

DLNE010027222020



**IN THE COURT OF SH. PARVEEN SINGH,
ADDL. SESSIONS JUDGE – 03 (NORTH EAST DISTRICT)
KARKARDOOMA COURT : DELHI.**

CNR No. DLNE01-002722-2020

SC No. 134/2020

FIR No. 156/2020

PS Gokalpuri

U/s. 302/395/396/412/435/144/147/148/149/201/120B/34 IPC

State

Versus

**1. Lokesh Solanki,
s/o Sh. Yogender Kumar,
r/o B-18/5, Ganga Vihar, Delhi.**

**2. Pankaj Sharma,
s/o late Sh. Rajveer Sharma,
r/o C-162, Gali No. 3,
Bhagirathi Vihar, Delhi.**

**3. Ankit Chaudhary @ Fauzi,
s/o Sh. Raj Kumar,
r/o G-14, Ganga Vihar,
Gokalpuri, Delhi.**

**4. Prince @ DJ Wala,
s/o Sh. Mahender Singh,**

*FIR No. 156/20
PS Gokalpuri*

1 of 62

**PARVEEN
SINGH**

Digitally signed
by PARVEEN
SINGH
Date:
2026.08.25
15:34:56 +0530

r/o C-23, Gali No. 6,
Bhagirathi Vihar, Delhi.

5. Jatin Sharma @ Rohit,
s/o Sh. Gauri Shankar Sharma,
r/o B-48, Gali No. 1,
Ganga Vihar, Delhi.

6. Himanshu Thakur,
s/o Harender Singh,
r/o C-121, Gali No. 3,
Bhagirathi Vihar, Delhi.

7. Vivek Panchal @ Nandu,
s/o Sh. Pramod Kumar Panchal,
r/o D-106, Gali No. 3/4,
Ganga Vihar, Delhi.

8. Rishabh Chaudhary @ Tapas,
s/o Sh. Yogender Singh,
r/o F-53, Gali No. 1,
Ganga Vihar, Delhi.

9. Sumit Chaudhary @ Badshah,
s/o Sh. Om Prakash,
r/o A-367, Gokalpuri, Delhi.

10. Tinku Arora,
s/o Sh. Ashok Kumar,
r/o H. No. E-51, Gali No. 2,
Bhagirathi Vihar, Delhi.

11. Sandeep @ Mogli,
s/o Sh. Dalbir Singh,

r/o H. No. E-24, Bhagirathi Vihar,
Delhi.

12. Sahil @ Babu
s/o Sh. Rakesh Sharma,
r/o D-138, Gali No. 11,
Bhagirathi Vihar, Delhi.

...Accused

Date of Committal : 27.10.2020.
Date of Arguments : 19.08.2026.
Date of Pronouncement : 25.08.2026.

(In compliance of directions passed in judgment Manojbhai Jethabhai Parmar (Rohit) v. State of Gujarat, list of prosecution witnesses is Annexure 1; list of documents exhibited by prosecution is Annexure 2 and list of admitted documents is Annexure 3, to the judgment.)

JUDGMENT

Facts of Prosecution Case as per Charge Sheet

1.1 Brief facts of the case are that on 28.02.2020 at about 10.13 a.m, an information was received in PS Gokal Puri that a dead body was lying in Nala near Johripur Tiraha. This information was recorded vide DD No. 28A and this DD was assigned to SI L.N Sharma. SI L.N. Sharma with Ct. Abhay and other staff went at the informed place and found a dead body lying in nala towards Johripur Extension, side of Johripur Tiraha. The dead body was sent to GTB Hospital where MLC was prepared. Thereafter, the dead body was preserved in the mortuary of GTB Hospital. On the basis of this DD,

FIR No. 156/20
PS Gokalpuri

3 of 62

PARVEEN
SINGH
Digitally signed
by PARVEEN
SINGH
Date:
2026.08.25
15:35:24
+0530

the present FIR was registered.

1.2 During the investigation, on 02.03.2020, post mortem upon the dead body was conducted. On 01.03.2020, one Nargis lodged a missing report of her husband at PS Gokal Puri. The said report was lodged vide DD No. 37A and it was assigned to ASI Ramdas. On 12.03.2020, complainant Nargis identified the dead body to be of her husband Mursaleen. After the post mortem, the doctors handed the clothes of body to the IO. During the investigation, mobile crime team visited the place of incident and inspected the scene of crime. During investigation, one eye witness Divesh Rajpoot was examined and he named many persons to be the part of the mob which had committed riots on 25.02.2020. Some of them were Ankit Chaudhary, Sumit Chaudhary, Pankaj Sharma, Prince, Himanshu Thakur, Jatin Sharma, Rishabh Chaudhary, Vivek Panchal, Lokesh Solanki, Sahil @ Babu, Avdesh Mishra, Sandeep @ Mogli, Tinku Arora and Monu. On 08.04.2020, VIVO mobile phone (bearing IMEI No. 863296043000827 and 863296043000835) of deceased was recovered from the possession of Himanshu Thakur. Accused Himanshu was arrested in this case and his disclosure statement recorded. At the instance of Himanshu, one wooden rod/ danda was recovered from near the place of incident.

1.3 During the course of investigation of FIR No. 35/20 PS Gokalpuri, three persons namely Mohit Sharma, Shivam Bhardwaj

and Dimple were apprehended and on checking their mobile phones, it was found that Mohit and Shivam were members of a Whatsapp group by the name of 'Kattar Hindu Ekta'. On further investigation, it was found that the said group was created by a mobile number belonging to one Babita. Lokesh was a member of that group. During investigation, witness Gaurav was examined. He stated that accused Himanshu had borrowed his old Samsung mobile phone and after 4-5 days, Himanshu had returned his mobile and at that time, he had seen one Vivo mobile in possession of Himanshu. Thereafter, during the investigation, accused Lokesh Solanki, Pankaj Sharma, Sumit Chaudhary, Ankit Chaudhary, Prince, Jatin Sharma, Rishabh Chaudhary @ Tapas, Vivek Panchal @ Nandu, Himanshu Thakur were arrested. CDRs of accused revealed that they were present at the spot and were continuously connecting with each other. On completion of investigation, charge sheet was filed against accused Lokesh Solanki, Pankaj Sharma, Sumit Chaudhary, Ankit Chaudhary, Prince, Jatin Sharma, Rishabh Chaudhary @ Tapas, Vivek Panchal @ Nandu, Himanshu Thakur.

1.4 Thereafter, during further investigation, accused Sahil @ Babu, Sandeep @ Mogli and Tinku Arora were arrested and a supplementary charge sheet was filed against these accused.

Charges

2.1 On 04.04.2022, charges for offences punishable u/s

144/147/148 IPC r/w section 149 IPC; u/s 302/201/432/435/34 IPC r/w section 149 IPC; u/s 395/396 IPC r/w section 149 IPC and u/s 153A/505 IPC r/w section 149 IPC was framed against all the accused, to which they pleaded not guilty and claimed trial. On the same day, charge for offence punishable u/s 412 IPC was framed against accused Himanshu to which he pleaded not guilty and claimed trial.

Prosecution Evidence

3.1 In order to prove its case, the prosecution has examined 49 witnesses. A table providing details of these witnesses and brief description of their roles and testimonies is annexed as Annexure-1. The list of documents proved by the prosecution and the witnesses who proved them, is Annexure-2. The list of documents admitted by the accused u/s 294 Cr.P.C is Annexure-3.

Statement of Accused

4.1 Thereafter, statements u/s 313 Cr.P.C/ 351 BNSS of all the accused were recorded and none of them chose to lead evidence in defence.

Contentions of Learned SPP and of Learned Counsels for accused

5.1 I have heard Learned SPP for State as well as Learned counsels for accused and perused the record very carefully.

5.2 Ld. SPP has contended that as far as the murder of Mursaleen is concerned, eye witness Divesh Rajpoot, who appeared as

PW7, had turned hostile and the prosecution had no other evidence of how, where, when and who had killed Mursaleen. He concedes that in these circumstances, there is no evidence for offence punishable u/s 302 r/w section 149 IPC and u/s 395/396 r/w section 149 IPC. He has however contended, that through the testimonies of PW7, PW8 and PW26, the prosecution has proved that on 25.02.2020 and 26.02.2020, the accused were part of a huge mob which was armed with lathi, dandas etc. They were stopping people and checking their I.Ds. This mob had indulged in rioting and vandalism. He has further contended that electronic record reveals that a whatsapp group by the name of '*Kattar Hindu Ekta*' was formed and accused Lokesh Solanki was a member of that group. Hatred against muslim was spread in this group and members were incited to commit violence against muslims. He has however fairly informed the court that on the basis of these Whatsapp Chats, accused Lokesh Solanki has already been convicted and sentenced by the court for the offences u/s 153A IPC and 505 IPC. He however as contended that additionally the mob was also chanting slogans of 'Jai Siya Ram' and 'Har Har Mahadev' to incite communal frenzy. He has therefore contended that in view of the testimonies of the witnesses, the prosecution has successfully proved the offence u/s 144/147/148 IPC r/w section 149 IPC and u/s 153A/505 r/w section 149 IPC.

