

**IN THE HON'BLE HIGH COURT OF JUDICATURE AT  
ALLAHABAD, LUCKNOW BENCH, LUCKNOW.**

**Criminal Revision No. \_\_\_\_\_ of 2021**

**(District Lucknow)**

**(U/S 397 / 401 of Criminal Procedure Code 1973)**

**On behalf of;**

1. **Haji Mahboob Ahmad, aged about 74 years, son of late  
Haji Phekoo, resident of 365, Tehri Bazar, Town  
Ayodhya, District Faizabad, now District Ayodhya.**
2. **Syed Akhlaq Ahmad, aged about 81 years, son of late  
Syed Haji Abdul Sattar, Vashishth Kund, Town  
Ayodhya, District Faizabad, now District Ayodhya.**

**..... Revisionists**

**Versus**

1. **State of U.P. through Home Secretary, Civil  
Secretariate, Lucknow.**
2. **Central Bureau of Investigation through its Director  
General, New Delhi.**
3. **Shri Murli Manohar Joshi, Senior Leader of B.J.P. son  
of late Sri Manmohan Joshi, resident of 22, Gurdwara  
Rakabganj Road, New Delhi**
4. **Sri L.K. Advani, son of Sri Kishan Chand D. Advani,  
resident of C-1/5, Pandara Park, New Delhi-110003.**

5. **Sri Kalyan Singh, son of Sri Tej Pal Singh, Ex-Chief Minister of U.P. r/o Village Mehrauli, P.S. Atrauli, District Aligarh (Uttar Pradesh) and 2, Mall Avenue, Lucknow. (U.P.)**
6. **Sri Acharya Dharmendra Dev, Son of Sri Ram Chander Virji Maharaj, r/o Sri Panchganj Peeth, Viratnagar, Mozi Colony, Malviya Nagar, Jaipur. (Rajasthan)**
7. **Sri Ravindra Nath Srivastav, I.A.S., (Retd.) son of late Jagannath Prasad, Ex-District Magistrate, Faizabad, resident of C-17, Govt. Colony, Nirala Nagar, Lucknow. (Uttar Pradesh) and Permanent Address H. No. 501-A, Hussainabad, District Jaunpur. (Uttar Pradesh).**
8. **Ms.Sadhvi Ritambra, V.H.P. Leader, resident of Akhad Param Dham, Sapt Sarovar Road, Rai Gali, Popatwala, Haridwar and Sankat Mochan Ashram, Sector VI, R. K. Puram, New Delhi.**
9. **Sri Vinay Katiyar, Ex- Member of Parliament, son of Sri Devi Charan Katiyar, resident of Town Ayodhya, District Faizabad (now Ayodhya) and 73, North Avenue, New Delhi.**
10. **Sri Maharaj Swamy Sakshi, Member of Parliament, B.J.P. Chela of Anand Hariji Maharaj, resident of 69, North Avenue, New Delhi Govind Hari Ashram, Mathura, (Uttar Pradesh)**

11. **Sri Pawan Kumar Pandey, son of Sri Jagmon Pandey, Ex-M.L.A., resident of Kotwa Mohammadpur, Akbarpur (Uttar Pradesh) and 80 / 5, Maqbara Ganesh Ganj, Faizabad (now Ayodhya) (Uttar Pradesh).**
12. **Sri Brij Bhushan Saran Singh, Member of Parliament, son of Sri Jadamba Saran Singh, r/o 25, Meena Bagh, New Delhi and Nawabganj, Gonda (Uttar Pradesh).**
13. **Sri Jai Bhagwan Goel, Sri Hari Ram Goel, North India Chief Shiv Sena r/o 1/6734, Gali No. 4, East Rohtas Nagar, Shahdara, Delhi.**
14. **Ms. Uma Bharti alias Gajra Singh, Member of Parliament, B.J.P. D/o Sri Gulab Singh, r/o Darda, District Tikamgarh (Madhya Pradesh) and M.S. Flats Baba Kharag Singh Marg, New Delhi.**
15. **Sri Nritya Gopal Das, resident of Ayodhya, P.S. Ramjanambhoomi Ayodhya, District Faizabad (now Ayodhya). (Uttar Pradesh).**
16. **Sri Ram Bilas Vedanti, resident of Ayodhya, P.S. Ramjanambhoomi Ayodhya, District Faizabad (now Ayodhya). (Uttar Pradesh).**
17. **Sri Dharam Das, resident of Ayodhya, P.S. Ramjanambhoomi Ayodhya, District Faizabad (now Ayodhya). (Uttar Pradesh).**

