

IN THE COURT OF MS. NEHA MITTAL
ADDITIONAL CHIEF JUDICIAL MAGISTRATE-03
ROUSE AVENUE DISTRICT COURT, NEW DELHI

State Vs Manjeet Singh & Ors.
CNR Case No.03/2025
FIR No.49/2013
Police Station : Tughlak Road
U/S: 147/149/188/427 IPC

Date of institution of the case : **06.09.2014**
Date of reserving for judgment : **15.09.2025**
Date of pronouncement of judgment : **23.09.2025**

1.	Serial No. of the case	03/2025
2.	Date of commission of offence	02.05.2013
3.	Name of the complainant	ASI Suresh Kumar, No. 1559/ND
4.	Name, parentage and address of accused persons	<div>1. Manjeet Singh Sirsa, G.K. Pradhan, S/o Late Sh. Sardar Jatedhar Santokh Singh, R/o H.No. M-103, Greater Kailash-I, New Delhi.</div> <div>2. Manjinder Singh Sirsa, (G Secy. DSGMC), S/o Sh. Jasbir Singh, R/o H.No. 7/77, Punjabi Bagh, New Delhi.</div> <div>3. Onkar Singh Thapar, R/o H.No.442/530, Gali No.27, Jail Road, Shiv Nagar, New Delhi-110058</div> <div>4. Kuldeep Singh Bhogal, S/o Late Sh. Sardar Harbans Singh, R/o H.No.1, Hari Nagar Ashram, New Delhi-110014.</div> <div>5. Smt. Mandeep Kaur Bakshi, W/o Sh. Paramjeet Singh Bakshi, R/o H. No.1C/33, New Rohtak Road, New Delhi.</div> <div>6. Sh. Avtar Singh Hit (proceedings abated vide order dt. 30.05.2023)</div> <div>7. Sh. Harjeet Singh (Vice G.M. DSGMC), S/o Satnam Singh, R/o H.No.J-3/149, Upper Ground Floor,</div>

		Rajouri Garden, New Delhi. 8. Sh. Harmeet Singh Kalka (Jt. Secy) S/o Late Sh. Daljeet Singh, R/o H.No.7 Lane, 448 A Sainik Farm, New Delhi. 9. Sh. Tejender Pal Singh Goldy @ Jitender Pal Singh Goldy, S/o Late Sh. Kirpal Singh, R/o H. No.12, Sukh Vihar, New Delhi-110051. (Member) 10. Smt. Baljeet Kaur Khalsa @ Daljeet Kaur Khalsa, W/o Late Sh. Mohan Inder Singh, R/o 201, Staff Flats, Guru Harkishan Public School, Vasant Vihar, New Delhi
5.	Offence complained of	U/S 147/149/188/427 IPC
6.	Plea of accused	Not guilty
7.	Final order	Acquittal
8.	Date of Judgment	23.09.2025

JUDGMENT

1. Vide this judgment, this court shall proceed to decide the instant matter emanating from the FIR No.49/2013 PS- Tughlak Road registered under Section 147/149/188/427 Indian Penal Code (in short ‘IPC’).

2. At the outset, it is worth mentioning here that this court is a special/designated court constituted for trying the cases instituted against MP/MLA. In the present case, accused No.2 Manjinder Singh Sirsa is a sitting MLA from Rajouri Garden constituency. Accordingly, the present case was transferred to this Court vide order dated 13.01.2025 passed by Hon’ble High Court of Delhi.

Brief Statement of Facts:

3. The present case has been registered on the statement of ASI Suresh Kumar Ex.PW-1/A which was recorded by IO/SI Ghisa Ram on the receipt of DD No. 17A. The brief facts of the case of prosecution are that on 02.05.2013 at around 11:30 AM, while ASI Suresh Kumar was on duty in front of the office of All India Congress Committee at 24 Akbar Road, accused persons namely Mr. Manjeet Singh GK, Head Shiromani Akali Dal Badal, Delhi Shiromani Gurudwara Management Committee, Manjinder Singh Sirsa, (General Secretary, DSGMC), Mr. Onkar Singh Thapar, (Member), DSGMC, Mr. Kuldeep Singh Bhogal, Smt. Mandeep Kaur Bakshi, Shri Avtar Singh Hit (Member), Shri Harjeet Singh, (Vice GM DSGMC), Sh. Harmeet Singh Kalka, (Joint Secretary), Tejinder Pal Singh Goldi (Member) and Smt. Baljeet Kaur Khalsa, along with 500-600 other supporters came towards 24 Akbar Road. They were stopped at the first barricade erected near Kothi No.26 Akbar Road. They were holding placards in their hands and raising loud slogans "*hang Sajjan Kumar, Congress haye-haye, Sonia Gandhi haye-haye*". ASI Suresh Kumar tried to convince them with the help of staff and told that holding dharna at this place is prohibited u/s 144 Cr.P.C. Despite warning, accused Manjeet Singh GK Pradhan and Manjinder Singh Sirsa, along with their above mentioned companions and supporters, after demolishing the first barricade, came to the other barricade in front of Kothi No.24, Akbar Road and continued with their activities while shouting slogans and demonstrating loudly. It is further stated that due to scuffle with the protesters, the glass of the Government Bus No. DL-1PC-1521 stationed at the spot also got broken. On the basis of the said statement, the present FIR was registered u/s 147/149/188/427 IPC.