5.3 He has further contended that as against accused

Himanshu, the prosecution has also successfully proved the offence u/s 412 IPC. The mobile phone which was looted by the mob from deceased Mursaleen, when he was murdered, was recovered from the possession of accused Himanshu Thakur. This fact has been proved on record. The fact that accused Himanshu was using this mobile phone by inserting the SIM card in the name of his father, has been proved by his father Harender, who appeared as PW41. The fact that the VIVO mobile phone which was recovered at the instance of accused Himanshu belonged to deceased Mursaleen has been proved by PW25 Sarvesh from whose shop, this mobile phone was purchased by Mursaleen. The recovery of the phone from him has been proved by PW13 and PW49.

5.4 Countering it, Id. counsels for accused have contended that the prosecution has not been able to establish the ingredients of section 141 IPC and in absence of the same, accused cannot be convicted for offence u/s 144 IPC or 147/148 IPC. They have further contended that there is no evidence of any sort on record which would prove that accused indulged in any rioting or vandalism and thus, when the accused had not committed any offence, or there was no common object of assembly to commit any offence, the assembly cannot be said to be an unlawful assembly. They have further contended that mere chanting of Jai Siya Ram and Har Har Mahadev slogans cannot be said to be an offence within the meaning of section

153A IPC or section 505 IPC.

5.5 With regard to section 412 IPC, they have contended that no ingredients of section 412 IPC are made out because it has not been proved that there was any dacoity, or that accused had received that phone from a gang or a member of gang of dacoits. At the most it is an offence punishable u/s 411 IPC and this offence has also not been proved by the prosecution, because the prosecution has not been able to provide the chain of custody of this mobile phone. The prosecution has also not been able to prove that how the said mobile phone came in possession of accused Himanshu and it was suggested to the witnesses of recovery of phone and IO that this phone was not recovered at the instance of accused Himanshu and was planted upon him. Thus, the prosecution has failed to prove that the phone was recovered at the instance of accused Himanshu Thakur.

5.6 In rebuttal, ld. SPP has contended that PW26 deposed that the mob, of which the accused were a part, was stopping people and checking their identities. This mob was committing an offence of unlawful restraint and hence, the common object of the assembly to commit in offence is visible from its conduct. Thus, the assembly which was more than five in number and armed with weapons, was an unlawful assembly within the meaning of section 141 IPC.

Findings

6.1 I have considered the rival submissions.

6.2 Ld. SPP has conceded that the prosecution has not been able to bring any evidence to prove the guilt of the accused for offences punishable u/s 302/395/396 IPC. From the evidence on record also, it is apparent that none of the witnesses, which the prosecution had sought to produce as eye witnesses to the murder of deceased Mursaleen, have supported the case of the prosecution or even stated that they had witnessed the murder of deceased by riotous mob at Johripur Pulia on 25.02.2020 at around 4-4.30 p.m. and thus, there is no evidence of any dacoity as such. There is also no evidence on record which could prove the ingredients of section 432 IPC or commission of mischief by fire / explosive substance as provided u/s 435 IPC. No evidence of destruction of evidence to prove the offence u/s 201 IPC has been brought on record. Hence, the prosecution has failed to prove the charges u/s 201/302/395/396/432/435/34 IPC r/w section 149 IPC.

6.3 However, ld. SPP had contended that the prosecution has proved its case of accused being members of an unlawful assembly, this unlawful assembly being armed and indulging in the acts of vandalism and rioting.

6.4 As per the case of the prosecution and the deposition of the IO (PW49), the case was solved when IO met eye witness Divesh Rajpoot on 07.04.2020. It is this Divesh Rajpoot, who informed the IO that he had seen the murder of Mursaleen and also informed him the

names of accused involved in commission of this offence. This witness had also identified deceased Mursaleen from his photograph and the identification memo (Ex.PW7/P-1), bearing his signatures at point Y, was prepared.

6.5 However this witness, when appeared as PW7, had turned hostile and did not support the case of the prosecution on any point. He did not state that he had seen any riot or had seen any riotous mob indulging in any riot. He was cross examined at length by Id. SPP and despite sustained cross examination, nothing emerged in his testimony which would link the accused either to an unlawful assembly or to the murder of deceased Mursaleen.

6.6 However, Id. SPP has contended that during the cross examination, this witness admitted his handwriting and signatures upon the identification memo of the deceased whereby the deceased was identified by this witness through photograph of the deceased. He has contended that this reflects that the witness has been won over.

6.7 I have perused the said portion of the testimony of this witness. It is correct that the identification memo Ex.PW7/P-1 was admitted by PW7 to be having his handwriting and signatures. However before that, the witness had stated that he could not read or write Hindi and that he could only copy the text in Hindi i.e. text written in Devnagri script. After admitting his handwriting and signatures on Ex.PW7/P-1, he again went on to state that he could not

read what was written in it. Coupled with this is his testimony during his examination in chief that when he had visited PS Nand Nagri, he was shown some text on a computer screen which he was asked to reproduce but he did not know what it was. This part of the testimony of PW7 was allowed to stand by Id. SPP and thus, it has remained unchallenged. That being the case, Ex.PW7/P-1, though bearing handwriting and signatures of this witness, has to be read in the light of the testimony that he was not aware what was written in it and he had merely copied the text on instructions.

6.8 Ld. SPP has also contended that witness had admitted having studied upto class 8th and thus, he should have known reading Hindi language. It is correct that this witness was questioned on these lines and he admitted to have studied upto class 8th. However, it is not necessary that everybody, who has studied upto 8th standard, will be able to read Hindi and even otherwise, it was not even suggested to him that as he had reached class 8th, he should have been able to read Hindi because it is only then, he would have been able to explain the situation that how he reached class 8th without even knowing how to read Hindi. This becomes important in view of the earlier government policy whereby no student could be failed upto class 8th.

6.9 This brings me to PW2 Nisar Ahmed.

6.10 PW2 Nisar Ahmed testified in detail and he has a lengthy examination in chief and cross examination. His testimony starts from

the riots that had happened on 24.02.2020 and members of mob of 24.02.2020. However, the same is not relevant for the purpose of this case.

6.11 For 25.02.2020, he deposed that on that day at about at about 7-7.30 a.m., he called his sister Amina, who used to reside in gali no.12, Bhagirathi Vihar. Due to the tense situation, he asked her to come to his house, however the call was disconnected. In order to find out why the call was disconnected, he went to his sister's house but did not find his sister or any of her family members at her house. He then proceeded towards Johripur and saw a mob of some persons who had assembled at Johripur Pulia. Noises of 'Maaro Jalado' etc. were coming from that mob. He had identified some members of this mob as he knew them by their names and faces. He rushed back to his home. In that mob, he had seen Vikas (not an accused in this case), Golu (not an accused in this case), Avdhesh Mishra, Shekhar (not an accused in this case), Michael (not an accused in this case), Mogli, Tinku, Babu, Prince, Ashok Tikkiwala (not an accused in this case), Gaurav Dabral (not an accused in this case) and Himanshu Thakur. On returning home, when he was at his balcony, he saw the said mob coming towards his house. The mob started looting the shop of Salman which was situated adjacent to his house. He requested the mob not to do so but the mob did not pay any heed. He made a call to PCR and started making video of the incident in his mobile phone.

Then Michael (not an accused in this case) reached the gate of his house and started breaking it. He requested him not to do so but he did not pay any heed. Sonu (not an accused in this case) brought a big iron rod and using that rod, Michael broke open the gate of the godown which was situated on the ground floor of his house. Sonu tried to lift the shutter of the godown and twisted it. Thereafter the mob entered his godown which was having 1000-1500 pieces of jeans and looted it. The godown had three motorcycles. One Gaurav Dabral brought Bullet from the godown and set it on fire. The other two motorcycles were also brought out and set on fire. One big box containing clothes, jewelery and cash of Rs.1.50 lacs was also brought out of the godown and was burnt.

6.12 From the roof of his house, he, his wife and sons climbed down to the house of one Vinod which was situated behind his house. From there, they went to the house of Pappu where they remained for 4-5 hours. However, before coming to the house of Pappu, he had seen a mob at Bhagirathi Vihar Nala as well as in gali no. 12. In the said mob, he had seen Golu (not an accused in this case), Sahil, Akash (not an accused in this case) and Sanjay (not an accused in this case). In the mob assembled in gali no.12, he had seen Vikas and Ashok Tikkiwala. Even while he was at the house of Pappu, the crowd kept raising noises and pelting stones. Stones were also pelted in the house of Pappu. He made PCR calls, however for two hours, no police official

came. By that time, mob had dispersed from that place and Pappu advised them to leave that place. When he came downstairs, he saw Avdhesh Mishra who had also reached the gali. Gradually, other persons came there. Vikas (not an accused in this case) also reached there. The members of the mob tried to rush towards him. He started crying before Avdhesh Mishra and Avdhesh warned the members of mob not to come forward. Surrender (not an accused in this case) said '*maaro inko*'. However, his neighbours Bal Kishan, Shashi and friend of his son assembled there. They offered to escort him upto some distance advising him to leave for a safe place. They escorted him and his family for some distance whereafter, he alongwith his family went to Mustafabad at his brother-in-law Anwar's place.

