

SC no.331/21

State vs Ankit Chaudhary @ Fauzi & ors.

FIR no.41/20

PS Gokalpuri

26.09.2022 (At 12.50 p.m.)

Present: **Sh.D.K.Bhatia**, Id.Special PP for State alongwith IO ASI Gajraj Singh.

Accused Ankit Chaudhary @ Fauzi and Sumit Badshah, have been produced from J/C.

Accused Rahul has been produced from J/C, but on bail in this case.

Accused Ashish, Sourabh, Bhupender, Shakti Singh, Pappu, Vijay, Sachin and Yogesh in person, on bail.

**Sh.Rakshpal Singh**, Id. counsel for accused Sumit, Shakti Singh and Yogesh.

**Sh.Kamlesh Verma**, Id. counsel for accused Vijay, Pappu and Rahul.

**Sh.Anil Kumar**, Id. counsel for accused Saurabh Kaushik.

**Sh.Vimal Kumar Singh**, Id.counsel for accused Ashish.

**Sh.Jitender Bakshi**, Id. counsel for accused Ankit Chaudhary.

**Sh.Jagdeep Sharma**, Id. counsel for accused Sachin Kumar.

**Sh.Ashok Kumar Tiwari**, Id. counsel for accused Bhupender.

During cross examination of Sh.L.N.Sharma in case FIR no.114/20, it was realized that CD allegedly containing video clips of riots, which were used by I.Os during investigation, particularly for identification of accused persons, was not found placed on the record, and accordingly, case file of other FIRs bearing nos. 58/20, 126/20 and present case were also checked, and I.Os were asked to point out the CD. It was found that CD, without being in sealed condition, is placed on record, as pointed out by IOs.

For any video clip, or audio clip, the prosecution is duty bound to get such piece of evidence examined by forensic expert, in order to test its veracity, and the fact, if such piece of evidence is edited/tampered in any manner. After examination of such CD by the FSL expert, CD is sent back in sealed condition by FSL, and it has to be produced before the court in the same sealed condition. However, it

is realized that in a case, where video CDs were sent to FSL, the CDs were not produced before the court in sealed condition, and in some cases, the video CD was not even sent to FSL.

In FIR no.41/20, video CD was sent to FSL, but on record, the CD in unsealed condition has been placed. In FIR nos.58/20 and 126/20, the CDs were not sent to FSL at all, taking plea that they are copy of the CD sent to FSL in FIR no.41/20. However, integrity of evidence in each case has to be got checked and ensured by the prosecution, and, therefore, aforesaid plea can not be sustained. Such CD should have been got prepared from FSL, out of one source CD, and each of such CD, if placed in different case file, should have been in sealed condition from FSL. Otherwise, if copies were prepared by I.Os themselves, then each such copy was to be sent to FSL, to check their integrity.

In these circumstances, in the interest of the case, it has become incumbent upon me to refer this situation to Id.DCP, North East, and Id.DCP/Crime for taking all necessary steps in all such cases, in expeditious manner, and to ensure that such evidence is produced before the court, without any compromise to their integrity, and after due examination from FSL.

PW HC Jahangir is present, but he is discharged unexamined.

Copy of this order be sent to Id.DCP, North East and Id.DCP/Crime for compliance.

Put up for compliance report on 15.11.2022.

**(PULASTYA PRAMACHALA)**  
ASJ-03(NE)/KKD Courts/Delhi  
26.09.2022

