



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

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CNR No. DLNE01-000610-2021
State v. Sandeep Kumar
SC No.78/21, FIR No. 66/20, PS Karawal Nagar
Judgment dated 31.10.2023

Sessions Case No.	:	78/2021
Under Section	:	147/148/149/427/436/380/454/506/188 IPC
Police Station	:	Karawal Nagar
FIR No.	:	66/2020
CNR No.	:	DLNE01-000610-2021

In the matter of: -

STATE

V E R S U S

SH. SANDEEP KUMAR

S/o. Sh. Ramesh Chand,
R/o. H.No. 230, Gali No.11, Phase-9,
Shiv Vihar, Karawal Nagar, Delhi.

...Accused

Case registered on : SH. SHOKIN

the complaint of S/o. Sh. Mange Ram,
R/o. H.No.A-71, Phase-10, Gali No.7,
25 Foota Road, Shiv Vihar, Karawal
Nagar, Delhi.

Complainants of : Mohd. Yamin, Shakil Saifi, Asif Khan,
clubbed complaints Sajid, Mohd. Anees, Aisha Parvin,
Toshif Ahmad, Jakir Hussain, Bablu,
Iyashin, Jubair Ahmad, Shahid Ali,
Mohd. Maihrajuddin, Mohd. Amil,
Abdul Aziz Khan, Mohd. Ikramuddin,
Mohd. Naushad, Shabaaz Khan and
Salim.

Date of Institution : 16.07.2020
Date of reserving judgment : 18.10.2023
Date of pronouncement : 31.10.2023
Decision : Acquitted.

(Section 437-A Cr.P.C. complied with by accused)

J U D G M E N T

THE CASE SET UP BY THE PROSECUTION: -

1. The above-named accused has been charge-sheeted by the police for having committed offences punishable under Section 147/148/149/427/436/380/454/506/188 IPC.
2. Brief facts of the present case are that on 28.02.2020, FIR was registered at PS Karawal Nagar, pursuant to receipt of a written complaint from one Shokin, S/o. Sh. Mange Ram, R/o. H.No. A-71, Phase-10, 25 Foota Road, Shiv Vihar, Karawal Nagar, Delhi. In his complaint, Shokin alleged that on 25.02.2020 at around 9 o'clock a large crowd attacked upon his aforesaid house and they vandalised and set on fire his shop and aforesaid house. It was further alleged that several articles and jewelries were taken away in that incident. It was further alleged by Shokin that somehow he and his family members managed to save their lives. It was further alleged that prior to this incident, in the morning of preceding Monday he was given threat by some boys. It was further alleged by him that if shown, he would identify them. HC Purshottam was assigned investigation of the present case.
3. During investigation, IO/SI Purshottam prepared site plan at the instance of complainant Shokin. Thereafter on 08.03.2020, further investigation of the present case was assigned to SI Mandeep Kukana.
4. During further investigation, on the grounds of proximity of place of incidents and area, IO/SI Mandeep Kukana clubbed 19 other complaints in the present case, as made by complainants namely Mohd. Yamin, Shakil Saifi, Asif Khan, Sajid, Mohd. Anees, Aisha Parvin, Toshif Ahmad, Jakir Hussain, Bablu,

Iyashin, Jubair Ahmad, Shahid Ali, Mohd. Maihrajuddin, Mohd. Amil, Abdul Aziz Khan, Mohd. Ikramuddin, Mohd. Naushad, Shabaaz Khan and Salim.