18. **Sri Satish Pradhan, Member of Parliament, Shiv Sena, son of Sri Sitaram Pradhan, r/o Samant Complex, Ghantally, Thane (Maharashtra).**
19. **Sri Ram Chandra Khatri, Vice-President of Shiv Sena, Haryana, son of Chaudhary Hoshyar Singh r/o DB-228, Prabhu Nagar, Bhiwani, Haryana**
20. **Sri Sudhir Kakkar, Organising Secretary, Shiv Sena, Punjab, son of Sri Rajender Paul, r/o Ward No. 2, old Bassi Road, Morinda Ropar, Punjab.**
21. **Sri Amar Nath Goel, son of Sri Khajanchi Lal Goel, r/o E-181, West Vinod Nagar, Main Road, Mandavli, Delhi.**
22. **Sri Santosh Dubey, Leader of Shiv Sena, Ayodhya, son of Sri Paras Nath Dubey, r/o 123, Jammunia Bagh, Faizabad (now Ayodhya) (Uttar Pradesh).**
23. **Sri Prakash Sharma, Joint Secretary, Bajrang Dal, son of Sri Madan Mohan Sharma, r/o 38/21, Shivala Road, P.S. Kotwali Kanpur (Uttar Pradesh).**
24. **Sri Jaibhan Singh Paweya, all India General Secretary, Bajrang Dal, son of Sri Balwant Singh r/o Babu Dhandi Ki Goth, Laskar, Gwalior, Madhya Pradesh.**
25. **Sri Dharmendra Singh Gurjar, Convenor, Bajrang Dal, Gwalior, son of Sri Kadam Singh Gurjar r/o Chauhi Kashipur, P.S. Dabra, District Gwalior, Madhya Pradesh.**

26. **Sri Ramji Gupta, Supervisor in Ramjanambhoomi Nyas office, son of Sri Dev Prasad Gupta r/o Chajjapur, Tanda, District Faizabad (now Ayodhya), Uttar Pradesh.**
27. **Sri Lallu Singh, Ex-M.L.A. B.J.P., son of Sri Bhagwan Singh r/o Sahadatganj, Faizabad (now Ayodhya), (Uttar Pradesh).**
28. **Sri Champat Rai Bansal, Joint Zonal Organising Secretary, V.H.P., son of Sri Rameshwar Prasad r/o Mohalla Saraimeer, P.O. Nagina, District Bijnor, (Uttar Pradesh) and Mahadev Nagri, Lalkuan, Lucknow, (Uttar Pradesh).**
29. **Sri Om Prakash Pandey, son of Sri Ram Sakal Pandey r/o Ritua Park, P.S. Atraulia, P.O. Lakhandih, District Azamgarh, (Uttar Pradesh).**
30. **Sri Vinay Kumar Rai, son of Sri Ram Chander Rai r/o Village and Post Gopalpur, District Gopalganj, (Bihar).**
31. **Sri Kamlesh Tripathi alias Sait Dubey, son of Sri Ganesh Dutt Tripathi r/o Parikarma Road, Durahi Kuan, Ayodhya, District Faizabad (now Ayodhya), (Uttar Pradesh).**
32. **Sri Gandhi Yadav, son of Sri Vishveshwar Yadav r/o Gopal Nagar, P.S. Rewati, District Balia (Uttar Pradesh).**

**33. Sri Vijay Bahadur Singh, Chief Security Officer, Sri Krishna Temple Mathura, U.P., son of Sri Raj Bahadur Singh r/o Sri Krishna Temple Complex, Mathura, (Uttar Pradesh).**

**34. Sri Navin Bhai Shukla, son of Sri Jwala Prasad Shukla r/o 4, Keshav Kunj, Jetha Bhai Park, Shantivan Bus Stand, Paladi, Ahmadabad, (Gujrat).**