6.13 He then deposed that he could identify those persons. He then identified Sumit, Sahil @ Babu, Sandeep @ Mogli, Tinku, Pankaj, Vivek Panchal, Jatin, Himanshu and Prince correctly by taking their names. He then pointed towards accused Lokesh Solanki and took his name as Himanshu. He also pointed towards accused Rishabh and Pawan.

6.14 He further deposed that on 26.02.2020, he was at the home of his brother in law Anwar. His brother Esh Mohammad was stuck at the house of his sister Ameena near Johripur pulia. He made a call to Avdhesh Mishra and requested him to lock his house and to rescue his brother from the house of Ameena. Avdhesh Mishra

forbade him to go towards his house and thus he did not go to his house. He was also in telephonic touch with his niece Sitara, who resided near his house. She requested him to rescue her. He was making calls after reaching Bhagirathi Vihar nala, but he did not go ahead because of presence of mob. In this mob, he had seen Vikas (not an accused in this case), Golu (not an accused in this case), Akash (not an accused in this case), Sanjay (not an accused in this case), Dinesh (not an accused in this case), Sandeep, Prince and Himanshu. He was hearing noise of hue and cry but had not personally seen assault on any person.

6.15 He then deposed about the previous day and stated that on 25.02.2020 at about 8.00 a.m, when he was going to the house of his sister Ameena, then on the road going from Johripur Pulia towards Chaman Park, he had seen a mob assaulting people. In this mob, he had seen Sandeep, Vikas (not an accused in this case), Golu (not an accused in this case), Michael (not an accused in this case), Akash (not an accused in this case), Sanjay (not an accused in this case) and Ashok tikkiwala.

6.16 He was cross examined by Id. SPP and stated that police had told him about the murders that had taken place at Johripur Pulia and asked if he knew the persons who were members of the mob which had committed those murders. He had told the police about the persons who were there in the mob when the murders had happened at

Johripur Pulia. In the said mob, Vikas, Golu, Sandeep @ Mogli, Michael, Tinku, Prince, Pankaj, Avdhesh Mishra, Shekhar, Akash and Sanjay were the members of that mob. He further deposed that on 26.02.2020 at about 3-4 p.m, he was at Brijpuri Pulia and had gone there to rescue his brother from the place of his sister Ameena and his nephew. When he was moving towards Brijpuri Pulia, he saw a mob coming from the said of Bhagirathi Vihar and in that mob, he had seen Shekhar, Vikas and Golu. At some distance from the pulia, he had made a call to Avdhesh Mishra who warned him not to come to the house of his sister and go home.

6.17 He admitted that on 24.02.2020, he had seen a mob of 200-250 rioters which included Sumit, Prince, Pankaj Sharma, Ankit, Himanshu, Jatin, Vivek, Sahil @ Babu, Avdhesh Mishra, Shekhar, Mogli, Tinku, Sonu, Vikas, Gaurav, Masterji and Kanhaiya Lal. He denied that he had stated the names of Lokesh, Rishabh, Baba, Monu before police and volunteered, that he had identified the pictures, as shown by police to him introducing them as Lokesh and Rishabh and had told that they were also in the mob. However, he had not identified picture of any Baba or Monu. He then deposed that on 25.02.2020, the same mob consisting of 200-250 persons (including the above named persons) was present at Ganda Nala Tiraha, Johripur and throughout the day, this mob continued to commit looting, arson and killing. He admitted that the same mob / persons were checking

the ID of passers-by and on finding someone to be a Muslim, they used to kill the person and throw the dead body in the nala. He deposed that he could identify Ankit in the court and identified him. He deposed that Ankit was present in the mob of 25.02.2020 but was not present in the mob of 24.02.2020. He further deposed that he had not seen Ankit in the mob of 26.02.2020. He denied that he had seen Ankit in the mob of 24.02.2020 and 26.02.2020 also.

6.18 During his cross examination on behalf of accused Ankit Chaudhary, he deposed that on 25.02.2020, after making call to Ameena; at about 07.45 a.m, he reached the house of Ameena, which was at a distance of 3 minutes walk from his house. At that time, he had seen a mob at Johripur Pulia from a distance of around 40-50 meters. After seeing the mob, he changed his route and returned home. The incident of attack at his house on 25.02.2020 and thereafter reaching the home of Pappu would have taken a time of around 10-15 minutes as everything had happened very fast. Police reached Gali no. 11 after around 2½ to 3 hours. The total time period of the happenings which involved him going downstairs at the house of Pappu, meeting Avdhesh Mishra and finally being escorted to Mustafabad was around 5-7 minutes. He admitted that he had not stated the name of Ankit Chaudhary at any point of time. He had never told police that he had seen Ankit in the mob on 25.02.2020 at 8.00 a.m and thereafter at 4.00 p.m. He further deposed that prior to 24.02.2020, he had never visited

the house of Ankit Chaudhary. He did not know about the profession of Ankit Chaudhary. He had not seen the house of Ankit Chaudhary. He was not familiar with Ankit Chaudhary and his family members and had never talked to them. He denied that he had not seen any incident on 24.02.2020, 25.02.2020 and 26.02.2020.

6.19 During his cross examination on behalf of accused Jatin Sharma, Sahil @ Babu, Rishabh Chaudhary and Himanshu Thakur, he was confronted with his earlier complaints made to the police and he admitted that complaint dated 04.03.2020, Ex.PW2/D1 (inadvertently recorded as Ex.PW1/D1), Ex.PW2/D1 (inadvertently recorded as Ex.PW1/D1), complaint dated 18.03.2020 Ex.PW2/D2 (inadvertently recorded as Ex.PW1/D2) and complaint dated 23.05.2020 Ex.PW2/D3 (inadvertently recorded as Ex.PW1/D3) were the same complaints which he had given to the police. He denied that he had deposed falsely in this case or had falsely named these accused.

6.20 During his cross examination on behalf of accused Lokesh Solanki, he denied that in another case, he had stated before the court that finally on 24.02.2020, he had shifted to Idgah with his family. He had visited Idgah camp on 25.02.2020 at about 2.30/3.00 p.m, and stayed there for about 04 hours. He denied that his family members had also gone to Idgah camp.

6.21 During his cross examination on behalf of accused Pankaj Sharma, Prince, Sumit @ Badshah, Sandeep @ Mogli, Tinku and

Vivek Panchal, he deposed that there were trees between his house and Johripur Pulia. He denied that he and his family had shifted to the house of Vinod at 10.00 a.m. He had never visited the house of Vivek Panchal. He had not relations with Vivek Panchal or his family members at any point of time. He did not know about the profession of Vivek Panchal. He denied that he had not seen Vivek Panchal, Pankaj, Prince, Sumit, Sandeep and Tinku in any mob or that he had falsely taken their names.

6.22 The next witness is PW26 Ahmad Shahid. He deposed that on 25.02.2020, riots had taken place in and around Brijpuri Pulia. Johripur Pulia was situated around 01 km away from Brijpuri Pulia. On 25.02.2020, he was at his home due to the situation of riots. His home was situated near Brijpuri Pulia. At around 10-11 a.m, he had visited Brijpuri Pulia and returned home after about 30-45 minutes. He had again come out of his house at around 3-4 p.m when he received a telephonic call from his aunt Amina. She was residing at the corner of a street near Johripur pulia. She told him that situation at her place was very bad and asked his help to take her out from that place. He went to her house through other streets. He saw that a mob of around 100-150 persons at Ganga Vihar/Johripur pulia. This mob were raising slogans like *Har Har Mahadev, Jai Siya Ram*. He went to the terrace of house of Ameena. From the terrace, he saw that the members of that mob were equipped with lathi, danda etc. They were stopping the

passers-by. He knew 2-4 persons in that mob. These persons were Thakur (who was carrying danda), Mukesh Master, Avdhesh Mishra, Kanhaiya, Sahil, Tinku & Mogli. He had seen these persons in that mob. He did not see this mob indulging in any other kind of activity of assault and vandalism etc. He further deposed that he could also identify those persons. He had correctly identified accused Mogli and Sahil. He also correctly identified accused Tinku, who was appearing through VC.

6.23 He further deposed that police had made inquiries from him and had recorded his statement.

6.24 He was cross examined by Id. SPP and he denied that he had seen the rioters checking the identity of the passers by.