4. During investigation, on the identification of accused persons by ASI Suresh Kumar from the DVD cassette, IO/SI Ghisa Ram charge-sheeted them. He also prepared a site plan of the place of incident. Photographs of the spot and the above-mentioned bus were taken by the Crime Team Staff. Statement of witnesses were recorded u/s 161 Cr.P.C. Some pieces of broken glass of Delhi Police Bus No.DL-1-PC-1521 were sealed with seal of GR.

Filing of Charge Sheet and Framing of Charge:

5. After the completion of investigation, the police report in the instant case was filed on 06.09.2014.

6. Notice under Section 147/188 IPC and Section 427 r/w 147/149 IPC was framed against all the accused persons on 09.09.2019 to which they pleaded not guilty and claimed trial.

7. Thereafter, during trial, proceedings were abated against accused Onkar Singh Thapar and Avatar Singh Hit vide orders dated 02.12.2022 and 30.05.2023 respectively.

Evidence Led By The Prosecution:

8. In order to prove the case, the prosecution has examined 09 witnesses in total who are as under:-

Prosecution Witnesses	Name of the Witnesses	Role of the witness
PW-1	ASI Suresh Kumar	Complainant
PW-2	HC Vikas Kumar	Formal witness
PW-3	ASI Shree Ram	Eye witness

PW-4	HC Jaya	Proved DD entry no. 12B dated 02.05.2013 Ex.PW4/A
PW-5	Retired Raj Pal	Proved photographs Ex. PW-5/1 (colly)
PW-6	SI Devender Singh	Proved video of the incident DVD Ex.PW6/A
PW-7	SI Anita Rani	Proved FIR
PW-8	Retired SI Ghisa Ram	Investigating Officer
PW-9	DCP Sukhraj Katewa	Proved complaint Ex.PW9/A

9. **PW-1** retired ASI Suresh Kumar is the complainant in the present matter. He deposed that on 02.05.2013, while he was on duty at the house of Mrs. Sonia Gandhi, 24 Akbar Road, 10 Janpath, at around 11:00-11:30 A.M. around 500 people started coming from the side of round about Taj Man Singh Hotel for protest against Mr. Sajjan Kumar. The crowd was shouting “*haye haye Sonia Gandhi and Sajjan Kumar*”. The said crowd started pushing the barricades at 26 Akbar Road and raised slogan “*Sajjan Kumar haye haye*”. A government bus was stationed nearby and its window pane were broken because of the rush of crowd. Thereafter, IO came at the spot and detained some protesters at the spot. He further deposed that he does not remember anything else as the matter is 12 years old. He stated that it appeared that the protesters had come from some Gurudwara but he cannot identify the persons present at the spot due to lapse of time. Leading question were put to the witness by Ld. APP for the State with the permission of the Court. He identified his signatures on his statement Ex.PW-1/A and seizure memo Ex.PW-1/B. He failed to identify the bus from the photographs

Ex.PW-1/C (colly) and also failed to identify the accused persons from photographs Ex.PW-1/D (colly). He also failed to identify the broken pieces of glasses Ex.P1. He was cross-examined by both the Ld. Counsels for the accused persons.

10. PW-2 HC Vikas Kumar deposed that on 02.05.2013 at around 11:45 A.M, while he was present in police station, the Duty Officer handed over to him the copy of DD No.17A regarding a protest at 24 Akbar Road upon which he contacted SI Ghisa Ram. Thereafter, on reaching the spot, IO recorded the statement of ASI Suresh Kumar in his presence and prepared the Tehrir which was handed over to him for registration of FIR. Thereafter, he came back to the spot alongwith the copy of FIR and original Tehrir and handed over the same to the IO. He further deposed that one bus bearing no.1521 belonging to the Delhi Police was stationed in the broken condition at the spot and IO seized the broken pieces of glasses vide seizure memo Ex.PW-1/B by making a pullinda and sealed it with the seal of GR. IO recorded the statement of other police staff present at the spot. Thereafter, he along with the IO came back at the Police Station and the case property was deposited in the Malkhana. He correctly identified the case property i.e. broken pieces of glasses. He stated that he cannot identify any of the protester as there was huge crowd of around 300 to 400 people at the spot. Leading question were put to the witness by Ld. APP for the State with the permission of the Court. He was cross-examined by both the Ld. Counsels for the accused persons.

