

IN THE COURT OF SHASHANK NANDAN BHATT
JUDICIAL MAGISTRATE FIRST CLASS-02,
WEST DISTRICT, TIS HAZARI COURTS



Ashok Kumar Aggarwal S/o Shri R.B. Aggarwal
R/o B-1/134, Paschim Vihar
New Delhi

.....Complainant

VERSUS

1. V. K Pandey
Inspector, SIU-9, CBI, CGO Complex
New Delhi
2. Ramneesh
Dy. Superintendent of Police, SIU-8, CBI, CGO Complex
New Delhi

.....Accused persons

a) CNR No. : DLWT020008322010

- b) Sr. No. of the Case : 17929/16
- c) Name of the complainant : Ashok Kumar Aggarwal
R/o B-1/134, Paschim Vihar
New Delhi
- d) Name of the accused persons : 1. V. K Pandey
Inspector, SIU-9, CBI, CGO
Complex, New Delhi
2. Ramneesh
Dy. Superintendent of Police, SIU-
8, CBI, CGO Complex New Delhi
- e) Date of Commission of : 19.10.2000
- f) Offence complained off : U/s 323/427/448/34 IPC
- g) Plea of the accused persons : Pleaded not guilty.
- h) Final Order : Convicted
- i) Date of such order : 18.04.2026

JUDGMENT
(Delivered on 18.04.2026)

1. The instant matter has originated out of the complaint filed u/s 200 Cr.P.C by the complainant against the accused persons alleging the commission of the offences of mischief, criminal trespass and assault, punishable u/s 323/427/448/34 IPC.

2. In nutshell, the case of the complainant is that he is a 1985 Batch IRS (Indian Revenue Service) Officer and at the relevant time (year 1999), he was posted as Deputy Director of Enforcement (Delhi Zone). During his tenure, he was assigned the investigation of highly sensitive cases of influential persons including politicians and businessmen. The complainant has alleged that the then Director Mr. Bezboruah, made all out efforts in scuttling the investigation of some sensitive cases (which were being looked after by the complainant), qua which the complainant made seven representations (from July 1998 to February 1999) to the Revenue Secretary, giving details of the instances wherein conscious efforts were being made to pressurize him. In order to take revenge from the complainant, he was falsely implicated by one Abhishek Verma (who was being investigated by the complainant in connection of FERA violations), in active connivance with the officials of CBI and based on the complaint of the said Abhishek Verma, an FIR was registered.

3. Pursuant to the said FIR, the search was conducted by the team of CBI officials, led by accused no. 2, at the residence of the complainant on 04.03.1999 and certain Income Tax records of the complainant and his family were seized and the preliminary enquiry qua disproportionate assets to the tune of Rs. 8,38,456/- was initiated against the complainant. The said preliminary enquiry was forwarded to accused no. 1 and subsequently, an FIR (RCS-19/1999 E0006) dated 07.12.1999 was registered in this regard. In connection with the said FIR, the complainant was summoned by the accused no. 1 on more than 20 occasions.

4. The complainant has further averred that in March 2000, despite being put

under deemed suspension, he was transferred out of Delhi and when the complainant challenged his transfer and deemed suspension before the Central Administrative Tribunal (hereinafter referred to as CAT), vide order dated 28.09.2000, his transfer was stayed and it was ordered that his 'deemed suspension' be reviewed within a period of four weeks. While coming out of the court room, the complainant heard the accused no. 2 speaking to the officials of Ministry of Finance to delay the review of suspension and that the complainant would be further implicated in other cases, qua which the complainant wrote a letter on 06.10.2000 to the Revenue Secretary. In view of the order dated 28.09.2000, the Department of Revenue had to review the 'deemed suspension', qua which comments were sought from CBI by 18.10.2000, however, instead of sending the comments, the accused persons in pursuance of their conspiracy, arrested the complainant and his brother, in the wee hours of 19.10.2000, in a highly unwarranted and undesirable manner.

5. The complainant has also stated that on 19.10.2000, at about 05:50 am in the morning, the accused persons made a forced entry into the house after beating up the gatekeeper. After the accused persons entered the complainant's house, the family members of the complainant were locked up in a room and the complainant was forcibly dragged out of his bedroom, which resulted in injuries on his right arm. Thereafter, the complainant was arrested while he was wearing merely an underwear and an undershirt, and was not allowed to wear proper clothes. Immediately after the incident, the wife of the complainant gave details of being locked up and the arrest of the complainant in an undignified manner through a telegram to the Hon'ble Prime Minister, Hon'ble Chief Justice of

India, and the Director (CBI). The complainant has further claimed that his legal rights were grossly violated at the time of his arrest as procedural requirements were violated by the accused persons and after his arrest, he was taken to an unknown place and produced at DDU hospital for medical examination at about 08:15 am. The complainant filed a civil contempt petition before the Hon'ble High Court of Delhi against the accused persons and simultaneously also filed the present complaint seeking action against the accused persons.

6. After institution of the present complaint case, the court proceeded with recording the pre-summoning evidence of the complainant and his witnesses and thereafter, vide order dated 11.01.2005, the Ld. Predecessor Judge, on finding *prima facie* grounds, summoned the accused persons qua allegations of committing offence punishable u/s 323/427/448/34 IPC. Thereafter, vide order dated 31.08.2017, Ld. Predecessor Judge framed notice u/s 323/427/448/34 IPC against the accused persons to which they pleaded not guilty and claimed trial.

COMPLAINANT EVIDENCE

7. In support of his case, the complainant produced the following witnesses and relied upon the following documents:-

<u>Sr. No.</u>	<u>Name of the witnesses</u>	<u>Description</u>
CW-1	Ashok Kumar Aggarwal	Complainant
CW-2	Vijay Kumar Aggarwal	Eye Witness
CW-3	Krishan Kumar	Eye Witness
CW-4	Subhash Chand	Record clerk, DDU Hospital

Description of documents	Exhibit No.	Proved by/ attested by
Representations made by the complainant qua being pressurized by his senior officials from 16.07.1998 to 17.11.1998	Ex. CW-1/1 to CW-1/17	CW-1
Copy of report of preliminary enquiry dated 17.09.1999	Ex. CW-1/18,	CW-1
Representation dated 06.10.2000 made by the complainant	Ex. CW-1/19	CW-1
Letter dated 18.10.2000 addressed by the complainant to accused No.2 seeking exemption from joining the investigation	Ex. CW-1/20	CW-1
Medical Report MLC of the complainant dated 19.10.2000	Ex. CW-1/21	CW-1
CAT order dated 28.09.2000	Ex. CW-1/22	CW-1
Arrest memo of the complainant dated 19.10.2000	Ex. CW-1/23	CW-1
Certified copy of counter affidavit filed by V.K. Pandey in contempt petition No.336/2001	Ex. CW-1/24	CW-1
Telegram sent by the wife of complainant after the alleged incident	Mark-B,	CW-1
e-MLC No. 106155 (SMLC No.11435 which is part of civil contempt petition no.336/2001)	Ex. AD-1	Admitted u/s 294 Cr.P.C by accused No.1 (not admitted by accused No.2)
Register pertaining to entry of Ashok	CW-4/A	CW-4

Kumar bearing E-MLC 106155 (SMLC No.11435)		
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8. During his testimony, the complainant Ashok Kumar Aggarwal (CW-1), reiterated the contents of the complaint and stated that during his arrest on 19.10.2000, a team of CBI officers led by accused No.2 and joined by accused No.1, reached his residence at about 05:00 am and beat up the gatekeeper Krishan Kumar. He revealed that the accused persons broke open the main sliding door and made a forcible entry in his house. He added that at about 05:30 am, the accused persons knocked at the door of his bedroom and upon opening the same, they forcibly and violently dragged him out of his bedroom without allowing him to wear proper clothes (as he was in his undergarments). He emphasized that the accused persons manhandled him and pushed him into the stairs, due to which he suffered injuries on his right arm and body. He also stated that the gatekeeper Krishan Kumar, who did not know english was forced to sign arrest memo and his wife and children were locked up in the bedroom. He also added that at about 08:45 am, he was produced at DDU Hospital, where he was medically examined.

