Ex. PW-53/Z-21 relied upon by the prosecution. It is submitted by Ld. Counsel for accused that in the absence of any of the accused being symptomatic, there was no duty upon them either for their self isolation or for reporting to the authorities. In the absence of any such duty of care, according to him, there is no question of any negligence on the part of accused within the meaning of Section 269 IPC. This, according to him, is despite the fact that the aforesaid list has not been proved as per provisions of Indian Evidence Act, in as much as, neither the author of the aforesaid list nor

the person in whose presence the said list was prepared has been examined as a prosecution witness.

18. He further submits that prosecution has even failed to prove the presence of the accused persons at the Markaz premises at the time of their alleged evacuation or at any time prior thereto after the alleged guidelines vide notification dated 12.03.2020 and subsequent notifications had come into existence. He further submits that alleged register Ex.PW-53/B(colly) has not been proved as per the provisions of Indian Evidence Act. He further submits that prosecution has failed to place on record any photographs or CD of any videography of the alleged violation on the part of the accused persons of the guidelines pertaining to social distancing. It is stated by counsel for accused that though in the FIR only eight accused persons were named by SHO, however, after conclusion of investigation chargesheet has been filed against more than 900 foreign nationals without identification of the alleged violators by any of the alleged witnesses of the aforesaid violation in Judicial Test Identification Proceedings. He submits that it has been repeatedly held by Hon'ble Supreme Court of India as well as Hon'ble High Court of Delhi that docket identification of the accused in the court for the first time which is not preceded by judicial TIP is a very weak piece of evidence and not much weight can be attached to such identification.

19. It is further submitted by Ld. Counsel for accused that many of the accused chargesheeted by prosecution were pardanashin ladies and it does not stand to the reason as to how they have been chargesheeted

for not wearing masks. He submits that the said facts indicate that accused persons were chargesheeted before the court at the instance of political masters without there being an *iota* of evidence against them. It is further submitted by Ld. Counsel for accused that it is highly improbable that the SHO, Tehsildar and Doctors, who had allegedly visited Markaz for a very short duration could have identified the foreign nationals, who have been arrayed as accused before this court, out of alleged gathering of 2343 persons. It is further submitted by him that even the lists obtained by IO from the alleged quarantine centres has not been properly proved in as much as no medical record including record of admission of accused persons, their lab reports, discharge slips and MLCs have been placed on record by the prosecution. Moreover, according to him, the names of none of the Doctors from the Duty Roster of the Doctors deputed at Markaz premises during relevant time, have been cited as prosecution witnesses, despite they being the material witnesses for which an adverse inference needs to be drawn against the prosecution.

20. Ld. Counsel for accused has further pointed towards the memo dated 15.05.2020 of handing over the passports by Constable Vivek Kumar to the IO, which is Ex.PW-53/O (colly), wherein it is stated that passports had been seized by Constable Vivek from possession of foreign nationals from various masjid/shelters situated within the areas of PS Chandni Mahal, Delhi. It is further stated that aforesaid memo mentions the names of 138 foreign nationals from whom passports had been taken into possession from different masjids/shelters in the area

of PS Chandni Mahal, Delhi and name of many of accused persons before this court can be found in the aforesaid list, which contradicts the case of prosecution that the aforesaid accused persons during the relevant time were staying in markaz premises and even after their evacuation they were shifted to different quarantine centres/hospitals where they were staying even on the date of filing of the chargesheets. He submits that the aforesaid facts coupled with the fact that original handwritten lists of evacuees prepared by the team of doctors at the time of alleged evacuation of the persons from the Markaz have not been produced before the Court indicates that the register Ex. PW-52/B (colly) and the lists Ex. PW-53/Z-21, Ex. PW-53/Z-22 and Ex. PW-53/Z-24 have been manipulated after receipt of instructions from the Ministry of Home Affairs, Govt. of India vide letters dated 28.03.2020 and 02.04.2020 Ex. PW-53/Z-29 (Colly)(also part of Ex. PW-53/Z-59 (colly) alongwith list of 960 foreign nationals including the accused in the present chargesheets, for their prosecution.

21. Identification of the accused persons by prosecution witnesses, according to counsel for accused, in the court creates doubt in view of the fact that in none of the statements recorded under Section 161 Cr.P.C, the witnesses had stated that they will be able to identify the accused, if shown to them. It is further submitted that PW-13, PW-14, PW-15 and PW-16 have admitted during their cross-examination that the persons staying at markaz during the relevant time were using masks and maintaining social distancing.

22. Ld. Counsel for accused has thus prayed for acquittal of the

accused in the present case from all the charges framed against them in terms of order dated 24.08.2020.

23. I have heard the submissions on behalf of both the parties and have also carefully perused the material available on record. I have also carefully gone through the judgments relied upon by Ld. APP for State.

24. It is well settled legal proposition that in a criminal case, the burden is on the prosecution to prove its case beyond reasonable doubts, before the accused is asked to put his defence. It is for the prosecution to travel the entire distance from 'may have' to 'must have'. If the story of the prosecution appears to be improbable or lacks credibility, the benefit of doubt necessarily has to go to the accused.

25. In the case in hand, accused have been charged with offence under Sections 188 and 269 IPC, Section 3 of the Epidemic Diseases Act, 1897 and Section 51 of the Disaster management Act, 2005.

26. As per the authoritative pronouncement of Hon'ble Delhi High Court in ***Bhoop Singh Tyagi v. State, 2002 SCC OnLine Del 277***, in order to secure conviction of the accused for the offence under Section 188 IPC, it was incumbent upon the prosecution to prove that (i) there was an order promulgated by a public servant, (ii) such public servant was lawfully empowered to promulgate such order, (iii) The accused necessarily had the knowledge of such order directing them to abstain from an act or to take certain order with certain property in their possession or under their management, (iv) The accused have disobeyed the order having its knowledge, (v) Such disobedience

caused or tended to cause (a) obstruction, annoyance or injury or risk of it to any person lawfully employed or (b) danger to human life, health and safety.

27. Qua the charge u/s 188 IPC, the prosecution has alleged violation on the part of accused of order u/s 144 Cr.P.C. dated 24.03.2020 promulgated by ACP, Lajpat Nagar Sub-Division. So far as the power of the ACP Lajpat Nagar Sub-division to promulgate the aforesaid order is concerned, the same is not in issue. It is contended by Ld. Counsel for accused that the said order was never promulgated within the meaning of Section 188 IPC nor the accused were aware of the same. On the other hand, it has been alleged by Ld. APP for State that even the promulgation is not disputed by the accused and their only defence is that the same was not communicated to the accused, which is not a pre-requisite for prosecution or for that matter conviction of the accused for the offence u/s 188 IPC.

28. I have given my thoughtful consideration to the rival submissions made at bar. On a wholesome reading of the evidence of PW-1 including his cross-examination by Ld. Counsels for accused, I do not find any admission on the part of accused of the fact that the order dated 24.03.2020 of ACP Lajpat Nagar was promulgated. No doubt, the suggestions given by counsel for accused to PW-1 during his cross-examination were to the effect that the said order was never communicated to the accused, however, the said suggestions simply mean that the accused were not aware of the said order dated 24.03.2020, which in its turn implies that the order was not duly

promulgated.

29. Though the word promulgation has not been defined in the IPC nor any particular mode of promulgation has been prescribed in IPC or for that matter in Cr. P.C., however, the meaning of promulgation has come up for consideration before Hon'ble Allahabad High Court in *State v. Tugla, 1955 SCC OnLine All 282 : AIR 1955 All 423*. I deem it appropriate to reproduce the relevant observations made by Hon'ble Allahabad High Court in the aforesaid judgment hereinunder:

“65. As regards the question whether the order of the criminal Court under S. 145 was covered by the provisions of S. 188, I.P.C. I am of opinion that qua the parties to the litigation in the criminal Court, the order having been passed in their presence, the order must be deemed to have been duly “promulgated” so far as they are concerned. The word ‘promulgate’ means “to make known by public declaration, to publish; to disseminate or to proclaim”. In essence the word connotes two ideas: (1) making known of an order and (2) the means by which the order is made known must be by something done openly and in public. Private information will not be “promulgation”. But the law does not prescribe any particular mode in which an order is made known openly and publicly. It may be by beat of drum; it may be by publication in Gazette; it may be by reading out an order openly in public. Any order announced in open Court will be deemed to have been promulgated, but as the Court room is a place where the litigants are expected to go and the public at large is not expected to be present though they have right to go there if they so wish, the open declaration of the order in Court will be deemed to be a notice not to



the public at large but to the parties of the case in which the order is passed. An order duly pronounced in open Court must be deemed to be duly promulgated so far as the parties to the case are concerned.” (*Emphasis mine*)

30. Thus, it can be seen from the above that promulgation essentially is the process by which an order is made known to the persons sought to be made bound thereby, however, private communication thereof shall not amount to promulgation. The another pre-requisite for prosecution as well as conviction of an accused for an offence u/s 188 IPC is to prove the actual knowledge of the order, on the part of the person sought to be prosecuted. While taking the aforesaid view, I draw support from the following observations made by Hon’ble Delhi High Court in ***Bhoop Singh Tyagi’s case (supra)***:

“9. As already seen, a person booked under Section 188 IPC must have actual knowledge of public servant's order requiring him to do or abstain from doing some act. Acquiring or gaining of such knowledge is a pre-requisite. Any proof of general notification promulgated by a public servant would not satisfy the requirement.

10. It is true that the knowledge of accused could be presumed in certain circumstances but all the same a complaint/FIR must indicate, even though not in very express terms, that he had the knowledge of the order and had knowingly disobeyed it. Where the terms of complaint/FIR did not provide even an inkling in this regard, it cannot be said to make out or constitute an offence under Section 188 and in such a situation, it would warrant to be quashed.

11. A perusal of the FIR does not indicate that petitioner had actual knowledge of police commissioner's order. It is not the case of respondents also that this order was served on him by whatever means/modes or was either affixed on his premises or was gazetted on the relevant date. Their stand, on the contrary, is that the requisite knowledge must be attributed to him because police commissioner's order was published in some newspapers and handbills, etc. This, in our view, would not meet the requirement, because a number of events may be reported in newspapers. But that would not attribute or convey knowledge of such events to all readers. Moreover, a person may not be a reader of a particular newspaper. He can't, therefore, be attributed knowledge of the contents of the newspaper. It may have been understandable if a general public notice of police commissioner's order was shown to have published in media in general to raise a presumption of knowledge to the house owners living in a particular area. But even that is not the case here.”(*Emphasis mine*).

