

IN THE COURT OF DR.YADVENDER SINGH,
ADDITIONAL SESSIONS JUDGE-05, WEST,
TIS HAZARI COURTS, DELHI



CNR No. DLWT01-009960-2023

Sessions Case No. 629/2023

FIR No. 276/2017

PS Ranhola

Under Section 326/354/506/509 IPC

State

Vs.

Hafij Sartaj
S/o Mr. Maulana Yunus,
R/o 172, J.J.Colony, Bakkarwala,
Delhi.

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Date of Institution	19.02.2021
Date of Committal	12.12.2023

Charge framed Under Section	U/s 326B/ 354/ 506/ 509/ 294/ 298 IPC against accused Hafij Sartaj.
Date of conclusion of final arguments and reserving Judgment	29.09.2026
Date of Pronouncement of Judgment	30.09.2026
Final Judgment	Accused Hafij Sartaj is acquitted of the Charges.

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JUDGMENT

Brief Facts:

1. Accused Hafij Sartaj has been facing trial for Charge under Sections 326B, 354, 506, 509, 294 and 298 Indian Penal Code, on the allegations that on 12.05.2017 between 01:00 AM to 01:30 AM in gali no. 19, Chanchal Park, Bakkarwala, Delhi, within the jurisdiction of PS Ranhola, accused Hafij Sartaj had attempted to

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throw acid upon the complainant Smt. 'R' with intention of causing damage or deformity or burns or maiming or disfigurement of disability or grievous hurt to the complainant. Accused had also assaulted or used criminal force to the complainant with the intention to outrage her modesty or knowing it to be likely that by that act, he will thereby outrage her modesty. Accused had also extended threats to kill the complainant. He, with intention to insult the modesty of complainant, uttered words, made any sound or gesture intending that such words and sound shall be heard by such complainant. On the date of said incident, accused had also did obscene act in public place and played obscene songs on music deck, ballad or uttered words on public place to annoy the feelings of other communities. Accused with deliberate intention of wounding the religious feelings of complainant and other members of the said community uttered words that "तुम हिंदू लोग अपने घरों को खाली करो यहाँ मुसलमान रहेंगे" and made it in the hearing of said persons.

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Registration of FIR, statement of the complainant and investigation conducted:

2. As per the prosecution case, on 14.05.2017, the present case was registered by SI Praveen, on the complaint of complainant Smt. 'R', wherein she has stated that on the date of incident, she was present in her house i.e. Gali no. 19, Chanchal Park, Delhi. In the meanwhile, accused Hafij came there alongwith his 'Hooligan' boys and threatened her while stating that he was having acid bottle and he would pour the whole bottle of acid on her face and would burn her face. He also gave abuses to her, however being female, she could not disclose the same. Accused also pushed her and stated that "तुम हिंदू लोग अपने घरों को खाली करो यहाँ मुसलमान रहेंगे". She further stated that accused Hafij alongwith his 'hooligan' boys used to threat all the persons of the locality on every Friday. He had also constructed an illegal Masjid in 25 sq.yds. plot. Accused had also played obscene songs on the music deck. He called other hooligan boys from outside and threatened them repeatedly while stating that Pakistan would be made there.

3. On the statement of complainant, the present case was registered and investigation was conducted. During investigation,

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site plan was prepared at the instance of complainant. However, no CCTV footage could be collected. During investigation, two another GD Nos. 33A and 34A were also recorded in which accused Hafij Sartaj and Kiran respectively were callers. Thereafter, IO had recorded statement u/s 164 Cr.P.C. of the complainant. During investigation, IO had also recorded statements of public persons u/s 161 Cr.P.C.

4. After completion of the investigation, the charge-sheet was filed for the offence u/s 326B/354/506/509 IPC against the accused (without arrest) before the concerned Court and it was duly committed to this Court.

Charge:

5. On 14.02.2024, charge for the offence punishable u/s 326B/354/506/509/294/298 IPC against accused Hafij Sartaj was framed by the Ld. Predecessor, to which he pleaded not guilty and claimed trial.

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The Trial

Prosecution evidence.

6. In order to prove its case against the accused persons, the prosecution had examined total 11 witnesses as PW-1 to PW-11.

7. On 08.05.2026, admission-denial statement of accused u/s 294 Cr.P.C. was conducted, wherein he had admitted some documents i.e. GD No. 33A, 34A, 45B and 61B, all dated 12.05.2017 as Ex.AD-1 (colly); GD no. 49A dated 21.08.2017 as Ex. AD-2; statement u/s 164 Cr.P.C. dated 16.05.2017 as Ex. PW-1/C; PCR form with respect to GD no. 33A dated 12.05.2017 as Ex. AD-3, before the Court and hence, witnesses nos. 9 and 10 were ordered to be deleted from the list of witnesses.

Statement of accused Under Section 351 of BNSS :

8. Statement of accused was recorded on 15.09.2026, wherein all the incriminating evidences were put to the accused, however, he denied all the allegations levelled against him and deposed that he had been falsely implicated in the present case. He has further stated that PW-1 was an interested witness and falsely implicated him in this case as he was the Hafij of the Masjid and the person belonging

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to the Muslim religion visited there to perform Namaj. No such incident ever took place and PW-3 gave false statement against him as she was an interested witness. No such speakers were installed in the Masjid and no one abused. PW-1 and other local residents belong to Hindu religion did not want them (Muslim community) to live there and they were against the rituals being performed at Mosque and they were against the other residents of Muslim communities/religion. Therefore, PW-1 with the collusion of other local residents of Hindu religion falsely implicated him in this case. Earlier, he had registered FIR bearing no. 514/2016 against the one relative of PWs and the PWs and their family, and also the residents of Hindu community did not allow to their community to perform the Namaj and also for performing last rites of the dead body at the Masjid and used to beat them. Neither he nor any person of their community did any wrongful act against the complainant or other residents of Hindu community. He also made several complaint against the complainant and other residents of the Hindu community to the concerned SHO and other higher authorities. Complainant and her family also filed a civil suit for demolishing the Masjid and the same was dismissed by the Hon'ble Court vide order dated

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31.01.2025. However, accused wanted to lead evidence in his defence and examined DW-1 Mohd. Faheem.

