



DLCT110007812022

IN THE COURT OF MR. VISHAL GOGNE:
SPECIAL JUDGE (PC ACT) CBI-24
(MP/MLA CASES), RADC

CNR No. DLCT11-000781-2022

S.C. No.5/2022

FIR No.212/2022

U/s 5(a) of the Explosive Substances Act, 1908 & 9B(1)(b) of the
Explosive Act, 1884

PS Crime Branch

1. State

versus

1. Kishore Samrite
S/o Late Sh. Nanji Samrite
R/o Ward No.3, Tehsil-Lanji
District Balaghat, MP

...Accused

Date of Institution : 13.12.2022

Reserved for Judgment on : 18.01.2025

Judgment pronounced on : 18.02.2025

JUDGMENT

1. Accused Kishore Samrite, a former MLA from Lanji, District Balaghat, Madhya Pradesh, allegedly threatened to blow up the Parliament of India with dynamite by sending a letter of threat (containing certain demands) and a suspicious substance to the Secretary General of the *Rajya Sabha* on 16.09.2022. This

judgment decides the question of culpability of the accused upon the above allegations.

2. The accused has faced trial under section 5(a) of the Explosive Substances Act, 1908 and section 9B(1)(b) of the Explosives Act, 1884.

3. The allegations recorded in the chargesheet are noticed at the outset.

Allegations

4. The FIR in question was registered upon the complaint dated 16.09.2022 made by Inspector Vivek Malik from the Inter State Cell (ISC), Crime Branch, Delhi.

5. The allegations emerging from the FIR are as under:

(i) Inspector Vivek Malik, also the Investigating Officer, alleged that on 16.09.2022, when he was present at his office at ISC, Crime Branch, Delhi, he received certain instructions from senior officers. A team of the ISC, Crime Branch, Delhi reached the Rajya Sabha Secretariat, Parliament House, New Delhi and met with Sh. Dayanand, Joint Director (Security), Rajya Sabha Secretariat, Parliament House, Delhi. This team comprised Inspector Pankaj Malik as Incharge, Inspector Vivek Malik and Head Constable Ratan Singh.

(ii) Sh. Dayanand informed the team from the Crime Branch that a parcel from Sh. Kishore Samrite, Ex MLA, Lanji, Distt. Balaghat (Madhya Pradesh), addressed to the Secretary-General, Rajya Sabha, containing a bundle of

papers/letters, an Indian Flag, Book of Constitution of India and a suspicious item had been received that day (16.09.2022) through Speed post in the office of Secretary General, Rajya Sabha Secretariat. Thereafter, Sh. Dayanand handed over one brown colour envelope, addressed to Commissioner of Police, Delhi Police, Delhi and stated that the said envelope contained the parcel and a complaint in this regard. Upon discussion and instructions from senior officers, the team from the ISC came back to their office with the said envelope.

(iii) When the said envelope was opened, it was found to contain the alleged parcel (Aqua colour) and a complaint of Sh. Raghubir Lal, IPS, Joint Secretary (Security), Parliament House, Delhi vide his office no. JS(S)222/RS2022, Dated 16.09.2022 with Subject *“Threat to Blow Off New Parliament Building, Parcel/Letter dated 01.08.2022 received from Shri Kishore Samrite, Ex MLA, Lanji, Distt. Balaghat Madhya Pradesh (Phone No. 07635-255291, Mobile No. 09424664203).*

(iv) The said complaint was addressed to The Commissioner of Police, Delhi Police, PHQ, New Delhi and read as under:

“A parcel addressed to Secretary-General, Rajya Sabha containing a bundle of papers/letters, an Indian Flag, Constitution of India and a suspicious item (Super Power 90) has been received from the aforesaid former MLA inter alia stating threat to blow off the new Parliament building on 30.09.2022 in protest of his alleged demands. The same letter has also been addressed

to various other dignitaries. It is requested to kindly examine and investigate the matter thoroughly from security angle. The suspicious material containing in a wrapped in polythene may also get examine from explosive angle through authorized laboratory at the earliest and the report may kindly be sent to this office for perusal of competent authority. Necessary legal action in this regard may also be initiate at the earliest.”

(v) Thereafter, the above alleged parcel (Aqua colour) was also opened and found to be containing two bundles of papers. One bundle contained a complaint running into 10 pages along with 123 pages (photocopies) as annexures while the other bundle contained 125 pages (photocopies) of miscellaneous papers. An Indian Flag (Cotton), Book of Constitution of India (Bare Act) and a brown colour suspicious substance inside one white colour polythene labelled “Super Power 90 Danger explosive”, wrapped in a light green colour polythene with the help of transparent tape, were also found inside the said parcel.