9. During his cross-examination, the witness Ashok Kumar Aggarwal (CW-1) stated that the details of the cases in which Mr. Bezboruah pressurized him have been mentioned in his complaints (Ex. CW-1/1 to Ex. CW-1/17 (colly)). He admitted that he did not place on record any postal receipt alongwith the letter dated 16.07.1998 (part of Ex. CW-1/1 to Ex. CW-1/17 (colly)), but stated that since he had obtained the certified copy of the said letter from the Ministry of Finance, it proves that the said letter was duly received by the Office of

Revenue Secretary. He added that Mr. Bezboruah, out of vengeance, forwarded the false complaint of one Mr. Barjatiya to CVC and CBI, based upon which FIR S-18/E0001/99 dated 29.01.1999 was registered by CBI and accused No.2 was made the IO in the said case. He claimed that based upon the false complaint of one Abhishek Verma, he was arrested on 23.12.1999 and put under deemed suspension. He emphasized that the said Abhishek Verma filed an affidavit (after his approver status was quashed by the Hon'ble High Court of Delhi) in which he admitted that accused No.2 and other senior official extorted a false and concocted statement to settle their personal scores by falsely implicating him.

10. He admitted that he had also filed a civil contempt petition bearing No. 336/2001, which has been dismissed but clarified that though the contents of the allegations in the said petition and the present complaint are similar, the prayer sought is different. He admitted that he did not file any complaint qua the alleged incident before any police official but stated that his wife had promptly sent a telegram to the Hon'ble Chief Justice of India and Director CBI. Upon queries being made regarding the fact whether the complaints of beatings/ non-adherence of guidelines of DK Basu were brought to the notice of the concerned CBI Court by him at the time of his production in the said court, he stated (in his cross-examination dated 29.05.2023) that the court was full of media persons and he was traumatized by the police officers. He explained that during CBI proceedings, the accused persons threatened him of dire consequences including arrest of other family members in case he stated anything before the Ld. CBI Judge. During his cross-examination dated 03.06.2023, the witness explained

that at the time of his arrest, 5-6 CBI officials were present in the drawing room of his house. He stated that he did not make any other raiding party member in his complaint as he recognized only the accused persons and further elaborated that only the accused persons forcibly and violently dragged him from his bedroom due to which he has named only the accused persons.

11. Additionally, the witness also deposed that he did not see his brother Mohan Lal Aggarwal till the time of his arrest or thereafter, and his brother was called only at 06:30 am on the date of the incident. The witness admitted that his gatekeeper Krishan Kumar never made any complaint regarding his arrest or any alleged beatings. The witness was also questioned qua the mode of proof of documents relied upon by him, without challenging the contents of the said documents, and he largely remained firm in his version qua the contents of the documents. He denied the suggestion that he had filed the present case merely to pressurize the accused persons to scuttle the investigation against him. He denied the suggestion that he had deposed falsely and that the investigation against him was carried out in an honest and dedicated manner. He revealed that after his arrest that was taken to an unknown place (hall) near Peeragarhi Chowk and after that he was taken to DDU Hospital and the accused persons had told him to keep mum failing which his other family members will be arrested. Upon being questioned on the aspect of fresh injuries not being mentioned by the doctor in the MLC, he stated that the doctor had specifically written in the MLC - 'imp. simple blunt'. He added that the accused persons had broken the main sliding door of the drawing room and denied the suggestion that only the bolt of the door was broken which was repaired by CBI officials.

12. Vijay Kumar Aggarwal (CW-2) deposed that on the day of the alleged incident he was sleeping in his room at his residence and he suddenly heard a loud knocking sound on the door of his room. When he opened the door, he saw 2-3 persons standing in front of his door, who told him that they were from CBI and that he had been arrested. He revealed that he was merely wearing undergarments at that time and despite requests, he was not allowed to wear necessary clothes and was pulled out of his room and pushed him towards the stairs. He added that he saw 2-3 CBI officials, including the accused persons, were threatening and beating his brother. Thereafter, the police officials forcefully made him sit in the drawing room and accused VK Pandey filled up a form which he was forcefully made to sign without disclosing its contents. He added that his brother, who was sitting with him was beaten and had injuries on his face and was bleeding from his right hand. He also saw that the sliding door of the drawing room was also broken. Subsequently, guard Krishan Kumar was called and threatened by the CBI officials and he too was made to sign a form, after which he and his brother were taken in separate vehicles to hospital (later on clarified that first they were taken to Peeragarhi Chowk).

13. During his cross-examination, Vijay Kumar Aggarwal (CW-2) stated that he does not know when eldest brother Mohan Lal Aggarwal reached home on 19.10.2000. He admitted that he did not make any complaint when he was produced before the court after his arrest and clarified that he was scared and hence did not make the complaint and that he was threatened by accused VK Pandey during the investigation. He admitted that the medical examination did not show any physical injury on his body. He also stated that he did not inform

the doctor about being beaten up and volunteered to state that he was slapped twice or thrice and main act of beating was committed against his brother by the accused persons. He stated that he had deposed about being slapped in his deposition dated 06.12.2000, but upon being confronted with the same, it was found that no such fact was mentioned by him at that time. He admitted that he was wearing decent clothes at the time of production before the court. He denied the suggestion that he was deposing falsely.

14. Krishan Kumar (CW-3) testified that at the time of the incident he was performing the duty of a security guard at B-1/134 Paschim Vihar. At about 05:05 am, 6-7 people came in a white gypsy and claimed that they were from CBI and ordered him to open the gate. They refused to show their official ID proofs, and when he refused to open the main gate, two persons came inside the house by jumping from the side boundary wall, after which he was caught and beaten up. Key of the main gate was snatched from him and the same was opened. Meanwhile, another gypsy came and 6-7 more people came out of it. Some CBI officials surrounded the house and 8-10 people entered the house and started breaking the sliding door of the drawing room. He revealed that he requested them to wait till 07:00 am or to ring the door bell, after which they rang the door bell twice and one officer ordered the other persons to break open the door. After breaking the door, all the officers (except one) went inside the house. After about 15-20 minutes, two officials came out and he was forcibly taken inside. He was beaten while being taken inside, where he saw Vijay Aggarwal and Ashok Aggarwal sitting in undergarments and crying. One of the CBI official forcibly made him sign 5-6 papers without disclosing its contents,

despite requests, as he is not conversant with english. He claimed that he was threatened to be lodged in jail and despite requests was not informed about the place where Ashok Aggarwal and Vijay Aggarwal were being taken by the CBI officials. He also added that after Vijay Aggarwal and Ashok Aggarwal were taken out of the house, some other CBI officials remained at the spot for about 45 minutes, after which Mohan Aggarwal came to the spot, who was taken inside the house. After sometime, the CBI officials came out and checked 3-4 vehicles which belonged to Vijay Aggarwal, Thereafter, he was again forcefully taken inside the house and made to sign 4-5 other papers. Subsequently, at about 07:45 am, all the police officials went back.