6.25 During his cross examination on behalf of accused, he deposed that he had known Tinku for about 4-5 years prior to the riots. He did not know the profession of Tinku. At no point of time, he had any interaction with Tinku. On being asked how did he come to know the name and identity of Tinku, he deposed that he used to visit the place of his aunt Ameena and while recording his statement, he was shown the photograph by the police staff who had recorded his his statement. He knew Sandeep @ Mogli for last about 4-5 years. He had never met him and did not have any interaction with him for any purpose. He knew his name on the basis of the same reason that police had shown his photograph to him (sic). Same was his basis to know

Sahil as his photograph was also shown to him by the police. He denied that only on the basis of tutoring by police, he had falsely identified the accused in the court as a part of the mob and volunteered; that he did not know their names though he knew them by their faces and police had told him their names after he had identified them in the photographs and told police that he knew them by their faces. He admitted that he did not go to police on his own to inform about seeing the mob and identifying some persons and volunteered, that while making inquiries they had gone to his aunt Ameena and on the basis of inputs given by his aunt, they finally reached him. He also admitted that he did not make any PCR call. He denied that he did not see any mob as stated by him or that he did not identify anyone in that mob.

6.26 I have carefully considered the testimonies as reproduced above.

6.27 Both these witnesses were cross examined at length. However, as far as their testimonies of seeing the accused is concerned, I find that there is a consistency in the same. No motive has been attributed which would make me doubt their testimonies and their presence at and near those places cannot be said to be unnatural.

6.28 PW2, on multiple occasions, has placed some of the accused amongst the rioters. The first time is, when on 25.02.2020 somewhere at around 7.30 a.m, according to him, he was returning

from the house of his sister Amina and saw a mob at Johripur Pulia. In that mob, he identified Mogli, Tinku, Babu, Prince and Himanshu Thakur. Except for stating that from that mob, sounds of '*maaro jalado*' etc. were emanating, he did not attribute any other act to the mob whilst it was at Johripur Pulia. He then deposed about the same mob reaching his house and indulging in acts of loot, vandalism and arson. However, neither does he state, nor any effort was made to elicit from him, that the above mentioned accused were still a part of that mob. He does not attribute any role to any of the accused in the incident at his house and specific acts were attributed to Gaurav Dabral, Sonu and Michael, none of them was an accused in this case. I accordingly find that by his mere statement that the same mob which he had seen at Johripur Pulia was responsible for the incident at his house, it cannot be presumed that the accused continued to be the part of the mob responsible for vandalism, loot and committing arson at his house.

6.29 It is while escaping to the house of Pappu that he sees some of the accused for the second time. As per his testimony he, on the way to the house of Pappu, had seen a mob at Bhagirathi Vihar Nala and Sahil was in that mob. However, no overt act was attributed to this mob.

6.30 The third time he claims to have seen the accused is on 26.02.2020 when as per him, he had seen Sandeep, Prince and

Himanshu in a mob at Bhagirathi Vihar Nala. This time also he heard a lot of noises but did not see any assault on anyone.

6.31 However, during his cross examination by Id. SPP, he had deposed about stating to the police about the murders that had taken place at Johripur Pulia. He also deposed about telling the police that Mogli, Tinku and Prince were members of that mob. However, on the strength of this testimony, no conclusion can be arrived about the offences committed. He has not deposed about murder of any particular person, or at a particular time, or on a particular day. This is a completely vague and generalized statement and no weightage can be given to it. This is more so because in his entire examination in chief, he did not even whisper about seeing any murder.

6.32 Therefore, on all the three occasions, the witness has not alleged any overt act or omission on the part of the accused or the mob when the accused were members of that mob.

6.33 As per the testimony of PW2 also, whilst the accused were its members, he had not seen the mob indulging in any act of rioting etc.

6.34 Therefore, from the testimony of PW2, no offence u/s 147 IPC and u/s 148 IPC has been shown to have been committed either by the accused or by the mob of which they were stated to be a part. The only fact that can be at the most proved from the deposition of PW2 is, that the accused were members of a mob and at the time of

their membership of this mob, noises such as ‘*maaro jalado*’ were emanating from the mob.

6.35 Hence, from this part of his testimony, a common object of the mob of which the accused above named were members, can be gathered to be of committing arson etc. Thus, the mob of around 250 people, of which the accused above named were members, was an unlawful assembly within the definition of it as provided u/s 141 IPC.

6.36 Similarly, PW26 has also not attributed any act or omission to the accused or the mob of which they were a part which would fall foul of section 147 IPC or section 148 IPC.

6.37 However, he has stated that the group, of which the accused were a part of and which was numbering about 100-150 persons, was stopping the people and passers by. This thus is the common object that can be inferred from the activities of this group. This act by the mob, of which the accused were a part, would amount to commission of an offence of unlawful restraint and thus, the said assembly becomes an unlawful assembly within the meaning of section 141 IPC.

6.38 Hence, from the testimonies of these two witnesses, it stands established that accused Sandeep @ Mogli, Tinku, Sahil @ Babu, Prince and Himanshu Thakur, from the morning of 25.02.2020 and till the evening of 26.02.2020, were members of an unlawful assembly which had assembled in the area around main Ganda Nala

Road, near Bhagirathi Vihar, known as Bhagirathi Vihar Ganda Nala and further that this unlawful assembly was armed with deadly weapons. However, these testimonies do not establish that either the accused, or the said unlawful assembly had committed any rioting and thereby fail to prove the commission of offence u/s 147 IPC or 148 IPC by the said assembly.

6.39 Ld. SPP has also relied upon the testimony of PW8 Ct. Vipin to prove that accused were part of the riotous mob. However, this witness had merely deposed that at about 4.00 p.m when he reached Johripur Pulia, he saw a mob of around 100-150 people at Johripur Pulia. On seeing them, the mob fled and while fleeing from that place, they had taken the names of Rishabh, Pankaj, Prince, Lokesh, Badshah, Ankit. He could not identify anyone of them because some had covered their face with helmet and some had covered their face with cloth.

6.40 Even if this testimony is taken on face value, merely because some names which were the names of accused were taken, it would not amount to positive identification because one name can belong to multiple persons and hence, no value can be attached to his testimony.

6.41 It has however been argued by Id. SPP that as the assembly was armed with deadly weapons, the offence u/s 144 IPC had been proved by the prosecution.

6.42 However, in my considered opinion, section 144 IPC is an individual offence committed by an individual who is a member of an unlawful assembly. The offence requires an individual, who is a member of an unlawful assembly, to be armed with deadly weapon. Therefore, it an individual's own act, while being in an unlawful assembly, of being armed with a deadly weapon which constitutes an offence u/s 144 IPC. No such liability can be fastened upon a person with the help of section 149 IPC by his mere membership of an unlawful assembly which is generally stated to be armed with deadly weapon.

6.43 I accordingly find that in order to bring home the guilt of the accused, who were members of an unlawful assembly as discussed above, it was further required to be proved against each of the accused that the said accused was armed with deadly weapon. However, there is no evidence on record where any weapon has been attributed to any of the accused while they were members of the said unlawful assembly. In these circumstances, I find that the prosecution has failed to prove the ingredients of section 144 IPC.

6.44 Coming on to charge for offence punishable u/s 153A/505 IPC. As far as these offences being committed by an unlawful assembly are concerned, as already observed, no overt act has been proved against this assembly which would be communal in nature. The only fact which has been deposed about this assembly and

which has been used by Id. SPP to buttress his claim that the offence u/s 153A/505 IPC are made out, is that the crowd was raising slogans of *Jai Siya Ram* and *Har Har Mahadev*. However, merely raising these slogans is not an offence unless these slogans are accompanied by some acts falling foul of either section 153A IPC or section 505 IPC.

6.45 As regards Whatsapp Chat and Whatsapp Group ‘Kattar Hindu Ekta’, I find that these chats are clearly having an intent of spreading hatred and animosity between two communities and the effect of this successful intent is also visible from these chats. However, it has been candidly admitted by Learned SPP that for the same chats, accused Lokesh has already been convicted and sentenced for offence u/s 153A and 505 IPC in FIR No.149/20 of PS Gokal puri. Therefore, in my considered opinion, in view of Article 20 of the Constitution of India, the accused cannot be convicted for the same offence again.

6.46 Coming on to the charge u/s 412 IPC against accused Himanshu Thakur. As per the case of prosecution, at the time of assault and murder of Mursaleen, he was carrying a mobile phone and this mobile phone was recovered at the instance of accused Himanshu Thakur.

6.47 It has been contended by Id. SPP that through PW13, PW25, PW41 and PW49, the prosecution has proved that at the time of arrest of accused Himanshu Thakur, mobile phone of deceased was

recovered from his possession and the accused has failed to explain it. Accused Himanshu was also using this mobile phone by inserting the SIM card issued in the name of his father.