31. In the case in hand, the prosecution has failed to lead any evidence of promulgation of the order u/s 144 Cr.P.C. by ACP, Lajpat Nagar in the sense that not even an iota of evidence about publication thereof so as to bring the same to the notice of persons staying in Markaz has been brought on record. A perusal of the order Ex. PW-1/C (Colly) reflects that the same was directed to be published by affixing copies of the same on notice boards of all police stations/DCP offices, municipal offices/PWD etc., AIR India, Doordarshan etc. and 30 copies of the same were marked to PRO i.e. PW-44 for publicity in

the local press/Radio/Television. PRO has been examined by the prosecution as PW-44 and though he has deposed that he uploaded the order on the website of Delhi Police on 24.03.2020 itself, however, he has failed to depose that he had publicized the said order in Press, Radio or Television. No copy of any newspaper, audio/video clip containing contents of the order for publication on Radio or Television has been proved on record. Under the aforesaid circumstances, in my considered opinion, mere uploading of order Ex. PW-1/C(Colly) on Delhi Police Website shall not have the effect of promulgation, much less, the same is sufficient to prove that the knowledge of the promulgation of aforesaid order can be imputed to any of the accused in view of the authoritative pronouncement of Hon'ble Delhi High Court referred to hereinabove.

32. Though the prosecution has examined as many as 56 witnesses, however, besides the PRO of Delhi Police, it was only PW-1 and PW-37, who had deposed about promulgation of order u/s 144 Cr.P.C. by ACP Lajpat Nagar, however, even they had failed to disclose the mode and manner of said promulgation. The entire examination in chief of both the said witnesses is conspicuously silent about the mode and manner of promulgation of order u/s 144 Cr.P.C. by the ACP Lajpat Nagar. Though, PW-1 in his examination in chief has taken a stand that he kept on apprising the Markaz Management about the Govt. Guidelines and preventive measures required to be taken for covid-19, however, reference in his examination is to the Govt. Guidelines and not to the order u/s 144 Cr.P.C. Moreover, in the testimony of PW-37,

he deposed that he apprised the management of Markaz of the order u/s 144 Cr.P.C. through a letter dated 28.03.2020 and even in his testimony there is no whisper that he brought the order u/s 144 Cr.P.C. allegedly promulgated by him to the notice of accused persons or for that matter the persons residing inside the Markaz other than the Management of the Markaz.

33. From the aforesaid discussion, it can be concluded that the prosecution has failed to prove the charge u/s 188 IPC against the accused persons in as much as not even an iota of evidence qua the first two pre-requisites of promulgation and actual knowledge of the order u/s 144 Cr.P.C. on the part of accused has been led by the prosecution. Moreover, in my considered opinion, the prosecution has even failed to prove the disobedience of any of the directions contained in the said order by any of the accused. Reasons for my aforesaid opinion are given in the following paragraphs.

34. A perusal of order dated 24.03.2020 of ACP Lajpat Nagar reflects that the relevant clauses are clause 2 and 5 thereof. As per clause 2 of the said order all gatherings (religious or non-religious) have been prohibited in the sub division Lajpat Nagar and as per clause 5 thereof all individuals suspect or confirmed case of Covid-19 were directed to take measures for prevention/treatment by way of home isolation/institutional quarantine and were directed to follow directions of surveillance personnel. It is contended by Ld. APP that all the accused were part of religious gathering at Markaz in violation of said guidelines and some of them were upon suspects i.e. having covid-19

symptoms and some were found to be confirmed cases of covid-19 upon testing and since they failed to resort to isolation or institutional quarantine, they have disobeyed the directions contained in order of ACP. On the other hand, accused have denied their presence at Markaz during the relevant period.

35. As has already been observed hereinabove, in order to prove the presence of accused at Markaz during the relevant period, the prosecution has relied upon the register of foreigners maintained at Markaz which is Ex. PW-52/B(Colly) and list of evacuees Ex. PW-53/Z-21, Ex. PW-53/Z-22 and Ex. PW-53/Z-24 (colly) besides the oral testimonies of PW-1, PW-8 and PW-35 identifying the accused persons in the Court. I shall consider the aforesaid documents as well as oral testimonies one by one in the following paragraphs.

36. So far as the register Ex. PW-52/B (colly) is concerned, the same is stated to be seized by PW-52 from the Markaz Premises after evacuation of all the occupants of Markaz in the first week of April 2020. Though the original register has been produced by PW-52, during the course of evidence, however, neither the author nor the person in whose presence the entries were made in the register of the names, state and passport numbers of the foreign nationals have been examined by the prosecution in its evidence to prove the correctness of the entries made therein. Besides, a bare perusal of the register reflects that it has several columns however the column headings are not self explanatory to ascertain the nature of information contained in each column. In the absence of appropriate column headings, it is difficult

to ascertain as to whether the date against the registration number is the date of arrival of a particular person at Markaz or the same is the date of registration/date of advance booking. Thus, mere exhibition of the register in evidence by PW-52 shall not have the effect of proof of correctness of the contents of the said register. This is besides the fact that the contents of the register do not even otherwise prove that the accused arrived at Markaz on the dates mentioned against their names or that they were staying at Markaz till 30.03.2020-31.03.2020.

37. Similar is the case with the list of evacuees or list of persons allegedly shifted to different hospitals/quarantine centres which are Ex. PW-53/Z-21, Ex. PW-53/Z-22 and Ex. PW-53/Z-24 (colly). It is significant to note in this regard that the said lists have been provided to the IO by PW-48 and the same do not bear the signatures of the persons preparing the same. In fact neither PW-48 nor any other witness could depose as to the name of the person who had actually typed the said lists. Admittedly, the handwritten lists were prepared by the medical teams at the time of screening of persons at the gate of Markaz during 25.03.2020- 01.04.2020. However, the said lists have not been produced either alongwith the chargesheets or anytime during the prosecution evidence. Even though, some of the said lists are accompanied by certificates u/s 65B of the Indian Evidence Act, however, the same is regarding the fact that printouts of the same were taken by the person giving the certificate or by his office staff. The aforesaid certificate, even though, makes the said lists admissible in evidence, however, again the same is not sufficient to prove the

correctness of the contents thereof.

38. In fact, during the course of arguments, attention of Ld. Additional PP for state was invited towards the fact that as per the list Ex. PW-53/Z-21 (colly), none of the 36 accused before the court was found to be having covid-19 symptoms at the time of his/her alleged evacuation and screening at the gate of Markaz. In response, it was submitted by Ld. Addl. PP for state that the said list is incomplete/defective which is apparent from the ATRs of medical teams submitted to CDMO recording that all the persons evacuated from Markaz during first 3-4 days were symptomatic, whereas, the list Ex. PW-53/Z-21 does not record any symptoms in front of their names. Thus, by the own admission of Ld. APP for State, the lists sought to be relied upon as a proof of presence of accused at Markaz during the relevant period can't be considered to be recording the correct facts at least qua symptoms. Under the aforesaid circumstances, in my considered opinion, it will not be safe for the court to treat the said lists as the evidence of presence of accused at Markaz during the relevant period.

39. Though the prosecution has examined 56 witnesses in support of its case, however, only three witnesses i.e. PW-1 (SHO PS H.N.Din), PW-8 (SDM Defence Colony) and PW-35 (Beat Officer of the area) have deposed about identification of the accused persons. Now coming to the oral testimony of PW-1 wherein he has identified all the accused before the Court as the persons seen by him at Markaz during his visits at Markaz between 12.03.2020-01.04.2020. A perusal of the passports

handing over memo dated 15.05.2020 Ex. PW-53/O (Colly) reflects that passports from some of the accused before the Court were allegedly seized prior to 15.05.2020 from different Masjids/shelters situated within the jurisdiction of PS Chandni Mahal, whereas, these accused as per last para of the chargesheet were available at hospitals/quarantine centres, at least as on the date of filing of chargesheets. where they were shifted from Markaz.

40. Had there been any truth in the story sought to be propounded by the prosecution that all the 36 accused facing trial before this Court were seen at Markaz by PW-1, PW-8 and PW-35 immediately before their evacuation from 30.03.2020-01.04.2020 and they were shifted to different quarantine Centres/hospitals as per lists PW-53/Z-21, Ex. PW-53/Z-22 and Ex. PW-53/Z-24 (colly) and they continued to stay at the same place till filing of chargesheets, there was no occasion for seizure of passports from some of them from different Masjids/shelters within the jurisdiction of PS Chandni Mahal on or before 15.05.2020. Similar is the issue with the testimonies of PW-8 and PW-35, who have also identified even those accused whose names were there in the list Ex. PW-53/O (colly). The aforesaid contradiction in the case of prosecution renders the plea sought to be raised by accused persons in their defence, reasonably probable that none of them was present at Markaz during the relevant period and they had been picked up from different places so as to maliciously prosecute them upon directions from Ministry of home affairs, Govt. of India vide letters dated 28.03.2020 and 01.04.2020. It is significant to note in this regard that



the Bureau of Immigration, Ministry of Home Affairs, Govt. of India has directed all Commissioner(s) of Police and DGP(s) of states to prosecute 960 foreign nationals as per list attached with the letter for visa violations and under other relevant provisions of law.

41. It is further significant to note in this regard that in the original complaint Ex. PW-1/A dated 31.03.2020, the complainant has named only 8 accused who all were part of management committee of Markaz, however, subsequently during investigation, which has started after order dated 01.04.2020 of Ministry of Home Affairs, Govt. of India, IO has arrayed 952 (all foreign nationals) persons as accused in the 48 chargesheets and 11 supplementary charges, without any identification from the witnesses out of total 2343 persons who were allegedly evacuated from Markaz Premises till early morning of 01.04.2020. It is beyond comprehension of the court, as to how, IO could have identified 952 foreign nationals out of 2343 persons, who as per SHO, were found flouting the guidelines, without any TIP, but on the basis of list provided by MHA, Govt. of India.