15. During his cross-examination, Krishan Kumar (CW-3) stated that he had studied till 8th standard and does not have any documents to suggest that he has ever work with Glob Detective Agency Pvt. Ltd as security guard. He stated that he worked as a security guard with Glob Detective Agency Pvt. Ltd till 2016. He stated that he has never made any complaint regarding the threats/ beatings by CBI officials. He added that he worked at the house of Viay Aggarwal for a period of 8-9 months, after which he got transferred and then, he did not remain in contact with either Vijay Aggarwal or Ashok Aggarwal. He stated that no record was maintained at the house of Vijay Aggarwal regarding the entry and exit of visitors and that there was no intercom at the house. He stated that he did not have any mobile phone at the relevant time and he used to ring the bell if a visitor came. He explained that he did not open the main gate as the concerned people did not show their ID proofs, after which the people jumped from the outside, grabbed him and punched him. He stated that he did not tell the fact of

being punched in his previous deposition. He added that the officials came in about three vehicles and they were about 20 in number. He stated that CBI officials had left before him (his duty ended at 08:00 am) and Mohan Aggarwal was still at his house when he left. He stated that he does not remember the number of pages in which he was made to sign and there was a gap of around one hour between the two sets of paper that were prepared. He denied the suggestion that he is deposing falsely at the behest of the complainant. He also denied the suggestion that he signed the documents voluntarily.

16. Subhash Chand (CW-4) record Clerk DDU Hospital produced the summoned record i.e. register pertaining to entry of Ashok Kumar bearing E-MLC No. 106155 (S MLC 11435) at about 08:45 am (Ex. CW-4/A). He admitted that the document was not prepared in his presence and he has not seen original MLC. He admitted that he does not know Dr. Shekhar and cannot identify his signatures.

STATEMENT OF ACCUSED

17. In the statement of the accused persons recorded u/s 313 Cr.P.C, they denied the allegations against them and stated that the same were levelled out of sheer vengeance. Accused VK Pandey stated that he investigated the allegations against the complainant on the orders of senior officers. He explained that enough evidence had come on record against Ashok Kumar Aggarwal and on 18.10.2000, he had sent a letter informing that he was suffering from fever, after which his senior officers directed him to go to his house located in Paschim Vihar. He added that at the time of the incident, the guard Krishan Kumar was told about the identity of the entire team, after which he opened the gate and

informed that Ashok Aggarwal was inside the house. They rang the door bell but there was no response. Thereafter, accused Ramnish called on the landline installed inside the house, which was picked once by the Ashok Kumar Agarwal, who said that he was not present and on the next time by his wife Urvashi Aggarwal, who claimed that the call was made on a wrong number and disconnected the call. He added that in the meantime, one official noted from the window that Ashok Kumar Aggarwal and Vijay Aggarwal were moving on the ground floor with some files, after which a conscious decision was taken to make a force entry into the house. Only the latch of the door had come out and nothing was damaged and that too was fixed by the CBI officials then and there. He elaborated that all the procedural requirements were followed and no injury was caused to anyone. He also stated that at the time of conducting the MLC of the complainant by the concerned doctor, he was not present and since no bandage or prescription was advised, he did not notice what had been written in the MLC. Additionally, he also claimed that the complainant did not allege any maltreatment or injury before the Ld Special Judge.

18. Accused Ramneesh also narrated a similar account of the events which transpired on the day of the alleged incident. Additionally, he claimed that the investigation conducted by him was only as per the direction of the department and before the proceedings, the complainant was a stranger to him. He claimed that he had no role in the registration of RC-6E 99 SIU-9 registered against the complainant and he had no knowledge of the developments that took place in the said case. He was informed that when the complainant was asked to join the investigation on 18.10.2000, he had sent a letter informing the IO (accused

No.1), that he was suffering from fever, after which he was directed to conduct search and arrest at the house of the accused located at Paschim Vihar. He also stated that even in the previous matter, the complainant had been absconding and was arrested from Saharanpur, where he was found hiding in a hotel under a false name. He categorically stated that no injury was caused to the complainant at the time of arrest and only the latch installed at the bottom of the door had come out at the time of forced entry into the house of the complainant, and that too was fixed by the CBI officials. He claimed that the MLC did not mention any bleeding or the age of the injury. He also stated that contrary to the averments of the complaint, he never attended any CAT hearing. He added that the complainant had filed a civil contempt petition before the Hon'ble High Court of Delhi on the similar facts which was dismissed.

DEFENCE EVIDENCE

19. In his defence, the accused produced the following witnesses and relied on the following documents:-

Sr No.	Name of witness	Description
DW-1	Rajesh Chahal	Member of search and arrest team
DW-2	Raj Kumar Saha	Member of search and arrest team
DW-3	Naveen Kumar	Medical record witness

Exhibit No.	Description of document	Proved by/ Attested by
Ex. DW-2/DA	Search List	DW-2
Ex. DW-3/1	Original record of PE SI-9 1999 E0002 dated 17.09.1999	DW-3

Ex. DW-3/2	Original record of PE RC SI-9 1999 E0006 dated 07.12.1999	DW-3
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20. Rajesh Chahal (DW-1) deposed that he was a part of the search and arrest team and was briefed in the evening of 18.10.2000, in the chamber of SP Ms. S Sundari Nanda, where the accused persons and other members of the team were present. He revealed that on 19.10.2000, at about 04:00 am, they assembled at the CBI office CGO Complex, Lodhi Road and thereafter, they all reached the house of the complainant at about 05:00-05:30 am. At the entry gate, the security guard asked the team about their identity, and after being provided necessary explanation by the IO, he allowed the team to enter the premises. The entry gate of the house was not opened despite the door bell being rang for about half an hour, after which accused Ramneesh made a call from his mobile number to the landline number of the house, on which the complainant responded that he was not available at his house and his wife responded that the number was wrong.

21. The witness further averred that in the meantime, one of the team members observed Ashok Aggarwal and his brother Vijay Aggarwal moving in the drawing room area with some files and going towards the kitchen, after which a collective decision was taken to secure entry in the premises, during which the latch/ nail of the sliding door came out, which was subsequently fixed. The witness clarified that all the procedural requirements were followed during the proceedings. He added that Urvashi Aggarwal and Sangeeta Aggarwal were allowed to call Sh. Mohan Lal Aggarwal, elder brother of the complainant. The security guard signed the relevant memorandums as Urvashi

Aggarwal and Sangeeta Aggarwal refused to sign them on the instructions of the complainant. Thereafter, search of the house and the cars parked in the house was conducted and the complainant and his brother Vijay Aggarwal were taken to DDU hospital.

22. The witness added that the search list (Ex. DW-2/A / part of Ex. CW-1/24) along with search list dated 19.10.2000 was prepared in his handwriting on the instructions of the IO. The witness also relied on certain documents- Certified copy of preliminary enquiry report PE SI9 1999 E0002 (Ex. DW-3/1) (OSR), typed copy of registration report PE SI9 1999 E0002 (Ex. CW-1/18) and certified copy of FIR No. S-19 1999 E0006 dated 07.12.1999 (Ex. DW-3/2) (colly) (OSR), and he clarified that the last page was missing in the report (Ex. CW-1/18), which bears the signature of Sh. AK Gupta in token of having registered the said PE, which was entrusted to accused VK Pandey for enquiry.