5. During further investigation on 10.03.2020, IO recorded supplementary statement of complainant Shokin. IO had arrested accused Sandeep in FIR No.82/20, PS Karawal Nagar. On 17.04.2020, IO interrogated and formally arrested accused Sandeep in the present case, on the basis of his confessional statement. On 18.04.2020, complainant Shokin came to PS Karawal Nagar to make inquiry into his matter. Shokin identified accused Sandeep as the person who was member of aforesaid mob, which indulged into the incident at his premises. Shokin also stated that Sandeep was also the member of aforesaid crowd, which gave threat to him to leave the area, otherwise he along with his family would be burnt alive. IO recorded subsequent statement of Shokin to this effect.
6. During further investigation, IO also recorded statement of complainants namely Shakil Saifi, Sajid, Mohd. Yamin, Mohd. Anees, Asif Khan, Aisha Parvin and Toshif Ahmad, who alleged about incidents of loot, damage and loss suffered by them. On the basis of their statements, IO added Sections 380 and 454 IPC in the present case. Thereafter on 22.06.2020, further investigation of the present case was assigned to IO/SI Ankit Kumar.
7. During further investigation, IO/SI Ankit Kumar recorded statements of other complainants namely Abdul Aziz Khan, Muhammad Amil, Muhammad Ikramuddin and Jakir Hussain, who also alleged about incidents of loot, damage and loss

suffered by them. IO also seized the photographs related to damage and loot as well as ownership documents, as produced by the complainants. IO also added Section 188 IPC in the present case, for violation of proclamation of prohibitory order u/s. 144 Cr.P.C., which was already pronounced in the area prior to the incident. IO also added Section 506 IPC in the present case as per complaint and supplementary statement of complainant. Thereafter, due to pandemic of Covid-19, statements of remaining complainants were left to be recorded.

8. After completion of investigation, on 16.07.2020 a chargesheet was filed by IO/SI Ankit Kumar before Duty MM (North-East), Delhi, against accused Sandeep Kumar for offences punishable under Section 147/148/149/427/436/380/454/506/188 IPC. On 11.12.2020, ld. CMM (N/E) took cognizance of offences punishable under Section 147/148/149/427/436/454/506-II IPC. Vide this order, ld. CMM (N/E) declined to take cognizance of offence under Section 188 IPC for want of complaint under Section 195 Cr.P.C. Thereafter, the case was committed to the court of sessions vide order dated 21.01.2021.
9. On 28.02.2022, first supplementary chargesheet along with complaint under Section 195 Cr.P.C and certain documents, was filed by IO before ld. CMM (N/E). Ld. CMM (N/E) sent this supplementary chargesheet to the court of sessions vide order dated 21.04.2022. As per this supplementary chargesheet, no clue was found in respect of remaining 8 complaints.

CHARGES: -

10. On 05.08.2021, charges were framed against accused Sandeep

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Kumar for offences punishable under Section 147/148/427/436/380/506/454 IPC read with Section 149 IPC, to which he pleaded not guilty and claimed trial. The charges were framed in following terms: -

“That on 25.02.2020 at about 9 pm at Phase- 10, Gali No. 7, 25 Foota Road, Shiv Vihar, Karawal Nagar within the jurisdiction of PS Karawal Nagar, you being a member of unlawful assembly alongwith your other associates (unidentified), formed with the common object of resorting to force or violence and in prosecution of the common object of such assembly committed rioting and you knew, being a members of the aforesaid unlawful assembly, that offences were likely to be committed in prosecution of that common object and thereby you all alongwith your other associates (unidentified) committed offences punishable under Section(s) 147/148 IPC read with Section 149 IPC and within my cognizance.

Secondly, *on the aforesaid date, time and place, you being a member of unlawful assembly alongwith your other associates (unidentified) committed mischief by causing wrongful loss and damage in the aforesaid properties and as such, committed offence punishable under Section 427 IPC read with Section 149 IPC within my cognizance.*

Thirdly, *on the aforesaid date, time and place, you being a member of unlawful assembly alongwith your other associates (unidentified) committed mischief by fire or explosive substance by setting ablaze the House/Properties of the complainants with the intent to destroy the same and as such, committed offence punishable under Section 436 IPC read with Section 149 IPC within my cognizance.*

Fourthly, *on the aforesaid date, time and place, you being a member of unlawful assembly alongwith your other associates (unidentified) committed theft in the properties of Shokeen, Shakil Saifi, Sajid, Md. Yameen, Md. Anis, Asif Khan, Aisha Pravin, Tausif Ahmed, Abdul Aziz Khan, Md. Amil, Md. Ikramuddin and Jakir Hussain and as such, committed offence punishable under Section 380 IPC read with Section 149 IPC within my cognizance.*