11. PW-3 ASI Shree Ram deposed that on 02.05.2013 at around 11:30 AM, while he was on duty at QRT No.4, Kothi No. 24, Akbar Road, around 500 to 600 persons started coming from the side of Man Singh Road towards 24 Akbar Road. They belonged to some

Gurudwara Committee. He deposed that there were barricades installed at 24 Akbar Road and ASI Suresh Kumar informed the crowd that Section 144 Cr.P.C. was imposed in the area and if they moved forward from the said place, action would be initiated against them for violation of orders passed under Section 144 Cr. P.C. Despite that, the crowd moved towards 24, Akbar Road and pulled down the barricades and reached near back side of residence of Mrs. Sonia Gandhi and they also damaged government vehicle stationed there having the number 1521. He further deposed that extra police force were called to control the crowd. After that, some of the protesters left the spot and some other protesters were taken to police station. He stated that he does not know the names of the persons who were present there due to lapse of time but many Sikh males were present. He stated that he was not sure whether he would be able to identify the said persons if shown to him except one namely Manjeet Singh who is a MLA from Rajouri Garden. He identified the bus in photographs Ex.PW1/C (colly.) but failed to identify the persons visible in photographs Ex. PW1/D (colly.). He also failed to identify the accused persons present in the court. Leading question were put to the witness by Ld. APP for the State with the permission of the Court. He was cross-examined by both the Ld. Counsels for the accused persons.

12. PW-4 HC Jaya proved the DD Entry No.12B dated 02.05.2013 **Ex.PW4/A** regarding the departure of ASI Suresh for duty at 24, Akbar Road. She also produced the copy of destruction order dated 06.01.2024 **Mark-A**. She was duly cross-examined by both the Ld. Counsels for the accused persons.

13. PW-5 Retired Raj Pal deposed that he took the photographs of the bus on 02.05.2013 on the instructions of IO. He produced eight

negatives of the said photographs **Ex.PW5/1 (colly.)**. He was cross-examined by both the Ld. Counsels for the accused persons.

14. PW-6 SI Devender Singh deposed that on 02.05.2013, he was called for videography at 24, Akbar Road by IO. He stated that at around 11:30 AM, some persons from Sikh community came at the spot for protest against the acquittal of Sajjan Kumar in the matter of 1984 riots and tried to cross the barricades installed at the spot and on the instructions of the senior officers, he videographed the incident. He prepared DVD **Ex.PW6/A** which was seized by IO vide seizure memo **Ex.PW6/B**. He deposed that there were around 400 to 500 people but he cannot identify anyone. Multiple videos from DVD Ex. PW6/A were played in the Court but the witness failed to identify anyone even after seeing the video. Leading question were put to the witness by Ld. APP for the State with the permission of the Court. He was not cross-examined by both the Ld. Counsels for the accused persons despite opportunity.

15. PW-7 SI Anita Rani proved DD No.17A dated 02.05.2013 **Ex.PW7/A**, FIR **Ex.PW7/B (OSR)** and endorsement on the rukka **Ex.PW7/C**. She was cross-examined by both the Ld. Counsels for the accused persons.

16. PW-8 retired SI Ghisa Ram is the Investigating Officer in the present matter. He deposed that on 02.05.2013, he received call vide DD No.17A through Ct. Vikas upon which he along with Ct. Vikas reached at 24 Akbar Road where he met ASI Suresh. On reaching the spot, he saw some persons belonging to Sikh community had gathered at a distance from 24, Akbar Road. Thereafter, he recorded the statement of ASI Suresh Kumar Ex.PW1/A and prepared the Tehrir Ex.PW8/A and handed over the same to Ct. Vikas with instructions to get the FIR registered. He seized the pieces of broken glass of the bus vide seizure

memo Ex.PW-1/B by making a Pullinda and sealed the same with the seal of GR. He recorded the statement of Photographer HC Raj Pal, Ct. Vikas, HC Shri Ram and ASI Suresh. On 01.06.2013, Ct. Devender handed over to him one DVD which was seized vide Seizure Memo Ex.PW6/B. He further deposed that the accused persons were identified by ASI Suresh from the CD. He stated that he knows the names of the accused persons as Manjeet Singh, Onkar Singh, Kuldeep Singh, Avtar Singh, Harmeet Singh, Harjeet Singh, Tejender Pal, Mandeep Kaur, Baljeet Kaur Khalsa and Manjinder Singh Sirsa but he cannot identify the said accused persons due to lapse of time. He identified the bus from the photographs Ex.PW1/C (colly) but failed to identify the persons visible in photographs Ex.PW1/D (colly). He correctly identified the broken pieces of glass Ex.P-1. He failed to identify the accused persons who were present in the Court physically and through V.C. Leading question were put to the witness by Ld. APP for the State with the permission of the Court. He was cross-examined by both the Ld. Counsels for the accused persons.

17. PW-9 DCP Sukhraj Katewa deposed that on 13.03.2014, IO/ASI Suresh Kumar briefed him regarding the incident dated 02.05.2013 upon which he gave complaint **Ex.PW9/A**. Leading question were put to the witness by Ld. APP for the State with the permission of the Court. He was cross-examined by both the Ld. Counsels for the accused persons.

18. Thereafter, PE was closed on 09.05.2025 and the matter got listed for recording of statement of accused persons u/s 313 of Cr.P.C.

Examination of accused u/s 313 of the Code of Criminal Procedure, 1973:

19. As mandated u/s 313 of CrPC, the accused persons were given due opportunity to personally explain the circumstances appearing

against them in the matter at hand. All the incriminating facts, circumstances and evidences were put to them as appeared in the testimonies of prosecution witnesses and the corresponding documents.