42. It may further be noted in this regard that though as per the version of PW-1, the management of Markaz kept him as well as other authorities in dark about the actual number of persons inside the Markaz till completion of the evacuation exercise, however, contrary to his complaint and the examination in chief, during his cross-examination he had tried to improve upon his case alleging that during 12.03.2020-31.03.2020, he had visited inside the Markaz(covering all floors), almost on daily basis and found the accused violating the

guidelines. Had it been so, SHO was aware of the actual number of persons gathered at Markaz since beginning and still he failed to take any timely measures to ensure dispersal of the said gatherings despite being aware of the Govt. guidelines. Else, if he was not so aware of the actual or even approximate numbers staying inside Markaz till the last day of evacuation exercise, he in all probability is deposing falsely about his daily visits to Markaz and briefing of the people stranded therein with Govt. Guidelines. In any case, his testimony has failed to pass the test of creditworthiness and hence identification by him of the accused persons in the court is not sufficient to discharge the onus of prosecution to prove the presence of accused at Markaz during the relevant period.

43. Similar is the situation with the testimony of PW-8. PW-8 has also identified even those accused, alleging the same to be present inside Markaz at the time of evacuation, whose names find mention in the list of 136 persons Ex. PW-53/O (Colly). Similar is the case with the identification of accused by PW-35. Moreover, it is significant to note that as per PW-35, the visit of SHO to Markaz premises was duly photographed and video graphed though as per PW-1 he did not remember about the photography or videography of his visit to Markaz. No such photographs and videography has been proved by the prosecution on record which would have been the best evidence to prove the presence of accused persons inside Markaz Premises during the relevant period.

44. As has already been observed hereinabove, independent of the

said documentary/oral evidence, no further evidence has been led by the prosecution regarding presence of accused persons inside Markaz at the time of evacuation or any time prior thereto but after 12.03.2020. Though, some of the prosecution witnesses, who had allegedly interrogated the accused persons in the quarantine Centres/hospitals, have also been asked to identify the accused and have in fact some of them have identified the accused, however, identification by them is of no consequence in as much as they could not have proved the presence of accused inside Markaz during the relevant period.

45. At this stage, I would like to deal with the contention of Ld. Additional PP for the State based on the judgment of Hon'ble Delhi High Court in *Shambir and Ors Vs. State (Supra)* that given the extraordinary situation that prevailed during the relevant time to which the incident pertains, identification of the accused by the witnesses is not essential and the court can even convict the accused persons whose presence on the spot has even otherwise been duly established. I have carefully perused the judgment relied upon by Ld. Additional PP for State. It is significant to note in this regard that the facts and circumstance of the case before Hon'ble High Court of Delhi were entirely different from the facts and circumstances of the present case. In the case before Hon'ble High Court of Delhi, though the witnesses could not identify any of the accused by name at the trial nor were they able to specify the order in which the arrests were made, however, the Hon'ble High Court of Delhi on the basis of material available on record in the form of number of undisputed contemporaneous

documents such as the arrest memos, personal search memos prepared on the date of incident and the remand papers regarding grant of JC remand of the accused persons had come to a conclusion that the presence of the accused on the spot had been proved by the prosecution beyond reasonable doubts. On the other hand, in the present case not only the contemporaneous documents have not been placed on record by the prosecution but also the prosecution has failed to prove the documents as per law to establish the presence of the accused persons on the spot. The aforesaid judgment of Hon'ble High Court of Delhi is thus of no assistance to the prosecution.

46. In view of the aforesaid discussions, once the court has come to a conclusion based on evidence led by the prosecution that prosecution has failed to prove the presence of any of the accused persons inside the Markaz during 12.03.2020- 01.04.2020, there is no question of any violation/disobedience by them of the order u/s 144 Cr.P.C. allegedly promulgated (though promulgation has also not been proved by prosecution in view of finding recorded hereinabove) by ACP, Lajpat Nagar. The reliance by Ld. APP for State on the proposition of law that a false statement by the accused in his examination under Section 313 Cr.P.C shall supply the omission, if any, in the case of prosecution is highly misplaced, considering the fact that the prosecution has failed to point out which statement made by accused during his examination under Section 313 Cr.P.C is false.

47. The Accused are thus entitled to be acquitted of charge u/s 188 IPC.

48. Now coming to the charge under Section 269 IPC, in my considered opinion, prosecution has even failed to prove the said charge firstly in view of the fact that presence of none of the accused inside the Markaz premises during 12.03.2020-01.04.2020 has been proved by the prosecution beyond reasonable doubts and secondly in view of the fact that as per the list of evacuees Ex. PW-53/Z-21 (Colly), none of the accused before this Court was having Covid-19 symptoms, in the absence of which there is no question of any negligent act on the part of any of the accused which to their knowledge or belief was likely to spread infection.

49. So far as the list Ex. PW-53/Z-22 and PW-53/ Z-24 (Colly) regarding 8 of the accused before this Court in some of the chargesheets having been found Covid-19 positive are concerned, as has already been observed hereinabove, the said lists have not been properly proved by the prosecution as per applicable rules of evidence. Moreover, even if it is assumed for the sake of arguments that some of the accused are proved to have been found Covid-19 positive on different dates i.e. 01.04.2020, 09.04.2020 and 10.04.2020, in the absence of any symptoms at the time of their alleged stay at Markaz, they can't be said to have been indulged in commission of any negligent act likely to spread infection.

50. So far as the charge under Section 3 of the Epidemic Diseases Act, 1897 read with regulations/guidelines Ex. PW-1/A and Ex. PW-1/B is concerned, again the said charge has not been proved against any of the accused for want of reliable evidence of their presence

inside Markaz Premises during 12.03.2020-01.04.2020. It has already been held hereinabove that prosecution has failed to lead any cogent evidence to prove that any of the accused was a part of gathering at Markaz. In the absence of such an evidence, there is no question of violation of guidelines vide notification dated 16.03.2020 of Govt. of NCT of Delhi, restricting the gathering to a maximum of 50 persons.

51. For the similar reason i.e. on account of failure of prosecution to prove the presence of accused inside Markaz Premises during the relevant period, in my considered opinion, the charge under Section 51 of the Disaster Management Act, 2005 also falls to the ground.

52. In view of the aforesaid discussions, all the accused are hereby acquitted of all the charges framed against them in terms of orders dated 24.08.2020.

53. Bail Bonds in terms of Section 437-A Cr.P.C. have been furnished by the accused. The same are accepted and shall remain in force for a period of six months from today.

54. Ordered accordingly.

*Pronounced in the open court on this 15<sup>th</sup> Day of December, 2020.*

*This judgment consists of 30 signed pages (65 pages including Annexure-A and B).*

**(ARUN KUMAR GARG)**  
**Chief Metropolitan Magistrate**  
**South East, Saket Courts: New Delhi**

## ANNEXURE-A

S. No.	Details of Witnesses	Documents tendered in evidence
1	<p>PW-1 Inspector Mukesh Walia, SHO PS H.N Din, New Delhi.</p> <p>-First informant/Complainant</p> <p>-Identification of Accused Persons</p>	<p>Ex.PW-1/A (colly)- Copy of Notification No. F51/DGHS/PH-IV/Covid-19/202-215 dated 12.03.2020 issued by Government of NCT of Delhi, Health and Family Welfare Department. (PP. 57-60)</p> <p>Ex.PW-1/B – Copy of Order No. F51/DGHS/PH-IV/Covid-19/2020/M/prsecyhfw/2500 dated 16.03.2020 issued by Government of NCT of Delhi, Health and Family Welfare Department. (P. 56)</p> <p>Ex.PW-1/C(colly)- Prohibitory Order under Section 144 Cr.P.C No. 684-713/ACP/Lajpat Nagar, New Delhi dated 24.03.2020. (PP. 211-213)</p> <p>DD Entries with respect to alleged communication between Inspector Mukesh Walia and Maulana Mohd. Saad:- (PP. 178-198)</p> <p>Ex.PW-1/D-1 (colly)- DD No. 7-A dated 19.03.2020 PS H. N Din.</p> <p>Ex.PW-1/D-2 – DD No. 32 A dated 19.03.2020 time approx. 04.00 pm PS H. N Din</p> <p>Ex.PW-1/D- 3- DD No. 9 A dated 20.03.2020, time approx. 09.10 am PS H. N Din.</p> <p>Ex.PW-1/D-4 (colly) – DD No. 18 A dated 20.03.2020 time approx. 04.00 pm PS H. N Din.</p> <p>Ex.PW-1/D-5 – DD No. 8 A dated</p>

	<p>21.03.2020 time approx. 09.00 am PS H. N Din.</p> <p>Ex.PW-1/D-6 – DD No. 8 A dated 22.03.2020 time approx. 09.25 am PS H. N Din.</p> <p>Ex.PW-1/D-7 – DD No. 8 A dated 22.03.2020 time approx. 04.00 pm PS H. N Din.</p> <p>Ex.PW-1/D-8 – DD No. 28 A Dated 23.03.2020 time approx. 07.25 pm PS H. N Din.</p> <p>Ex.PW-1/D-9(colly) – DD No. 30 A Dated 23.03.2020 time approx. 07.30 pm PS H. N Din.</p> <p>Ex.PW-1/D-10 – DD No. 13 A Dated 26.03.2020 time approx. 09.15 am PS H. N Din.</p> <p>Ex.PW-1/D-11 – DD No. 41 A Dated 26.03.2020 time approx. 07.40 pm PS H. N Din.</p> <p>Ex.PW-1/D-12 – DD No. 12 A Dated 27.03.2020 time approx. 04.05 pm PS H. N Din.</p> <p>Ex.PW-1/D-13 – DD No. 22 A Dated 28.03.2020 time approx. 12.35 pm PS H. N Din.</p> <p>Ex.PW-1/D-14 – DD No. 25 A Dated 28.03.2020 time approx. 05.50 p.m PS H. N Din.</p> <p>Ex.PW-1/E- Letter vide Diary No. 293 dated 24.03.2020 served by SHO PS H.N Din upon Mohd. Saad, Head of Markaz on 24.03.2020. (P. 199)</p>
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		<p>Ex.PW-1/F – Complaint/ Tehrir dated 31.03.2020 of SHO P.S H. Din addressed to DCP Crime Branch. (PP. 1-2)</p> <p>Ex.PW-1/G- Reply given by SHO P.S H.N Din to the Notice of the IO under Section 91 Cr.P.C. (PP. 171-172)</p> <p>During his cross-examination, the witness was confronted with the documents Ex.PW-1/D1 to Ex.PW-1/D2 and the reply dated 25.03.2020 purportedly given by the Markaz management to SHO PS H.N Din, which is Mark DX.</p>
2	<p>PW-2 Duty Officer HC Bhupendra Kumar, No. 1520/Crime, PS Crime Branch</p> <p>-Got the FIR Registered on the basis of Tehrir and Rukka</p>	<p>Ex.PW-2/A- Copy of FIR No. 63/2020 PS Crime Branch (PP. 4-7)</p> <p>Ex.PW-2/B – Endorsement of the Duty Officer on the rukka. (P. 3)</p> <p>Ex.PW-2/C- Certificate under Section 65 B of Indian Evidence Act in support of the FIR Ex.PW-2/A. (P. 8)</p>
3	<p>PW-3 Dr. Angel Rajan Singh, Associate Professor Hospital, Administration, AIIMS, New Delhi.</p> <p>-Informed Govt. of NCT of Delhi about death of one foreign national at NCI, Jhajjar</p>	<p>Mark as Ex.PW-3/A-1 – Letter No. F3-2020/NCI (MR) Misc Covid-19 dated 13.04.2020 written by PW-3 to Secretary Health and Family Welfare, Government of NCT Delhi informing about death of a foreign national namely Moldokulov Maksat at NCI Jhajjar, Covid Facility of AIIMS, New Delhi and seeking further direction regarding the disposal of the dead body of deceased. (P. 463)</p>
4	<p>PW-4 Dr. Ravinder Singh Ahlawat, Director Professor Medicines at Maulana Azad Medical College and Lok Nayak Hospital, New Delhi.</p>	<p>Mark-PW-4/A – Death Certificate of Mohd. Aslam Abassi. ((P. 474)</p>