**.....Opposite Parties**

**CRIMINAL REVISION AGAINST THE JUDGEMENT AND ORDER DATED 30-9-2020 PASSED BY LEARNED SPECIAL JUDGE (AYODHYA MATTER) LUCKNOW IN SESSIONS TRIAL NO. 344/1994 AND 423/2017 (R.C. NO. 8(S) 92 SIUV/SIC DATED 13-12-1992 R.C. NO. 2 (S)/93- SIUV/SIC DATED 27-8-1993) AND R.C. NO. 2(S)/93 DATED 27-8-1993 inter alia on the following amongst other Facts and Grounds:-**

**The revisionists beg to submit as under:-**

**Facts**

1. That this revision arises out of the judgement and order dated 30-9-2020 passed by the Learned Special Judge (Ayodhya Matter) Lucknow, relating to Crime No. 197/92 u/s 395/397/332/337/338/295/297/153A I.P.C. dated 06.12.1992 of PS Shri Ram Janam Bhoomi, Sadar, Faizabad and Crime No. 198/1992 u/s 153-A/153-B/505 I.P.C. of PS Shri Ram Janam Bhoomi, Sadar, Faizabad

besides other FIRs lodged by individuals and other affected victims of crime.

2. That previously mentioned Trial was finally conducted in accordance with the directions of the Hon'ble Supreme Court, dated 17-4-2017 given in the case reported in (2017) 7 SCC 444. The period of 2 years given in this judgement was lastly extended by the Supreme court by order dated 19-8-2020.

3. That in the aforesaid Trial the revisionists - applicants had moved an application dated 21-8-2020 praying for permission to engage lawyers of their choice to assist the prosecution and to make their submissions through their counsel orally as well as in writing.

## INDIAN LEGAL NEWS

4. That in the aforesaid application the applicants had described their locus standie in paragraphs 12, 13 and 14 etc. as the applicants were victims as well as witnesses of the crime in question and they had suffered loss of the historical place of worship known as Babri Masjid as well as financial loss on account of destruction of their houses due to arson and loot etc. The applicant No. 1 was also defendant in the title suit O.O.S. No. 3 of 1989 filed by the Nirmohi Akhara.

5. That on the aforesaid application filed on behalf of Revisionist/ applicants no objection of any nature was filed either by the Central Bureau of Investigation (C.B.I.) or by the accused persons. Moreover, the CBI had not opposed it be oral arguments. The said application was heard on 24-8-2020 and after hearing the arguments the order was reserved, which was pronounced on 25-8-2020 whereby application dated 21-8-2020 (B-11583) was rejected.
6. That since the case was reserved for judgement in the first week of September and the judgement was to be delivered by 30<sup>th</sup> of September, 2020 in compliance to the direction of the Hon'ble Supreme Court dated 19-8-2020, revisionists were advised by their Counsel not to file revision against the order dated 25-8-2020 and to wait for final outcome of the case.
7. That the revisionist No. 1 had challenged the order dated 19-9-2003 also passed by the Special Judicial Magistrate Rai Bareilly in Criminal Case No. 768 of 2003 (State Vs. Sri L.K. Advani and others) arising out of crime No. 198 / 1992 of P.S. Ram Janambhoomi, Ayudhya discharging Sri L.K. Advani. In this revision Sri Mohd. Siddique alias Hafiz Mohd. Siddique, a co-plantif in O.O.S. No. 4 of 1989 had also joined as Revisionist No. 2 but he had

expired during the pendency of his Appeal before the Supreme Court filed against the judgement given by the High Court, Lucknow Bench on 30-9-2010 in the title suits relating to Babri Masjid. The said Criminal Revision No. 619 of 2003 was initially opposed by the C.B.I. also and it was strongly contested by Sri L.K. Advani. However, This Hon'ble Court had allowed the same by mean of judgement of order dated 6-7-2005 and as such Sri L.K. Advani was again made accused in this case. The revision was held to be maintainable by this Hon'ble court after a detailed discussion of this point.