6.48 On this issue, the first witness examined by the prosecution was PW13 ASI Dinesh Kumar. He deposed that on 08.04.2020, he had joined investigation of this case with IO Insp. Vinod Ahlawat. Both of them alongwith SI Ashok had gone to Johripur drain tiraha. One secret informer met them at the bridge on the drain. He joined the raiding team and they reached at a place which was about 01 km from that bridge. They had received an information about the presence of accused Himanshu Thakur at that place. They reached in a street of a residential area where secret informer pointed towards a person in that street. Upon the identification of that person, they apprehended that person. The said person introduced himself as Himanshu Thakur. On his search, he was found having a mobile phone in the pocket of his pant. It was a VIVO mobile phone of blue colour. IO checked that mobile phone and it was found to be the mobile phone of a deceased in a murder case. Name of that deceased was Mursaleen. IO converted the mobile phone into cloth pullanda and sealed it with the seal of VK. The said mobile phone was seized vide a seizure memo but he had not signed that memo. Thereafter accused was taken to the office where IO interrogated him and arrested him vide arrest memo and personal

search memo, but he did not sign on those memos. He had taken the case property to PS Gokalpuri and deposited it in the malkhana. SI Ashok Malik had signed on the seizure memo, arrest memo and personal search memo. He further deposed that SI Ashok Malik had expired about an year prior to his testimony. He had worked with SI Ashok for about 8-10 months and they had together joined investigation in 1-2 cases. He could identify the signatures of SI Ashok Malik as he had seen SI Ashok Malik signing. He identified signatures of SI Ashok Malik on the seizure memo of mobile phone at point X and the seizure memo was exhibited as Ex.PW13/A. He identified the signatures of SI Ashok Malik at points X on the arrest memo and personal search memo and they were exhibited as Ex.PW13/B and Ex.PW13/C.

6.49 During his cross examination on this point, he deposed that before apprehending accused Himanshu, IO had asked some public persons to join the team and raid but none agreed. Due to lockdown, only a few public persons had met them. On checking the IMEI number of phone recovered from Himanshu, IO came to know that it was mobile phone of the deceased. Family members of accused Himanshu had come to know about apprehension of Himanshu as they had come in gali. Himanshu was apprehended just outside his house. He denied that he was not a part of any raiding team as stated by him; or that no such raid was conducted; or that no mobile phone was

recovered from Himanshu as stated by him; or that memos Ex.PW13/A, Ex.PW13/B and Ex.PW13/C were not prepared in his presence.

6.50 The next witness is PW25 Sarvesh Bansal. He deposed that he was running a mobile shop by the Bansal Telecom. The shop was situated near Bank of Baroda, Kasba Road, Murad Nagar. He was summoned by the police at Nand Nagri office on 4/5th day of May 2020 where he was shown a bill in torn condition. It was bill of a VIVO S-1 mobile phone which was sold by him to one Mursaleen for Rs.16,000/-. He further deposed that he maintained carbon copy of the bill which he had shown to the police. The police had taken copy of carbon copy and returned the bill book with carbon copy. He was then shown the bill book available on record and he deposed that since he did not remember, he wrongly mentioned that the bill book was returned to him. The carbon copy of the said bill was exhibited as Ex.PW25/A. He was also shown original bill and he identified his signatures at point X on the said bill. The said bill was exhibited as Ex.PW25/B.

6.51 During his cross examination, he deposed that he had not taken any identity proof from the purchaser of mobile phone. He further deposed that he did not know that purchaser personally and before mentioning the name in the bill, he had not confirmed the identity of the purchaser. He denied that he did not run the aforesaid

shop or that he had not issued the said bill.

6.52 The next witness is PW27 Pankaj Sharma, Nodal Officer from Reliance Jio. He deposed that he had brought CDR of mobile number 8218348594. The CDR was exhibited as Ex.PW27/E. He further deposed that the said number was issued in the name of one Jameela w/o Gaffar. The CAF was exhibited as Ex.PW27/F.

6.53 Jameela appeared as PW39 and deposed that Mursaleen was her nephew. For about three/four months prior to his death, Mursaleen had been residing with her. He was having a mobile phone but she did not remember his mobile number. She did not know from where did he get the SIM card. She had not obtained any SIM card in her name. After the death of Mursaleen, two police officials had met her in Delhi but they did not ask about his mobile phone. She did not remember if her statement was recorded by police.

6.54 She was cross examined by Id. SPP. She deposed that she had not given any mobile number to Mursaleen and Mursaleen had himself taken mobile number using her I-card.

6.55 During her cross examination on behalf of accused, she was put that she had falsely stated the Mursaleen had taken mobile number on her I-card and she deposed that she did not remember anything as it had been 06 years.

6.56 The next witness is PW41 Harender, father of accused Himanshu Thakur. He deposed that about 10 years prior to his

testimony, he had taken a SIM card bearing no. 9650832647. Sometimes, the SIM card was used to be taken by Himanshu for the purpose of using internet. They both had different phone sets. Police had never made any inquiry from him in respect of riots. Police also did not make any inquiry from him in respect of the aforesaid mobile numbers. Police had taken the SIM card of his number when they had taken away Himanshu. Police had obtained his signatures on a blank paper and had not prepared any document for taking away the SIM card. Police did not record his statement at any point of time.

6.57 He was declared hostile and was cross examined by Id. SPP. During his cross examination on behalf of Ld. SPP, he deposed that he did not recollect if his wife was using mobile no. 9990291257 and hence, he could not admit or deny this suggestion. He did not recollect if the SIM card of mobile number given to his wife was taken away by the police. He deposed that he could identify his signatures. He was shown a document on record which was Ex.PW19/A and he admitted his signatures at point Y on the said document.

6.58 During his cross examination on behalf of accused, he deposed that apart from Himanshu, his other kids had not used his SIM card. Himanshu had himself acquired his phone set and he had not purchased mobile phone for him. Since he was not aware, he could not admit or deny if his other children had also used SIM card in his name and volunteered, that if they had used it behind his back, then he

could not be sure about it.

6.59 The next witness is PW49 Insp. Vinod Ahlawat. He deposed that during the investigation, he had applied for CDR of mobile number 8218348594. In the evening of 06.04.2020, he received the CDR of the said mobile number and thereafter, as per the IMEI number reflected in the CDR of the said phone, he requested the service provider to find out where the said handset was operational or not. On 07.04.2020, he received a report/ CDRs whereby it was reflected that from 25.02.2020 till 06.04.2020, three different mobile numbers were used in the said mobile handset. Those numbers were 9990291257, 9540689734 and 9650832647. On the same day, he had applied for CAF of these numbers. On 07.04.2020, he received CAFs of the three numbers which were used in the mobile phone of the deceased. These mobile numbers were in the name of Harender, Hari Om and Seema. On 08.04.2020, he alongwith SI Ashok, ASI Dinesh and Ct. Jitender proceeded in search of Himanshu who was also the son of Harender. They reached his house situated at gali no. 3, E Block, Bhagirathi Vihar. Accused Himanshu was found standing outside his house. Accused Himanshu was apprehended. On his personal search, one VIVO mobile phone of blue colour was recovered. Thereafter, he checked the IMEI number of the mobile phone which was recovered from the personal search of accused Himanshu and it was found matching with the IMEI number of the

phone of deceased. He seized the said phone vide seizure memo Ex.PW13/A, which had his signatures at point Y. Thereafter, as a large crowd had gathered there, accused Himanshu was taken to their office. At the office, he interrogated accused Himanshu and arrested accused him vide arrest memo Ex.PW13/B which had his signatures at point Y. Personal search of accused was conducted vide personal search memo Ex.PW13/C which had his signatures at point Y.

6.60 During his cross examination, he deposed that he had come to know about the address of accused Himanshu from the the CAF of the mobile numbers which were registered in the name of his father, his uncle and mother. On 08.04.2020, he proceeded in search of Himanshu because one of the mobile numbers which were used was in the name of his father and at the same time, Divesh had named him. On being asked how did he come to know that the persons standing in front of the house was Himanshu, he stated that it was informed by secret informer. He admitted that there was no mentioning of any secret informer in his examination in chief. He denied that there was no secret informer and he had just made it up to explain how he recognized accused Himanshu. He denied that no mobile phone was recovered from accused Himanshu, or that it was planted upon accused Himanshu. He did not try to contact any person who had been called using the mobile numbers registered in the name of father, mother and uncle of accused Himanshu. He denied that he had not

done so because it would have established, that accused Himanshu was not using the said mobile phone. He denied that neither Himanshu nor his mother, father and uncle had ever used the mobile phone allegedly belonging to deceased Mursaleen. He denied that Divesh had not named any of the accused who were involved in this case.

6.61 The first question which needs to be decided is whether any mobile phone was recovered from accused Himanshu Thakur?

6.62 The recovery of phone from accused Himanshu Thakur has been deposed about by PW13 and PW49. During their cross examination except for suggesting to them that no mobile phone was recovered from the possession of accused Himanshu or that it was planted upon him, nothing could be brought out which would make me doubt their testimonies, or the recovery of a blue colour mobile phone from accused Himanshu Thakur. On the contrary, during his statement u/s 313 Cr.P.C/ 353 BNSS, when it was put to accused Himanshu Thakur that as deposed by PW13 and PW49, one blue colour VIVO mobile phone was recovered from him and it was seized vide memo Ex.PW13/A, he answered that it was a matter of record.