	-Sought to prove death certificate of one of the foreign national at LNJP Hospital	
5	<p>PW-5 Dr. Kapil, CMO, Lok Nayak Hospital, Delhi.</p> <p>-Sought to prove death certificate of one of the foreign national at LNJP Hospital</p>	<p>Mark PW-5/1 (also Ex.PW-6/A) - Copy of Death Certificate of Mohd. Mustafa, aged about 60 years. (PP. 495-497)</p>
6	<p>PW-6 Dr. Sabah, JR, Accident and Emergency, Lok Nayak Hospital, Delhi.</p> <p>-Sought to prove death certificate of one of the foreign national at LNJP Hospital</p>	<p>Ex.PW-6/A (also Mark PW-5/1) – Copy of Death Certificate of Mohd. Mustafa. (PP. 495-497)</p>
7	<p>PW-7 ASI Braham Dev, No. 3118/SW, PS Crime Branch</p> <p>-Joined investigation with IO Inspector Satish on the date of registration of FIR as well as on 06.05.2020, 13.05.2020 and 25.05.2020.</p>	<p>During his cross-examination was confronted with his statement under Section 161 Cr.P.C recorded by IO on 23.05.2020, which is Ex.PW-7/1.</p>
8	<p>PW-8 Vinod Kumar Yadav, SDM, Defence Colony, New Delhi.</p> <p>- Sought to prove correspondence between the office of CDMO and Office of DM</p> <p>- Identified all accused except four pardanashin ladies and one accused namely Kerim Lokhuza from Kyrgyzstan</p>	<p>Ex.PW-8/A – Reply to the notice under Section 91 Cr.P.C. (PP. 282-284)</p> <p>The documents annexed alongwith reply of notice u/s 91 Cr.P.C :- (PP. 285-388)</p> <p>PW8/A-1 (also Ex.PW-53/Z11) E-mail of District Surveillance Officer dated 23.03.2020.</p> <p>PW8/A-2 (also Ex.PW-53/Z12 and</p>

	<p>Ex.PW-53/Z13)- one letter of District Medical Health Officer, Guntur dated 25.03.2020.</p> <p>PW8/A-3 (also Ex.PW-53/Z14)- Surveillance report dated 25.03.2020 of Dr. Amber Prakash to CDMO.</p> <p>Mark-PW8/A-4 and Mark Ex.PW-8/A5 (also Ex.PW-53/Z15 and 16) - The action taken report dated 28.03.2020 from CDMO.</p> <p>Mark-PW8/A-6 (also Ex.PW-53/Z17) - Report from the office of Deputy Commissioner South Andaman to Deputy Commissioner, South East, Delhi.</p> <p>Mark-PW8/A-7 - (also Ex.PW-53/Z18) - ATR of CDMO dated 29.03.2020 with regard to the person evacuated from the Markaz premises.</p> <p>Mark-PW8/A-8 (colly) (also Ex.PW-53/Z-19 and Ex.PW-53/Z-20)- Two ATRs of CDMO dated 30.03.2020 (PP 295-296).</p> <p>Mark-PW8/A-9 (also Ex.PW-53/Z-21) - One E-mail dated 05.04.2020 of CDMO alongwith the complete list of the persons who were evacuated from the Markaz premises (PP No. 297 to 341).</p> <p>Mark-PW8/A-10 (colly) (also Ex.PW-53/Z-22) - The relevant pages of the dispatch diary of SDM office Defence Colony ( PP. 342 to 388).</p> <p>Ex.PW8/B- Certificate u/s 65-B of Indian Evidence Act in support of the documents printout of which was</p>
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		<p>taken from the office computer of PW-8 and annexed along with his reply under Section 91 Cr.P.C.</p> <p>Ex.PW8/C- Complaint dated 23.05.2020 given by SDM Defence Colony under Disaster Management Act to DCP Crime, Head Quarter, Delhi. (PP. 480 to 490)</p> <p>During cross-examination of the aforesaid witness, he was confronted with the document Ex.PW-8/DX-1, which is the request dated 26.04.2020 from DCP Crime, Head Quarter to DM South East for giving complaint.</p>
9	<p>PW-9 Dr. Payal Kashyap, Junior Resident, Sushruta Trauma Centre, Lok Nayak Hospital, New Delhi.</p> <p>-Sought to prove death certificate of one of the foreign national at LNJP Hospital</p>	<p>Mark-9/A - Copy of Death Certificate of Majeeth, S/o. Mustafa, aged about 68 years dated issued by Lok Nayak Hospital. (P. 466)</p>
10	<p>PW-10- Dr. Ekta Gupta, Professor Department of Virology, Institute of Liver and Biliary Sciences, Vasant Kunj, Delhi</p> <p>-Sought to prove Covid report of one of the foreign national who died at LNJP Hospital</p>	<p>Mark-PW-10/A – The Covid-19 report of patient Majeeth, S/o. Mustafa, aged about 68 years. (P. 467)</p>
11	<p>PW-11 Sh. Kifayath Ullah.</p> <p>-Performed last rites of two deceased from Tamil Nadu</p>	<p>No exhibit</p>
12	<p>PW-12 Dr. Geeta, CDMO, South East District Delhi.</p> <p>-sought to prove various reports</p>	<p>Mark-PW-12/A (also Ex.PW-53/Z-10)– Reply given by Dr. Geeta, CDMO to the notice under Section 91 Cr.P.C given by IO alongwith certificate under section 65 B of</p>

<p>prepared by medical team visiting markaz besides duty roster of doctors deputed at Markaz</p> <p>-Also supervised evacuation programme at Markaz on 30.03.2020-31.03.2020</p>	<p>Indian Evidence Act in support of documents Mark PW12/A-1 to Mark PW12/A-23 (also Ex.PW53/Z-10 (colly.) from page numbers 238 to 279).</p> <p>Marked PW-12/A1 - Brief report dated 20.05.2020 given by Dr. Geeta, CDMO regarding markaz/masjid.</p> <p>Marked PW-12/A2- A letter dated 29.03.2020, for seeking assistance/co-operation from the various authorities.</p> <p>Marked PW-12/A3- A letter dated 30.03.2020, addressed to DM South East to take immediate action for the cordoned off the area.</p> <p>Marked PW-12/A4- A visit report of markaz/masjid on 26.03.2020.</p> <p>Marked PW-12/A5- Action taken report of the markaz/masjid Nizamuddin dated 27.03.2020.</p> <p>Marked PW-12/A6.- Duty Roster of the medical staff at the markaz/masjid on 30.03.2020.</p> <p>Marked PW-12/A7.- Direction of DGHS for screening of inmates in markaz/masjid premises.</p> <p>Marked PW-12/A8.- Order dated 20.03.2020 in regard to the deployment of medical team.</p> <p>Marked PW-12/A9.- Duty Roster of the medical staff at the markaz/masjid dated 31.03.2020.</p> <p>Marked PW-12/A10.-The details of</p>
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	<p>the staff deployed for survey of Nizamuddin area dated 02.04.2020.</p> <p>Marked PW-12/A11.-Details of the inmates shifted to the hospital and different quarantine centres.</p> <p>Marked PW-12/A12– Also (Ex.PW-51/A) The Covid-19 surveillance report of Markaz Nizamuddin dated 25.03.2020 given by Dr. Ambar Prakash to CDMO.</p> <p>Marked PW-12/A13.-Letter dated 28.03.2020 of DM South East in regard to people residing in markaz/masjid nizamuddin.</p> <p>Marked PW-12/A14.- Letter of State Surveillance unit for screening of inmates residing in markaz/masjid premises dated 28.03.2020.</p> <p>Marked PW-12/A15.- E-mail to the higher authority regarding people residing in markaz/masjid dated 29.03.2020.</p> <p>Marked PW-12/A16- A letter dated 29.03.2020 for accommodation of inmates of the markaz/masjid.</p> <p>Marked PW-12/A17.- Details of the patients shifted to the hospitals and different quarantine centres (running into three pages).</p> <p>Marked PW-12/A18- Information of survey done in Nizamuddin area (running into two pages).</p> <p>Marked PW-12/A19- Brief report of the markaz/masjid given to the higher authorities (running into three pages).</p>
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		<p>Marked PW-12/A20- Action Taken Report after 28.03.2020.</p> <p>Marked PW-12/A21- Details of the 32 symptomatic patients shifted to Rajiv Gandhi Hospital from markaz/masjid premises (running into two pages).</p> <p>Marked PW-12/A22- ATR in regard to evacuation of Markaz/Masjid dated 01.04.2020 (running into two pages).</p> <p>Marked PW-12/A23- The whatsapp message regarding information of covid-19 positive patient (running into two pages).</p> <p>During her cross examination, she was confronted with her statement u/s 161 Cr.P.C which is Ex.PW12/D-1.</p>
13	<p>PW-13 Constable Imram Khan, No. 404/SB, Asaf Ali Road, Police Bhawan, Delhi.</p> <p>-Performed duty outside Markaz on 31.03.2020</p>	<b>No Exhibit</b>
14	<p>PW-14 ASI Raisuddin, No. 191/Special Branch, Delhi Police.</p> <p>-From Muslim Section , Special Branch)</p>	<b>No Exhibit</b>
15	<p>PW-15 ASI Fateh Mohammad, No. 1052/SB, Police Bhawan, Asaf Ali Road, Delhi.</p> <p>-From Muslim Section , Special Branch)</p>	<b>No Exhibit</b>