20. All the accused persons in their statement u/s 313 Cr.P.C. *interalia* stated that they were not present at the spot on the alleged date of incident and that they have been falsely implicated in the present matter. In addition to this, accused No.2 has further stated, with respect to the specific videos put to him, that the said videos have been edited by the prosecution as he was not present at the spot on the date of alleged incident. He further stated that the videos are morphed, false and fabricated. The accused persons opted not to lead defence evidence.

Final Arguments:

21. It has been argued by Ld. Addl. PP for the State that the prosecution has proved beyond reasonable doubt that the protest in question took place without any permission and in violation of order u/s 144 CrPC. It has further been argued that PW-8/IO has named all the accused persons correctly and further the presence of at least accused No.2 stands established beyond doubt from the videos in DVD Ex. PW-6/A. It has further been argued that all the witnesses have also consistently deposed about the breaking of glasses of the window of the Government bus stationed at the spot and the criminal liability for the same can be imputed upon the accused persons with the help of Section 149 IPC. With these submissions, it is prayed that the accused persons be convicted for the offences charged.

22. On the other hand, Sh. Lakhmi Chand, Ld. Counsel for accused No.1, 2, 4, 8, 9 & 10 has argued that the prosecution has failed to prove the presence of accused persons at the spot on the date of alleged

incident as none of the prosecution witnesses have identified them. It has further been argued that no overt act has been attributed to any of the accused persons by the prosecution. Further, there is no evidence on record to show that the information regarding promulgation of order u/s 144 Cr.P.C. was duly conveyed to the accused persons in the absence of which *mens rea* on the part of accused persons cannot be established. It is further argued that this is a politically motivated case as the accused No.2 was a prominent leader at that time. Further, no placards have been seized by the IO which could have fortified the case of the prosecution. In addition to the said arguments, it has been argued by Sh. Parminder Singh Goindi, Ld. Counsel for accused No.5 & 7 that accused No.7 Harjeet Singh has been mistakenly arrayed as an accused in the present matter, probably on account of same name, as he has never been Vice GM, DSGMC. It has further been argued that accused No.5 deserves to be acquitted as some of the prosecution witnesses have deposed that no female protestor was present at the spot. In view of the above said lacunas and contradiction in the prosecution case, it is submitted that the accused persons deserve to be acquitted of all the offences charged upon them.

23. I have heard the final arguments at length. The entire record has also been perused.

Analysis of Evidence and Findings:-

24. The accused persons have been charged u/s 147/188 IPC and u/s 427 r/w Section 147/149 IPC for holding protest in violation of order u/s 144 Cr.P.C. and causing damage to a Government bus during the continuance of their unlawful assembly.

25. There is no denial of the fact that some protest indeed took place

on 02.05.2013 at around 11:30 AM at the alleged spot. All the prosecution witnesses have been consistent in their deposition with respect to the protest against Sonia Gandhi and Sajjan Kumar. The said portion of their testimony has not been challenged even during their cross-examination.

26. Before adverting to the fact whether the offences in question have been committed by the accused persons, the prime question to be determined by the Court is whether the accused persons were present at the spot on the alleged date and time or not as the defence that has been taken by all the accused persons is that they were not present at the protest site. This is so because the exercise of determining the question of the commission of the offences by the accused persons will be worthless if the prosecution fails in establishing their presence at the spot.

27. Perusal of testimony of the prosecution witnesses shows that none of them have been able to identify the accused persons as the persons present on the spot on the alleged date and time. The only eye witnesses in the present case are PW-1 Retd. ASI Suresh Kumar, PW-3 ASI Shree Ram & PW-6 SI Devender Singh. The remaining witnesses are either formal witnesses or had reached the spot after the alleged incident.

28. **PW-1** is the complainant in the present matter who stated that he does not remember whether the accused persons were present at the spot. PW-3 has stated during his examination-in-chief that he was not sure whether he will be able to identify the protesters who were present at the spot except one person namely Manjeet Singh who was a MLA from Rajouri Garden. However, on seeing the accused persons in the Court,

he failed to identify anyone of them. It is pertinent to note here that the naming of accused Manjeet Singh by the witness does not inspire confidence as the said accused has never been MLA from Rajouri Garden and has otherwise not been identified by the witness in the court. Though, Manjinder Singh Sirsa who is accused No.2 in the present matter is and has been MLA from Rajouri Garden, but he has also not been identified by the witness in the court. Hence, testimony of PW-3 with respect of identification of accused persons is of no help in proving the case of the prosecution. PW-6 is the person who made the video of the alleged incident. Though he proved DVD Ex.PW-6/A in his testimony, but he was unable to identify anyone in the videos despite having been shown the videos in the Court.

29. PW-8 Retd. SI Ghisa Ram, who is the investigating officer in the present matter, has correctly stated the name of all the accused persons but on being shown the accused persons in the Court, he failed to identify them. Merely naming the accused persons without any further particulars and physical identification is not sufficient to establish the identity of accused persons. Thus, testimony of none of the prosecution witnesses is helpful to establish the identity of the accused persons.