23. In his cross-examination, the witness stated that accused No.2 was the senior most officer of the raiding team but denied the suggestion that the team was solely working on the instruction of accused No.2. He claimed that the team entered the premises at about 06:00 am after disclosing the identity to the guard. He stated that he does not remember the approximate time at which the team started ringing the door bell nor does he remember the time when the accused No.2 made a phone call on the landline of the complainant. He stated that he did not see what was happening inside the house, nor does he remember the name of the person who had informed the other team member that the complainant and his brother were carrying some files/ documents in their hands and moving towards the kitchen area. He added that no forceful entry was made and one

latch/ nail of the sliding door was open from the outside. He claimed that when the team entered the house, complainant was found standing in the drawing room but he does not remember if any files/ documents were seized from him. He admitted that no files were recovered from the possession of the complainant or his brother as per the search list (Ex. DW-2/DA). The witness mostly denied remembering the details of the date of the incident when suggestions qua the same were put to him citing lapse of time. He admitted that the search list does not mention 'repeatedly' with respect to the door bell being rang and also does not mention the fact that accused No.2 made calls on the landline of the house. He also admitted that the factum of dislocation of latch/ nail and its relocation has not been mentioned in the search list. He denied the suggestion that he has been used as a pawn witness and was deposing falsely at the behest of the accused persons.

24. Raj Kumar Saha (DW-2) also testified on the same lines as Rajesh Chahal (DW-1) and for the sake of brevity, his examination in chief is not being reproduced. During cross-examination, he admitted that he and accused No.2 were in the same branch and thus shared cordial relations. Contrary to the version narrated by him during his examination in chief, he stated that he does not remember whether any phone call was made or the door bell was rang before entering the main entrance gate. He subsequently stated that the landline number (of the premises) was exchanged between the accused persons in front of him and that the door bell was rang by accused No.1. He immediately again changed his version and stated that all (referring to members of the search team) tried to ring the door bell to enter the drawing room. He added that he does not

remember the name of the officer who saw the complainant in the drawing room. The witness narrated a completely new fact by stating that one burnt file was found in the hands of the complainant but the same was not seized as the same was not related to the present case. He stated that he did not bring the complainant from the upper floor and does not remember which member of the raiding team brought the complainant to the drawing room. He denied the suggestion that the complainant was assaulted by the accused persons. He also denied the suggestion that he was deposing falsely under the pressure of accused persons.

25. Sh. Naveen Kumar (DW-3) produced the original record of PE SI-9 1999 E0002 dated 17.09.1999 and RC SI-9 1999 E0006 dated 07.12.1999 (Ex. DW-3/1) (OSR) and (Ex. DW-3/2)(OSR).

FINAL ARGUMENTS

26. Thereafter the matter was listed for final arguments. During the course of final arguments, Sh Shubham Asri, Ld. counsel for the complainant prayed that the accused persons, with the ulterior motive of settling professional scores i.e. with the intent of nullifying the order dated 28.09.2000, whereby the CAT had ordered the review of deemed suspension of the complainant within a period of four weeks, conducted the search and arrest proceedings dated 19.10.2000. It was submitted that during the said proceedings, the accused persons forcefully entered the house of the complainant by breaking open the main door and thereafter, assaulted the complainant. The actions of the accused persons were totally illegal and cannot be said to have been done in discharge of official duties. The case of the complainant has been duly proved by the testimony of the

complainant witnesses and the documents relied upon. Thus, it has been prayed that the accused persons be convicted in the present case.

27. *Per contra*, Sh. MS Khan and Sh Nawab Singh Jaglan, Ld. counsels for the accused persons submitted that the present complaint has been filed by the complainant only due to vengeance and there is nothing on record to substantiate the claims of the complainant. The alleged acts of the accused persons were committed by them in discharge of official duties and thus, the bar of section 197 Cr.P.C applies to the present case. Additionally, it has been submitted that the doctor who conducted the MLC has not been produced as a witness by the complainant and thus, the MLC cannot be regarded to have been proved. It has also been submitted that the alleged forceful entry was made only because the complainant did not open the main door of his house and during the said act, merely the latch of the door was dislocated, which was subsequently fixed by the members of the raiding team. Thus, they prayed that accused persons be acquitted in the present case.

LEGAL POSITION QUA OFFENCES PUNISHABLE U/S 323/427/448/34 IPC.

28. Chapter XVI of the Indian Penal Code, deals with – ‘Offences Affecting The Human Body’, and the act of voluntarily causing hurt by a person to the other has been made punishable u/s 323 IPC. As per Section 319 IPC, the act of causing ‘bodily pain, disease or infirmity’ by one person to the other constitutes the offence of hurt. In fine, the primary ingredients of the offence punishable u/s 323 IPC are mainly twofold-

(1) The accused must have caused bodily pain, disease or infirmity to the

victim.

(2) The act of the accused must be voluntary and without any provocation (offence of causing hurt under provocation is covered u/s 334 IPC).

29. Furthermore, Chapter XVII of the Indian Penal Code, deals with- 'Offences Against Property' and the act of committing mischief and thereby causing loss or damage of an amount exceeding Rs. 50/- and the act of criminally trespassing into the property of another has been made a punishable offence. Mischief, as defined u/s 425 IPC, refers to the intentional/ willful causation of 'wrongful loss or damage' by a person to 'public or any other person' by causing destruction or change in the property, which destroys or diminishes its value or utility. Additionally, as defined u/s 441 IPC, 'criminal trespass' refers to the act of entering into or upon the property of another with intent to commit an offence/ intimidate/ insult/ annoy such person. The act of initially entering upon the property lawfully but subsequently unlawfully remaining in the property with the intent mentioned hereinbefore, is also covered under the definition of criminal trespass. Further, Section 34 of the Indian Penal Code, which is based on the adage- '*they also serve who only stand and wait*' criminalizes an act done by several persons in furtherance of common intention of all such persons, in the same manner as if the act were done by each of such person.

30. Furthermore, it is apposite to bear in mind the observations made by the Hon'ble Apex Court in *Ashish Batham Vs. State of MP (2002) 7 SCC 317* wherein it has been held that:-

“Realities or truth apart, the fundamental

and basic presumption in the administration of criminal law and justice delivery system is the innocence of the alleged accused and till the charges are proved beyond reasonable doubt on the basis of clear, cogent, credible or unimpeachable evidence, the question of indicting or punishing an accused does not arise, merely carried away by the heinous nature of the crime or the gruesome manner in which it was found to have been committed. Mere suspicion, however strong or probable it may be is no effective substitute for the legal proof required to substantiate the charge of commission of a crime and graver the charge is, greater should be the standard of proof required. Courts dealing with criminal cases at least should constantly remember that there is a long mental distance between "may be true" and "must be true" and this basic and golden rule only helps to maintain the vital distinction between "conjectures" and "sure conclusions" to be arrived at on the touchstone of a dispassionate judicial scrutiny based upon a complete and comprehensive appreciation of all features of the case as well as quality and credibility of the evidence brought on record."

31. The position of law as crystallized from the above discussion is that in criminal trials, the prosecution is expected to prove its case on the touchstone of 'beyond reasonable doubt'. Mere suspicion, howsoever strong, cannot form the basis of convicting the accused, in the absence of credible oral and documentary evidence, which clearly establishes the case of the prosecution. Furthermore,

mere weakness in the defence of the accused cannot substitute the requirement of proof which is expected from the prosecution in criminal trials.