16	PW-16 ASI Mehboob Ali, No. 327/SB, Police Bhawan, Asaf Ali Road, Delhi. - -From Muslim Section , Special Branch)	The aforesaid witness was declared hostile by Ld. APP for State and during cross examination by Ld. APP was confronted with his statement u/s 161 Cr.P.C Ex.PW16/A.
17	PW-17 Sh. Ram Pyare Pandey, Dealing Clerk, Lok Nayak Hospital, MRD Block, Delhi.  -Sought to prove death certificate of one of the foreign national who died at LNJP Hospital	Ex.PW-17/A – Death Certificate dated 29.03.2020 of accused Thasthkir Pichachaikani. (PP. 468-473)
18	PW-18 ASI Rafeek Deen, No. 164/SB, Police Bhawan, Asaf Ali Road, Delhi.  -From Muslim Section, Special Branch	<b>No Exhibit</b>
19	PW-19 WSI Preeti Sharma, PIS No. 16140360, SOS-I, PS Crime Branch, Prashant Vihar, Sector-14, Rohini, Delhi.  Interrogated few accused at hospital/quarantine centre and seized their passports at the instance of IO.	During her cross examination, she was confronted with her statement u/s 161 Cr.P.C which is Ex.PW19/D-1.
20	PW-20 ASI Bedi Ram, No. 929/SE, PS H.N Din, Delhi.	During his cross examination, he was confronted with his statement u/s 161 Cr.P.C which is Ex.PW20/D-A.
21	PW-21 Dr. Deepa Dua, MO Incharge, Delhi Government Dispensary, Sari Kalen Khan, Delhi.  -Visited Markaz on 25.03.2020 but	During her cross examination, she was confronted with her statement u/s 161 Cr.P.C which is Ex.PW21/D-A.



	denied entry.	
22	PW-22 Dr. Tarun Kumar, Airport Health Officer, APHO Delhi.	Ex.PW-22/A- Reply dated 07.04.2020 given by Dr. Tarun Kumar to the notice under Section 91 Cr.P.C given by IO. (P. 167)  Mark-PW-22/X, Mark-22/X-1 and Mark PW-22/X-2 – Copy of directions related to quarantine supplied by PW22 to IO alongwith his reply Ex.PW22/A. (PP. 168-170)
23	PW-23 Dr. Stuti Singh, DSO, South East District, New Delhi.  -Called Markaz Management on 19.03.2020 for contact tracing of one confirmed case of Covid-19 found in Telangana.	During her cross examination, she was confronted with her statement u/s 161 Cr.P.C which is Ex.PW-23/DA.
24	PW-24 Inspector Virender Kumar, No. D-87, AHTU, Crime Branch, New Delhi.  - Interrogated few accused at hospital/quarantine centre and seized their passports at the instance of IO	Ex.PW-24/A – Notice under Section 41(A) Cr.P.C served to accused Yu Sup.  Ex.PW-24/B- Acknowledgement of the notice under Section 41 (A) Cr.P.C.  Ex.PW-24/C- Notice under Section 41(A) Cr.P.C served to accused Thi Ha Kyaw Swar  Ex.PW-24/D- Acknowledgement of the notice under Section 41 (A) Cr.P.C.  Ex.PW-24/E- Questionnaire served to accused Yu Sup.  Ex.PW-24/F- Questionnaire served to accused Thi Ha Kyaw Swar
25	PW-25 SI Rajeev Bamal, No. D-	Ex.PW-25/A- Questionnaire served

	4664, PS Crime Branch, STF, Sunlight Colony, Delhi.  - Interrogated few accused at hospital/quarantine centre and seized their passports at the instance of IO.	to accused Muhammad Huzaifa Baha.  Ex.PW-25/B- Questionnaire served to accused Muhaimi Madiyoh.
26	PW-26 ASI Rajesh Kumar, No. 102/Crime, PIS No. 28911671, PS Crime Branch (AHTU) Sector-16, Rohini.  - Interrogated few accused at hospital/quarantine centre and seized their passports at the instance of IO.	Ex.PW-26/A- Questionnaire served to accused Mohd. Jamal Mohammad (USA National).  During his cross examination, he was confronted with his statement u/s 161 Cr.P.C which is Ex.PW26/D-1.
27	PW-27 SI Vikrant Singh, No. D-5367, Special Cell, NDR, Lodhi Colony, Delhi.  - Interrogated few accused at hospital/quarantine centre and seized their passports at the instance of IO.	Ex.PW-27/A- Questionnaire served to accused Jahedul Islam (Bangladeshi National).  During his cross examination, he was confronted with his statement u/s 161 Cr.P.C which is Ex.PW-27/D-1.
28	PW-28 SI Sandeep, No. D-4375, SOS, Crime Branch, Prashant Vihar, Delhi.  -Interrogated few accused at hospital/quarantine centre and seized their passports at the instance of IO.	Ex.PW-28/A- Questionnaire served to accused Noor Alam.  Ex.PW-28/B- Questionnaire served to accused Mohd. Suhan
29	PW-29 SI Mintu Singh, No. D-4218, ISC, Crime Branch, Chankyapuri, Delhi.  - Interrogated few accused at	Ex.PW-29/A - Questionnaire served to accused Juliansyah Sarifuddin.  Ex.PW-29/B- Notice served to accused Juliansyah Sarifuddin.

	hospital/quarantine centre and seized their passports at the instance of IO.	
30	<p>PW-30 ASI Ashok, No. 396/CR, STF, Crime Branch, Sunlight Colony, New Delhi.</p> <p>- Interrogated few accused at hospital/quarantine centre and seized their passports at the instance of IO.</p>	Ex.PW-30/A - Questionnaire served to accused Afwan Anas Ahmed.
31	<p>PW-31 ASI Ashok Kumar, No. 221/SD, ACP Office, Sangam Vihar, New Delhi.</p> <p>.- Interrogated few accused at hospital/quarantine centre and seized their passports at the instance of IO.</p>	<p>Ex.PW-31/A - Questionnaire served to accused Mohammad Usman (Thailand national).</p> <p>During his cross examination, he was confronted with his statement u/s 161 Cr.P.C which is Ex.PW-31/D-1</p>
32	<p>PW-32 ASI Rajesh Kumar, No. 3824/SE, PS Nizamuddin, New Delhi.</p> <p>-Beat officer alongwith HC Hafizullah</p>	<b>No Exhibit</b>
33	<p>PW-33 Inspector Manoj Kumar, No. D-3942, AHTU, Crime Branch, Rohini</p> <p>- Interrogated few accused at hospital/quarantine centre and seized their passports at the instance of IO.</p>	<p>Ex.PW-33/A – Notice under Section 41 (A) Cr.P.C served to accused Mohammad Jamal (US national).</p> <p>Ex.PW-33/B- Acknowledgement of the notice under Section 41 (A) Cr.P.C served to accused Mohammad Jamal.</p>
34	PW-34 ASI Dharmender, No. 2011/DAP, ISC, Crime Branch, Chankyapuri, Delhi.	Ex.PW-34/A – Notice under Section 41 (A) Cr.P.C served to accused K. Irfan Baig (Australian national)

	<p>- Interrogated few accused at hospital/quarantine centre and seized their passports at the instance of IO.</p>	<p>Ex.PW-34/B – Notice under Section 41 (A) Cr.P.C served to accused Tariq Elhaj Ibrahim Mohammad (Sudan national)</p> <p>Ex.PW-34/C – Notice under Section 41 (A) Cr.P.C served to accused Adullah Gaibullah (Sudan national).</p> <p>Ex.PW-34/D – Acknowledgement of the notice under Section 41 (A) Cr.P.C served to accused K. Irfan Baig (Australian national).</p> <p>Ex.PW-34/E – Acknowledgement of the notice under Section 41 (A) Cr.P.C served to accused Tariq Elhaj Ibrahim Mohammad (Sudan national).</p> <p>Ex.PW-34/F – Acknowledgement of the notice under Section 41 (A) Cr.P.C served to accused Adullah Gaibullah (Sudan national).</p> <p>Ex.PW-34/G - Questionnaire served to accused K. Irfan Baig (Australian national)</p> <p>Ex.PW-34/H - Questionnaire served to accused Tariq Elhaj Ibrahim Mohammad (Sudan national).</p> <p>Ex.PW-34/I - Questionnaire served to accused Adullah Gaibullah (Sudan national).</p>
35	<p>PW-35 Head Constable Hafizullah, No. 1821/SE, PS H.N. Din, Delhi.</p> <p>-Beat officer of area where Markaz is situated.</p> <p>-Identified all accused except four</p>	<p>During his cross examination, he was confronted with his statement u/s 161 Cr.P.C which is Ex.PW-35/A.</p>

	pardanashin ladies and one of the accused namely Abdulla from Sudan.	
36	PW-36 Sh. Ravindra Kumar, Tehsildar, Defence Colony, New Delhi.	During his cross examination, he was confronted with his statement u/s 161 Cr.P.C which is Ex.PW-36/D-1.
37	<p>PW-37 Sh. Atul Kumar, ACP Aman Vihar, Rohini District, Delhi.</p> <p>-Promulgated Order u/s 144 Cr.P.C. in respect of Lajpat Nagar Sub Division and gave complaint u/s 195 Cr.P.C.</p>	<p>Mark-PW- 37/A (also Ex.PW-53/Z5) – Notice dated 28.03.2020 to Maulana Saad. (P 207)</p> <p>Mark-PW-37/B (also Ex.PW-53/Z6) – Photocopy of diary dispatch register (PP 208-210).</p> <p>Mark-PW-37/C- (<b>also Ex.PW-53/Z4</b>) letter dated 24.03.2020 of SHO P.S H.N Din to Mohd. Saad (PP 206)</p> <p>Mark-PW- 37/D- (<b>also Ex.PW-53/Z7</b>) e-mail dated 24.03.2020 forwarding copy of order under Section 144 Cr.P.C to PRO and all SHOs of Lajpat Nagar, Sub Divison (P 214).</p> <p>Mark-PW37/E – Copy of request of IO for providing the complaint under Section 195 Cr.P.C (P 491)</p> <p>Mark-PW-37/F- (<b>also Ex.PW-53/Z3</b>) Reply given by ACP to IO in pursuance to notice under Section 91 Cr.P.C. (PP 204-205).</p> <p>Mark-PW- 37/G- (also Ex.PW-53/Z25) complaint under Section 195 Cr.P.C addressed to the court given by ACP to the IO (P 492-494).</p>