Fifthly, *on the aforesaid date, time and place, you being a member of unlawful assembly alongwith your other associates (unidentified) committed criminal intimidation by issuing threats to complainants and as such, committed offence punishable under Section 506 IPC read with Section 149 IPC within my cognizance.*

Sixthly, *on the aforesaid date, time and place, you being a member of unlawful assembly alongwith your other associates (unidentified) committed house trespass, house breaking at night*

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and as such, committed offence punishable under Section 454 IPC read with Section 149 IPC within my cognizance.”

11. Thereafter on 23.08.2022, additional charge was framed against aforesaid accused for offence punishable under Section 188 IPC, to which also he pleaded not guilty and claimed trial. The additional charge was framed in following terms: -

“That on 25.02.2020 at about 09:00 PM, at Phase-10, Gali No.7, 25 Foota Road, Shiv Vihar, Karawal Nagar within the jurisdiction of PS Karawal Nagar, you accused being member of an unlawful assembly alongwith your other associates (unidentified) were present at aforesaid place, in prosecution of the common object of such unlawful assembly and in violation of the proclamation issued u/s 144 Cr.P.C. by the competent authority/DCP, North East vide order dated 24.02.2020 bearing no.10094-170 X-1, North East, Delhi dt.24.02.2020, which was duly announced in all the localities of District North East and, thereby you committed offence punishable under Section 188 IPC and within my cognizance.”

DESCRIPTION OF PROSECUTION EVIDENCE: -

12. Prosecution examined 11 witnesses in support of its case, as per following descriptions: -

Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
PW1/Sh. Sajid	On 22.02.2020 when he alongwith his parents, brother and sister, was present at his house bearing H.No. A-640, Gali No. 22/24, Shiv Vihar, Karawal Nagar, Delhi-110094, they heard some commotion from outside. They saw that a large mob was present outside the house and the members of the mob were armed with wooden rods, stones etc. Some of them had worn Helmets. PW1 got terrified and closed the door of his house from inside. After some time, PW1 made a call to the police. Police officials came and rescued	Ex.PW1/A (complaint of PW1)

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Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
	<p>them. They remained in a Government camp at Eidgah for about 15 days. Thereafter, when they returned the house, they saw that its doors had been broken open and all the goods had been stolen.</p> <p>PW1 filed a complaint regarding above incident in the police station, bearing his signature at point A.</p>	
PW2/Sh. Yamin	<p>On 25.02.2020 he alongwith his wife and children, was present at his house bearing H. No. A-341, Gali No. 22/24, Phase-10, Shiv Vihar, Karawal Nagar, Delhi. At about 7 PM, they heard some commotion from outside but they did not go outside and remained confined in the house. At about 8:30 PM, BSF came to their house and rescued them. They returned to the house after about seven days and found that its doors had been broken open and all the goods had been stolen.</p> <p>PW2 filed two complaints regarding above incident in the police station, both bearing his signature at point A.</p>	Ex.PW2/A & Ex.PW2/B (two complaints of PW2)
PW3/Sh. Shakil Saifi	<p>On 25.02.2020 when he alongwith his wife and children, was present at his house bearing H. No. A-635, Gali No. 22/24, Phase-10, Shiv Vihar, Karawal Nagar, Delhi. At about 7 PM, they heard some commotion from outside but they did not go outside and remained confined in the house. After some time, police force reached to their area. When the situation became normal, PW3 took the opportunity and</p>	Ex.PW3/A (complaint of PW3)