Defence Evidence :

9. DW-1 Mohd. Faheem has deposed that on 12.05.2017, no such incident as alleged by the complainant took place. Complainant and her family were against the Mosque in the locality. Kanchan and her family had been creating dispute regarding the Mosque since year 2016. Various Court cases and other disputes were being created regarding the Mosque by Kanchan and her family. Only the family of Kanchan was against the Mosque in the locality and no other family had any objection. The present case was a false case instituted by the complainant against accused at the behest of the Kanchan.

Final arguments :

10. Ld. Addl. P.P. for the State has argued that the prosecution witnesses have supported the case of the prosecution and their testimonies remained unrebutted and on combined reading of testimonies of prosecution witnesses, present offences against the

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accused are proved beyond reasonable doubts. Hence, request is made for conviction of the accused for the abovesaid charges.

11. On the other hand, Ld. Counsel for accused Hafij Sartaj argued that accused was innocent and had been falsely implicated in the present case. It is further argued that PW-1 and other local residents belong to Hindu religion do not want Muslim community to live there and they are against the rituals being performed at Mosque and therefore, PW-1 with the collusion of other local residents of Hindu religion falsely implicated the accused in this case. The accused had also made several complaints against the complainant and other residents of the Hindu community to the concerned SHO and other higher authorities. Complainant and her family also filed a civil suit for demolishing the Masjid and the same was dismissed by the Hon'ble Court vide order dated 31.01.2025. Hence, the accused deserves to be acquitted.

Appreciation of law and analysis of evidence :

12. Arguments adduced by the parties have been heard. Evidence and record perused carefully.

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Analysis of evidence :

13. In order to prove the charges against the accused, the prosecution has examined in total 11 witnesses i.e. PW-1 to PW-11, which will be discussed as follows:

14. **Deposition of PW-1/complainant Smt. 'R' pertaining to material facts :**

During examination-in-chief, PW-1 Smt. 'R' deposed as under :

(I) That she did not remember the exact date of incident, however, it was year 2017 and that day she was present in her house.

(II) That after the Namaz, accused alongwith his associates was present outside the Mosque (in front of back door of complainant's house) and making abusive words which were not clearly audible.

(III) That she objected them and asked not to use such abusive words in front of her house. Suddenly, accused alongwith his two associates came to her and he hold her hands and started abusing her.

(IV) She also deposed in camera proceedings that ' आरोपी सरताज ने बोला कि अगर तुम ज्यादा बोलोगे तो मुँह में डाल के हिला देंगे। आरोपी हाफिज सरताज ने मेरी छाती में भी हाथ मारा था। आरोपी हाफिज सरताज ने मुझ पर एसिड

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भी डालने की कोशिश की, पर मेरी जेठानी ने बचा लिया था। आरोपी हाफिज सरताज ने कहा कि तुम्हारा रेप कर देंगे और तुम्हारे घर की बेटियों को उठा के ले जायेंगे। जब हमने पुलिस में रिपोर्ट दर्ज की थी तो बच्चों को मारने की धमकी दी थी। आरोपी हाफिज सरताज ने बोला कि तुम लोग हिंदू हो तुम लोग यहाँ से निकलो यहाँ हम लोग ही रहेंगे।

आज भी ये लोग गालियाँ देते हैं और महिलाओं के वीडियो बनाते हैं। आरोपियों के साथ २-३ परिवार हैं और वह भी हमारे पड़ोस में ही रहते हैं और इनका साथ आज तक दे रहे हैं।

(V) That no male member of her family was present at her house at that time and in the evening, she narrated the incident to her husband when he came to the house and thereafter, her husband made police call. Thereafter, police reached there and after making inquiries from her, she was asked to visit the police station.

(VI) That on 14.05.2017, she alongwith her family members and neighbours went to police station and lodged her complaint Ex. PW-1/A.

(VII) That site plan Ex. PW-1/B was prepared by the police officials at her instance.

(VIII) That her statement u/s 164 Cr.P.C. , Ex. PW-1/C was also recorded.

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15. **Cross-examination of PW-1 by Ld. Addl. P.P. for the State :**
During her cross-examination by the Ld. Prosecutor, PW-1 has
answered as under :

(I) That she was not sure whether the date of incident was 12.05.2017, however, it was in the year 2017.

(II) She admitted the suggestion that the incident took place after Friday prayer in the noon time.

(III) That when accused threw acid upon her and her Jethani saved her from the Acid attack, the drops of said acid fell on her saree and her saree got burnt due to said acid.

(IV) That she had changed her wearing saree and said burnt saree was thrown by her in garbage.

16. **Cross-examination by Ld. Defence counsel :**
During her cross-examination by the Ld. Defence Counsel, PW-1
has answered as under :

(I) That as per her knowledge since last 10 years pupils were offering at the said Mosque. The said Mosque had solid (pakka) construction. She admitted the suggestion that pupils were offering

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Namaz five time in a day and gathering of the pupils for offering Namaz in said Mosque on Friday was used to much more than other days.

(II) That when she heard the abusive words coming from the mosque side behind from back side of her house, she opened the back door of her house and objected not to use abusive words.

(III) That during the investigation, her statement was recorded twice i.e. first at her house and second statement u/s 164 Cr.P.C.

(IV) That her first statement was recorded on 12.05.2017 i.e. the date of incident and name of police official who recorded her statement was Babu Lal.