8. That when the revisionist No. 1 had apprehended in 2015 that Government headed by Sri Narendra Modi may get the S.L.P. filed by the C.B.I. against the High Court judgement dated 20-5-2010 dismissed, he had also filed the S.L.P. against the same judgement which was registered as S.L.P. (cr1) No. 2705 of 2015 and it was connected with SLP of CBI and both the SLPs were decided by means of judgement and order dated 19-4-2017. In this judgement the Hon'ble Supreme Court had noticed the arguments of the Senior Counsel for revisionist No. 1 Sri Kapil Sibbal in para 15 of the Judgement reported in (2017) 7 SCC 444.
9. That again the petitioners are apprehending that CBI may not file the appeal against acquittal under the pressure of the B.J.P. Government and CBI has not yet responded to

the public appeals made by several Muslim organizations including All India Muslim Personal Law Board and Babri Masjid Action Committee etc. Hence the revisionists are filing this revision so that the culprits may not go unpunished for the heinous crime committed by them regarding which the Hon'ble Supreme Court had observed as under in the Judgement and order dated 24-10-1994 reported in (1994) 6 SCC 360:-

6. “.....around midday a crowd addressed by leaders of BJP, VHP, etc., climbed the Ram Janma Bhumi-Babri Masjid (RJM-BM) structure and started damaging the domes. Within a short time, the entire structure was demolished and razed to the ground. Indeed, it was an act of “national shame”. What was demolished was not merely an ancient structure; but the faith of the minorities in the sense of justice and fairplay of majority. It shook their faith in the rule of law and constitutional processes. A five-hundred-year-old structure which was defenceless and whose safety was a sacred trust in the hands of the State Government was demolished.”

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52. “.....the persons responsible for demolition of the mosque on 6-12-1992 were some miscreants who cannot be identified and equated with the entire Hindu community and therefore, the act of vandalism so perpetrated by the miscreants cannot be treated as an act of the entire Hindu community for the purpose of adjudging the constitutionality of the enactment. Strong reaction against, and condemnation by the Hindus of the demolition of the structure in the general bears eloquent testimony to this fact. Rejection of Bhartiya Janata Party at the hustings in the subsequent elections in Uttar Pradesh is another circumstance to that effect. The miscreants who demolished the mosque had no religion, caste or creed except the character of a criminal and the mere incident of birth of such a person in any particular community cannot attach the stigma of his crime to the community in which he was born.”

10. That the record of the cases out of which this revision has arisen, may be required for a just and proper decision of this revision. As such it would be expedient and in the ends of justice that record of the court below may kindly be summoned.
11. That the revisionists are filing this revision on the following among other grounds:-

## GROUNDS:-

- I - Because the learned Court below acted illegally and with material irregularity in holding that the accused persons were not involved in the Commission of Crime and their involvement could not be proved from the evidence on record.
- II - Because the learned Court below acted against the settled principles of law regarding appreciation of evidence produced against the accused persons in its right perspective.
- III - Because the essence of liability to be found in the existence of common intention is that the criminal act complained against was done by one of the accused persons in furtherance of common intention of all, if this is shown, then the liability for the crime may be imposed on any one of the persons in the same manner as if the act was done by him alone, as held in **Mahboob Shah v. Emperor (1945) 47 Com LR 941**.
- IV - Because the Common intention implies a pre arranged plan and acting in concert pursuant to the plan. Common intention comes into being prior to the commission of the act, which need not be after a long gap. To bring this section into effect a pre-concert is not necessarily to be proved, but it may well develop on the spot as between a number of persons and could be inferred from facts and

circumstances of each case. In **Amrik Singh v. State of Punjab 1972**, it has been further held that though the common intention may develop in course of the fight but there must be clear and unimpeachable evidence to justify that inference. In the case **Pandurang v. State of Hyderabad (AIR 1954 SC 706)**, Supreme court emphasized on this point that prior concert need not be something always very much prior to the incident, but could well be something that may develop on the spot, at the spur of the moment.

V Because the evidence on record fully establishes that accused – opposite parties 3 to 34 had a common intention to demolish the Mosque and this fact stood proved by the testimony of a large number of witnesses including PWs 2, 3, 4, 6, 8, 9, 10, 12, 14, 19, 23, 24, 26, 27, 28, 32, 33, 38, 40, 53, 223, 227, 230 and 263 etc.

