

***IN THE COURT OF VIRENDER BHAT: ADDL. SESSIONS JUDGE-03:  
(NORTH-EAST): KARKARDOOMA DISTRICT COURTS: DELHI***

**Sessions Case No.95/2021**

**FIR No.141/2020**

**U/s 147/148/149/436/457/392/452/188/153A/427/506 IPC**

**PS Gokalpuri**

**State**

**Versus**

**Dinesh Yadav @ Michael  
s/o Sh.Jagannath Yadav  
r/o E-22/3, E block,  
Bhagirathi Vihar,  
Delhi.**

**ORDER ON SENTENCE**

1. Vide judgment dt.06.12.2021, the convict Dinesh Yadav @ Michael has been found guilty for the offences punishable u/s 143/147/148/457/392/436 IPC r/w section 149 IPC.
2. Arguments heard on the point of sentence.
- 3 Ld.Special PP submitted that the unlawful assembly of which the convict was a member, had been formed in pursuance to a conspiracy, the object of which was to create disturbances on large scale in order to defame India on the worst stage. He pointed out that in the violence that had erupted in pursuance to the said conspiracy, mass damage was caused to the public as well as private properties and numerous lives were lost. He would also argue that convict was

involved in several such incidents of violence and is facing prosecution in a number of such cases. According to the Ld.Special PP, the convict is liable to exemplary sentence. He urges this court to impose maximum possible punishment upon the convict.

4. Ld.Counsel for the convict urges for leniency towards him. She pointed out that the convict is a first time offender with no past criminal record. She also pointed out that the convict has been in custody since June, 2020 i.e. for more than 1  $\frac{1}{2}$  years and he has learnt enough lesson from incarceration in Jail. She would submit that father of the convict had expired just after 15 days of his arrest which also has created reformatory impact upon the mind of the convict. It is also pointed out by the Ld.Counsel that the convict was not found directly involved in any incident of violence but has been found guilty only with the aid of section 149 IPC being a member of unlawful assembly which fact also is a mitigating factor in favour of the convict. According to the Ld.Counsel, the convict has already taken the reformatory path and no useful purpose would be served by imposing any heavy sentence upon him.

5. It may be noted here that in terms of the judgment of the Hon'ble High Court of Delhi in Criminal Appeal no.352/20 titled as '*Karan Vs State NCT of Delhi*', the prosecution as well as the convict were directed to file requisite affidavits. In the affidavit filed by the convict, it has been stated by him that he is unemployed, without any source of income and his family owns a residential property in Bhagirathi Vihar, Delhi valued at Rs.1 lac, which also is in the name of convict's deceased father. The convict does not own any movable or immovable property in his own name.

6. In the affidavit filed by the Ld.Special PP, it has been stated that the prosecution has incurred a total expenditure of Rs.83,000/- in prosecuting this

case against the convict.

7. The affidavits filed by the convict as well as the prosecution were sent to Delhi Legal Services Authority, East District, KKD Courts for making requisite enquiry and for submitting a report accordingly. The Victim Impact Report dt.10.01.2022 has duly been submitted by the said Authority in which it is stated that the convict does not have any paying capacity at all. It has further been stated that though the victim Manori Devi had purportedly suffered a loss of Rs.4.50 lacs to Rs.5 lacs due to riotous incident in question yet she did not produce any document to substantiate her claim. The report also mentions that the victim has already received a sum of Rs.50,000/- as compensation from Govt.of NCT of Delhi.

8. It can not be gainsaid that the offence committed by the convict was a very serious one. However, no evidence had been led by the prosecution to prove that the unlawful assembly of which the convict was a member, had been formed in pursuance to some conspiracy. Admittedly, the convict is a first time offender and has clean past antecedents. It is also to be kept in mind that the convict has been held guilty only by virtue of section 149 IPC and there was no evidence that he had directly committed the incident of violence in which the house of victim Manori Devi had been vandalized and burnt. The young age of the convict also deserves to be kept in consideration while deciding the quantum of sentence to be imposed upon him.

9. Having regard to all the abovenoted facts and circumstances of the case, the convict is hereby sentenced as under:-

(i) To RI (Rigorous Imprisonment) for a period of 6 months alongwith a fine of Rs.1000/- for the offence punishable u/s 143/149 IPC. The convict shall undergo further SI (Simple Imprisonment) for a period of 15 days in case of

default in payment of fine.

(ii) To RI (Rigorous Imprisonment) for a period of 1 year alongwith a fine of Rs.1000/- for the offence punishable u/s 147/149 IPC. The convict shall undergo further SI (Simple Imprisonment) for a period of 15 days in case of default in payment of fine.

(iii) To RI (Rigorous Imprisonment) for a period of 1 year alongwith a fine of Rs.1000/- for the offence punishable u/s 148/149 IPC. The convict shall undergo further SI (Simple Imprisonment) for a period of 15 days in case of default in payment of fine.

(iv) To RI (Rigorous Imprisonment) for a period of 3 years alongwith a fine of Rs.2000/- for the offence punishable u/s 392/149 IPC. The convict shall undergo further SI (Simple Imprisonment) for a period of 1 month in case of default in payment of fine.

(v) To RI (Rigorous Imprisonment) for a period of 2 years alongwith a fine of Rs.2000/- for the offence punishable u/s 457/149 IPC. The convict shall undergo further SI (Simple Imprisonment) for a period of 1 month in case of default in payment of fine.

(vi) To RI (Rigorous Imprisonment) for a period of 5 years alongwith a fine of Rs.5000/- for the offence punishable u/s 436/149 IPC. The convict shall undergo further SI (Simple Imprisonment) for a period of 3 months in case of default in payment of fine.

10. All the aforesaid sentences shall run concurrently. The convict shall also be entitled to benefit u/s 428 Cr.PC.

11. Keeping in view the fact that the convict is unemployed, does not own any movable or immovable property in his own name and has no paying capacity as disclosed in the Victim Impact Report submitted by the Delhi Legal Services Authority, East District, KKD Courts, Delhi and also taking into account the fact that the victim has already received some compensation the Govt.of NCT of

Delhi for the loss suffered by her, it is hereby directed that the fine imposed upon the convict hereinabove shall be paid to her as additional compensation. It will be totally unjustified to direct the convict to pay any further compensation to her. For the same reasons, the convict can not be directed to compensate the prosecution for the expenses incurred by it on prosecuting the instant case.

12. A copy of the judgment dt.06.12.2021 alongwith a copy of this order be provided free of cost to the convict.

**Announced through VC on  
20.01.2022**

**VIRENDER  
BHAT**

Digitally signed by  
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Courts, Delhi  
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**(VIRENDER BHAT)  
ASJ-03(NE)/KKD COURTS/DELHI**