(V) That she did not remember the time when her husband called the police. She voluntarily answered that she made call to the police after discussing with her husband.

(VI) That duty hours of her husband were in night time i.e. from 09:00 PM to 06:00 AM.

(VII) She admitted the suggestion that on the date of alleged incident, her husband was on night duty. She further admitted the suggestion that during the day time, her husband was at home during the time of incident.

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(VIII) She admitted the suggestion that complaint Ex. PW-1/A was not in her handwriting.

(IX) That she did not remember the author of said complaint, however, it was written by some person to whom she dictated all the facts of the incident and she also signed the same.

(X) That she alongwith her husband, husband's brother Kanchan Singh Rajput and sister-in-law Kiran Devi went to police station.

(XI) That she made written complaint Ex.PW-1/A in the police station on 13.05.2017.

(XII) That statements of her mother in law and father in law were not recorded by the police.

(XIII) that her medical examination was not conducted by any doctor in present case.

(XIV) That police had not conducted the photography of the place of incident where alleged acid was thrown.

(XV) That she had not handed over her *saree* to the police on which acid was thrown.

(XVI) She admitted the suggestion that police had not seized the bottle of acid in her presence.

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(XVII) She also admitted the suggestion that police had not seized any deck/loudspeaker from the mosque.

(XVIII) That she did not remember the date when IO recorded her statement u/s 161 Cr.P.C. Her second statement was recorded by the IO either on 13.05.2017 or 14.05.2017.

(XIX) During her cross-examination, she was also confronted with her complaint Ex.PW-1/A and statement u/s 164 Cr.P.C. regarding her deposition as mentioned abovesaid in point nos. II, III & IV in the examination-in-chief.

17. **Deposition of PW-2/ Smt. 'K' pertaining to material facts :**

During her examination-in-chief, she deposed as under :

(I) That complainant 'R' was sister in law (devrani) and they used to reside in the same house. On 12.05.2017, both of them present in the house and at around 01:00 PM, after completion of Namaz, accused alongwith his associates was present outside the Mosque and they were using abusive language among themselves.

(II) That when complainant 'R' objected for the same, then accused and his two associates pushed her and touched her on chest and

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misbehaved with her and also used abusing words and made colourable remarks on her.

(III) That she intervened in between complainant R and the accused and in the meanwhile, accused threw acid upon complainant R and her wearing *saree* got burnt due to said acid attack.

(IV) That she escaped the complainant and took her inside the house and closed the iron channel grill. Accused used force and tried to entered inside their house.

(V) That in the evening, when her husband and devar (complainant's husband) came to home, they informed about the aforesaid incident to them and thereafter, they reported the matter to the police.

(VI) That police reached at her house and recorded her statement.

18. **Cross-examination of PW-2:**

During her cross-examination, PW- 2 has answered as under :

(I) She denied the suggestion that lot of persons from Muslim religion used to perform Namaz at the place behind their house. She voluntarily answered that only accused Hafij used to perform Namaz on the said plot.

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(II) She denied the suggestion that there was a masjid on the said plot.

(III) That she was residing at back side of ground floor and the complainant 'R' (devrani) was residing in front side of ground floor.

(IV) That her second devrani was also residing on the same premises, which was constructed upto two floors.

(V) That she did not remember how many times the police officials recorded her statement, however, her statement was recorded by the police on the same day.

(VI) She admitted the suggestion that complainant did not hand over her burnt *saree* to the police. She voluntarily answered that police never asked her to do so.

(VII) That police had not taken the photographs of the spot in her presence.

(VIII) That she asked police officials to check the CCTV camera installed in the neighbourhood at the back side of their house but they did not do the same.

(IX) She denied the suggestion that husband of complainant was present at the time of incident. She voluntarily answered that she,

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complainant (devrani), their children and parents-in-laws were present at the house.

19. **Examination of PW-3 Ms. Mohini Singh :**

During her examination-in-chief, she has deposed as under :

(I) That she was a social worker and belonging to political party (BJP).

(II) That on 14.05.2017, again said that she was confused about the date whether it was 12th or 14th, the time of incident was about 01:05 PM and she was inside her house and heard some commotion from her gali.

(III) That she came out of her house and saw that accused was hurling filthy language while standing outside the Masjid.

(IV) That her neighbour 'R' (complainant) was also present and she objected the accused for using abusive language. Thereafter, accused came near to the complainant and pushed her by placing his hand on her chest and again abused her by using abusive language.

(V) That some persons from the side of accused handed over one bottle containing some material. Accused opened the bottle and tried to pour upon the complainant but her jethani/PW-2 caught hold

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the hand of accused and the liquid of bottle fell on the *saree* of complainant and due to the said liquid, some portion of her *saree* got burnt and thereafter, there was stamped in the street.

(VI) That complainant was rescued by taking her in the house and police was also called.

(VII) That material of bottle was acid and it burnt the *saree* of complainant.

20. **Cross-examination of PW-3 :**

During her cross-examination, she has answered as under :

(I) That her house was adjacent to the complainant's house.

(II) That she was not actively participating in social seminars/assembly, however, she demanded the vote for BJP since last two years.

(III) That the Namaz in Mosque was started from the beginning of year 2016.

(IV) That her statement was recorded in the police station either on 12th or 14th May, 2017. Thereafter, her no other statement was recorded by the police. She did not remember whether police had read over her statement or not.

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(V) That she did not know the name of person who made call at 100 number.

(VI) That she had not seen whether police had seized the bottle or collected any sample from the spot.

(VII) That her house opened towards the Masjid. She had not seen if the police had seized any articles including any loudspeaker or deck from the Masjid or not.

21. **Examination-in-chief of PW-5 Smt. Babita :**

During her examination-in-chief, she has deposed as under :

That on 12.05.2017 at around 01:00 PM, when she was present in her house, then after hearing some noise, in the gali, she came out and found that accused alongwith some persons was quarreling with complainant 'R'.