FINDINGS OF THE COURT

32. Upon examining the record in light of the above legal position and factual matrix, it emerges that in the instant matter, the case of the complainant (who is a 1985 Batch IRS officer and held the post of Deputy Director of Enforcement (Delhi Zone) at the relevant time) is that the accused persons, in order to settle personal scores (specifically to nullify the order dated 28.09.2000, whereby the CAT had ordered the review of deemed suspension of the complainant within a period of four weeks), in connivance with other officials of CBI, malafidely conducted a raid in his house situated at B-1/134, Paschim Vihar, New Delhi, in the wee hours of 19.10.2000. During the said raid, the accused persons violated all the procedural guidelines and unlawfully, made a forceful entry by breaking open the front door of the abovementioned house. Subsequently, the accused persons dragged and manhandled the complainant from his room situated at the first floor to the drawing room situated at the ground floor and in doing so, caused an injury on the right arm of the complainant. On the contrary, the accused persons have claimed that the complainant has filed the present case out of vengeance and the entire proceedings conducted by them were lawful and based on the directions received by them from the concerned officials. The accused persons have contended that their actions fall squarely within the scope of 'discharge of official duties' and the present complaint is hit by the provisions contained u/s 197 Cr.P.C. The accused persons have further claimed that the forceful entry was made in the house because the complainant did not open the

main door of the house and was found moving with the files on the ground floor and no injury was caused on the body of the complainant during the entire incident.

33. In order to effectively decide the present matter, the following points of determination need to be adjudicated-

1. Whether the actions of the accused persons fall within the scope of 'discharge of official duties', thereby according them the protection of the provisions contained u/s 197 Cr.P.C read with Section 140 Delhi Police Act?

2. Whether the accused persons, at the time of the alleged incident dated 19.10.2000, committed mischief by breaking open the door of the complainant's house (B-1/134, Paschim Vihar, New Delhi) and subsequently committed criminal trespass?

3. Whether the accused persons, at the time of the alleged incident dated 19.10.2000, caused voluntary hurt to the complainant at the time of arresting him from his house?

FINDINGS WITH RESPECT TO POINT OF DETERMINATION NO.1-

34. Public servants play a vital role in performing the official functions of the State which are diverse and complex in nature. In order to ensure operational independence of public servants and to shield them against false prosecution, the law prescribes certain checks and balances before initiation of prosecution against them. The relevant section i.e. Section 197 Cr.P.C, prescribes that no court shall take cognizance of an offence against a public servant alleged to have been committed in discharge of his official duty, except with a previous sanction of the appropriate authority. Likewise, Section 140 of the Delhi Police Act sets a

limitation period of three months for initiating legal proceedings against police officer for actions taken by them under the colour of their duty.

35. In the case at hand, the Ld. Predecessor judge vide order dated 11.01.2005, after duly coming to the conclusion that the sanction u/s 197 Cr.P.C was not applicable to the present case, summoned the accused persons qua allegations of mischief, criminal trespass and voluntarily causing hurt to the complainant. The summoning order was challenged by the accused persons before the Hon'ble High Court of Delhi, which upheld the summoning order, vide order dated 29.03.2016 by categorically holding that the accused persons with malafide intentions, opened preliminary enquiry which culminated into RC No. S-19/1999 E0006, wherein the complainant appeared about 20 times during investigation and the arrest dated 19.10.2000 was made with the sole objective of frustrating the order dated 28.09.2000 passed by CAT. The Hon'ble High Court gave a categorical finding that the accused persons are not entitled to the benefit provisions contained u/s 197 Cr.P.C or Section 140 of the Delhi Police Act. The order of the Hon'ble High court of Delhi was challenged by the accused persons before the Hon'ble Supreme Court and the same was dismissed vide order dated 29.03.2023 with the observations that the issue of absence of sanction u/s 197 Cr.P.C is kept open. Therefore, with utmost regard to the observations of Hon'ble High court of Delhi in its order dated 29.03.2016 (in Crl. M.C No. 2223/2011) and keeping in mind the directions of the Hon'ble Apex Court dated 29.03.2023, this court shall now proceed with determining whether the present complaint is barred by the provisions contained u/s 197 Cr.P.C read with Section 140 Delhi Police Act or not.

36. In order to effectively understand the scope of the protection granted to public servant u/s 197 Cr.P.C, the attention of this court goes towards the law laid down by a Constitutional Bench of the *Hon'ble Apex Court in Matajog Dobey Vs. HC Bhari (1995)2 SCC 388*, wherein it has been held as under-

“Slightly differing tests have been laid down in the decided cases to ascertain the scope and the meaning of the relevant words occurring in Section 197 of the Code; "any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty". But the difference is only in language and not in substance. The offence alleged to have been committed must have something to do, or must be related in some manner with the discharge of official duty. No question of sanction can arise under Section 197, unless the act complained of is an offence; the only point to determine is whether it was committed in the discharge of official duty. There must be a reasonable connection between the act and the official duty. It does not matter even if the act exceeds what is strictly necessary for the discharge of the duty, as this question will arise only at a later stage when the trial proceeds on the merits. What we

must find out is whether the act and the official duty are so interrelated that one can postulate reasonably that it was done by the accused in the performance of the official duty, though possibly in excess of the needs and requirements of the situation.”

“The result of the foregoing discussion is this: There must be a reasonable connection between the act and the discharge of official duty; the act must bear such relation to the duty that the accused could lay a reasonable, but not a pretended or fanciful claim, that he did it in the course of the performance of his duty.”

37. Furthermore, the *Hon’ble Apex court in P Arluswami Vs. State (1967) 1 SCR 201*, wherein it has been observed as follows-

“...It is not therefore every offence committed by a public servant that requires sanction for prosecution under s. 197(1) of the Criminal Procedure Code; nor even every act done by him while he is actually engaged in the performance of his official duties; but if the act complained of is directly concerned with his official duties so that, if questioned, it could be claimed to have been done by virtue of

the office, then sanction would be necessary. It is the quality of the act that is important and if it falls within the scope and range of his official duties the protection contemplated by s. 197 of the Criminal Procedure Code will be attracted. An offence may be entirely unconnected with the official duty as such or it may be committed within the scope of official duty. Where it is unconnected with the official duty there can be no protection. It is only when it is either within the scope of the official duty or in excess of it that the protection is claimable..."

38. In light of the above legal position, it is apposite to note that the primary test to ascertain whether the alleged act of the public servant falls within the scope of Section 197 Cr.P.C read with Section 140 Delhi Police Act, is whether the alleged act has a reasonable nexus with the discharge of official duty or not. If the court comes to a conclusion that the alleged act has no reasonable nexus with the official duty or the alleged act is essentially a misuse/ abuse of power vested upon a public servant, the benefit of the protection u/s 197 Cr.P.C read with Section 140 Delhi Police Act must not be granted to the public servant.

39. The present dispute revolves around the incident that transpired in the morning of 19.10.2000, qua which conflicting claims have been made by the parties. The complainant claims that the proceedings dated 19.10.2000 were

conducted, with the sole objective of nullifying the order dated 28.09.2000 (Ex.CW-1/22), whereby the CAT had ordered the review of deemed suspension of the complainant within a period of four weeks and instead of complying with the said directions, the accused persons, in connivance with other officials of CBI, malafidely arrested him and in doing so, they committed mischief by breaking open the door of his house, committed criminal trespass and assaulted him.

40. Notably, the entire dispute revolves around two admitted documents i.e. arrest memorandum (Ex. CW-1/23) and the search list (part of the counter affidavit filed by the accused No.1 VK Pandey before the Hon'ble High court of Delhi in Civil Contempt Petition No. 336/2001 i.e. (Ex. CW-1/24)). As per the search list (which has been relied upon by the accused persons), it is the version of the accused persons that they reached the house of the complainant at about 05:00 am and after entering into the compound of the house, attempts were made to get the house open by ringing the door bell. The search list further claims that the complainant and his brother were seen moving inside the house with some files but were not opening the door, finally about about 05:30 am forced entry was made by breaking the sliding door of the drawing room. Thereafter, the complainant was found hiding in the room of children and was subsequently arrested.