6.63 Furthermore, in response to the question that as per PW41 Harender, his SIM card of mobile no. 9650832647 used to be taken by accused Himanshu Thakur for using the internet, he stated that it was correct that he used to use this SIM.

6.64 The CAF of this mobile number in the name of Harender,

who is the father of the accused, was admitted by the accused and was exhibited as Ex.A-23. The CDR of this mobile number was also admitted by accused and was exhibited as Ex.A-24.

6.65 Therefore, the prosecution has successfully proved that one blue colour VIVO mobile phone with IMEI nos. 863296043000827 and 863296043000835 was recovered from accused Himanshu Thakur at the time when he was apprehended by the police.

6.66 The next question which needs to be decided is, whether the mobile phone which was recovered from accused Himanshu belonged to deceased Mursaleen?

6.67 Through the testimony of PW25 Sarvesh Bansal and the bills Ex.PW25/A and Ex.PW25/B, it stands established that a VIVO S-1 mobile phone having IMEI nos. 863296043000827 and 863296043000835 was purchased by deceased Mursaleen from PW25. Prior to 25.02.2020 i.e. the date of death of Mursaleen, mobile no.8218348594 was being used in this mobile handset has been proved through CDR Ex.PW27/E. This number was registered in the name of one Jameela has been established by CAF Ex.PW27/F. As per the testimony of Jameela (PW39), she is the aunt of deceased Mursaleen and Mursaleen had taken this number using her I-card. Hence, the connection of this phone to Mursaleen is categorically established and therefore, it stands established that this mobile phone

belonged to deceased Mursaleen.

6.68 A perusal of the CDR, Ex.A-24 reveals that from 25.02.2020 itself, the number belonging to the father of accused Himanshu was being used in the mobile phone belonging to deceased Mursaleen. Therefore, on the same day on which deceased Mursaleen went missing and would have died, mobile no. 9650832647 was being used in his mobile handset. This mobile number belonged to PW41 Harender, who is the father of accused Himanshu. Admittedly, it was being used by accused Himanshu.

6.69 The recovery of mobile phone of deceased Mursaleen from accused Himanshu has been stated to be a matter of record and the accused has admitted that he was using the SIM card which was used in this mobile phone. Hence, u/s 106 IE Act, it was incumbent upon the accused to explain for having this mobile phone, which may have been stolen or looted from the deceased, in his possession. However, the accused failed to do so. Hence, an adverse presumption has to be drawn against accused Himanshu Thakur that he was in possession of this mobile phone and knowing that it was a stolen property.

6.70 However, as far as the ingredients of section 412 IPC are concerned, I find myself in agreement with Id. Counsel for accused that as the offence u/s 395 IPC i.e. dacoity has not been proved, the ingredients of section 412 IPC have not been proved. However, the

property in question was either stolen or robbed from the deceased and at least criminally misappropriated by the accused and accordingly, accused Himanshu Thakur, who was in possession of this property, had committed an offence punishable u/s 411 IPC.

6.71 In view of the aforesaid discussion, I find that the prosecution beyond all reasonable doubts, has failed to prove that the accused had committed offences punishable u/s 144/147/148 r/w section 149 IPC; u/s 302/201/432/435/34 r/w section 149 IPC; u/s 395/396 r/w section 149 IPC and u/s 153A/505 r/w section 149 IPC. All the accused are accordingly given the benefit of doubt and are acquitted of these offences.

6.72 However, I find that the prosecution, beyond all reasonable doubts, has proved that accused Himanshu Thakur has committed an offence punishable u/s 411 IPC. Accused Himanshu Thakur is accordingly convicted for offence punishable u/s 411 IPC.

6.73 Be heard separately on the point of sentence.

Pronounced in open court
on 25.08.2026.
(This judgment contains 39 pages
From page no. 40 to 63 are the Annexures.
Each page bears my signatures)

Digitally signed
by PARVEEN
SINGH
Date:
2026.08.25
15:42:39 +0530

(Parveen Singh)
ASJ-03, North East Distt.,
Karkardooma Court, Delhi.

Annexure -1

List of Prosecution Witnesses

Prosecution Witness No.	Name of Witness	Description
PW1	Narottam Singh	He was witness to the riots of 24.02.2020, 25.02.2020 and 26.02.2020. He deposed that on 25.02.2020, he had not seen any particular incident except burning of vehicles.
PW2	Nisar Ahmed	He was witness to the riots of 24.02.2020, 25.02.2020 and 26.02.2020. He had identified some person/accused as a part of the rioting mobs on different occasions on these dates. However, he had not seen the incidents in question and nor had he deposed about seeing the rioting mob at the building where the incident had happened and around the time it had happened.
PW3	Shivam Bhardwaj	He deposed that he was using mobile no. 7217779080 in his Realme mobile phone which was seized by police wherein a Whastapp group by the name of 'Kattar Hindu Ekta' was found.
PW4	Mohit Sharma	He deposed that he was using a mobile no. starting with 89... of

		Jio in his Samsung Mobile phone. This phone was seized by police wherein a Whastapp group by the name of 'Kattar Hindu Ekta' was found.
PW5	Aman Saxena	He deposed that on 24.02.2020, at about 07.30 p.m, he left for his home from his work place i.e. Goverdhan Retail India Pvt. Ltd. Gandhi Nagar, Delhi. When he reached near Jafrabad Metro Station, he witnessed a crowd of about 100-150 persons on the road. That crowd was raising slogans-'CAA/NRC nahi chahiye'. He further deposed that at Brijpuri Pulia, he had seen another mob and that mob was also raising slogans against CAA/NRC.
PW6	Paras	He deposed that on 25.02.2020 at about 6.00 p.m, he heard noise coming from his gali i.e. Gali no. 1, Bhagirathi Vihar and he made a call at PCR. He did not depose about any riot.
PW7	Divesh Rajpoot	He only deposed that on 24.02.2020 and 25.02.2020, riots had taken place in his area i.e. Bhagirathi Vihar and on 25.02.2020 at about 4-4.30 p.m, he had seen mob of around 100-150 persons E Block,

		Bhagirathi Vihar.
PW8	Ct. Vipin	On 25.02.2020, he was on law and order duty at Bhagirathi Vihar and Johripur Toll Tax. On that day at about 4.00 p.m, he had seen mob of around 100-150 persons near Johripur Pulia and while fleeing, those persons had taken names of Rishabh, Pankaj, Prince, Lokesh, Badshah, Ankit and some other names.
PW9	Vinod Singh	On 28.02.2020 at about 10.00 a.m, he had seen a dead body in Johripur drain and had made a call to police.
PW10	Yameen	He was father of deceased Mursaleen. On 12 March, he had identified the dead body of Mursaleen in hospital.
PW11	Insp. Pramod Joshi	He deposed that on 16.03.2020, FIR of this case was registered. On 17.03.2020, he got DD No. 5A mentioning that some contents were left to be mentioned.
PW12	Nargis	She is the wife of deceased. She deposed that on 25.02.2020 at about 6.00 p.m, she made a call to her husband but the phone was switched off. On 01.03.2020, she lodged a missing report of her husband.

		On 12.03.2020, she identified the dead body of her husband in GTB Hospital.
PW13	ASI Dinesh Kumar	He was a witness to the arrest of accused Himanshu and to the seizure of one VIVO mobile phone from the personal search of accused.
PW14	ASI Karambir	On 23.05.2020, he alongwith IO Insp. Vinod Ahlawat, HC Pankaj, SI Deepak, ASI Billu Singh, ASI Mahesh and accused Prince, Badshah, Fauji and Pankaj Sharma had gone to Bhagirathi Vihar near Johripur Pulia where accused Prince pointed the place where deceased Mursalin was thrown in drain. He was a witness to the pointing out memo prepared at the instance of accused Prince. He identified accused Badshah, Prince and Fauji in the court.
PW15	Ashif	He only deposed about riots taking place in his area i.e. Johripur, Karawal Nagar in the year 2020 and seeing a mob of 200-250 persons near Johripur Pulia.
PW16	Mobin	He is brother of the deceased. He deposed that on 26.02.2020, he came to know about missing

		of his brother Mursalin since 25.02.2020. On 12.03.2020, he identified the body of deceased at GTB Hospital.
PW17	ASI Mahesh	He was MHCM in PS Gokalpuri. On 16.03.2020, vide RC No. 20/21/20, he had taken viscera to FSL, however, due to objections, the viscera could not be deposited in FSL. On 06.03.2021, vide RC No. 03/21/21, he had sent a danda to to FSL through HC Pankaj.
PW18	Ct. Kaushal	On 21.04.2020, vide RC No. 37/4/20, he had taken and deposited one wooden box in FSL.
PW19	Insp. Pawan Yadav	He was a witness to the seizure of two SIM cards handed by Sh. Harender, father of accused Himanshu.
PW20	Ct. Shubham	He deposed that on 16.03.2020 at about 11.00 p.m, DO asked him to type FIR. Thereafter, he found that some part of FIR was missing and then on the directions of SHO, he recorded DD No. 5A in respect of missing part of FIR.
PW21	HC Shailendra Singh	He was the witness in whose presence the dead body was taken out from the drain. The dead body was having injury

		marks on his face as well as other body parts.
PW22	ASI Ram Dass	On 01.03.2020, he was on emergency duty and a missing report recorded vide DD no.37A was handed over to him by the DO. The said report was lodged by complainant Nargis regarding missing of her husband Mursalin. He made enquiry from the complainant, obtained photograph of Mursalin and got uploaded his photograph on Zipnet. On 12.03.2020, he took Nargis and other relatives to GTB hospital, where dead body of Mursalin was identified by the complainant and other relatives and thereafter he introduced the complainant Nargis to SI L.N. Sharma. He had filled a form for publication in newspaper regarding aforesaid missing person.
PW23	ASI Indermal	He was on m/cycle duty from 8 p.m. of 16.03.2020 upto 8 a.m of 17.03.2020. He was the witness who delivered one envelope containing the copy of FIR at the residence of Jt. CP in Kaka Nagar and one envelope at the residence of DCP in