22. **Cross-examination of PW-5 by Ld. Addl. P.P. for the State :**

That after declaring her hostile, at request of Ld. Addl. P.P. for the State, she was cross-examined by the Ld. Addl. P.P. for the state and answered as under during her cross-examination :

(I) She denied the suggestion that accused caught hold the hand of complainant and pushed her and also hit his hand on her chest.

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(II) She denied the suggestion that accused threw acid from the bottle on complainant and PW-2 Smt. 'K' pulled her and due to which acid did not fell on her body but fell on her saree. She voluntarily answered that she came in the gali when quarrel was got over.

23. **Cross-examination of PW-5 by the Ld. Defence Counsel :**

During her cross-examination, PW-5 has answered as under :

She admitted the suggestion that in the locality, Hindu population is bigger than Muslims. She further admitted the suggestion that Hindu residents of the locality wanted that Masjid might be shifted to any other place from the gali.

24. **Examination-in-chief of PW-6 Smt. Bhagwani Devi:**

During her examination-in-chief, she has deposed as under :

(I) That on 12.05.2017 at around 01:00 PM, she came in her gali alongwith her grand daughter as she picked her from her school and heard some noises in the gali and saw that accused Hafij Sartaj alongwith some persons was quarreling with complainant.

(II) That accused caught hold the hand of complainant and pushed her and also hit on her chest with his hand.

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(III) That when complainant raised alarm, her Jethani came there.

(IV) That accused threw acid from the bottle on complainant and her Jethani/PW-2 pulled her and due to which acid did not fell on her body but it fell on her wearing *saree*.

25. **Cross-examination of PW-6 by Ld. Defence counsel :**

During her cross-examination, she has answered as under :

(I) That her statement was not recorded by the police in the present case.

(II) She admitted the suggestion that no injury was caused to any person by throwing of acid by the accused.

26. **Examination-in-chief of PW-7 Smt. Kamla :**

During her examination-in-chief, she has deposed as under :

(I) That on 12.05.2017 at about 01:00 PM, when she was present at her house, then she heard loud noise. She came out to see and saw that fight was going on between the accused and complainant and accused pushed the complainant and also hit his hand on her chest.

(II) That after some time, when complainant was attempted to go inside, accused came with a bottle containing acid and threw the

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same on her but as the complainant was about to be taken inside, the acid fell on her *saree*, due to which *Pallu* of her *saree* got burnt.

27. **Cross-examination of PW-7:**

During her cross-examination, she has answered as under :

(I) That her statement was recorded by the police officials at the time of aforesaid incident.

(II) That CCTV cameras were installed at the house of complainant at that point of time but she was not aware if the police officials checked the CCTV camera.

(III) That in her presence, police officials had not recovered anything in the present case.

(IV) That in her presence, police officials took the complainant to hospital for treatment.

(V) She admitted the suggestion that people of her religion did not want Muslims to have Masjid in their locality.

(VI) She voluntarily answered that they did not want Muslims to make loud noises from Masjid.

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Police witnesses :

28. Examination-in-chief of PW-4 SI Balwan Singh :

During his examination-in-chief, PW-4 has deposed as under :

(I) PW-4 SI Balwan Singh deposed during his examination-in-chief that on 12.05.2017, he went to the spot alongwith Ct.Rahul on receiving PCR call qua the quarrel and at the spot, he met caller Ms. 'R'/PW-1 and no quarrel was found happening at the spot and she told him that some persons abused her and left the spot.

(II) That he recorded her statement and returned to Police Station.

(III) During his examination-in-chief, one leading question was put to him by the Ld. Addl. P.P. for the State despite the fact that neither it was introductory nor undisputed fact as well as without declaring the witness hostile and to seek permission for his cross-examination. In response to the leading question, PW-4 admitted the suggestion that complainant told him that volume of speakers installed in the Masjid was loud and some unknown persons used to abuse.

29. Cross-examination of PW-4 :

During his cross-examination, PW-4 has answered as under :

(I) He admitted the suggestion that when he visited the spot, Namaz was going on in the Masjid.

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(II) That complainant stated in her statement that some unknown persons quarreled with each other and left the spot.

(III) That he received the call regarding quarrel, however, when he reached at the spot, he did not find any quarrel happening.

(IV) That he did not seize any loudspeaker from the Masjid.

30. **Examination of PW-8 ASI Subhash Chander :**

During his examination, PW-8 has deposed as under :

(I) That on 14.05.2017, he registered the FIR Ex. PW-8/A in the present case as that day he was working as duty officer and he received one rukka at around 11:00 PM from SI Praveen Kumar for registration of FIR and after registration of FIR, the original rukka and copy of FIR was handed over to SI Praveen Kumar to whom the investigation was assigned.

31. **Examination of PW-9 Insp. Sandeep Kumar :**

During his examination, PW-9 has deposed as under :

(I) That on 13.03.2019, he collected the case file from MHC® on marking of the further investigation of the present case to him and on finding that investigation of the case was otherwise complete, he

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prepared the draft charge sheet. Thereafter, on 29.07.2019, he handed over the case file to MHC® on his transfer.

32. **Examination-in-chief of PW-10 SI Babu Lal :**

During his examination, PW-10 has deposed as under :

(I) That on 12.12.2019, further investigation of the present case was marked to him and he further recorded statements u/s 161 Cr. P.C., of witnesses namely Smt. 'R' (complainant/PW-1), Smt. 'K' (PW-2), Smt. Mohini (PW-3), Bhagwani Devi (PW-6) and Smt. Kamla (PW-7) and also examined PCR officials namely HC Sanjeet, who was posted at PCR on the date of incident and filed the charge sheet in the Court.