41. Before appreciating the genuineness of the conflicting claims of the parties, it is apposite to discuss the background under which the proceedings dated 19.10.2000 were conducted by the accused persons. Pertinently, the accused No.1 (V.K Pandey) was appointed as an IO in a case registered (RC S-

19/1999 E0006) against the complainant by the CBI qua disproportionate assets. During the investigation of the said case, the complainant was summoned by accused No.2 and visited him on multiple occasions (precisely 21 times as stated in annexure A of the complaint), from 03.02.2000 to 14.10.2000. In the meantime, the complainant was transferred to Kolkatta, and upon the transfer order being challenged before Central Administrative Tribunal, vide order dated 28.09.2000, the CAT ordered the review of deemed suspension of the complainant within a period of four weeks. On the basis of the said order, a letter dated 12.10.2000 (annexed with the complaint) was sent from the office of Directorate of Income Tax Vigilance to Superintendent of Police, CBI Sh.S Sundari Nanda, who was directed to furnish reply qua the position of investigation qua the complainant and the reason for not revoking his suspension by 18.10.2000.

42. Interestingly, instead of furnishing the said reply within the stipulated time period i.e. by 18.10.2000, the very office from which the reply was sought (office of Superintendent of Police, CBI), conducted a meeting in the evening of 18.10.2000 (as deposed by Rajesh Chahal and Raj Kumar Saha (DW-1 and DW-2)) and decided to proceed with conducting the search and arrest proceedings qua the complainant on the next morning, that too, in an investigation qua which the complainant had appeared before the investigating officer on 21 different occasions. All these factors lead to a necessary inference that the actions of the accused persons dated 19.10.2000 were malafide and done with the object of nullifying the order dated 28.09.2000, whereby the CAT had ordered the review of deemed suspension of the complainant within a period of four weeks.

43. Additionally, upon examining the genuineness the claim of the accused persons regarding the proceedings dated 19.10.2000, in light of the testimony of the witnesses and the search list (part of the counter affidavit filed by accused VK Pandey before Hon'ble High Court of Delhi in Civil Contempt Petition of 336/2001/ Ex. CW-1/24) it is evident that, as per the search list, the accused persons rang the door bell and only when they saw the complainant and his brother moving certain files in the drawing room of the house, they decided to break open the sliding door of the drawing room. Upon considering the above version of the accused persons, this court is of the view that when the primary reason for effecting a forceful entry into the house of the complainant was the fact that he and his brother were seen moving certain files, the accused persons were expected to have seized the said files in order to substantiate their claim. Not just this, contrary to the contents of the search list (which clearly states that the main door was broken), all the defence witnesses and the accused persons (at the stage of recording of statements u/s 313 Cr.P.C), claimed that only a latch was dislocated in effecting the entry and the same was subsequently re-fixed, which again casts a doubt on the version of the accused persons, as no such fact was mentioned in the search list.

44. Furthermore, the claim of the accused persons that the complainant did not willfully join the investigation on 18.10.2000 and that previously he was absconding in another FIR (where he was arrested in Saharanpur from a hotel), due to which the proceedings dated 19.10.2000 were necessitated, does not inspire confidence of the court to any extent whatsoever, as it is not in dispute that the complainant had joined the investigation of the case in question on more

than 20 occasions and had sent a written exemption request for not joining the investigation on 18.10.2000 on account of fever. Throughout the present trial, the accused persons have failed to explain the extreme necessity for barging into the house of the complainant (who was an IRS officer on the date of the alleged incident), that too at an odd time, when he had already appeared before the IO on multiple occasions in the case pending against him and sent an exemption merely on one occasion. Not just this, there is absolutely no explanation for the injury on the right forearm of the complainant as mentioned in his MLC dated 19.10.2000 (Ex. CW-1/21), which points towards custodial violence at the time of effecting the arrest of the complainant.

45. In these circumstances, this court is of the opinion that the arrest and search proceedings dated 19.10.2000, were initiated against the complainant malafidely, with the ulterior motive of nullifying the order dated 28.09.2000, whereby the CAT had ordered the review of deemed suspension of the complainant within a period of four weeks and comments were called from the office of Superintendent of Police, CBI by 18.10.2000. Moreover, this court also holds that the accused persons exceeded their lawful authority at the time of the arrest and search proceedings by breaking open the house of the complainant without justified grounds and also causing injury on his right forearm. **In such a situation, since the entire search and arrest proceedings dated 19.10.2000 were conducted by the accused persons in a malafide manner by exceeding the powers vested upon them by law, this court is of the view that the actions of the accused persons do not fall within the scope of 'discharge of official duty' and thus, they cannot be granted the benefit of protection prescribed by Section 197**

Cr.P.C read with Section 140 Delhi Police Act.

FINDINGS WITH RESPECT TO POINT OF DETERMINATION NO.2-

46. One of the allegations levelled by the complainant in the present case is that during the search and arrest proceedings which were conducted on 19.10.2000, the accused persons exceeded their lawful authority by breaking open the main door of the drawing room of his house without justifiable grounds, thereby committing mischief and criminal trespass. The said version was narrated by all the complainant witnesses who were present at the house at the time of the incident (Ashok Kumar Aggarwal/ CW-1, Vijay Kumar Aggarwal/ CW-2 and Krishan Kumar/ CW-3). Pertinently, the search list (part of the counter affidavit filed by accused VK Pandey before Hon'ble High Court of Delhi in Civil Contempt Petition of 336/2001/ Ex. CW-1/24), also mentions that a forceful entry was made in the house of the complainant at about 05:30 am. Contrary to the above, the defence witnesses (Rajesh Chahal/ DW-1 and Raj Kumar Saha/ DW-2) and the accused persons (at the stage of recording of statement u/s 313 Cr.P.C), contended that only the latch of the door was broken at the time of making forceful entry and the same was re-fixed after the raiding team entered the house of the complainant.

47. At the very outset, as discussed hereinabove (at the stage of deciding the point of determination No.1), this court has already come to the finding that the arrest and search proceedings dated 19.10.2000 were conducted by the accused persons in a *malafide* manner. The next question that falls for the consideration of this court is whether the accused persons were reasonably justified in making a forceful entry in the house of the complainant at the time of the alleged incident

or not.

48. In order to answer the above question, it is apposite to note that as per Section 47 Cr.P.C, the person to be arrested is bound to allow free ingress to the officer making his arrest, in the premises in which such person resides. If ingress to such place is not allowed, the officer arresting is under a lawful authority to break open any outer or inner door or window of such place of residence. In the instant matter, the primary reason for breaking open the door of the house, as stated by the accused persons is that the complainant and his brother were seen carrying certain files in the drawing room area from the windows of the ground floor by the member of the arresting team, however, surprisingly, to the utter dismay of this court, none of the files were seized by the IO (accused No.1), which leaves out the scope of corroboration of the version narrated by the accused persons. Additionally, the defence witnesses and the accused persons have narrated a story (that only the latch was broken at the time of making forceful entry), which is totally contrary to the contents of the search list (part of the counter affidavit filed by the accused No.1 VK Pandey before the Hon'ble High court of Delhi in Civil Contempt Petition No. 336/2001 i.e. (Ex. CW-1/24)), as per which forceful entry was made by the proposed accused persons by breaking open the door of the complainant at the time of the search and arrest proceedings. Not just this, defence witness Raj Kumar Saha (DW-2) narrated a completely different version by claiming that one burnt file was found in the hands of the complainant. The defence witnesses and the accused persons also claimed that a phone call was made by the accused No.2 to the landline of the premises of the complainant, but no such fact finds a mention in the contents of

the search list or the arrest memorandum. On the other hand, all the complainant witnesses who were present at the premises at the time of the incident (Ashok Kumar Aggarwal/ CW-1, Vijay Kumar Aggarwal/ CW-2 and Krishan Kumar/ CW-3) have remained firm to the fact that the accused persons forcibly entered the house of the complainant.