		<p>During his cross-examination he was confronted with the following documents:-</p> <p>Ex.PW-37/D1- certificate under Section 65 B of Indian Evidence Act given by PW-37.</p> <p>Ex.PW-37/D2 – reply to the notice mark PW-37/A dated 30.03.2020.</p> <p>Ex.PW-37/D-X1 – GD/DD No. 41-A dated 04.04.2020</p> <p>Ex.PW-37/D-X2 -GD/DD No. 37-A dated 04.04.2020</p>
38	<p>PW-38 ASI Gajender Kumar No. 509/Crime, AHTU, Sector-16, Rohini, Delhi.</p> <p>- Interrogated few accused at hospital/quarantine centre and seized their passports at the instance of IO</p>	<p>Ex.PW-38/A- Questionnaire served to accused Mohammad Sahib Salam.</p>
39	<p>PW-39 Head Constable Surya Prakash, No. 328/Crime Branch, SIU-I, Daryaganj, New Delhi.</p> <p>- Interrogated few accused at hospital/quarantine centre and seized their passports at the instance of IO.</p>	<p>Ex.PW-39/A- Notice under Section 41 (A) Cr.P.C served to accused Bechir Yanes (Tunisia national)</p> <p>During his cross examination, he was confronted with his statement u/s 161 Cr.P.C which is Ex.PW-39/D-1.</p>
40	<p>PW-40 SI Ramesh Kaushik, No. 1062/D, AHTU, Crime Branch, Delhi.</p> <p>- Interrogated few accused at hospital/quarantine centre and seized their passports at the instance of IO.</p>	<p>Ex.PW-40/A - Questionnaire served upon accused M.P.M Muzammil (Srilankan national).</p>

41	<p>PW-41 SI Ashish, No. D-4077, PIS No. 28060946, IGIS, Crime Branch, Dwarka.</p> <p>- Interrogated few accused at hospital/quarantine centre and seized their passports at the instance of IO.</p>	<p>Ex.PW-41/A - Questionnaire served to accused Avakirov Kubanchbek (Russian national).</p>
42	<p>PW-42 SI Deepak Pandey, D-4286, SOS-II, Rohini Sector-18, Crime Branch.</p> <p>- Interrogated few accused at hospital/quarantine centre and seized their passports at the instance of IO.</p>	<p>Ex.PW-42/A – Notice under Section 41 (A) Cr.P.C served to accused Khursheeda.</p> <p>Ex.PW-42/B – Notice under Section 41 (A) Cr.P.C served to accused Rashida.</p> <p>Ex.PW-42/C – Notice under Section 41 (A) Cr.P.C served to accused Ahmad Lutf.</p> <p>Ex.PW-42/D – Undertaking of accused Khursheeda</p> <p>Ex.PW-42/E – Undertaking of accused Rashida.</p> <p>Ex.PW-42/F – Undertaking of accused Ahmad Lutf.</p> <p>Ex.PW-42/G – Acknowledgement of the notice under Section 41 (A) Cr.P.C served to accused Khursheeda</p> <p>Ex.PW-42/H – Acknowledgement of the notice under Section 41 (A) Cr.P.C served to accused Rashida.</p> <p>Ex.PW-42/I – Acknowledgement of the notice under Section 41 (A) Cr.P.C served to accused Ahmad Lutf.</p>

		<p>Ex.PW-42/J - Questionnaire served to accused Khursheeda</p> <p>Ex.PW-42/K - Questionnaire served to accused Rashida.</p> <p>Ex.PW-42/L - Questionnaire served to accused Ahmad Lutif.</p> <p>Ex.P1 to Ex.P3 – Passports of the aforesaid three accused.</p>
43	<p>PW-43 Inspector Yashpal, No. DI-647, IGIS, Crime Branch, Dwarka, Delhi.</p> <p>- Interrogated few accused at hospital/quarantine centre and seized their passports at the instance of IO.</p>	<p>Ex.PW-43/A – Notice under Section 41 (A) Cr.P.C served to accused Mehdi Draa (France National)</p> <p>Ex.PW-43/B – Notice under Section 41 (A) Cr.P.C served to accused Harsan (Kyrgyzstan national)</p> <p>**Ex.PW-43/C – Notice under Section 41 (A) Cr.P.C served to accused Nurlan (Kyrgyzstan national)</p> <p>**Ex.PW-43/D – Notice under Section 41 (A) Cr.P.C served to accused Dervishaly (Kyrgyzstan national)</p> <p>**Ex.PW-43/E – Notice under Section 41 (A) Cr.P.C served to accused Makmut (Kyrgyzstan national)</p> <p>**Ex.PW-43/F – Notice under Section 41 (A) Cr.P.C served to accused Ibragim (Kyrgyzstan national)</p> <p>**Ex.PW-43/G – Notice under Section 41 (A) Cr.P.C served to accused Karim (Kyrgyzstan national).</p>



		<p>Ex.PW-43/H – Undertaking of accused Mehdi Draa (France national).</p> <p>**Ex.PW-43/I – Undertaking of accused Harsan (Kyrgyzstan national).</p> <p>**Ex.PW-43/J – Undertaking of accused Nurlan (Kyrgyzstan national).</p> <p>**Ex.PW-43/K – Undertaking of accused Dervishaly (Kyrgyzstan national).</p> <p>**Ex.PW-43/L– Undertaking of accused Makmut (Kyrgyzstan national).</p> <p>**Ex.PW-43/M – Undertaking of accused Ibragim (Kyrgyzstan national).</p> <p>**Ex.PW-43/N – Undertaking of accused Karim (Kyrgyzstan national).</p> <p>**Ex.PW-43/O to Ex.PW-43/U- Acknowledgements of the notices under Section 41 (A) Cr.P.C served upon the above said seven foreign nationals.</p> <p>**Ex.PW-43/V to Ex.PW-42/Z1- Questionnaires served upon the aforesaid accused</p>
44	<p>PW-44 SI Jagpreet Singh, No.D-4795, PRO Section, PHQ, Delhi.</p> <p>- Published Order u/s 144 Cr.P.C of ACP, Lajpat Nagar on Delhi Police Website.</p>	<b>No Exhibit</b>

45	<p>PW-45 ASI Satish Kumar, No. 3510, PS Mayur Vihar, Delhi, who was working as Duty Officer at PS H.N Din on 29.03.2020.</p> <p>-Recorded DD about death of one person from Tamil Nadu at LNJP.</p>	<p>Ex.PW-45/A – DD Entry No. 0036 A PS H.N Din.</p>
46	<p>PW-46 Head Constable Gopal Singh, No. 1770-SE, PS H. N Din, Delhi, who was working as Duty Officer at PS H.N Din on 10.04.2020.</p> <p>-Recorded DD about death of Majid S/o. Mustafa</p>	<p>Ex.PW-46/A – DD Entry No. 0004 A PS H.N Din.</p>
47	<p>PW-47 ACP M.A Khan, No. D-1/303, Special Branch, Asafa Ali Road, Delhi.</p>	<p>Ex.PW-47/A – Reply to the notice under Section 91 Cr.P.C dated 24.04.2020 given to IO.</p> <p>Mark X1 and Mark-X2 – Report given to DCP of Special Branch Delhi and details of the staff deployed at Bangle Wali Masjid/markaz, H. N Din from 10.03.2020 to 01.04.2020.</p>
48	<p>PW-48 Dr. Z.S.K Marak, Additional Director, Public Health Wing-4, For Covid-19, Directorate General Health Services, Government of NCT of Delhi.</p> <p>-Provided details of Covid-19 suspects/confirmed cases/persons died due to covid-19 shifted to various hospitals/quarantine centres from Markaz.</p>	<p>Ex.PW-48/A- Reply to the notice under Section 91 Cr.P.C to IO (P 392).</p> <p>Ex.PW-48/B- Details of the persons/positive/presumptive cases and the death of persons from the Covid-19 hospital and the quarantine centers during special operation (PP 419 to 462).</p> <p>Mark-PW-48X (colly) (also Ex.PW-53/Z23)- Details of persons who were detected Covid-19 positive at Rajeev</p>

		<p>Gandhi Super Speciality Hospital (PP 393-394)</p> <p>Mark-PW-48X1 (also Ex.PW-53/Z23)- Details of persons who were detected Covid-19 positive at DDU Hospital (PP 395)</p> <p>Mark-PW-48X2 (also Ex.PW-53/Z23)- Details of persons who were detected Covid-19 positive at BSA Hospital (PP 396)</p> <p>Mark-PW-48X3 (also Ex.PW-53/Z23)- Details of persons who were detected Covid-19 positive at GTB Hospital (PP 397)</p> <p>Mark-PW-48X4 (colly) (also Ex.PW-53/Z23)- Details of persons who were detected Covid-19 positive at AIIMS Jhajhar (PP 398-409)</p> <p>Mark-PW-48X5 (colly) (also Ex.PW-53/Z23)- Details of persons who were detected Covid-19 positive at Lok Nayak hospital (PP 410-418)</p> <p>Mark-PW-48/X-6- (also Ex.PW-53/Z24) The list of the persons who were quarantined in different quarantine centres (P 421-461).</p> <p>Ex.PW-48/X-7 – The list of persons who died due to the Covid-19, at the different Covid-19 Hospitals and quarantine centers (P 462).</p> <p>Ex.PW-48/C – Certificate under Section 65 B of Indian Evidence Act.</p>
49	PW-49 Head Constable Subodh, No. 2172/SE, PS Kalindikunj,	<b>No Exhibit</b>