		Mandir Marg.
PW24	HC Sanoj	He was the witness who on 16.03.2020 collected 4 sealed pullandas and 2 road certificates from MHC(M) and went to FSL Rohini to deposit, but because of certain objections, exhibits were not accepted in FSL. Thereafter, he handed over all exhibits with road certificates and aforesaid objection letter to MHC(M).
PW25	Sarvesh Bansal	He was running a mobile shop in the name of Bansal Telecom. Police had shown him a bill in a torn condition and he informed that it was issued from his shop. The bill was of VIVO S-1 mobile phone, which was sold for Rs.16,000/- to one Mursalin.
PW26	Ahmad Shahid	He was the eye witness and his detailed testimony shall be discussed at a later stage.
PW27	Pankaj Sharma	He was the Nodal Officer in Reliance JIO and had proved the certified copy of CDR, CAF, Cell ID Chart in respect of three mobile numbers for the period w.e.f 01.02.2020 to 29.02.2020. He had also proved the Cell ID Chart and certificate u/s 63 BSA.
PW28	Shashank Tyagi	He was the Nodal Officer in

		Vodafone Idea Ltd.and had proved the certified copy of CDR, CAF, Certificate u/s 63 of BSA and Cell ID chart in relation to 7 mobile numbers.
PW29	Satish Kumar	He was the witness who had made call at 100 number in the evening of 25.02.2020 when he had come back from his duty.
PW30	ASI Mahesh Kumar	He was the witness who accompanied IO/Insp. Vinod Ahlawat, SI Deepak Pandey, ASI Dinesh to Karkardooma Courts. He produced accused Vivek Panchal, Rishabh Chaudhary and Jatin Sharma, who were arrested by the IO. On 13.04.2020, he got recovered a danda at the instance of accused Himanshu Thakur and thereafter, shirt of black and white colour and jeans of blue colour were also got recovered at the instance of Himanshu Thakur. On 22.05.2020, he accompanied IO to jail no.11 where accused Ankit Chaudhary was arrested after interrogation. He thereafter accompanied IO to jail no.13, where accused Sumit Chaudhary was arrested.

		On 04.06.2020, IO made enquiry from a shopkeeper Sarvesh Bansal about mobile phone which was belonging to deceased. He was the witness of seizure of bill book of his shop. material witness, who participated in investigation of the case alongwith other members of the raiding team and witnessed the arrest of accused Lalit. List of articles, which were looted, burnt and damaged during the incident, was seized in his presence.
PW31	Ct. Jitender	He was the witness who took 7 sealed pullandas and copy of R/C from MHC(M) and thereafter he handed over the pullandas in FSL Rohini. On 08.05.2020, on the instructions of IO/ Insp.Vinod Ahlawat, he took the exhibits in FSL Rohini.
PW32	Sh. Arun Kr. Sahani	He was the expert of FSL.
PW33	Sh. L.K.Gautam	He was the witness who granted sanction u/s 196 Cr. PC for offences u/s 153A/505/120B IPC against all the accused person.
PW34	Sh. Devender Sharma	He was running a tyre puncture

		repair shop and witnessed the public persons saying that there was a dead body in the drain situated in front of his shop.
PW35	HC Abhey Singh	He was the witness who alongwith other police staff took out a dead body from the nala near police picket.
PW36	SI Rakesh Kumar	On 17.03.2020 at about 02.30 a.m, SHO Insp. Pramod Joshi handed him second page of tehrir which was not entered in the FIR. He made DD No. 5 in respect of the second page of tehrir.
PW37	Insp. Dinesh Kumar	He had arrested accused Jatin and Vivek in FIR No. 36/20 PS Gokalpuri and had recovered and seized one danda at the instance of these accused. He had provided copies of seizure memos and site plans of FIR No. 36/20 to the IO of this case. He had identified accused Jatin, Vivek and Rishabh in the court.
PW38	Retd. SI L.N Sharma	He is one of the IOs of this case.
PW39	Jameela	She is aunt of deceased and deposed that Mursaleen was residing with her and had died on 25 th day of Asad month of Hindi Calendar.
PW40	Gaurav	He deposed that in February

		2020, he had given his Samsung mobile phone to Himanshu. In the last of February or March 2020, Himanshu had returned his phone stating that he had taken another mobile phone.
PW41	Harender	He is the father of accused Himanshu and deposed that he had taken mobile no. 9650832647 and sometimes, accused Himanshu used to use this number.
PW42	Seema	She is the mother of accused Himanshu. She did not support the case of the prosecution.
PW43	Retd. Insp. Vinay Tyagi	He was IO of case FIR No. 35/20 and 37/20 both of PS Gokalpuri. In those FIRs, he had arrested accused Lokesh Solanki, Pankaj Sharma, Sumit Chaudhary, Ankit Chaudhary, Prince @ DJ, Jatin Sharma, Rishabh, Vivek Panchal and Himanshu Thakur. He had given the photocopies of the arrest documents of the above said accused to the IO of this case. In FIR no. 35/20, he had seized mobile phones of Lokesh, Shivam, Dimple, Mohit and Pankaj and had provided the photocopies of

		seizure memos of those mobile phones to the IO of this case.
PW44	HC Pankaj	He deposed that on 16.04.2020, he alongwith IO had gone to the office of Crime Team, NE where ASI Mahavir handed SOC report to IO, DVD of video of post mortem and certificate u/s 65B of IE Act to the IO of this case. He was also a witness to the preparation of pointing out memo at the instance of accused Pankaj Sharma and to the arrest of accused Tinku Arora, Sandeep @ Mogli and Sahil @ Babu. He had identified accused Sandeep @ Mogli, Tinku Arora and Sahil in the court.
PW45	Shahjad	He was found to be a witness of some other deceased and thus, his examination was disallowed by my learned predecessor.
PW46	HC Nitesh	In FIR No, 36/20 PS Gokalpuri, on 06.01.2021, he had taken two sealed pullandas from malkhana and deposited them in FSL.
PW47	Insp. Deepak Pandey	He was a witness to the arrest of accused Jatin, Rishabh, Vivek, Pankaj Sharma, Prince, Ankit Chaudhary & Sumit Chaudhary. He was also a

		witness to the pointing out memos prepared at the instance of above named accused and to the recovery of a danda at the instance of accused Himanshu. He had identified accused Sumit Chaudhary, Himanshu Thakur, Ankit Chaudhary, Rishabh Chaudhary, Lokesh Solanki, Vivek Panchal, Prince and Pankaj Sharma in the court.
PW48	Insp. Jagdish Yadav	He is one of the IOs of this case.
PW49	Insp. Vinod Ahlawat	He is one of the IOs of this case.