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Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
	<p>left alongwith his family. They stayed with a relative at Bhagirathi Vihar for about 8 to 10 days. When they returned to the house, they found that its doors had been broken open and all the goods had been stolen.</p> <p>PW3 filed a complaint regarding the above incident in the police station, bearing his signature at point A.</p>	
PW4/HC Mithilesh	<p>On 28.02.2020, he was working as Duty Officer from 8 AM till 8 PM at PS Karawal Nagar. On that day at about 04:50 PM, HC Purushottam had handed over rukka to PW4 for registration of FIR. PW4 accordingly, got registered FIR in the matter. After registration of the FIR, PW4 handed over original rukka and copy of the FIR to IO HC Purushottam.</p> <p>PW4 identified his endorsement on the rukka from point X to X bearing his signature at point Y. PW4 also identified his signature at point A on FIR and his certificate u/s 65-B of Indian Evidence Act in support of the FIR.</p>	<p>Ex.PW4/A (FIR); &</p> <p>Ex.PW4/B (certificate of PW4 u/s. 65-B of Indian Evidence Act in support of the FIR.</p>
PW5/Sh. Shokeen	<p>In February, 2020, he was residing in H.No.71, gali no.7, 25 foota road, Shiv Vihar, Delhi. At that time, PW5 was doing the work of property dealing. On 24.02.2020, at about 12 midnight, PW5 was present on the third floor of his house. A mob of around 1000 persons came there on the road. They hit shutter of his office on the ground floor with danda and damaged the board. Thereafter, they</p>	<p>Ex.PW5/A (complaint of PW5)</p>

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Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
	<p>moved away.</p> <p>Next morning also, the mob was present on the road. At about 2-3 PM, PW5 shifted his children to the adjacent house through terrace. PW5 alongwith his wife stayed back at his house. Thereafter, his neighbours advised him to leave the house and at about 7 PM, PW5 alongwith his wife also left his home for Loni. That mob had remained away on the road and till the time PW5 was at his home, that mob did not come to his home.</p> <p>PW5 came back to his home after around 1 week. PW5 found that articles of his home were lying in burnt condition on the road and his house was also in damaged condition. Thereafter, PW5 alongwith his neighbour went to PS Karawal Nagar. PW5 gave a written complaint to police, which was written at his instance by his neighbour and PW5 had signed the same. PW5 identified his signature at circle X on his complaint.</p> <p>Police came to his home for inspection. PW5 had got photographs of his house, taken by his son who took photographs using his mobile phone. Print of those photographs was taken by PW5 and given by PW5 to police. PW5 had also handed over photocopies of documents of title of his property to police on demand and all those documents were taken by police, for which a document was prepared by the police and his</p>	

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Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
	signature was obtained on the same. PW5 identified his signature at points X on those photocopies. Police had made enquiry from PW5 and had recorded his statement on 2 occasions. His neighbours had informed him telephonically that his home was vandalized immediately when PW5 had left his house on 25.02.2020.	
PW6/HC Ravinder	<p>On 24.02.2020, he was working as Reader to SHO at PS Karawal Nagar. That day at about 9 AM a copy of order passed by DCP, North-East u/s 144 Cr.P.C. was received by SHO in PS.</p> <p>On the instruction of SHO, PW6 made diary of that order and pronounced that order through loud hailer covering the area of East Kamal Vihar, West Kamal Vihar, Nanak Dairy, Yamuna Dairy, Mukund vihar, New Sabhapur, Kalighata Road, Karawal Nagar Chowk, Panchal Vihar, Shiv Vihar, Shiv Vihar Tiraha, Jagdamba Colony Johripur, Sunny Bazaar Road Johripur, Shanti Nagar, OP Block Shiv Vihar and Ambika Vihar.</p>	
PW7/SI Mandeep	<p>On 08.03.2020, on the directions of SHO, he collected file of this case from MHC(R) for further investigation. On that day, PW7 clubbed 19 more complaints in this case, on the basis of proximity of time and place of incidents reported in those complaints. On 10.03.2020 PW7 called first complainant Shokeen to PS and recorded his statement.</p> <p>PW7 was looking for accused in this case. On 17.04.2020, PW7 arrested accused Sandeep in FIR No.82/20 of same PS. In that case accused disclosed his involvement in the incident related to Shokeen. Thereafter, PW7 arrested and personally searched accused Sandeep in the present case vide arrest and personal search memo, bearing signature of PW7 at</p>	