	<p>Delhi.</p> <p>-Recorded Video of meeting between Management of markaz and SHO PS Nizamaddin on 24.03.2020</p>	
50	<p>PW-50 Inspector P.C Khanduri, No. DI-654, IGIS Crime Branch, Dwarka, Delhi.</p> <p>- Got interrogated few accused at hospital/quarantine centre and got their passports seized at the instance of IO.</p>	<p>Mark-A- Notice under Section 160/41 A Cr.P.C given to SI Rakesh Kumar for service upon accused Suhail Shaik.</p> <p>Mark-B- Particulars of accused Suhail Shail collected by SI Rakesh Kumar from immigration department.</p> <p>Mark-C- Handing over memo of passport and visa of the accused Suhail Shaik.</p> <p>Mark-D – Questionnaire given to accused Suhail Shaik.</p> <p>Mark-E- Undertaking from accused Suhail Shaik with regard to joining in the present case.</p> <p>Mark-F and Mark-G - Copy of passport and visa of accused Suhail Shaik, which was seized and handed over to PW-50 by SI Rakesh Kumar.</p> <p>Mark-H- seizure memo of 123 passports and 23 identity cards of the foreign nationals who were quarantined in quarantine centre of Narela Industrial Area including Mirnayuni (Indonesian national), Mohd. Sohan (Bangladeshi national), Rizky Rendhana (Indonesian national), Mohd. Shahib Salman (Srilankan national), Mohd. Ruslan G jijai (Thailand national).</p>

		<p>Mark-I - handing over memo of 165 passports of foreign nationals of different countries including accused Tarig Elhaj Ibrahim Mohd (Sudan national).</p> <p>Mark-J – handing over memo of 47 passports of foreign nationals including the accused Nurlan, Harsan, Derivishaly, Zunurov and Ibragim (all Kyrgyzstan)</p> <p>Mark-K –handing over memo of two passports of two foreign nationals including accused Salam Masod</p>
51	<p>PW-51 Dr. Ambar Prakash, General Duty Medical Officer-II, (GDMO-II), UPHC, Jungpura, New Delhi.</p> <p>-Visited Markaz on 25.03.2020 and gave first report of situation at Markaz</p>	<p>Ex.PW-51/A – Covid-19 surveillance report given by PW-51 to CDMO South East (P 256).</p> <p>During his cross examination, he was confronted with his statement u/s 161 Cr.P.C which is Ex.PW-51/D1.</p>
52	<p>PW-52 Constable Azad Singh, No. 705/CR, SOS-I, Crime Branch, Prashant Vihar, Rohini Sector-14, Delhi.</p> <p>-Joined investigation qua seizure of Register of foreign visitors maintained at Markaz.</p>	<p>Ex.PW-52/A- seizure memo of the register allegedly maintained at Markaz and ID card which were handed over to the IO at PS H.N Din. (PP. 10-11)</p> <p>Ex. PW-52/B(colly) – copy of the relevant pages of register which were taken from Markaz (P 504 to 631).</p> <p>During his cross examination, he was confronted with his statement u/s 161 Cr.P.C which is Ex.PW-52/D-1.</p>
53	<p>PW-53 IO/Inspector Satish Kumar, No. DI-1262, SOS, Crime Branch, Prashant Vihar, New Delhi.</p> <p>-IO of the case.</p>	<p>Ex.PW-53/A – endorsement on the complaint Ex.PW-1/F (P.3).</p> <p>Ex.PW53/B - Detection of accused Suhail Shaik already Mark B (P.12).</p> <p>Ex.PW53/C - notice given to accused</p>

		<p>Suhail Shaik already Mark A (P.13)</p> <p>Ex.PW53/D - undertaking of accused Suhail Shaik Mark C (P.14)</p> <p>Ex.PW53/ E (colly.) questionnaire running into three pages</p> <p>Ex.PW53/F (colly.) copy of visa application form running into two pages</p> <p>Ex.PW53/G (these documents are modified with charge sheet no. 31 relating to accused Suhail Shaik and K. Irfan Baig)- seizure memo of passport / identity card running into four pages dated 11.04.2020 already Mark H (PP.21-24)</p> <p>Ex.PW53/H (colly.) - Handing over memo of passport dated 14.04.2020 (P.25)</p> <p>Ex.PW53/I - Handing over memo of passport running into two pages (PP.26-27)</p> <p>Ex.PW53/J - Handing over memo of ten passports of Bangladeshi Nationals (P.28 )</p> <p>Ex.PW53/K (colly.) - Memo of possession of passport dated 10.05.2020 running into two pages (PP.31-32 )</p> <p>Ex.PW53/L (colly.) - Memo of possession of passport dated 11.05.2020 already mark PW50/Mark I (PP.33-36 )</p> <p>Ex.PW53/M (colly.) - Memo of possession of passport dated</p>
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	<p>11.05.2020 running into two pages already mark PW50/Mark J (PP.37-38 )</p> <p>Ex.PW53/N - Memo of possession of passport dated 12.05.2020 (P.39 )</p> <p>Ex.PW53/O (colly.) - Memo of possession of passport dated 15.05.2020 running into four pages (PP.40-43 )</p> <p>Ex.PW53/P - Memo of possession of passport dated 19.05.2020 (P.44 )</p> <p>Ex.PW53/Q - Handing over memo of passport dated 21.05.2020 which is already Mark K (P.46 )</p> <p>Ex.PW53/R - Handing over memo of passport dated 27.04.2020 which is already Mark C (P.47 )</p> <p>Ex.PW53/S - Handing over memo of documents etc. dated 25.04.2020 (P.49 )</p> <p>Ex.PW53/T - Handing over memo of the passport dated 21.05.2020 (P.51 )</p> <p>Ex.PW3/U - Letter addressed to Mr. Tarun by PW53 (P.52 )</p> <p>Ex.PW53/V (colly.) - Certified copy of the letter of MHA dated 28.03.2020 (running into two pages) (PP.53-54 )</p> <p>Ex.PW53/W - Letter of Dy. Secretary Health and Family Welfare Department dated 06.04.2020 to DCP Crime (P.55 )</p> <p>Ex.PW53/X - Letter of Joint Dy.</p>
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		<p>Director of IG dated 22.05.2020 (P.61 )</p> <p>Ex.PW53/Y- Letter of Joy N. Tirkey, DCP Crime dated 18.04.2020 (P.62 )</p> <p>Ex.PW53/Z - Letter of Joint Secretary, Ministry of Health and Family Welfare Government of India dated 13.03.2020 already Mark PW22/X (P.168 )</p> <p>Ex.PW53/Z-1 - Letter of Joint Secretary, Ministry of Health and Family Welfare Government of India dated 14.03.2020 already Mark PW22/X-1 (P.169 )</p> <p>Ex.PW53/Z-2 - SOP dated 14.03.2020 earlier mark as PW22/X-2 (P.170 )</p> <p>Ex.PW53/Z-3 (Colly.) - Reply of ACP already Mark PW37/F (running into two pages) (PP.204-205).</p> <p>Ex.PW53/Z-4 - Letter addressed to Mohammad Saad dated 24.03.2020 already Mark PW37/C (P.206).</p> <p>Ex.PW53/Z-5 - Notice of ACP addressed to Mohammad Saad dated 28.03.2020 already Mark PW37/D (P.207).</p> <p>Ex.PW53/Z-6 - Relevant pages of dispatch register running into three pages already Mark PW37/B (colly.) (PP.208-210)</p> <p>Ex.PW53/Z-7 - The E-mail report sent by ACP dated 24.03.2020 already mark PW37/D (P.214).</p>
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	<p>Ex.PW53/Z-8 - Copy of letter of Sh. Rajnish Gupta Dy. Commissioner of Police, Special branch, dated 27.09.2016 which is already Mark X-1 (PP. 233 – 234).</p> <p>Ex.PW53/Z-9 - Letter of MA Khan, ACP Communal which is already Mark X-2 (P. 235)</p> <p>Ex.PW53/Z-10 (colly.) - Letter of Dr. Geeta, CDMO, addressed to IO in reply to notice u/s 91 Cr.P.C alongwith the documents duly attested by her with her signature as well as official stamp which is already Mark PW12/A (PP. 238-279).</p> <p>Ex.PW53/Z-11 &amp; 12 - Copy of letter of Sh. Vinod Kumar Yadav addressed to IO dated 08.04.2020 in reply to notice u/s 91 Cr.P.C running into three pages alongwith annexures Mark PW8/A-1, Mark PW8/A-2 (PP. 282-286).</p> <p>Ex.PW53/Z-13 - Annexure B of the reply of PW8 to notice u/s 91 Cr.P.C. (PP.286-287)</p> <p>Ex.PW53/Z-14 &amp; 15 – Annexures of the reply of PW8 to notice u/s 91 Cr.P.C already mark PW8/A-3 &amp; A-4 (PP.288-289).</p> <p>Ex.PW53/Z-16 – Annexure of the reply of PW8 to notice u/s 91 Cr.P.C. already Mark PW8/A-5 (PP.290-291).</p> <p>Ex.PW53/Z-17 - Annexure of the reply of PW8 to notice u/s 91 Cr.P.C. already Mark PW8/A-6 (P.292).</p>
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		<p>Ex.PW53/Z-18 – Annexure of the reply of PW8 to notice u/s 91 Cr.P.C. already Mark PW8/A-7 (PP. 293-294).</p> <p>Ex.PW53/Z-19 – Annexure of the reply of PW8 to notice u/s 91 Cr.P.C. already Mark PW8/A-8 (P. 295).</p> <p>Ex.PW53/Z-20 – Annexure of the reply of PW8 to notice u/s 91 Cr.P.C. already Mark PW8/A-8a (P.296).</p> <p>Ex.PW53/Z-21 (colly.) – Annexure of the reply of PW8 to notice u/s 91 Cr.P.C. already Mark PW8/A-9 (colly.) i.e. alongwith list of persons who were shifted from Banglewali Masjid to different quarantine center and other hospitals including AIIMS Jhajjar running into 41 pages (PP 297 – 341).</p> <p>Ex.PW53/Z-22 (colly.) – Copy of dispatch register attested by SDM running into 47 pages already Mark PW8/10 (colly.) (PP. 342-388).</p> <p>Ex.PW53/Z-23 (colly.)- Print out of the Excel Sheet running into 25 pages giving details of the persons who had expired due to Covid 19 and the persons who were infected with Covid 19 relating to Markaz Nizamuddin provided by Z.S.K. Marka, Nodal Officer, DGHS, GNCT, Delhi which are already Mark PW48/X-1 to Mark PW48/X-5. (PP.393-418).</p> <p>Ex.PW53/Z-24 (colly.) - Details of the persons affected with Covid 19 relating to Markaz, Banglwali Masjid, Nizamuddin including the</p>
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		<p>persons expired due to Covid – 19 and the persons found infected with Covid 19 related to Markaz running into 42 pages provided by Z.S.K. Marak to IO (PP. 421-462).</p> <p>Ex.PW53/Z-25 (colly.) - Complaint u/s 195 Cr.P.C given by ACP Lajpat Nagar regarding violation of his order u/s 144 Cr.P.C (running into three pages) already Mark PW37/G (PP.492-494).</p> <p>Ex.PW53/Z-26 (colly.) - The notice u/s 91 Cr.P.C served upon SHO PS H.N. Din (PP. 173-174).</p> <p>Ex.PW53/Z27 -The hash value of the audio clips and the video (P.218).</p> <p>Ex.PW53/Z-28 - Site plan of the Markaz premises (P.9)</p> <p>Ex.PW53/Z-29 (colly.) - Office memorandum dated 02.04.2020 under the signature of Under Secretary, Government of India, another notification dated 31.03.2020, order of Commissioner, Ministry of Bureau Immigration and copies of the relevant entries of visa manual ( part of Ex.PW53/Z-59 colly. which are at PP.76-166 )</p> <p>Ex.PW53/Z-30 (Colly.) - Notice u/s 91 Cr.P.C given by IO to CDMO (running into two pages) (PP.236-237).</p> <p>Ex.PW53/Z-31 – Notice of the IO to Sh. M.A. Khan, ACP, Special Branch, Muslim Section (PP. 230 – 231).</p>
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	<p>Ex.PW53/Z-32 (colly.) - Certified copy of the notification of Government of India dated 24.03.2020 (PP. 479 to 484).</p> <p>Ex.PW53/Z-33 – Notice of the IO u/s 91 Cr.P.C dated 20.05.2020 to US (DM) Minsitry of Home Affairs, Union of India (P. 478).</p> <p>Ex.PW53/Z-34 – Copy of notice dated 20.05.2020 of the IO to Director (Foreigners) Ministry of Home Affairs, Government of India (P.485 )</p> <p>Ex.PW53/Z-35 - Copy of press release published by Press Information Bureau, Government of India, blacklisting the foreigners (P.486)</p> <p>Ex.PW53/Z-36 - Notice u/s 41 Cr.P.C to accused Rizky Rendhana (Indonesian National)</p> <p>Ex.PW53/Z-37–Acknowledgement by accused Rizky Rendhana (Indonesian National) of receipt of notice u/s 41 Cr.P.C.</p> <p>Ex.PW53/Z-38 -Undertaking given by accused Rizky Rendhana (Indonesian National).</p> <p>Ex.PW53/Z-39 (colly.) - Questionnaires served by IO upon accused Rizky Rendhana alongwith answers given by accused.</p> <p>Ex.PW53/Z-40- Notice u/s 41 Cr.P.C served by IO upon accused Salam Maso Sod (Thailand National).</p>
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	<p>Ex.PW53/Z-41- Acknowledgment of the notice by accused Salam Maso Sod (Thailand National).</p> <p>Ex.PW53/Z-42- Undertaking given by accused Salam Maso Sod (Thailand National).</p> <p>Ex.PW53/Z-43- Questionnaires served by IO upon accused Salam Maso Sod (Thailand National).</p> <p>Ex.PW53/Z-44 - Notice u/s 41 Cr.P.C to accused Mohammad Ruslan Jijai (Thailand National).</p> <p>Ex.PW53/Z-45– Acknowledgment by accused Mohammad Ruslan Jijai (Thailand National) of receipt of notice u/s 41 Cr.P.C.</p> <p>Ex.PW53/Z-46 -Undertaking given by accused Mohammad Ruslan Jijai (Thailand National).</p> <p>Ex.PW53/Z-47(colly.)- Questionnaires served by IO upon accused Mohammad Ruslan Jijai (Thailand National) alongwith answers given by accused.</p> <p>Ex.PW53/Z-48 - Notice u/s 41 Cr.P.C to accused Mirna Yuni (Indonesian National).</p> <p>Ex.PW53/Z-49– Acknowledgment by accused Mirna Yuni (Indonesian National) of receipt of notice u/s 41 Cr.P.C.</p> <p>Ex.PW53/Z-50 -Undertaking given by accused Mirna Yuni (Indonesian National).</p>
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	<p>Ex.PW53/Z-51 (colly.) - Questionnaires served by IO upon accused Mirna Yuni (Indonesian National) alongwith answers given by accused.</p> <p>Ex.PW53/Z-52 - Notice u/s 41 Cr.P.C to accused Fatima Rifna Mohammad Jawaral (Srilankan National).</p> <p>Ex.PW53/Z-53- Acknowledgment by accused Fatima Rifna Mohammad Jawaral (Srilankan National) of receipt of notice u/s 41 Cr.P.C.</p> <p>Ex.PW53/Z-54 -Undertaking given by accused Fatima Rifna Mohammad Jawaral (Srilankan National).</p> <p>Ex.PW53/Z-55(colly.)- Questionnaires served by IO upon accused Fatima Rifna Mohammad Jawaral (Srilankan National) alongwith answers given by accused.</p> <p>Ex.PW53/Z-56 - Reply from Mehfooz Mohammed, Section Officer, Delhi Waqf Board vide letter dated 16.04.2020 (P.219).</p> <p>Ex.PW53/Z-57(colly.)- Documents supplied by Delhi Waqf Board to the IO (PP.220-226, 228-229)</p> <p>Ex.PW53/Z-58 – Notice given to SDM u/s 91 Cr.P.C on 01.04.2020</p> <p>Ex.PW53/Z-59-Two office memorandum, letter of Rajeev Verma dated 01.04.2020, details of the foreign Tablighi Jamaat in India, letter of under Secretary Partap Singh Rawat dated 02.04.2020 and other</p>
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		<p>documents (PP 76-166).</p> <p>During his cross-examination, witness was confronted with the following documents:</p> <p>Ex.PW53/DX1- statement of ASI Bedi Ram</p> <p>Ex.PW-53/DX-2 – Application sent by Murslin regarding visit of police at Markaz on 05.04.2020</p> <p>Statement u/s 161 Cr.P.C of ASI Mehboob Ali examined as PW16, the same is Ex.PW16/A and the statement of ASI Fateh Mohammad examined as PW15, the same is Ex.PW53/DX-3, the statement of ASI Rahisuddin examined as PW14, the same is Ex.PW53/DX-4.</p>
54	<p>PW-54 Inspector Alok Kumar, No. D-1586, SOS-I, Crime Branch, Prashant Vihar, Delhi.</p> <p>- Interrogated few accused at hospital/quarantine centre and seized their passports at the instance of IO</p>	<p>Ex.PW-54/A- Notice under Section 41 Cr.P.C given to accused Mohd. Sohan.</p> <p>Ex.PW-54/B- Undertaking given by Mohd. Sohan</p> <p>Ex.PW-54/C- Acknowledgement given by accused Mohd. Sohan.</p> <p>Ex.PW-54/D- Notice under Section 41 Cr.P.C given to accused Wasim Bepary.</p> <p>Ex.PW-54/E- Undertaking given by Wasim Bepary.</p> <p>Ex.PW-54/F- Acknowledgement given by accused Wasim Bepary.</p> <p>Ex.PW-54/G – questionnaires served upon accused Wasim Bepary and</p>