(II) During his cross-examination, he answered that he did not remember the date of recording of statement u/s 161 Cr.P.C. of the abovesaid witnesses and of the date of examination of HC Sanjeet.

33. **Examination of PW-11 Insp. Praveen Kumar :**

During his examination-in-chief, PW-11 has deposed as under :

(I) That on 14.05.2017, the SHO had marked one complaint to him and he collected the copy of complaint. He made endorsement Ex. PW-11/A on the said complaint and got the FIR registered.

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(II) That on 15.05.2017, he went to the spot and called the complainant at the spot and prepared site plan ex. PW-1/B at the instance of complainant.

(III) That he recorded statements u/s 161 Cr.P.C. of the complainant and Smt. 'K' (PW-2).

(IV) That he checked the CCTV footage of the incident if any, however, no CCTV footage was found.

(V) That statement of the complainant u/s 164 Cr.P.C. was recorded at his request.

34. **Cross-examination of PW-11 :**

During his cross-examination, PW-11 has answered as under :

(I) That there was no DD entry for marking of the complaint to him by the SHO.

(II) That he had not met the complainant prior to sending the complaint for registration of the FIR.

(III) That he got copy of FIR at around 11:30 PM and went to the spot alone on the next day at around 04:00 PM.

(IV) That he had not seized any article from the spot.

(V) He admitted the suggestion that no remains of broken bottle or acid were found around the spot.

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(VI) That he did not examine any other public witness apart from complainant and her Jethani/PW-2.

(VII) That the complainant was not got medically examined in the present case.

Discussion about legal position regarding offences u/s 354 IPC and 509 IPC:

35. Section 354 IPC criminalizes the assault or uses of criminal force on a woman with an intention to outrage her modesty. On the other hand, in order to bring an act committed by a person within purview of Section 509 IPC, the act must have been committed with intention insult the modesty of any woman or to intrude upon the privacy of such woman. In a criminal trial, the onus remains on the prosecution to prove the guilt beyond reasonable doubts and benefit of doubt, if any, must necessarily go in favour of the accused.

36. The essential ingredients of **Section 354 IPC** are as follows:

(a) That the assault must be on a woman;

(b) That the accused must have assaulted or used

criminal force on her;

(c) That the criminal force must have been used on the

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woman with the intention to outrage her modesty;

(d) Criminal force has been defined in IPC u/s 350 IPC.

To summarize, it is when someone uses force to any person without that person's consent, in order to committing of any offence with the intention and knowledge that force would cause injury or fear or annoyance.

37. **Section 351 IPC** defines assault as under:

“Whoever makes any gesture or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit assault”.

38. Before proceedings further it is important to analyze the meaning of term ‘modesty’, which has not been defined in the IPC.

39. The ultimate test for ascertaining whether modesty has been outraged is whether the action of the offender is such as could be perceived as one which is capable of shocking the sense of decency

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of a woman. Reliance is placed upon **State of Punjab vs. Major Singh AIR 1967 SC 63.**

40. Thus the word modesty is not to be interpreted with reference to the particular victim of the act but as an attribute associated with female human being as a class. The determination of whether the modesty of a woman has been outraged is thus not from perspective of the victim alone but also from the larger perception of the whole class.

41. An offence **u/s 509 IPC** also deals with the offence of insulting the modesty of a woman similar to Section 350 IPC. On a bare reading of this Section, it is clear that for an offence to fall within the purview of Section 509 IPC, it must have been committed with the intention to insult the basic modesty of any woman or to intrude upon the privacy of that woman. Thus intention is an essential ingredient.

Probative force of the testimonies of prosecution witnesses for proving charges u/s 326B IPC, 354 IPC, 509 IPC, 294 IPC, 298 IPC and section 506 IPC against the accused:

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42. On perusal of the testimonies of the prosecution witnesses following major lacunas in proving the said charges against the accused are found:

(i) Delay in registration of FIR:

There is unexplained delay in registration of the FIR in the instant case. As per PW1, police call was made on the date of the incident but she gave her complaint Ex. PW1/A on 14.05.2017. During her evidence, she could not tell the exact date of incident but as per prosecution story, the date of incident is 12.05.2017. As per prosecution, the time of incident on 12.05.2017 is between 1.00 AM to 1.30 AM, however, the FIR got registered on 14.05.2017 at 11.00 PM. This delay in registration of FIR was not properly explained by the prosecution.

(ii) Uncertainty about actual date of occurrence of offence:

Neither in the *Tehrir* Ex. PW4/A nor in the FIR Ex. PW8/A, the date and time of occurrence of offence has been mentioned. PW1 also deposed that she did not remember the exact date of incident. Even, during her cross-examination conducted by the Ld. Addl. PP for the State, she answered that she was not sure whether the date of incident was 12.05.2017. However, during her cross-

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examination by Ld. Defence counsel, she answered that her first statement was recorded on 12.05.2017 i.e. on the date of incident by police official namely Babu Lal. But no such statement dated 12.05.2017 of the complainant as recorded by any police official namely Babu Lal is found to be on record. Rather, from the record, one statement of the complainant u/s 161 Cr.PC dated 15.02.2020 is found to be recorded by one ASI Babu Lal, which is after a gap of around three years from the date of incident. PW3, who is allegedly an eye witness also deposed that she was confused about the said date and further deposed that she was confused whether it was 12th or 14th. However, the remaining eye witnesses deposed that the date of incident was 12.05.2017.

Moreover, the date of incident has also not been mentioned by the complainant in her complaint Ex. PW1/A and the complaint is found to be signed by abovesaid remaining eye witnesses who deposed during their respective testimonies as PW2, PW5, PW6 and PW7 that date of incident was 12.05.2017 but despite that the date and time of the incident has been mentioned as unknown in the FIR.

Accordingly, there are contradictions regarding actual date of incident in testimonies of prosecution witnesses and considering the

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delay in registration of FIR, there arises a genuine doubt regarding actual date of alleged offence.