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Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
	<p>point X. Same are Ex.A-1 and Ex.A-2, (admitted documents) respectively.</p> <p>On 18.04.2020, accused Sandeep was present in the PS when complainant Shokeen came to the PS and he identified accused Sandeep as one of the rioters involved in his case. PW7 recorded statement of Shokeen and thereafter accused was produced before the court and was sent to JC.</p> <p>On 22.05.2020, 26.05.2020 and 27.05.2020 PW7 recorded statement of total 5 additional complainants. On 22.06.2020 on the directions of SHO this case file was handed over to SI Ankit for further investigation.</p> <p>PW7 identified accused Sandeep in the court. PW7 had examined Sajid and Shakeel Saifi on 22.05.2020; Yameen and Mohd. Anees on 25.05.2020; Asif Khan on 26.05.2020; Ayesha Parveen and Toshif Ahmed on 27.05.2020.</p>	
PW8/HC Purushottam	<p>On 28.02.2020 complainant Shokeen came to PS Karawal Nagar and handed over a written complaint to him, through Duty Officer. PW8 prepared rukka on the basis of his complaint and got the FIR registered through Duty Officer. PW8 identified his rukka from point A to A1 on the complaint Ex.PW5/A and his signature at point Z. Investigation of the case was entrusted to PW8.</p> <p>Thereafter, complainant took PW8 to his house bearing no. A71, 25 foota road, Phase 10, Shiv Vihar, Delhi. It was a ground floor property. There was a shop on the front side and his residence on the back side. Whole of the ground was in the burnt condition.</p>	Ex.PW8/A (site plan prepared by PW8)

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Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
	<p>PW8 prepared site plan, bearing signature of PW8 at point X. Thereafter, as per instructions of SHO PW8 handed over the case file to MHC(R).</p>	
<p>PW9/Mohd. Anees</p>	<p>He was resident of A-634, gali no.24, Phase X, Shiv Vihar, Delhi and on 25.02.2020, riot had taken place in that area. On that day, PW9 remained at aforesaid home with his family. Since afternoon, PW9 started hearing noise of rioters. At about 7 PM, his friend came and took PW9 and his family to his residence at Loni, Ghaziabad, U.P.</p> <p>PW9 again came back to his home on 02.03.2020. PW9 found that articles inside his aforesaid home were vandalized. There were ground floor, 1st floor and 2nd floor in that home and articles were lying scattered in all the floors. On the ground floor, PW9 had kept the raw materials for the purpose of embroidery and all such materials were missing.</p> <p>PW9 visited PS Karawal Nagar and gave his written complaint, which was written and signed by him. PW9 identified his signature at circle X on his complaint. PW9 had mentioned the date on his complaint, on which day he had made this complaint to the police. For the purpose of marriage of his daughter, PW9 had also kept articles like jewelleryes, cash etc. All those jewelleryes as well as cash amount were also missing.</p>	<p>Ex.PW9/A (complaint of PW9)</p>

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PW10/HC Ashok Kumar	<p>On 02.08.2020, IO/SI Ankit had shown certain photographs to staff of PS in PS Karawal Nagar. They were asked to confirm, if they had seen persons in those photographs as rioters during the riots. Total 9 photographs were shown to PW10. PW10 had identified one photo out of 9 photographs. The person in that photograph was seen by PW10 among the rioters on 25.02.2020 at about 9 PM at gali no.7, phase 10, Shiv Vihar. PW10 informed SI Ankit about that.</p> <p>On 25.02.2020, PW10 was on duty in the area of Phase 10, Shiv Vihar, since about 9 AM. On that day at about 9 PM, PW10 was going back to PS from the side of gali no.7, phase 10, Shiv Vihar. At that time, PW10 had seen a mob of around 40-50 persons in gali no.7. That mob was vandalizing and setting on fire the houses. PW10 was coming on 25 foota road and he had seen that mob vandalizing property on the corner on the right-hand side in gali no.7. Since they were 40-50 persons and PW10 was alone, therefore, PW10 did not try to stop them as they could have assaulted him as well.</p> <p>PW10 identified accused in the photograph, but he did not know him by his name. Name of accused was informed as 'Sandeep Kumar'. At the time of identification of photograph, IO had prepared identification memo, wherein all 9 photographs were pasted and signature of PW10 was obtained</p>	Ex.PW10/A (colly 2 pages) (identification memo)