49. During the course of arguments, Ld. Counsel for the accused persons argued that the complainant has selectively named the accused persons in the present complaint out of vengeance and has not arrayed the remaining members of the raiding party without any justified reason. It has also been contended that none of the complainant witnesses have given cogent evidence qua the exact number of the raiding party who broke open the door of the complainant's house. In view of this court, the said argument cannot be used to provide any benefit to the accused persons as the law does not cast any obligation upon the complainant to array all the persons present at the spot in his complaint, if he has sufficient reasons to believe that the offence complained off has primarily been committed by particular members of the group against whom he has credible evidence, more so when allegations reveal the motive behind the offence to be previous enmity based on professional differences. In these circumstances, the question of identification of the exact member of the raiding team who broke open the main door of the house of the complainant is absolutely immaterial by virtue of the provisions contained u/s 34 IPC, which criminalizes an act done by several persons in furtherance of common intention of all such persons, in the same manner as if the act were done by each of such person, even in cases where one or few of the offenders have not been prosecuted.

50. Accordingly, this court is of the view that the actions of the accused persons in breaking open the main door of the house of the complainant on 19.10.2000, during the search and arrest proceedings, without any justified reason, constitutes commission of mischief and the act of consequently entering upon the property of the complainant, with the intention of malafidely exercising their official powers to settle professional scores, falls within the definition of criminal trespass.

FINDINGS WITH RESPECT TO POINT OF DETERMINATION NO.3-

51. The primary gravamen of the present complaint is that the accused persons manhandled and assaulted the complainant at the time of the arrest, by dragging him on the stairs, due to which he suffered an injury on his right arm. The said version of the complainant was substantiated by his own testimony and the testimony of his brother Vijay Kumar Aggarwal (CW-2), both of whom stated that the accused persons manhandled and caused injury on the arm of the complainant, as well as the contents of the MLC of Ashok Kumar Aggarwal (Ex. CW-1/21 and part of the counter affidavit filed by the accused No.1 VK Pandey before the Hon'ble High court of Delhi in Civil Contempt Petition No. 336/2001 i.e. (Ex. CW-1/24), as per which, an abrasion was found over the distal end of the right forearm of the complainant.

52. During the course of arguments, Id. Counsel for the accused persons submitted that the testimony of Vijay Kumar Aggarwal (CW-2) cannot be believed as he made substantial additions in his evidence by claiming that the complainant had injuries on his face and was bleeding from his right hand. In this regard, it is pertinent to note that in their zeal to support their case, it is not

uncommon for witnesses to exaggerate qua the quantum of injuries suffered and the said fact alone cannot have the effect of disproving the entire material on record against the accused persons, especially when there is credible material (like version of the injured himself/ medical evidence) on record, to otherwise establish the case of the complainant. In this regard reliance can be place upon the judgment of the Hon'ble Supreme Court in *Achhar Singh Vs. State of Himachal Pradesh, Crl. Appeal No. 1140-1141 of 2010 (dated 07.05.2021)* wherein it has been held that- *'the genesis of every exaggerated statement lies in a true fact'* and it is the duty of the court to *'disseminate truth from falsehood and sift the grain from the chaff in case of exaggerations'*.

53. The Id. Counsel for the accused persons also submitted that the MLC relied upon by the complainant cannot be regarded to have been duly proved in the absence of the testimony of the doctor who prepared it and also pointed out that the age of the injury has not been specified in the MLC, which makes it doubtful. In the considered opinion of this court, the said submission is totally devoid of any merits as the MLC has been admitted by the accused VK Pandey u/s 294 Cr.P.C vide his statement dated 23.12.2023 and is also a part of the counter affidavit filed by him before the Hon'ble High court of Delhi in Civil Contempt Petition No. 336/2001 i.e. (Ex. CW-1/24). Furthermore, as far as the question of non-mentioning of the age of injury in the MLC is concerned, the same cannot be read in favour of the accused persons as in the usual course, the age of fresh injuries is not mentioned in the MLC by the doctors and it is only when the injury is old, that the doctors mention the same in MLC. Even otherwise, since the MLC of the complainant was conducted at the request of

accused VK Pandey (who was the IO), it was his duty to have sought clarification by the concerned doctor regarding the age of injury, when the same was mentioned in the MLC of the complainant.

54. As discussed in the previous point of determination, the argument of the accused persons regarding the complainant selectively naming them and omitting the other members of the raiding party is totally devoid of merits as the complainant is well within his rights to pursue his remedies qua the accused persons against whom he has credible evidence. In fact, in his cross-examination dated 06.03.2023, the complainant categorically explained that it was only the accused persons (and not the other members of the raiding party) who had the malafide and malicious intention to nullify the orders of CAT and it was only the accused persons who forcibly and violently dragged him from his bedroom and pushed him on the stairs, which in the opinion of the court is a sufficient explanation for not arraying the other members of the raiding party.

55. Furthermore, as discussed hereinbefore, the claim of the accused persons that the complainant did not willfully join the investigation on 18.10.2000 and that previously he was absconding in another FIR (where he was arrested in Saharanpur from a hotel), due to which the proceedings dated 19.10.2000 were necessitated, does not inspire confidence of the court to any extent whatsoever, as it is not in dispute that the complainant had joined the investigation of the case in question on more than 20 occasions and had sent a written exemption request for not joining the investigation on 18.10.2000 on account of fever. In these circumstances, this court has not hesitation in holding that the entire search and arrest proceedings conducted by the accused persons on 19.10.2000 were

malafide and conducted in abuse of power vested upon them by law with the sole objective of nullifying the order dated 28.09.2000, whereby the CAT had ordered the review of deemed suspension of the complainant within a period of four weeks.

56. In these circumstances, this court is of the opinion that the complainant suffered an injury on his right forearm at the time of search and arrest proceedings dated 19.10.2000 because of being dragged and manhandled by the accused persons and the accused persons have not been able to establish any justifiable grounds for inflicting the said injury on the body of the complainant.

OTHER POINTS RAISED BY THE ACCUSED PERSONS-

Delay in filing the present complaint case.

57. During the course of final arguments, Ld. Counsels for the accused persons pointed out that the present complaint was filed on 17.10.2001 i.e. after almost a period of one year from the date of the alleged incident, which suggests afterthought and vengeance on the part of the complainant. The explanation put forth by the complainant in this regard is that his wife had promptly sent a telegram to Hon'ble Chief Justice of India, Director CBI etc regarding the actions of the accused persons, without specifying the details of assault as she was locked in a room at the time of the incident. Additionally, the complainant has testified that he was threatened by the accused persons with dire consequences, due to which he filed the present complaint after a substantial delay. The above explanation furnished by the complainant for the delay in institution of the present complaint appears to be a sufficient justification for the

delay as the accused persons were serving a powerful and an esteemed institution (CBI) during the relevant time and the complainant was facing two separate enquiries / investigations, which were being investigated by the accused persons. Even otherwise, mere delay in filing the complaint, does not in itself vitiate the entire complaint under any of the provisions of the Cr.P.C and keeping in mind the peculiar circumstances of the present case, this court does not deem it appropriate to assign undue importance to the same, especially when there is clinching material on record to establish malafide of the accused persons.