30. Apart from the above discussed ocular evidence, documentary and electronic evidence in the form of DVD Ex.PW-6/A and photographs Ex.PW-1/D (colly) are also on record from which the identity of the accused persons can be established. A perusal of photographs Ex.PW-1/D (colly) shows that the same are blurred. None of the prosecution witnesses has been able to identify anyone from the said photographs. Hence, the same also loses significance in establishing the identity of the accused persons.

31. With respect to DVD Ex.PW-6/A, the question of mode of proof on ground of lack of certificate u/s 65-B of Indian Evidence Act has been raised on behalf of accused persons. The same requires to be addressed first. Reliance has been placed upon judgment “**Arjun Pandit Rao Khotkar Vs. Kailash Kushan Rao Gorantyal and Ors. 2020 Supreme (SC) 446**”. It has been held in the said judgment that the certificate required u/s 65-B(4) Indian Evidence Act is a condition precedent to the admissibility of evidence by way of electronic record, as correctly held in *Anwar PV Vs. PK Bashir*. The said legal position is not disputed. However, the question regarding the stage at which the objection regarding admissibility is permissible has been discussed by Hon’ble Supreme Court in “**Sonu @ Amar vs State of Haryana (2017) 8 SCC 570**”. The following paragraphs being crucial are extracted herein-below:-

“30. In *R.V.E. Venkatachala Gounder [R.V.E. Venkatachala Gounder v. Arulmigu Viswesaraswami & V.P. Temple, (2003) 8 SCC 752]* , this Court held as follows: (SCC p. 764, para 20)

“20. ... Ordinarily, an objection to the admissibility of evidence should be taken when it is tendered and not subsequently. The objections as to admissibility of documents in evidence may be classified into two classes:

(i) an objection that the document which is sought to be proved is itself inadmissible in evidence; and (ii) where the objection does not dispute the admissibility of the document in evidence but is directed towards the mode of proof alleging the same to be irregular or insufficient. In the first case, merely because a document has been marked as “an exhibit”, an objection as to its admissibility is not excluded and is available to be raised even at a later stage or even in appeal or revision. In the latter case, the objection should be taken when the evidence is tendered and once the document has been admitted in evidence and marked as an exhibit, the objection that it should not have been admitted in evidence or that the mode adopted for proving the document is irregular cannot be allowed to be raised at any stage subsequent to the marking of the document as an exhibit.”

The later proposition is a rule of fair play. The crucial test is whether an objection, if taken at the appropriate point of time, would have enabled the party tendering the evidence to cure the defect and resort to such mode of proof as would be regular. The omission to object becomes fatal because by his failure the party entitled to object allows the party tendering the evidence to act on an assumption that the opposite party is not serious about the mode of proof. On the other hand, a prompt objection does not prejudice the party tendering the evidence, for two reasons: firstly, it enables the court to apply its mind and pronounce its decision on the question of admissibility then and there; and secondly, in the event of finding of the court on the mode of proof sought to be adopted going against the party tendering the evidence, the opportunity of seeking indulgence of the court for permitting a regular mode or method of proof and thereby removing the objection raised by the opposite party, is available to the party leading the evidence. Such practice and procedure is fair to both the parties. Out of the two types of objections, referred to hereinabove, in the latter case, failure to raise a prompt and timely objection amounts to waiver of the necessity for insisting on formal proof of a document, the document itself which is sought to be proved being admissible in evidence. In the first case, acquiescence would be no bar to raising the objection in superior court.”

32. It is nobody's case that DVD Ex.PW-6/A which is a form of electronic record is not inherently admissible in evidence. It is clear from the judgments referred to supra that an objection relating to the mode or method of proof has to be raised at the time of marking of the document as an exhibit and not later. In the present case, the videographer is the maker of the videos in question who has proved the same by stepping into the witness box as PW-6. His testimony has not been challenged on behalf of the accused persons as he has not been cross-examined despite opportunity. Further, perusal of testimony of PW-6 shows that no objection was taken on behalf of accused persons at the time of marking of DVD as Ex.PW-6/A and no question regarding the non-production of certificate u/s 65-B of Indian Evidence Act was put to the witness during his cross-examination. Thus, the accused persons cannot be permitted to

raise objection with respect to certificate u/s 65B of Indian Evidence Act at the stage of final arguments. In view thereof, this Court is of the considered opinion that the DVD Ex. PW-6/A is admissible in evidence.