(vi) The said complaint dated 01.08.2022 from accused Kishore Samrite, Ex MLA, Lanji, Distt. Balaghat (Madhya Pradesh), was apparently signed by him and addressed to Sh. Om Birla, Hon’ble Speaker, Lok Sabha, with the following subject:

“ भारत सरकार संसद भवन नई दिल्ली द्वारा संविधान का पालन नहीं करने के कारण तथा तानाशाही पूर्ण सरकार चलाने से भारत सरकार द्वारा निर्मित संसद भवन तथा नये सेंट्रल विस्टा प्रोजेक्ट में 20 हजार करोड़ से

निर्माणाधीन संसद भवन को दिनांक 30.09.2022 को डायनामाईट से उडाने बावद तथा जनता की मांगो पर अविलंब विचार करने बावद्।

(vii) The complaint/letter dated 01.08.2022 expressed dissatisfaction with the policies of the ruling government and was bearing 70 different demands with a threat to blow up the Parliament House on 30.09.2022 if his demands were not fulfilled.

(viii) The Indian Flag and Book of Constitution of India (Bare Act published by India Law House, Indore) were sealed by Inspector Vivek Malik with the seal of "VM" after these articles had been kept in a transparent plastic box and seized. Similarly, the aforesaid brown colour suspicious substance, lying inside one white colour polythene bearing the label "Super Power 90 Danger explosive" and found wrapped in a light green colour polythene, was also kept inside a separate transparent plastic box. This box was sealed with the seal of "VM" and seized through a separate seizure memo.

(ix) Complainant Inspector Vivek Malik stated that as per the contents of letter/complaint received from the office of the Joint Secretary (Security), the parcel in question, containing the threatening letter, substance "Super Power 90 Danger explosive" and other articles, prima facie disclosed the commission of the offences under sections 286/506 IPC read with section 9 (B) of Explosive Act, 1884 and section 2 of Prevention of Insult to National Honour Act, 1971.

(x) The FIR thus came to be recorded under sections 286/506 IPC read with section 9 (B) of The Explosives Act,

1884 and section 2 of Prevention of Insult to National Honour Act, 1971 upon the *rukka* sent by Inspector Vivek Malik through HC Rattan Singh with the request that the investigation of the case be entrusted to him.

Investigation

6. The course of the detailed investigation was recorded in the chargesheet as under:

(i). As noticed from the FIR, investigation had begun with the seizure, through a seizure memo, of the Indian Flag (cotton) and Book of Constitution of India (Bare Act published by India Law House, Indore) found inside the parcel. Similarly, the aforesaid brown colour suspicious substance inside one white colour polythene labelled “Super Power 90 Danger explosive” and wrapped in light green colour polythene found inside the same parcel was seized through a separate seizure memo.

(ii) These seized items were deposited in the *Malkhana* of PS-Crime Branch.

(iii) Since investigation proceeded on the *prima facie* assessment that the accused had been in possession of a suspected explosive substance without any lawful object and the same had been sent by him to the Parliament under suspicious circumstances, Sections 4/5 of The Explosive Substances Act, 1908, was also added in the case.

(iv) During further course of investigation, post master Sh. Shiv Shankar Sharma, who delivered the alleged parcel at

Secretariat Rajya Sabha on 16.09.2022, also came to be examined. He confirmed the delivery by him of the alleged parcel in the Secretariat, Rajya Sabha on 16.09.2022 at about 3 PM. This parcel had been collected by him from Speed Post-Dispatch Centre, Bhai Veer Singh Marg, Gol Market, New Delhi. As per the details available on online portal of India Post, it was revealed that the alleged Parcel was booked on 12.09.2022 from Post Office Lanji, Madhya Pradesh. The relevant information was received from the concerned Speed post dispatch centre.

(v) The ownership of Mobile no. 09424664203, mentioned on the threat letter allegedly sent by accused Kishore Samrite was investigated from Nodal Officer, BSNL by seeking the Call Detail Records (CDR) and Customer Application Form (CAF) for this number. It was thus revealed that the said mobile number was registered in the name of Kishore Samrite, son of Late Nanaji Samrite, resident of Lanji, District-Balaghat, Madhya Pradesh. The location of mobile number 9424664203 purportedly corroborated the presence of its subscriber at Lanji on 12.09.2022 when the alleged parcel was sent from Lanji.