Non-mentioning of the details of the assault before the Ld. Special Judge and non-filing of any police complaint against the accused persons.

58. As discussed hereinbefore, the explanation put forth by the complainant for non-mentioning of the details of the alleged assault before the Ld. Special Judge and non-filing of police complaint is that he was threatened by the accused persons with dire consequences qua himself and his family members, which appears to be a sufficient explanation in view of the peculiar circumstances of the present case and the status/ position of the accused persons at the relevant time. Even otherwise, the said factor alone cannot wipe out the clinching material on record that has been placed on record by the complainant against the accused persons.

Non-arraying of the officials of CBI in the present complaint.

59. The accused persons have claimed that the case of the complainant is that they conspired along with other officials of CBI to falsely implicate him and to nullify the order dated 28.09.2000, whereby the CAT had ordered the review of

deemed suspension of the complainant within a period of four weeks and in such a situation, he should have implicated the concerned officials of CBI in the present complaint. In this regard, it is pertinent to note that it is the discretion of the complainant to pursue his complaint against the offender against whom he has credible material and expecting the complainant to pursue his complaint against a particular offender is not warranted by any legal provision and the said fact cannot be used to provide any benefit to the accused persons.

False claim of the complainant regarding being apprehended in undergarments

60. Throughout the present trial, the complainant witnesses claimed that the complainant and his brother were apprehended in undergarments but no explanation was furnished by the witnesses as to how they wore proper clothes when they were produced before Ld. Special Judge. In the considered opinion of this court, the said fact is a trivial issue when compared with the entire set of allegations and is not the sole/ primary allegation against the accused persons. The primary allegations qua the accused persons pertain to commission of mischief, criminal trespass and assault (qua which cogent evidences have been led by the complainant) and despite the complainant witnesses not furnishing explanation qua the complainant and his brother being dressed properly upon being produced before the Ld. Special Judge, this court sees no reason for giving undue weightage to the said fact as the same is not the primary allegation against the accused persons.

Effect of dismissal of Civil Contempt Petition No 336/2001

61. During the course of the final arguments, Ld. Counsel for the accused persons drew the attention of the court to the order dated 28.08.2003 passed by

Hon'ble High Court of Delhi, in Civil contempt petition No. 336/2001, which was filed by the complainant on similar grounds and was dismissed. Notably, the said petition was filed qua violations of the guidelines of Hon'ble Supreme Court in DK Basu's case and not qua allegations of mischief, trespass and assault. In fact in page 10 of the said order, the Hon'ble High Court has observed that minor injuries were noticed on the body of the victim. The court went on to observe that the complainant did not allege torture and his case was that punctilious adherence to the directions of DK Basu were not carried out. The relief sought by the complainant in the present case is entirely different and the mere dismissal of Civil Contempt Petition filed by him previously cannot have the effect of demolishing his entire case.

The conduct of security guard Krishan Kumar (CW-3)

62. The Ld. counsel for the accused persons contended that the security guard Krishan Kumar did not make any complaint qua the assault before any concerned official and testified falsely at the behest of the complainant. In this regard, it is pertinent to note that the mere fact that Krishan Kumar did not personally make any complaints qua being assaulted by the accused persons, does not, in itself wipe out his entire testimony against the accused persons, especially considering the fact that he was a security guard by profession and could not reasonably have had access to legal advice at the relevant time. Not just this, the version narrated by him stands corroborated by the contents of the complaint and the testimony of other complainant witnesses and there is absolutely nothing on record to suggest that he has been won over by the complainant.

CONCLUSION

63. In light of the elaborate appreciation of the facts and evidences of the present case, this court is of the view that the entire search and arrest proceedings carried out by the accused persons on 19.10.2000, were in sheer violation of the powers bestowed upon them by law and with the sole objective of frustrating and nullifying the order dated 28.09.2000 passed by CAT, whereby the review of deemed suspension of the complainant within a period of four weeks was ordered. Instead of sending their representation to the office of Directorate of Income Tax (Vigilance), within the prescribed period (by 18.10.2000), the accused persons, in connivance with other officials of CBI, took a conscious decision to arrest the complainant in the wee hours of 19.10.2000, by exercising their powers in a malafide manner by breaking open the door of his house and by causing him injuries at the time of arrest. The actions of the accused persons were deliberate attempts aimed at denying the complainant the fruits of order passed by CAT and to keep him embroiled in investigations which were being conducted by CBI qua matters (RC S-18/E0001/99 and RC S-19/1999 E0006), in which the complainant was eventually discharged (as submitted by parties at the time of final arguments). The testimony of the complainant witnesses, the documents relied upon by the complainant (which categorically establish the chain of events leading to his arrest on 19.10.2000) and the medical record of the complainant, cogently establish the case of the complainant as per the prescribed yardstick of 'beyond reasonable doubt'.

64. Apropos to the above discussion, the accused persons- VK Pandey and Ramneesh, stand convicted qua the allegation of committing the offences punishable u/s 323/427/448/ 34 IPC.

65. During the course of final arguments Ld. counsel for the complainant has relied upon the following judgments- 1) Om Prakash Yadav Vs. Niranjn Kumar Upadhyay and Others [(2024) SCC OnLine SC 3726, (2) Choudhury Parveen Sultana v. State of West Bengal and Anr. (2009) 3 SCC 398, (3) Prakash Singh Badal v State of Punjab [(2007) 1 SCC 1] (4) Balbir Singh VS. D.N. Kadian & Anr. and Delhi Admn., Delhi Vs.D.N.Kadian AIR 1986 Supreme Court 345 (5) Rajib Ranjan Vs. R. Vijay Kumar [(2015) 1 SCC 513, (6) Urmila Devi Vs. Yudhvir Singh [(2013) 15 SCC 624 (7) Shadakshari Vs. State of Karnataka & Anr (Supreme Court) (8) Shambhoo Nath Misra Vs. State of U.P. & Others (1997) 5 SCC 326, (9) Harihar Prasad Vs. State of Bihar (1972) 3 SCC 89 (10) Choudhury Parveen Sultana Vs. State of West Bengal and Another AIR 2009 SC 1404 (11) Inspector of Police and Another Vs. Battenapatla Venkata Ratnam and Another (2015) 13 SCC 87 and Bhagwan Prasad Srivastava Vs. NP Mishra (1970) AIR 1661. On the other hand, the Ld. counsel for the accused No.2 has relied upon the following judgments (1) Matajog Dobey v. H.C. Bhari, (SC) 1956, (2) Parulswami v. State of Madras (SC) 1967, (3) Shreekantiah Ramayya MuniPalli V. State of Bombay (SC) 1955, (4) State of Orrisa v. Ganesh Chandra Jew (SC) 2004, (5) Prakash Singh Badal V. State of Punjab (SC) 2007 (6) D. Devraj Vs Owais Sabeer Hussain (SC) 2020 (7) Devinder Singh v. State of Punjab (SC) 2016, (8) Prof N.K Ganguly Vs. CBI (SC) 2016, (9) Virupaxappa Veerappa Kadampur Vs.State of Mysore 1963 and (10) Sankaran Moitra vs.

Sadhna Das (SC) 2006. All the above mentioned judgments have been perused and duly considered by this court in appreciating the facts and circumstances of the present case.

66. Copy of judgment be given free of cost to the convicts.

**Signed & pronounced
in Open Court
On the 18th April, 2026**

**(Shashank Nandan Bhatt)
JMFC-02/West/Delhi/18.04.2026**