(iii) The complaint is found to be attested by total 28 persons, however, only six of them were examined by the IO and further examined by the prosecution during trial. It remained unexplained that why all of them were not examined by the IO, specially in the circumstances when the FIR was registered by mentioning the date and time of incident as unknown and after a considerable delay.

(iv) In her complaint Ex. PW1/A, the complainant did not describe the abuses hurled upon her by the accused. She has also not mentioned any of the abuses in her statement Ex. PW1/C recorded u/s 164 Cr.PC. However, for the first time, during her deposition as PW1, she mentioned about the particular abusive language, on which, she was confronted from her complaint Ex. PW1/A and the abovesaid statement recorded u/s 164 Cr.PC wherein it was not so mentioned.

Neither the complainant herself nor during her said deposition the then Ld. Addl. PP made any efforts to get explanation from PW-1 about this improvement during her testimony. It creates doubt on the veracity of PW1.

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(v) In her complaint Ex. PW1/A, the complainant mentioned that accused gave a heavy push to her. However, during her statement u/s 164 Cr.PC, she stated that accused caught hold her left shoulder and when she tried to get free, then he gave a push on her chest. Again, during her deposition as PW1, she deposed in the following words “*Hafij Sartaz ne meri chhatti mein bhi hath mara tha*”. This improvement also remained unexplained.

(vi) The complainant has also deposed that accused Hafij Sartaz also gave a threat to rape her and to abduct her daughters. However, nothing to the sort has been mentioned either in her complaint Ex. PW1/A or statement Ex. PW1/C recorded u/s 164 Cr.PC.

(vii) She has also deposed as PW1 that when they reported to the police, then threat to kill their children was extended. However, again such allegations are missing in the complaint as well as statement u/s 164 Cr.PC. The statement u/s 164 Cr.PC is found to be recorded on 16.05.2017 i.e. after registration of FIR. Moreover, it has also not been clarified that after how much time of the alleged incident on 12.05.2017, said threat was extended to the complainant.

It creates doubt about genuineness of such threat by the accused to PW-1.

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(viii) It has also been alleged against the accused by PW1 that accused threw acid upon her but the drops of the said acid had fallen on her *saree* and her *saree* got burnt due to said acid. However, nothing to the sort has been mentioned in her complaint Ex. PW1/A. Rather in her complaint, she has mentioned that accused Hafij Sartaz threatened her by saying that he was having a bottle of acid and he would throw the entire bottle on her face and would burn her face. To the contrary, she also stated during her statement u/s 164 Cr.PC that when her Jethani came to the spot, then they (accused and his associates) immediately took out a bottle of acid and started pouring it upon them (complainant and her Jethani). She further stated that immediately her Jethani pulled her and somehow, they escaped.

These improvements of PW1 remained unexplained, which further creates doubt on the veracity of PW1.

(ix) The *saree* allegedly burnt due to fall of acid as threw by the accused was not seized by the IO. As per PW1, she had thrown the said *saree* in garbage. As per PW2, Smt. 'K' (Jethani of PW1) complainant did not hand over her burnt *saree* to the police as police

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never asked her to do so. Accordingly, material piece of evidence to prove any acid attack by accused was not preserved.

(x) As per IO, he had not seized any article from the spot. He admitted the suggestion that no remains of broken bottle or acid were found around the spot. PW3/eye witness of the incident also answered that she had not seen whether police had seized the bottle or collected any sample from the spot.

During her cross-examination, PW-2 Smt. 'K' also answered that the police had not taken photographs of the spot in her presence. However, had there been any spread of acid at the spot, the sign/stains of the acid could have easily been found on the earth/floor at the spot but neither any photographs of the spot were taken by the IO nor any earth sample of the spot was collected by the IO to ascertain the allegations due to the reasons best known to the IO. Further, the IO also did not investigate about the source from where accused allegedly got the acid bottle.

(xi) As per PW1, when accused threw acid upon her and her Jethani saved her from said acid attack, the drops of said acid had fallen on her *saree*. In her statement, u/s 164 Cr.PC, she has stated that when they started pouring acid upon them, then her Jethani

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pulled her immediately. As per PW2 (Jethani) when she intervened in between the complainant and accused, in the meanwhile, accused threw acid upon complainant.

However, as per PW3/eye witness, some persons from the side of accused handed over one bottle containing some material and accused opened the bottle and tried to pour upon the complainant. But PW2 caught hold the hand of the accused and liquid of the bottle fell on the saree of the complainant.

As per PW6/another eye witness, accused threw acid from the bottle on complainant and PW2 pulled her and due to which, acid did not fell on her body but it fell on her wearing saree.

As per PW7/one another eye witness, when complainant was attempting to go inside, accused came with a bottle containing acid and threw the same on her and as complainant was about to be taken inside, the acid fell on her *saree*.

Accordingly, the respective depositions/ statements of these eye witnesses of the incident including the complainant regarding the allegations pertaining to pouring of acid are contradictory to each other. As per PW7, the acid was thrown when complainant was

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about to be taken inside her house but the complainant did not said so.

The deposition of PW-3 that some other persons from the accused side handed over one bottle containing some material and then accused opened the bottle and tried to pour upon the complainant but PW-2 caught hold the hand of the accused and liquid of the bottle fell on the saree is not in corroboration with the said depositions of another eye witnesses including the complainant who nowhere stated that PW2 caught hold the hand of the accused due to which the said liquid could not fell on the body of the complainant. As per the complainant herself, she was pulled by PW2 when accused was pouring acid. Accordingly, considering the contradictory statements of the eye witnesses and the complainant regarding throwing the acid, their testimonies becomes unreliable and untrustworthy.