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	on the photograph, which was identified by PW10. PW10 identified his signature at circle X on said identification memo and the photograph identified by him was encircled at pont Y. PW10 identified accused in the court.	
PW11/SI Ankit	<p>On 22.06.2020, on instructions of SHO he received file of this case from MHC(R) in PS Karawal Nagar. PW11 placed copy of order passed u/s. 144 Cr.P.C. by DCP/NE on 24.02.2020, on the record. PW11 added Section 188 IPC in the case.</p> <p>On 25.06.2020, PW11 recorded statement of complainant Mohd. Aamil and Abdul Aziz Khan. PW11 also seized photographs handed over by both those complainants on that day, vide separate memos. PW11 identified his signature at circle X on seizure memo in respect of photographs furnished by Mohd. Aamil and Abdul Aziz, which are Ex.A-20 and Ex.A-21 (admitted documents), respectively.</p> <p>On 30.06.2020, PW11 recorded statement of Mohd. Ikramuddin and Jakir Hussain at PS. PW11 also seized photographs and documents related to their respective properties on that day, vide separate memos. PW11 identified his signature at circle X on seizure memo in respect of photographs and documents furnished by Jakir Hussain, which is Ex.A-19 (admitted document). PW11 also identified his signature at circle X on seizure memo in respect of photographs and documents furnished by Mohd. Ikramuddin, which is Ex.PW11/A.</p> <p>On 10.07.2020, PW11 recorded supplementary statement of main complainant Mohd. Shokeen s/o Mange Ram. PW11 also seized photographs and documents related to his property on that day, vide separate memo. PW11 identified his signature at circle X on seizure memo in respect of photographs</p>	

Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
	and documents furnished by Mohd. Shokeen, which is Ex.A-18 (admitted document) . Thereafter, PW11 prepared main charge-sheet in this case and filed the same in the court on 15.07.2020.	
<p><u>Admitted documents under Section 294 Cr.P.C.</u></p> <p>Arrest and personal search memo of accused Sandeep as Ex.A-1 and Ex.A-2, respectively; prohibitory order u/s 144 Cr.PC as Ex.A-3; complaint u/s 195 Cr.PC as Ex.A-4; complaint of Mohd. Asif as Ex.A-5; complaint of Aisha Praveen as Ex.A-6; complaint of Tosif Ahmed as Ex.A-7; complaint of Jakir Hussain as Ex.A-8; complaint of Mohd. Amil as Ex.A-9; complaint of Abdul Aziz as Ex.A-10, photographs as Ex.A-11 and Ex.A-12, respectively; GPA as Ex.A-13; certificates u/s 65B of I.E. Act as Ex.A-14 & Ex.A-15; photograph as Ex.A-16; certificate u/s 65B of IE Act as Ex.A-17; seizure memo of documents and photographs as Ex.A-18 to Ex.A-21; electricity bill alongwith GPA as Ex.A-22 (colly running into 7 pages); electricity bill alongwith GPA as Ex.A-23 (colly running into 3 pages); and GPA as Ex.A-24 (colly running into 13 pages).</p>		

PLEA OF ACCUSED UNDER SECTION 313 CR.P.C.

13. Accused Sandeep Kumar denied all the allegations and pleaded innocence, taking plea in his statement under Section 313 Cr.P.C. that he was falsely identified by PW10/HC Ashok Kumar. He further took plea that witnesses deposed falsely against him at the instance of IO being interested to show that the case was solved. He further took plea that he was not present at the spot at the time of incident. Accused further took plea that he has been falsely implicated in the present case by the investigating agency. He further took plea that he was falsely arrested in this case only to work out the case. Accused did not opt to lead any evidence in his defence.