VI - Because learned C.B.I. Judge had failed to appreciate the basic law of offence dealing with group liability or vicarious liability of members coming under Chapter VIII of the Indian Penal Code. This chapter deals with offences against Public Tranquillity from Section 141 to Section 160. The first section of this chapter Section 141 defines Unlawful Assembly, for which there should be five or more persons and some common objects for which they have made that assembly.

## Section 141. Unlawful assembly-

An assembly of five or more persons is designated an “unlawful assembly of the common object of the persons composing that assembly is-

First- To overawe by criminal force, or show of criminal force, the Central or any State Government or Parliament or the Legislature of any State, or any public servant in the exercise of the lawful power of such public servant; or

Second- To resist the execution of any law, or of any legal process; or

Third- To commit any mischief or criminal trespass, or other offence; or

Fourth – By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any

property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or enforce any right or supposed right; or

Fifth – By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation – An assembly, which was not unlawful when it assembled, may subsequently become an unlawful assembly.

From this section, we can say that to constitute an unlawful assembly the following ingredients are necessary:-

1. There should be an assembly of five or more persons.
2. There must be a common object for them.
3. Common object must be one of the five ingredients, specified in the above section.

VII. Because if the number of persons are reduced from five for trial for the reason that some were acquitted for the charges then S. 141 will become inapplicable. But if there is clear indication that some other unidentified persons are involved in the crime then this section can be applied. In *Ram Bilas Singh v State of Bihar* [(1964 Cr LJ 673 (SC)] Supreme Court held that: "it is competent to a court to come to the conclusion that there was an unlawful assembly of five or more persons, even if less than that number have been convicted by it if: (i) the charge states that apart from the persons named, several other unidentified persons were also members of the unlawful assembly whose common object was to commit an unlawful act (ii) or that the first information report and evidence shows such to be the case even though the charge does not state so. (iii) or that though the charge and prosecution witnesses named only the acquitted and the

convicted accused persons there is other evidence which discloses the existence of named or other persons”

VIII. Because the learned C.B.I. Judge has failed to appreciate that the basic ingredient of this section is a common object. Object means the purpose, and it will be common when the members of the unlawful assembly share it. All or a few members of the assembly may form a common object at any stage. The explanation of this section shows it clearly. However, common object is entertained in the human mind so that there can be no evidence to prove directly about this.

IX. Because learned C.B.I. Judge has failed to appreciate that in criminal revision no. 482 of 2003 (Dr. Murli Manohar Joshi. Vs State), arising out of the present case itself, this

Hon'ble Court vide its judgement dated 6.7.2005 had dealt with this aspect in detail. This judgement and its relevant paragraphs had been quoted by CBI in its written argument dated 21.08.2020 at pages 339 to 344, hence the same are not repeated here for the sake of brevity. The scope of section 153A of Indian Penal Code had also been dealt by Supreme Court in Yogesh vs State of Maharashtra (2009) 1 SCC (Cri) 51 dealing with section 120 B as well. This case had also been referred by the CBI in its written arguments dated 21.08.2020 on page 346 and 347.

X. Because with regard to offence as stipulated under section 153 A IPC its impact and scope are liable to be placed here for better appraisal of controversy.

Section 153-A says that

Whoever

- a. by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place, of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or
- b. commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional or castes or communities, and which disturbs or is likely to disturb public tranquility, or
- c. organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial,

language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community, shall be punished with imprisonment which may extend to three years, or with fine. Offence committed in place of worship, etc –  
Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

XI. **Because in Balwant Singh and anr vs State of Punjab**  
1995 AIR (SC) 1785, it had been held by the Apex court,

that, “.... In so far as the offence under Section 153A IPC is concerned, it provides for punishment for promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever or brings about disharmony or feeling of hatred or ill-will between different religious, racial, language or regional groups or castes or communities. In our opinion only where the written or spoken words have the tendency or intention of creating public disorder or disturbance of law and order or effect public tranquility, that the law needs to step in to prevent

such an activity. The facts and circumstances of this case unmistakably show that there was no disturbance or semblance of disturbance of law and order or of public order or peace and tranquility in the area from where the appellants were apprehended while raising slogans on account of the activities of the appellants. The intention to cause disorder or incite people to violence is the sine qua non of the offence under Section 153 A IPC” which is evident from the statements of various witnesses reproduced extracting the relevant portions; In Bilal Ahmad Kaloo v. State of A.P. [(1997) 7 SCC 431], it is held that the common feature in both the Sections, viz., Section 153A and 505(2), being promotion of feeling of enmity, hatred or ill-will “between different” religious or racial or linguistic or regional groups or castes and communities, it is necessary that at least two such groups or communities should be involved.