		Mohd. Sohan.
55	<p>PW-55 Inspector Vinod, No. D-315, SIU-II, Crime Branch, Nand Nagari, Delhi.</p> <p>- Interrogated few accused at hospital/quarantine centre and seized their passports at the instance of IO.</p>	<p>Ex.PW-55/A- Notice under Section 41 Cr.P.C given to accused Tursyngali Nurbaulet.</p> <p>Ex.PW-55/B and Ex.PW-55/C – acknowledgment and undertaking given by accused Tursyngali Nurbaulet.</p> <p>Ex.PW-55/D- questionnaire served upon the accused Tursyngali Nurbaulet.</p>
56	<p>PW-56 Inspector Lokender, SIU-I, Crime Branch, Daryaganj, Kotwali, Delhi.</p> <p>- Interrogated few accused at hospital/quarantine centre and seized their passports at the instance of IO.</p>	<p>Ex.PW-56/A- questionnaire served upon the accused Abdullah.</p>



**ANNEXURE-B****Documents admitted by Accused Persons in terms of Section 294 Cr.P.C.**

S. No.	Documents	Exhibit
1	Registration of FIR No. 63/2020	Ex.A1
2	Certificate under Section 65 B of Indian Evidence Act.	Ex.A2
3	Order No. 40-3/2020-DM-I(A) dated 24.03.2020	Ex.A3
4	Letter No. 11011/15/2020- MHA dated 28.03.2020	Ex.A4
5	Order dated 02.04.2020 issued by PIB, Government of India	Ex.A5
6	DGHS letter no. 105/DGHS/PHQ-IV/Covid -19/2020/2847-49 dated 14.05.2020	Ex.A6
7	DGHS letter no. 105/DGHS/PHQ-IV/Covid -19/2020/2569-71 dated 04.05.2020	Ex.A7
8	Letter No. S.O/Misc/DWB/2020/0486 dated 16.04.2020	Ex.A8
9	Letter No. 2/SIC/2020/(1)II-1132 dated 16.04.2020	Ex.A9
10	Letter No. 25/Imm-I/2020(1)/109 dated 04.04.2020	Ex.A10
11	Letter No. F.11/75/2019/H&FW/HR-Medical/CD dated 06.04.2020 and copy of notification dated 12.03.2020 and 16.03.2020	Ex.A11
12	MHA Letter no. 4/CFB/2020(13)-I-1946 dated 22.05.2020	Ex.A12
13	Letter No. 1270-SR/FRRO dated 05.04.2020	Ex.A13
14	Letter No. 25022/25/2020 -F-I dated 02.04.2020	Ex.A14
15	E-mail dated 03.04.2020 to Commissioner of Delhi Police	Ex.A15
16	Reply of Notice under Section 91 Cr.P.C vide letter dated 17.04.2020	Ex.A16
17	Memo of passport dated 10.05.2020	Ex.A17
18	Memo of passport dated 11.05.2020	Ex.A18
19	Memo of passport dated 12.05.2020 & 19.05.2020	Ex.A19
20	DD No. 36 A dated 29.03.2020	Ex.A20
21	DD No. 4 A Dated 10.04.2020	Ex.A21
22	Seizure memo of passport dated 09.04.2020	Ex.A22
23	Seizure memo of passport dated 13.04.2020	Ex.A23