Annexure -2

List of documents proved during prosecution evidence

Sl. No	Document Name	Exhibit Number
1	Identification memo at the instance of PW7	Ex.PW7/P-1
2	Seizure Memo of Blue colour VIVO mobile phone .	Ex.PW13/A
3	Arrest Memo of accused Himanshu	Ex.PW13/B
4	Personal search memo of accused Himanshu	Ex.PW13/C
5	Pointing Out Memo at the instance of accused Prince	Ex.PW14/A
6	Copy of RC No. 20/21/20	Ex.PW17/A
7	Copy of RC No. 37/4/20	Ex.PW18/A
8	Acknowledgment from FSL	Ex.PW18/B
9	Seizure Memo of SIM cards	Ex.PW19/A
10	WT Message	Ex.PW22/A
11	Hue and Cry Notice	Ex.PW22/B
12	Copy of Form of NCRB	Ex.PW22/C
13	Copy of Form of Prasar Bharti	Ex.PW22/D
14	Copy of Form of Doordarshan	Ex.PW22/E
15	Copy of RC No. 23/21/20	Ex.PW24/A

16	Copy of RC No. 24/21/20	Ex.PW24/B
17	Carbon Copy of Bill No. 50 of Vivo Mobile Phone	Ex.PW25/A
18	Original Bill of Vivo Mobile Phone	Ex.PW25/B
19	Certified Copy of CDR of mobile no. 7557497409 of accused Lokesh	Ex.PW27/A
20	Certified copy of DKYC of mobile no. 7557497409	Ex.PW27/B
21	Certified Copy of CDR of mobile no. 7557223533 of accused Rishabh	Ex.PW27/C
22	Certified copy of DKYC of mobile no. 7557223533	Ex.PW27/D
23	Certified Copy of CDR of mobile no. 8218348594 of Jamila	Ex.PW27/E
24	Certified copy of DKYC of mobile no. 8218348594	Ex.PW27/F
25	Certified copy of CDR of IMEI No. 863296043000827	Ex.PW27/G
26	Certified copy of CDR of IMEI No. 863296043000835	Ex.PW27/H
27	Certificate u/s 63 BSA in respect of CDRs &	Ex.PW27/I

	CAFs	
28	Cell ID Chart	Ex.PW27/J
29	Certified copy of CDR of mobile no. 7292058834 in the name of Prema	Ex.PW28/A
30	Certified copy of DKYC of mobile no. 7292058834	Ex.PW28/B
31	Certified copy of CDR of mobile no. 9540689734 in the name of Hari Om	Ex.PW28/C
32	Certified copy of DKYC of mobile no. 9540689734	Ex.PW28/D
33	Certified copy of CDR of mobile no. 9990291257 in the name of Seema Devi	Ex.PW28/E
34	Certified copy of DKYC of mobile no. 9990291257	Ex.PW28/F
35	Certified copy of CDR of mobile no. 7836867686 in the name of Neetu	Ex.PW28/G
36	Certified copy of DKYC of mobile no. 7836867686	Ex.PW28/H
37	Certified copy of CDR of mobile no. 8750610027 of Pankaj Sharma	Ex.PW28/I
38	Certified copy of DKYC of mobile no.	Ex.PW28/J

	8750610027	
39	Certified copy of CDR of mobile no. 9136034019 in the name of Rakesh Kumar.	Ex.PW28/K
40	Certified copy of CAF of mobile no. 9136034019	Ex.PW28/L
41	Certified copy of CDR of mobile no. 8588902696 in the name of Krishna.	Ex.PW28/M
42	Certified copy of CAF of mobile no. 8588902696	Ex.PW28/N
43	Certificate u/s 63 BSA in respect of CDRs	Ex.PW28/O
44	Certificate u/s 63 BSA in respect of CAFs	Ex.PW28/P
45	Cell ID Chart	Ex.PW28/Q
46	Seizure memo of danda	Ex.PW30/A
47	Arrest Memo of Ankit Chaudhary	Ex.PW30/B
48	Arrest Memo of Sumit Chaudhary	Ex.PW30/C
49	Seizure Memo of Bill Book	Ex.PW30/D
50	Pointing Out Memo at the instance of Ankit Chaudhary	Ex.PW30/E
51	Copy of RC No. 34/21/20	Ex.PW31/A
52	Copy of RC no. 67/21/20	Ex.PW31/B
53	Acknowledgment from FSL	Ex.PW31/C

54	Copy of RC No. 49/21/20	Ex.PW31/D
55	Copy fo Report in FIR No. 35/20 PS Gokalpuri	Ex.PW32/A
56	Certificate u/s 65B of IE Act in FIR No. 35/20 PS Gokalpuri	Ex.PW32/B
57	Copy of Forwarding Letter in FIR No. 35/20 PS Gokalpuri	Ex.PW32/C
58	Report dated 22.09.2020 in FIR No. 35/20 PS Gokalpuri	Ex.PW32/D
59	Certificate dated 22.09.2020 in FIR No. 35/20 PS Gokalpuri	Ex.PW32/E
60	Forwarding Letter dated 22.09.2020 in FIR No. 35/20 PS Gokalpuri	Ex.PW32/F
61	Forwarding Letter dated 11.12.2024 & Certificate	Ex.PW32/G & Ex.PW32/H
62	Sanction Order dated 16.12.2020	Ex.PW33/A
63	Seizure Memo of Purse of deceased	Ex.PW35/A
64	Seizure memo of bill of mobile phone recovered from deceased	Ex.PW35/B
65	Seizure Memo of danda at the instance of Jatin	Ex.PW37/A

66	Seizure memo of danda at the instance of Vivek	Ex.PW37/B
67	Site plans prepared in FIR No. 36/20	Ex.PW37/C & Ex.PW37/D
68	Arrest Memos of accused Jatin, Vivek and Rishabh in FIR No. 36/20	Ex.PW37/E to Ex.PW37/G
69	Identification of dead body	Ex.PW38/A
70	Rukka	Ex.PW38/B
71	Seizure Memo of mobile phone of Mohit Sharma in FIR No. 35/20	Ex.PW43/A
72	Seizure Memo of mobile phone of Shivam Bhardwaj in FIR No. 35/20	Ex.PW43/B
73	Seizure Memo of mobile phone of Pankaj Sharma in FIR No. 35/20	Ex.PW43/C
74	Seizure Memo of mobile phone of Lokesh in FIR No. 35/20	Ex.PW43/D
75	Seizure Memo of mobile phone of Dimple in FIR No. 35/20	Ex.PW43/E
76	Seizure Memo of 16 Photos and DVD	Ex.PW44/A
77	Pointing Out Memo at the instance of accused Pankaj Sharma	Ex.PW44/B

78	Pointing Out Memo at the instance of accused Sahil @ Babu	Ex.PW44/C
79	Pointing Out Memos at the instance of accused Himanshu Thakur, Vivek Panchal, Rishabh Chaudhary, Jatin Sharma	Ex.PW47/A to Ex.PW47/H
80	Sketch of danda recovered at the instance of Himanshu	Ex.PW47/I
81	Seizure memo of clothes recovered at the instance of Himanshu	Ex.PW47/J
82	Seizure memo of mobile phone at the instance of Himanshu	Ex.PW47/K
83	Pointing Out Memo at the instance of Lokesh	Ex.PW47/L
84	Site Plan of the place of recovery of dead body	Ex.PW48/A
85	Site Plan of the place of incident at the instance of Divesh	Ex.PW49/1
86	Site Plan of place of recovery of danda	Ex.PW49/2
87	Disclosure Statement of Himanshu	Ex.PW49/3

Annexure -3

List of documents admitted u/s 294 Cr.P.C

Sl. No	Document Name	Exhibit Number
1	Prohibitory Order u/s 144 Cr. P.C.	Ex.A-1
2	Complaint u/s 195 Cr. P.C.	Ex.A-2
3	MLC of Yameen	Ex.A-3
4	MLC of Amaan	Ex.A-4
5	Endorsement on Rukka	Ex.A-5
6	FIR No. 156/20	Ex.A-6
7	Certificate u/s 65B of IE Act	Ex.A-7
8	GD No. 25A	Ex.A-8
9	Death Certificate	Ex.A-9
10	MLC of Deceased of GTB Hospital	Ex.A-10
11	Site Plan	Ex.A-11
12	Seizure Memo of Blood Sample Test Tube and Gauze Piece	Ex.A-12
13	Seizure Memo of Clothes of deceased	Ex.A-13
14	CD of Postmortem	Ex.A-14
15	Certificate u/s 65B of IE Act in respect of CD of PM	Ex.A-15

16	Photocopy of R/C	Ex.A-16
17	FSL Examination Report dated 23.10.2020	Ex.A-17
18	Seizure Memo of Viscera Peti, Jaar etc.	Ex.A-18
19	Duty Roster	Ex.A-19
20	CAF and CDRs of Airtel	Ex.A-20 to Ex.A-40
21	MLC of Deceased	Ex.A-41
22	PM Report	Ex.A-42
23	Copy of 144 Order Cr.P.C.	Ex.A-43
24	Subsequent Medical Opinions in respect of Weapon of Offence	Ex.A-44 & Ex.A-45
25	Request for Subsequent Medical Opinion	Ex.A-46
26	Subsequent Opinion regarding Cause of Death of Deceased	Ex.A-47
27	Arrest Memo of Tinku Arora	Ex.A-48
28	Arrest Memo of Sandeep @ Mogli	Ex.A-49
29	Arrest Memo of Sahil @ Babu	Ex.A-50
30	True Photocopy of Register No. 19	Ex.A-51
31	Personal Search Memo of Vivek Panchal	Ex.A-52
32	Personal Search Memo of Rishabh Chaudhary	Ex.A-53

33	Personal Search Memo of Jatin Sharma	Ex.A-54
34	SOC Report	Ex.A-55
35	True Photocopy of Register No. 19	Ex.A-56
36	Arrest Memo of Vivek Panchal	Ex.A-57
37	Arrest Memo of Rishabh Chaudhary	Ex.A-58
38	Arrest Memo of Jatin Sharma	Ex.A-59
39	Arrest Memo of Prince	Ex.A-60
40	Arrest Memo of Pankaj Sharma	Ex.A-61
41	Arrest Memo of Lokesh Solanki	Ex.A-62