XII. Because learned C.B.I. Judge had failed to appreciate the basic facts that these attacks are not against any individual, they are meant to act as threat to an entire religious community charged by communal hatred and by targeting certain individuals, their properties and belongings, as well as desecrating their religious place at Ayodhya as well as in other cities too. The idea is to intimidate and cause fear in the minds of minority, with an aim to instigate the

community to react and thereby create a spiral of violence in which the control is with the hate-mongering groups of the majority community.

XIII. Because learned C.B.I. Judge had failed to appreciate the basic law, of conspiracy that it is an agreement between two or more persons to commit a crime at some time in the future. Criminal law in some countries or for some conspiracies may require that at least one overt act be undertaken in furtherance of that agreement, to constitute an offence. There is no limit on the number participating in the conspiracy and, no requirement that any steps have been taken to put the plan into effect (compare attempts that require proximity to the full offence). For the purposes of concurrence, the actus reus, sometimes called the external elements or the objective element of a crime, is the Latin term for the “guilty act” which, when proved beyond a reasonable doubt in combination with the mens rea, “guilty mind”, produces criminal liability in the common law)- is a continuing one and parties may join the plot later and incur joint liability and conspiracy can be charged where the co-conspirators have been acquitted or cannot be traced. Finally, repentance by one or more parties does not affect liability (unless, in some cases, it occurs before the parties have committed overt acts) but may reduce their sentence. An unindicted co-conspirator, or unindicted

conspirator, is a person or entity that is alleged in an indictment to have engaged in conspiracy, but who is not charged in the same indictment. Prosecutors choose to name persons as unindicted co-conspirators for a variety of reasons including grants of immunity, pragmatic considerations, and evidentiary concerns. At common law, the crime of conspiracy was capable of infinite growth, able to accommodate any new situation and to criminalize it if the level of threat to society was sufficiently great.

XIV. Because the Learned Special Judge had miserably failed to appreciate the essence of definition of victim as provided u/s 2(wa)Cr. P.C.

XV. Because the Learned Special Judge had taken a very narrow view while miserably failing to understand the intention of Legislature, while introducing Section 2(wa) in the Cr. P.C. by amendment in the year 2009 and widening the scope of role of victim in the changing scenario.

XVI. Because the Learned Special Judge overlooked the public interest as envisioned by the Legislature while introducing the Amending Act of 2009 in the Criminal Procedure Code 1973.

XVII. Because the Learned Special Judge had completely failed to appreciate the principles and findings recorded by this Hon'ble court or by Apex Court in various judgements as placed before him at the time of arguments on the

application moved by the Revisionists on 21.8.2020. While deciding the application learned, Special Judge had misread and misinterpreted the judgment of Sunil Kumar Singh Versus State of U.P. dated 18.2.2019, which was placed by the applicant before the Learned Court below.

XVIII. Because the Learned Special Judge erroneously read and applied the facts of Sunil Kumar Singh upon the presens case relating to the term victim. The finding of the judgement upon a question of law was placed to appreciate the principle of victim's role in a criminal case but learned Judge went to distinguish it on facts of that case which is not only perverse but legally not tenable.

XIX. Because the Learned Special Judge had totally misdirected himself while understanding the impact and implication of Section 2(w) Cr.P.C. and had miserably failed to interpret the long impact of the amendment of 2009.

XX. Because the scheme envisaged in the Code of Criminal Procedure Amending Act of 2009, no doubt, indicates that a person, who is aggrieved by the offence committed, is not altogether wiped out from the scenario of the trial merely because the investigation was taken over by the police and the charge sheet was laid by them. Even the fact that the Court had taken cognizance of the offence is not sufficient to debar him from reaching the Court for ventilating his grievance.

XXI. Because the Learned Special Judge has miserably failed to understand that under Section 2(wa) there is no such condition laid down that only the informant could be termed as victim and victim shall be only the informant of the particular case. This view was not only against the law but also an omission causing gross injustice to victim.