ARGUMENTS OF DEFENCE AND PROSECUTION

14. **Sh. V. S. Dhangar**, ld. counsel for accused Sandeep Kumar argued that PW10/HC Ashok did not talk about description of any property. It was further argued that accused was falsely implicated in the present case after arrest in one case. It was further submitted that no recovery was effected from the accused, in the present case.
15. Per contra, **Sh. Nitin Rai Sharma**, ld. Special PP for State argued that PW10/HC Ashok identified accused, on the basis of his photograph. PW10 was on duty, when he saw the mob at gali no. 7 and retained face of accused in that mob.

APPRECIATION OF FACTS AND EVIDENCE

UNLAWFUL ASSEMBLY AND RIOTOUS ACTS

16. In order to appreciate the evidence on the record, it will be appropriate to have the description of all the places of incidents together, which were mentioned in the different complaints clubbed for investigation in this case.

S.No.	Name of the complainant	Place of incident
1.	Shokeen	A-71, Phase-10, gali no.7, 25 foota road, Shiv Vihar Karawal Nagar, Delhi
2.	Sajid	640, gali no.24, Phase-10, Shiv Vihar Karawal Nagar, Delhi-94.
3.	Mohd. Yameen	341, gali no.22/24, Phase-10, Shiv Vihar

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4.	Shakeel Saifi	635, A block, gali no.22/24, Phase-10, Shiv Vihar Karawal Nagar, Delhi-94.
5.	Mohd. Anees	A-634, gali no.24, Phase-10, Shiv Vihar, Delhi-94.
6.	Asif Khan	A-306, gali no.22, Phase-10, Ist floor, Shiv Vihar, Karawal Nagar, Delhi-94.
7.	Ayasha Parveen	A-245, gali no.24/22, Phase-10, Shiv Vihar, Karawal Nagar, Delhi-94.
8.	Tausif Ahmed	A-725, gali no.24, Phase-10, Shiv Vihar, Delhi-94.
9.	Zakir Hussain	A-511, gali no.22/24, Phase-10, Shiv Vihar, Karawal Nagar, Delhi-94.
10.	Mohd. Aamil	766, A block, gali no.24, Phase-10, Shiv Vihar Karawal Nagar, Delhi.
11.	Abdul Aziz Khan	A-20, gali no.24, Phase-10, Shiv Vihar, Delhi-94.
12.	Bablu	239, A block, gali no.22/24, Phase-10, Shiv Vihar Karawal Nagar, Delhi.
13.	Iyashin	341, gali no.22/24, Phase-10, Shiv Vihar

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		Karawal Nagar, Delhi.
14.	Jubair Ahmad	639, A block, gali no.24, Phase-10, Shiv Vihar Karawal Nagar, Delhi.
15.	Shahid Ali	96, A block, gali no.13, Phase-10, Shiv Vihar Karawal Nagar, Delhi.
16.	Mohd. Maihrajuddin	116, B block, gali no.7, Phase-10, Shiv Vihar Karawal Nagar, Delhi.
17.	Mohd. Ikramuddin	640, A block, gali no.24, Phase-10, Shiv Vihar Karawal Nagar, Delhi.
18.	Mohd. Naushad	642, A block, gali no.24, Phase-10, Shiv Vihar Karawal Nagar, Delhi.
19.	Shahbaaz Khan	A-4/48, gali no.4, Ambedkar Vihar Karawal Nagar, Delhi.
20.	Salim	486, B block, gali no.4, Indira Vihar, Gokalpuri, Delhi.

17. The above-mentioned chart of the complainants and place of incidents related to each complainant, would show that there were only two complaints from gali no.7. One was pertaining to Shokeen and another was pertaining to Mohd. Mehrajuddin. Rest of the places of the incidents were situated in different lanes (gali). In the supplementary chargesheet, IO reported that he had examined 7 out of remaining complainants and since none of the

complainants were present at their house at the time of incident, therefore, 8 complaints remained untraced.

