

**IN THE COURT OF SH. PULASTYA PRAMACHALA
ADDITIONAL SESSIONS JUDGE-03,
NORTH-EAST DISTRICT
KARKARDOOMA COURTS: DELHI**

DLNE010033792021



**CNR No. DLNE01-0003379-2021
Sessions Case No. 343/21
FIR No. 135/20
PS Dayalpur
U/s 147/148/149427/435/436/120B IPC**

**In the matter of: -
STATE**

Versus

- 1. Shamim Ahmad**
s/o Abdul Khalid
r/o H.No. 82, Street No.8,
A block, near Dilshad Masjid,
Old Mustafabad, Delhi.
- 2. Mohd. Kafil @ Kapil**
s/o Sh. Nasruddin
r/o H.No D-281, D block,
gali no.8, Brijpuri, Delhi.
- 3. Faizan @ Aayan (PO)**
s/o Mehraj r/o H.No. 1/659,
gali no.12, E block, Idgah wali gali,
Old Mustafabad, Delhi.

24.01.2023

ORDER ON THE POINT OF CHARGE

Vide this order, I shall decide the charges against accused

Shamim Ahmed and Mohd. Kafil @ Kapil. Accused Faizan @ Aayan is PO in this case.

1. Brief facts of the case are that, on 25.02.2020, a call was received in PS Dayalpur vide DD no.160A in respect of arson at Arun Modern Public Senior Secondary School, D-1, main Brijpuri road, Delhi. Being assigned this DD, ASI Vijyant reached aforesaid school and found that the school was vandalized and set on fire by the rioters. He also found that other vehicles were also set on fire. However, due to police staff being busy in maintaining law and order, further action could not be taken on this DD entry. Subsequently, a written complaint was made by Principal of this school namely, Ms. Jyoti Rani on 26.02.2020. In her complaint, she alleged that on 25.02.2020 at about 4 p.m., around 150-200 persons forcibly entered into the school. They vandalized various articles of the school as well as various vehicles parked inside the school campus. They set the vehicles on fire apart from various other articles viz. Generator, almirahs, numerous documents. Computer systems, items of chemistry lab, furniture etc. This mob also burnt the computer lab completely. They also burnt the school library. The school suffered a loss of Rs.1-1.25 crores due to such incident.
2. After registration of the case, during investigation various other complaints were received in respect of damage to the vehicles parked in and around this school. Sh. Yogender Singh complained about burning of his Maruti Vitara Brezza no. DL 5C N 4142; Sunil Kumar complained of burning Honda Activa Scooty no. DL 5S CG 8716 and Sh. Gayyur Ali complained of

burning Honda Amaze Car no. DL 2C AT 3032 as well as NIOS centre. These vehicles and centre were inside the campus of aforesaid school or parked around it, which were burnt by the mob. Ct. Piyush was one of the constables on duty on aforesaid place, who was examined and he stated that he had identified 3 persons in the mob, which vandalized this school. Those persons were accused Kafil @ Kapil, Mohd. Faizan and Shamim Ahmad. Subsequently, 3 accused persons were arrested at the instance of Ct. Piyush. IO examined some more witnesses, who also claimed having seen the accused persons in the mob, which vandalized aforesaid school.

3. After completion of investigation, first chargesheet was filed in the court on 13.06.2020 and vide order dt. 03.12.2020, ld. CMM, NE took cognizance of offences of section 147/148/149/427/435/436/120B IPC. Subsequently, vide order dt. 22.09.2022, the case was committed to the court of sessions. Later on, IO also filed 2 supplementary chargesheets alongwith complaint u/s 195 Cr.PC, Order u/s 144 Cr.PC as well as other documents and statements.
4. Ld. defence counsel challenged the case of the prosecution. He submitted that police officials and other witnesses are planted witnesses and there is variation in the complaint made in this case and the FIR registered by the police.
5. Per contra, ld. Special PP submitted that there is no variation in the FIR and the complaint. He further submitted that question of planting any witness can not be looked into at this stage and there

is sufficient material to frame the charges for alleged offences.

6. I am in agreement with Id. SPP that question of planting of witnesses can not be looked into at this stage. I also do not find any difference in the complaint and FIR registered in this case. The plea was also taken that FIR was registered belatedly. However, IO has given reason for the same in the chargesheet and credibility of such reason shall be appreciated at the final stage. At present, on the basis of statement of witnesses like Ct. Piyush, Vishamber Nath, Neeraj Sharma and others read with photographs and other documents, I find that sufficient material is there to show that all the 3 accused persons and other unknown members of the mob comprising of more than 5 persons formed an unlawful assembly with a common object. In pursuance to their common object, they attacked and forcibly entered into Arun Modern Public Senior Secondary School with common object to cause maximum damage. It is also apparent that this school was chosen, because it belonged to Hindu and the common object of aforesaid mob was to cause damage to the properties of Hindu. The mob was equipped with different weapons. Thus, this mob committed riot. They burnt the computer lab and library of this school apart from above mentioned vehicles and other articles of the school. They also damaged other properties of the school having value more than Rs. 50/-. It is also apparent that this mob violated the order passed u/s 144 Cr.PC, in respect of which a complaint u/s 195 Cr.PC has been made by DCP, NE. Since the allegations of conspiracy are based on presumption, rather than any concrete

evidence, I do not find it sufficient to presume that the accused persons acted out of pre-hatched conspiracy.

7. Thus, on the basis of above-mentioned discussion, I find that accused persons namely Shamim Ahmed and Mohd. Kafil @ Kapil are liable to be tried for offence u/s 147/148/427/435/436 IPC read with Section 149 IPC and Section 188 IPC.

Ordered accordingly.

Announced in the open court
today on 24.01.2023

(PULASTYA PRAMACHALA)
ASJ-03(North East)
Karkardooma Courts/Delhi