XXII. Because the objective to be achieved by the aforesaid amendment as per proviso added in Section 24(8) of Cr. P.C. is to extend help to the victims and to give them more active role in dispensation of the criminal justice and to provide active participation of the victims in the justice delivery system keeping in view the concept of fair trial enshrined under article 21 of the Constitution of India. This aspect was ignored by the learned Special Judge while passing the order dated 25-8-2020 and he failed to do indepth exploration of the law placed on this aspect.

XXIII. Because the learned special judge CBI had ignored overwhelming evidence of guilt of accused persons proved by the statements of eye witnesses and corroborative evidence produced on record.

XXIV. Because Learned Court below had not considered the judgements which were cited before the court by the applicants during the course of arguments on 24.08.2020. Two judgements which were placed before the Learned Judge were altogether ignored for the reasons best known

to the Learned Judge. Paras 8,9,10,11 and 12 of the first Judgment cited: (2001) 3 SCC 462 (J.K. International vs. State (Govt. of Delhi) and others) was to assert that the right of victim was always recognized even prior to amendment of 2009. The scheme envisaged in the Criminal Procedure Code indicates that a person who is aggrieved by the offence committed is not altogether wiped out from the scenario of trial merely because the police completed investigation. The non-inclusion of this judgement in the impugned order dated 25-8-2020 shows that the learned special Judge miserably failed to do justice and apparently, the findings recorded are perverse and bad in the eyes of law.

XXV. Because paras 3,4,6, and 7 of AIR 1980 SC 763 [(Babu

Rao Patel vs. The State (Delhi Administration)] were also

not considered while dealing with the offence under section

153A and 153B of Indian Penal Code. The core of the

entire case emanates from promoting enmity between

different persons on grounds of religion prejudicing

maintenance of harmony amongst the citizenry. The

applicants are the victims of consistent hate campaign

manufactured by the accused persons to promote

communalism-based hatred dividing the people on religious

and racist lines to achieve their slanting and oblique

motives.

XXVI. Because learned court below had closed his eyes upon the clear cut and overwhelming evidence of eye witnesses and looked the other way ignoring the same on extraneous and unlawful reasons.

XXVII. Because Syeda Shamim Begum PW.227 in her examination on in chief recorded on 13.12.2017 and several other witnesses had clearly mentioned about the roles of accused person as well as their direct involvement in commission of ghastly crime.

XXVIII. Because PW.223 in his statement recorded on 30.1.2018 and several other witnesses had clearly stated the facts corroborating the sequence of events as well as the barbaric crime committed with common intention to create error, communal disharmony and creating disturbance in the society.

XXIX. Because PW.230 RITU KRISHNA SHRIVASTAV in his statement dated 12.01.2018 and several other witnesses had clearly pointed out about the role of accused persons in committing the crime with common intention for spreading terror, communal disharmony, disturbance of peace and tranquility in the society.

XXX. Because PW.263 Sri Ajay Prakash in his statement dated 10.10.2018 and several other witnesses had also clearly indicated the role of accused persons. But the learned

Special Judge had ignored all these evidence of facts and passed the impugned judgment on extraneous reasons.

**Prayer**

It is, therefore, prayed that this Hon'ble Court may kindly be pleased to allow the revision by summoning the record and to set aside the impugned judgement and order dated 30-9-2020 passed by learned Special Judge (Ayodhya Matter) Lucknow in Session Trial No. 344/1994 and 423/2017 (R.C. NO. 8(S) 92 SIUV/SIC dated 13-12-1992 R.C. NO. 2 (S)/93-SIUV/SIC dated 27-8-1993) and R.C. NO. 2(S)/93 dated 27-8-1993 and to convict the accused opposite parties 3 to 34 and pass such other order as may be deemed just and proper.

**(Khaleeq Ahmad Khan)**

Advocate

Lucknow

INDIAN LEGAL NEWS

Dated : January 7, 2021

**(Najam Zafar)**

Advocate

**(Rafat Farooqi)**

Advocate

Counsels for the Revisionists

Note - This case will be argued by Mr. S.Farman Ahmad Naqvi, Senior Advocate on behalf of the Revisionists.

**(Najam Zafar)**

Advocate