33. The videos in DVD Ex. PW-6/A have been seen by the Court. In the video bearing file name M2U01598.MPG, accused No.2 could be seen standing on the barricades installed by the police personnel. In the videos bearing file names M2U01600.MPG, M2U01601.MPG, M2U01603.MPG and M2U01615.MPG, accused No.2 could be seen raising slogans. In videos having file names M2U01605.MPG to M2U01610.MPG, M2U01614.MPG, M2U01616.MPG and M2U01617.MPG, accused No.2 is again visible taking part in the protest. Though accused No.2 has stated in his statement u/s 313 Cr.P.C. that the said videos are morphed, false and fabricated but no such objection to the videos has been raised during evidence. No other accused person can be seen in any of the videos. **Accordingly, in the opinion of this Court, the prosecution has been able to establish the presence of accused No.2 only at the spot and thus, the remaining accused persons are exonerated from all the charges on account of failure of prosecution to establish their presence at the spot.**

34. The culpability of the accused No.2 for all the offences charged upon him is being discussed one by one hereinunder.

(I) Offence u/s 188 IPC :

35. In order to better appreciate the facts and evidence of this matter, it is appropriate at this stage to peruse Section 188 IPC, which is reproduced as under:-

"Section 188 - Disobedience to Order duly Promulgated by Public Servant -

Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both;

and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation.--It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration - An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section."

36. Violation of order passed u/s 144 Cr.P.C. is an offence punishable u/s 188 IPC. The ingredients of offence punishable u/s 188 IPC as can be culled out from its bare reading are as under :-

- (i) There must be an order promulgated by a public servant,
- (ii) The public servant must have been lawfully empowered to promulgate such order,
- (iii) A person must disobey such an order, and

(iv) Such disobedience must cause or tend to cause obstruction, annoyance, or injury, or risk of it, to any person lawfully employed, or danger to human life, health or safety.

Further, no prosecution can be instituted u/s 188 IPC without the personal complaint of the public servant concerned in view of section 195 Cr.P.C.

37. In the present case, the order in question which is alleged to have been violated by the accused no. 2 was issued by Sh. Bhoop Singh, the then ACP, Sub-Division, Chanakya Puri dated 20.04.2013. The order *interalia* prohibited holding of any public meeting, processions, demonstrations & *dharnas*; assembly of 5 or more persons; carrying of banners, placards; shouting of slogans etc. in the entire area of both police stations Chanakya Puri and Tughlak Road and was made effective for a period of 21 days from 21.04.2013 till 11.05.2013. It is alleged that by carrying the protest on 02.05.2013, the accused no. 2 violated the directions issued by the public servant in the above-mentioned order and hence, committed an offence u/s 188 IPC.

38. The criminal liability of the act of the accused no. 2 for holding protest is to be discerned while keeping in mind that holding protest is a fundamental right, a powerful tradition, and an indicator of a healthy democracy. Human beings are endowed by nature to think. A thought is an expression of the self. What one thinks forms an individual's identity and gives him existential freedom. While a 'thought' lies in the inner realm – *forum internum*; its manifestation belongs to the external realm - *forum externum*. Freedom of thought within is always free - without any exceptions - and bound only by self-restraint of what an individual considers objectively as right or wrong. But when it manifests outside in

the form of speech or expression, it is subject to certain exceptions imposed by law.

39. The right to protest is safeguarded by the right to freedom of speech and expression under Article 19(1)(a) of the Constitution and the right to assemble peacefully without arms under Article 19(1)(b). These rights are subject to reasonable restrictions under Articles 19(2) and (3) respectively, which permit limitations in the interest of public order and among other legitimate State objectives. Order dated 20.04.2013 passed by the concerned ACP u/s 144 Cr.P.C. was one such reasonable restriction and it is the violation of the said order which is the subject matter of the present case.

40. In order to attract the offence u/s 188 IPC, it is necessary that the accused must have “knowledge” of the Prohibitory Order. The order must be widely published and must also be personally communicated to the accused. The manner of publication or service of order is provided u/s 134 Cr.P.C. The said provision is reproduced hereinbelow:-

Section 134 – Service or Notification of Order

1. The order shall, if practicable, be served on the person against whom it is made, in the manner herein provided for service of a summons.

2. If such order cannot be so served, it shall be **notified by proclamation, published in such manner as the State Government may, by rules, direct, and a copy thereof shall be stuck up** at such place or places as may be fittest for conveying the information to such person.

41. Apart from the personal communication to the accused, the knowledge of such prohibitory order could be attributed to the accused

through general public awareness made by the police officers. At this juncture, it is pertinent to note that with regard to public announcements and display of order u/s 144 Cr.P.C., in judgment titled '**Ramlila Maidan Incident vs Home secretary & Ors.**', decided on 23.02.2012, the Hon'ble Supreme Court of India had held as follows:

"162. The Standing Order 309 contemplates that there should be display of banner indicating promulgation of Section 144 Cr.P.C., repeated use of Public Address system by a responsible officer-appealing/advising the leaders and demonstrators to remain peaceful and come forward for memorandum, their deputation etc. or court arrest peacefully and requires such announcement to be videographed. It further contemplates that if the crowd does not follow the appeal and turns violent, then the assembly should be declared as unlawful on the PA System and the same should be videographed. Warning on PA system prior to use of any kind of force is to be ensured and also videographed. I find that there is hardly any compliance to these terms of this Standing Order.

295. The right to peacefully and lawfully assemble together and to freely express oneself coupled with the right to know about such expression is guaranteed under Article 19 of the Constitution of India. Such a right is inherent and is also coupled with the right to freedom and liberty which have been conferred under Article 21 of the Constitution of India."