(xii) As per PW2, she asked the police officials to check the CCTV camera installed in the neighbourhood at the backside of their house but they did not do the same. However, as per PW7, the CCTV cameras were installed at the house of the complainant at that point of time. But interestingly, the IO PW11 deposed that he checked for

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CCTV footage of the incident, however, no CCTV footage was found. Interestingly, nothing was deposed by the complainant herself about availability of the CCTV footage of the incident or installment of the CCTV cameras at or around the spot at the alleged time. It creates doubt on the veracity of prosecution story because as per some of the prosecution witnesses itself the best evidence in form of CCTV footage of the incident was available but it was not obtained by the IO despite asking the same.

(xiii) PW1 answered during her cross-examination that on the date of incident, her husband was on night duty and during the day time, her husband was at home but to the contrary she deposed during her examination in chief that no male member of her family was present at that time at the house and in the evening her husband came to the house. It was not clarified by her that which of her statement was correct.

However, as per PW2, her husband and complainant's husband came to the house in the evening. Accordingly, this version of PW2 was in contradiction of answers given by PW1 during her cross-examination. Moreover, during her cross-examination, PW2 voluntarily answered that her Saas Sasur (parents-in-laws) were

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present at her house at the time of incident. So this version of PW2 is also contrary to the deposition of PW1 as made during her examination in chief that at that time no male member of the family was present.

Interestingly, IO also did not make any efforts to examine the parents-in-laws of the complainant regarding the incident and about their presence at that time.

(xiv) As per PW4 SI Balwan Singh, he went to the spot alongwith Ct. Rahul on receiving PCR call qua the quarrel on 12.05.2017 and he met to caller PW1. However, during his cross-examination, he answered that the complainant stated in her statement that some unknown persons quarreled with each other and left the spot. However, this fact does not find any mentioning in the FIR. It creates doubt about veracity of the alleged incident for which the present case FIR was got registered.

(xv) PW5 Smt. Babita is also an alleged eye witness of the incident but she turned hostile during her evidence and did not support the prosecution story even during her cross-examination by

Ld. Addl. PP for the State.

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(xvi) Despite the fact that the complaint bears the signatures of 28 persons but prosecution did not make any effort to get the signatures identified by any of the alleged eye witnesses during their respective testimonies before the Court during trial except the complainant.

(xvii) As per PW3, her statement was recorded in Police Station either on 12.05.2017 or 14.05.2017 and thereafter, her no other statement was recorded by the police. However, no such statement of PW3 dated 12.05.2017 and 14.05.2017 is found to be recorded by any police official. Her one statement dated 18.02.2020 is found to be recorded u/s 161 Cr.PC by ASI Babu Lal. She also answered during her cross-examination that she did not remember whether police had read over her statement or not. These contradictions create doubt regarding genuineness of her examination by the IO at any point of time and it further creates doubt regarding veracity of the claim of PW3 being an eye witness of the incident.

(xviii) As per PW-7, in her presence police officials took the complainant to hospital for treatment but as per PW-1 herself, her medical examination was not conducted by any doctor in the present case. These contradictory versions of PW-1 and PW-7 further create

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doubt on the genuineness of PW-7 as alleged eye witness of the incident.

(xix) As per PW-6 her statement was not recorded by the police in the present case. This version of PW-6 is contradictory to the deposition of PW-10 SI Babu Lal, where he deposes that he recorded statement u/s 161 Cr.PC of Bhagwani Devi (PW6). It creates doubt regarding genuineness of PW6 as a witness of the alleged incident.

(xx) Complainant answered during her cross-examination that complaint was not in her handwriting but author of the complaint was never disclosed. It creates serious doubt about veracity and genuineness of the complaint itself.

(xxi) (a) The allegations are also that accused did obscene act in public place and played obscene songs on music deck on public place to annoy the feelings of the another communities. However, none of the prosecution witnesses deposed about the particulars of the obscene act or obscene songs. No other evidence regarding the same was led by the prosecution. Moreover, the said eye witnesses as well as the IO deposed that no article was seized from the spot. PW3 deposed that she had not seen if the police had seized any loud

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speaker or deck from the masjid. PW4 SI Balwan Singh, who went to the spot alongwith Ct. Rahul on receiving PCR call qua quarrel at the spot also answered during his cross-examination that he received the call regarding quarrel, however, when he reached at the spot, he did not find any quarrel happening and he did not seize any loud speaker from the masjid.

(b) Accordingly, no evidence regarding any allegations qua offence u/s 294 IPC was led by the prosecution to prove this charge against the accused beyond reasonable doubts.

(xxi) (a) So far as allegation that accused uttered words that “*tum Hindu log apne gharoon ko khali karo yaha Musalman rahenge*” is concerned, the charge u/s 298 IPC due to uttering these words by the accused cannot sustain in separation when all the abovesaid allegations are found suspicious and the delay in registering the FIR itself remained unexplained. Moreover, no other alleged eye witness of the incident deposed and described anything showing that the accused uttered any words or made any sound or made any gesture or placed any object in the sight of the complainant with the deliberate intention of wounding her religious feelings.

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(b) Moreover, the wordings used in Section 295A IPC and 298 IPC are almost similar. The only difference is that the section 298 IPC is referable to an individual person but section 295A IPC to a class of person. Therefore, even if 'private individual's feelings' are hurt, who is part and partial of class of persons, due to the uttering of such words which are malicious and intended to outrage the religious feelings of a class of person, then section 298 IPC individually cannot be pressed into service because it is addressed to a class of persons.

(c) The abovesaid provisions if applied to the facts on hand, then the alleged statement that "Tum Hindu log apne gharo ko khaali karo yahan musalman rahenge" hurts the feelings of the entire class of people who are Hindus. Such allegations when made, persons who would like to file any complaint requires to take permission of the Central or State Govt. as applicable in terms of section 196 Cr.P.C., which deals with prosecution for offences against the State including the offence u/s 295A IPC.