- 18.** I fail to understand as to how could police file chargesheet and untrace report together in this case. This was a wrong practice, because the complaints other than made by Shokeen were clubbed for investigation in this case, without having sound basis to do the same. In respect of untrace report or closure report, every complainant has been vested with some rights, to make his representation before MM against such report of the IO. In the present case, due to several complaints wrongly taken up together in one FIR for investigation and filing one composite report of investigation for all such complaints, this important right of complainants could not be exercised by them.
- 19.** Prosecution had presented two eye witnesses of the case. One was PW-5/Shokeen and another was PW-10/HC Ashok Kumar. However, PW-5 deposed that on 25.02.2020 at about 7 p.m., he had left his house with his wife for Loni and that till the time he was at his house, the mob had not come to his house. He came back to his house after around one week. Such testimony of PW-5 shows that he was not eye witness of any incident.
- 20.** PW-10 was official of same PS and as per his testimony, on 02.08.2020 he and other staff were shown photographs by IO, so as to confirm, if they had seen any of persons appearing in those photographs during the riots. PW-10 deposed that he had identified one photograph out of 9, which was found to be photograph of accused Sandeep. He further deposed that he had seen accused in a mob at gali no. 7 and that mob was vandalizing

a corner property of that gali. Interestingly, IO did not examine this witness about description of property being vandalized in his presence, nor did he ever take this witness to the place of incident, for identification of those properties which were being vandalized by the mob in the presence of this witness. Thus, it is left for guesses that which properties were seen by this witness being vandalized.

21. Moreover, there were 20 different places of different incidents taken up for investigation in this case, but none of the IOs bothered to ask these two alleged eye witnesses about 19 additional incidents. Therefore, it is well apparent that practically, except for examining the 19 additional complainants, no other investigation was made, to find out time of those occurrences as well as culprits behind those incidents. In such circumstances, it shall be injustice with the 19 additional complainants, if fate of their complaints is decided by this court in the present case.
22. As far as incident at the premises of first complainant Shokeen is concerned, he deposed that he was informed by his neighbour that after he left his house, the rioters had vandalized his house. But that neighbour was not produced before the court. In view of above-mentioned circumstances, I find that there is only circumstantial evidence on the record to show that premises of PW5 was vandalized and looted by a mob. Since, this particular fact was not disputed by defence, therefore, on the basis of information received by PW5, the prevailing situation of riot at that time and consequent condition of this house as noted by 1st

IO and Shokeen/PW5, it is assumed that this house was vandalized and articles therefrom were looted by a mob.

IDENTIFICATION OF ACCUSED SANDEEP KUMAR

23. As far as identification of accused is concerned, PW10 is the only witness of the prosecution, who vouched about seeing accused in the mob in gali no. 7 at about 9 PM. He deposed that he was going back to police station, when he saw this mob. However, he did not confirm if any DD entry was made by him about witnessing aforesaid fact. He deposed that he had informed Duty Officer about this incident, but prosecution did not bring anything on the record to show if such information was actually recorded by DO. In such situation, identification of accused after a long gap from incident and after a long gap from arrest of the accused in this case (17.04.2020), is not worth reliance, that too when PW10 himself deposed that he did not know accused otherwise nor had he seen accused prior to the incident.

CONCLUSION

24. My foregoing discussion and observations lead me to hold that prosecution though established the incident of riot, vandalism and loot at the premises of PW5, but it failed to prove presence of accused in the unlawful assembly responsible for such incident, beyond reasonable doubts. I also find that additional 19 complaints were wrongly clubbed in this FIR and were not completely and properly investigated.

DECISION

25. In view of my foregoing discussions, observations and findings, accused Sandeep Kumar is hereby acquitted of all the charges

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leveled against him in this case. At the same time SHO is directed to take up the additional 19 complaints for further investigation separately from this case.

Announced in the open court **(PULASTYA PRAMACHALA)**
today on 31.10.2023 **ASJ-03 (North- East)**
(Judgment contains 23 pages) **Karkardooma Courts/Delhi**