42. The relevant portion of **Standing Order No. 309** issued by the **DCP (Headquarters) dated 31.01.2003 : Regulation of Processions and Rules**, which prescribes the mode of service of the order passed under Section 144 Cr.P.C is reproduced as under :-

"XXXX

Arrangement at the place of demonstration should include the following :

(i) Display of banner indicating promulgation of Section 144 Cr.P.C.

(ii) At least 2 video graphers be available one either side of the demonstration to capture both demonstrators as well as police response/action.

- (iii) Loud hailers should be available.
- (iv) Repeated use of PA system by a responsible officer-appealing/advising the leaders and demonstrators to remain peaceful and come forward for memorandum/deputation etc or court arrest peacefully. Announcements should be videographed.
- (v) If they do not follow appeal and turn violent declare the assembly unlawfully on PA system and videograph.
- (vi) Warning of PA System prior to use of any kind of force must be ensured and also videographed.
- (vii) Announcement for injured to take them to hospital for medical aid use of stretchers to carry the injured up to the vehicle/ambulance etc and videographed.
- (viii) In case of arrest/detention of MPs, MLAs, information to be given to concerned department, Speaker, Lok Sabha Chairman, Rajya Sabha, Speaker Assembly by quickest means both in writing and on wireless.
- (ix) Special attention be paid while dealing with women's demonstrations only women police to take them.
- (x) During registration of case evidence regarding use of stone, lathis, dandas etc to be videographed and taken into possession from the site."

43. In the present case, as per the story of the prosecution, it is ASI Suresh Kumar (complainant) who warned the crowd against the continuance of the protest in view of the promulgation of order u/s 144 Cr.P.C. However, during his evidence in the Court, nothing as such has been deposed by him in his examination-in-chief. Rather, during his cross-examination, he stated that he does not remember whether he informed anyone about the enforcement of Section 144 Cr.P.C. in the area of incident. He further admitted that no sign board showing enforcement of Section 144 Cr.P.C. was installed at the spot of the incident. The same admission has also been made by PW-3 ASI Shree Ram who was also present on the spot along with PW-1/Complainant. Though PW-3 has stated in his testimony that the crowd was informed

regarding the imposition of Section 144 Cr.P.C. by ASI Suresh Kumar but the said fact has been clearly denied by ASI Suresh Kumar in his testimony.

44. There is nothing else on record to show as how the Order was communicated to the public at large or the crowd that had gathered at the spot. No evidence has been brought on record to show that the copies of order passed u/s 144CrPC were pasted at prominent places. Even though all the above modes *i.e.* announcement through loud-hailers; use of PA system; display of banners etc. for communication of the Prohibitory Order had to be cumulatively followed in terms of Section 134 Cr.P.C. and Standing Order No. 309, there is no evidence to show that even one of such modes were used for disseminating information about the Order. Rather, PW-1 and PW-3 have clearly deposed that no sign board showing the imposition of Section 144 Cr.PC was installed at the spot.

45. The use of any other prescribed mode of publication has not even been claimed by the prosecution. There is no reference of use of any such modes in the entire chargesheet let alone any iota of evidence being produced in support thereof. Thus, it can safely be held that the order u/s 144 Cr.P.C. has not been published as per the mandate of the law.

46. Apart from failure of the prosecution to establish the publication of order u/s 144 Cr.P.C. without which the *mens rea* on the part of accused persons cannot be proved, it has also failed to prove that the disobedience led to consequences as mentioned in Section 188 IPC. For proving offence u/s 188 IPC, it is not sufficient that an Order u/s 144 Cr.P.C. is promulgated by the concerned authority and there is a disobedience of such order. What is imperative is that the accused must also have the knowledge of the order promulgated by the public servant

and the disobedience must lead to consequences mentioned in section 188 IPC. It is mandatory and a per-requisite, failing which the provisions of Section 188 IPC cannot be attracted.

47. This issue, probably for the first time in independent India, was raised before the High Court of Calcutta in **The King v. Darbarilal Shaw AIR 1949 Cal 677**. The Court, while setting aside a conviction under Section 188 IPC for violation of an order passed by a Magistrate under Section 144 of the Code of Criminal Procedure (Cr.P.C.), was pleased to hold that mere disobedience of an order passed under Section 144 Cr.P.C. would not be punishable under Section 188 IPC. The disobedience of the order must cause or tend to cause restriction, injury or annoyance to a person “lawfully employed” and while emphasizing on the said words, the Court further observed :—

“I stress the phrase “any persons lawfully employed”. No one has come forward to say that the disobedience has had the effect of causing or tending to cause obstruction, injury or annoyance to a person lawfully employed. Here the construction of the building would not cause any annoyance to the officers, as their rights were not infringed at all.”

48. The annoyance has to be proved as a fact, mere mental annoyance of the authorities concerned is not enough (reliance is placed upon judgment **DN Ramaiah Vs. DR Aswathanranyanshetty & Ors. 1972 Cr.LJ 1158 Mysore**). The object of section 188 IPC is not to give the local authorities, the power of arbitrarily making anything an offence. For unless, the court before which the person, who disobeys the order is tried shall be of opinion that he has done something tending to endanger the public tranquility, health, safety or convenience, he will not be liable to punishment.