(d) Therefore, in order to file a complaint u/s 295A IPC, no Court can take cognizance for the said offence unless the previous permission of the govt. has been taken. Though, section 298 of the

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IPC is invoked but actually ingredients of section 295A of IPC are attracted in this case because even according to the complainant's version, it is adverted against class of persons not to the individual.

43. Considering that PW-5 and PW-7 admitted during their cross-examination that Hindu residents of the locality wanted that Masjid might be shifted to any other place from the gali, the possibility of concocted prosecution story cannot be ruled out specially in the circumstances when the FIR got registered after an unexplained considerable delay and even without mentioning the date and time of occurrence of the offence and also considering the abovesaid contradictions and testimonies in the prosecution witnesses/ and lacunas in the prosecution case.

Conclusion :

44. From the testimonies of prosecution witnesses and circumstances and facts of this case, this Court comes to the conclusion that the case of the prosecution does not inspire the confidence of this Court as prosecution has failed to prove the guilt of accused Hafij Sartaj beyond reasonable doubts.

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45. With this background, the prosecution has miserably failed to prove the complicity of accused Hafij Sartaj for the commission of crime beyond shadow of all reasonable doubts and has not been able to prove all the ingredients of the offences u/s 326B/354/506/509/294/298 IPC for which accused has been charged and faced trial. **Accordingly, accused Hafij Sartaj is acquitted of the abovesaid Charges.**

46. On the directions of the Court, accused Hafij Sartaj has furnished bail bonds in view of Section 481 of BNSS, which has been accepted for the period of six months from today.

47. File be consigned to record room.

48. In view of the Judgment titled as *Manojbhai Jethabhai Parmar (Rohit) v. State of Gujarat*,¹ passed by the Hon'ble Supreme Court of India, the specimen chart of witnesses examined, specimen chart of exhibited documents and Specimen Chart for material objects/Muddamals are as follows :

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¹ Manojbhai Jethabhai Parmar (Rohit) v. State of Gujarat, in Criminal Appeal No. 2973 of 2023, decided on 15.12.2025.

Specimen Chart of witnesses examined

Prosecution witnesses No.	Name of witnesses	Description
PW-1	Smt. Reena Devi	Complainant/Victim
PW-2	Smt. Kiran	Public witness
PW-3	Smt. Mohini Singh	Public witness
PW-4	SI Balwan Singh	1 st Investigating Officer
PW-5	Smt. Babita	Public witness
PW-6	Smt. Bhagwan Devi	Public witness
PW-7	Smt. Kamla	Public witness
PW-8	ASI Subhash Chander	Duty officer
PW-9	Insp. Sandeep Kumar	Prepared the draft chargesheet.
PW-10	SI Babu Lal	Filed the charge sheet before the concerned Court.
PW-11	Insp. Parveen Kumar	Investigating officer
DW-1	Mohd. Faheem	Public witness produced by accused in his defence evidence.

Specimen Chart for Exhibited Documents

Exhibit No.	Description of the Exhibit	Proved by/attested by
Ex.PW-1/A	Complaint complainant.	of PW-1 Smt. Reena Devi

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Ex.PW-1/B	Site Plan	PW-1 Smt. Reena Devi
Ex.PW-1/C	Statement of complainant u/s 164 Cr.P.C.	PW-1 Smt. Reena Devi
Ex.PW-8/A, Ex.PW-8/B and Ex.PW-8/C	Copy of FIR, endorsement on rukka and Certificate u/s 65B of the Indian Evidence Act	PW-8 ASI Subhash Chander
Ex.PW-11/A	Endorsement on the complaint of complainant	PW-11 Insp. Praveen Kumar
Ex.PW-11/B	Request of the IO for recording statement of complainant u/s 164 Cr.P.C.	PW-11 Insp. Praveen Kumar
Ex. PW-11/C	Request of the IO for obtaining the copy of statement of complainant recorded u/s 164 Cr.P.C.	PW-11 Insp. Praveen Kumar
Ex. PW-11/D	Copy of DD no. 34A dated 12.05.2017	PW-11 Insp. Praveen Kumar
Ex. PW-11/E	Copy of DD no. 45B	PW-11 Insp. Praveen Kumar
Ex.PW-11/F	Copy of DD no. 61 B dated 12.05.2017	PW-11 Insp. Praveen Kumar
Ex. AD2 and Ex. AD3	Copy of DD no. 49A and PCR form	PW-11 Insp. Praveen Kumar
Ex. PW-11/G	Notice u/s 41A Cr.P.C.	PW-11 Insp. Praveen Kumar

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Ex. PW-11/H (colly.)	PCR forms collected vide DD nos. 34A, 49A dated 21.08.2017.	PW-11 Insp. Praveen Kumar
Ex.AD-1 (Colly.)	GD No. 33A, 34A, 45B and 61B, all dated 12.05.2017	Admitted by accused during his statement recorded u/s 330 BNS
Ex. AD-2	GD No. 49A dated 21.08.2017	Admitted by accused during his statement recorded u/s 330 BNS
Ex. PW-1/C	Statement u/s 164 Cr.P.C. dated 16.05.2017	Admitted by accused during his statement recorded u/s 330 BNS
Ex. AD-3	PCR Form with respect to GD No. 33A dated 12.05.2017	Admitted by accused during his statement recorded u/s 330 BNS

Specimen Chart for material objects/Muddamals

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

**Pronounced in the open
Court on 30.09.2026**

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**(Dr. Yadvender Singh)
Additional Sessions Judge -05,
(West) Tis Hazari Courts Delhi**

It is certified that this Judgment contains 51 pages and each page bears my signatures.

(Dr. Yadvender Singh)
Additional Sessions Judge -05,
(West) Tis Hazari Courts Delhi/30.09.2026

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