49. In the present case, perusal of the statement of prosecution witnesses shows that it has nowhere been averred that any obstruction, annoyance or injury or danger to human life, health or safety was likely to take place because of the acts of the accused. No statement of any independent public witness has been recorded to show if any danger to life, health or safety was posed due to alleged acts of the accused.

50. In view of the above discussion, this Court is of the considered opinion that the prosecution has failed to prove the commission of offence punishable u/ 188 IPC beyond reasonable doubt.

(II) Offence U/S 147 IPC

51. Section 147 IPC prescribes punishment for the offence of rioting which is defined u/s 146 IPC. Section 146 IPC is reproduced as under:-

“Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.”

52. Thus, existence of unlawful assembly is a precondition for the commission of offence of rioting. Before proceeding further, it would be apt to note the definition of Unlawful Assembly as defined u/s 141 IPC:-

'Unlawful Assembly - An assembly of five or more persons is designated an “unlawful assembly”, if the common object of the persons composing that assembly is -

(i) to overawe by criminal force, or show of criminal force, the Central or any State Government or Parliament or the Legislature of any State, or any public servant in the exercise of the lawful power of such public servant; or

(ii) to resist the execution of any law, or of any legal process; or

(iii) to commit any mischief or criminal trespass, or other offence;
or

(iv) by means of criminal force, or show of criminal force, to any person to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

(v) by means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.'

53. Only when the assembly fits into any of the above circumstances, it would be construed as unlawful. The crucial question to determine is whether the assembly consisted of five or more persons and whether the said persons entertained one or more of the common objects, as specified in Section 141 IPC.

54. Though the prosecution has been able to prove that more than 5 people had gathered at the spot for holding protest of which accused no. 2 was also a part but it has already been discussed above that there is nothing on record to show that the accused persons were made aware of promulgation of order u/s 144 Cr.P.C. In the absence of the knowledge of the said order, the gathering of the accused persons cannot be termed as unlawful assembly as no common object to resist the execution of the said order can be stated to have been formed. So, it can safely be held that the prosecution has neither been able to prove that the gathering of the accused persons was an unlawful assembly nor the fact that they were commanded to disperse in view of promulgation of order u/s 144 Cr.P.C. In view thereof, even if it is presumed for the sake of arguments that force or violence was used by the protesters, then also no offence u/s 147 IPC can be said to have been committed. **Hence, accused no. 2 is acquitted u/s 147 IPC.**

(III) Offence U/S 427 IPC r/w Section 147/149 IPC

55. The accused persons have also been charged u/s 427 IPC r/w Section 147/149 IPC on the ground that damage was caused to the government vehicle and barricades in prosecution of the common object of unlawful assembly.

56. The said charge is bound to fail for two reasons. Firstly, as already discussed above, the gathering of the protesters and accused No.2 cannot be termed as unlawful assembly and hence, liability for the acts of any other person cannot be imputed upon accused No.2 with the help of Section 149 IPC. Secondly, the prosecution has nowhere clearly averred that the window panes of the government bus were broken by any of the protesters or by accused No.2. Rather it has been stated by PW-1 that the window panes of the bus were broken because of the rush of the crowd. Further, in his cross-examination, he has clearly stated that he had not seen any specific persons breaking the window panes of the bus. The other eye witness i.e. PW-3 has also stated that he did not see any person breaking the windows of the bus. Even in the seizure memo Ex.PW-1/B vide which the broken pieces of glasses were seized, it has been stated that the glass was broken due to the rush of the crowd. Thus, criminal liability for causing damage to the government bus in question cannot be imputed upon accused No.2.

57. In view of the above discussion, this Court is of the opinion that prosecution has failed to prove the charge u/s 427 IPC r/w Section 147/149 IPC against the accused no. 2.

Conclusion:

58. Accordingly, this court hereby accords the benefit of doubt to the accused persons for the offences u/s 147/188 IPC and Section 427 r/w 147/149 IPC and hold the accused persons not guilty of commission of said offences. Accused persons namely Mr. Manjeet Singh GK, Head Shiromani Akali Dal Badal, Delhi Shiromani Gurudwara Management Committee, Manjinder Singh Sirsa, (General Secretary, DSGMC), Mr. Onkar Singh Thapar, (Member), DSGMC, Mr. Kuldeep Singh Bhogal, Smt. Mandeep Kaur Bakshi, Shri Avtar Singh Hit (Member), Shri Harjeet Singh, (Vice GM DSGMC), Sh. Harmeet Singh Kalka, (Joint Secretary), Tejinder Pal Singh Goldi (Member) and Smt. Baljeet Kaur Khalsa are **hereby acquitted of the offences u/s 147/188 IPC and Section 427 r/w 147/149 IPC.**

File be consigned to record room after due compliance.

Announced in the open Court.

**(NEHA MITTAL)
ACJM-03/RADC
NEW DELHI/23.09.2025**