(vi) On 19.09.2022, a team from the Crime Branch went to Bhopal, Madhya Pradesh in search of the accused/sender of the parcel in question. Consequently, Kishore Samrite was located in Bhopal and was apprehended from his rented house.

(vii) During investigation, Kishore Samrite purportedly confessed his involvement in the offence and disclosed that he had done this act as he was annoyed with the current policies of the ruling Government of Madhya Pradesh as well as the Central Government. He was then formally arrested in the present investigation.

(viii) According to the chargesheet, since the accused was holding a grievance against the current policies of the ruling government at the State and the Centre, he decided to do 'something big'. He therefore drafted a complaint/memorandum mentioning his demands before the Government. This complaint was typed by his part time typist namely Dinesh Patel at his rented accommodation in Bhopal. The accused purportedly signed on each paper of the complaint. He then collected various documents from web sites and other sources and attached the same with the complaint. He bought the book of the Constitution of India from Vishesh Law House, shop No. 1, DBA building, Bhopal and National Flag from Khadi Gram Udyog, near Midtown hotel, Balaghat for each of the 17 parcels in order that these could be delivered to concerned dignitaries including the President of India, Speaker Lok Sabha, Chief Justice of India, Secretary General Rajya Sabha and Lok Sabha etc.

(ix) However, the accused did not want to just submit a simple memorandum as he wanted to gain fame and publicity against the policies of the ruling Government by

terrorizing the high level dignitaries. Therefore, he decided to send some explosives in each parcel. For this purpose, he allegedly arranged explosives through his sources at Lanji, Balaghat. These explosives were kept inside the parcels which were addressed to Secretary General, Rajya Sabha, Secretary General Lok Sabha and Speaker Lok Sabha respectively. He kept crackers instead of explosives in other parcels. The crackers were purportedly purchased from the shop of a person named Anwar situated at main Road Lanji, Balaghat. After preparing all parcels, he sent all parcels through speed post from Lanji Post Office, Balaghat, Madhya Pradesh on 12.09.2022.

(x) The accused purportedly disclosed further that he had written addresses of all authorities on the envelopes in his own handwriting. He next disclosed that he could get identified the book shop from where he had bought books of Constitution of India as well as shop of Khadi Gram Udyog in Balaghat from where he had bought National Flags. He also disclosed that he had kept one copy of the memorandum in his office at his rented accommodation i.e. D-61, Place Orchid, near Mandakini Chauraha, Kolar, Bhopal, Madhya Pradesh and stated that he could get recovered the copy of the memorandum as well as the computer on which he had prepared the memorandum.

(xi) The chargesheet maintains that in pursuance of his disclosure statement, accused Kishore Samrite led the police party to his rented house i.e. D-61, Palace Orchid near

Mandakini Crossing, Kolar, Bhopal, Madhya Pradesh and got recovered the following articles:

- (a) One mobile Phone and a computer system purportedly used for preparation of the threatening letter.
- (b) One copy of the memorandum having the same contents as were written on the threatening letter/memorandum recovered from the alleged parcel.

(xii) The above mentioned articles were seized as case property and evidence.

(xiii) Dinesh Patel, the typist, confirmed that he had typed the threat letter on the instruction and dictation of accused Kishore Samrite.

(xiv) Information was sought by the investigating officer through a police team from the concerned post office at Lanji from where the alleged parcels were dispatched by the accused. The officials at the post office were required to provide the CCTV Footage of CCTV Camera installed at Lanji Post Office for 12.09.2022 w.e.f 11:30 am to 12:30 pm and also to reveal whether any register/record was being maintained or any application was being taken from any sender of speed post. The details about speed post article No. EI278545006IN as well as the details of the employee (name, parentage, address, age, contact number) who booked the alleged parcel were also sought. In compliance,

the concerned official from the post office Lanji, Balaghat replied that no CCTV was installed at Lanji Post Office and no application/form was being accepted for any kind of booking. However, it was confirmed that the alleged parcel was sent by accused Kishore Samrite on 12.09.2022 from Lanji Post office.

(xv) The concerned official from post office Lanji, who booked the alleged parcel on the request of accused Kishore Samrite also confirmed that alleged parcel was sent by accused Kishore Samrite on 12.09.2022 from Lanji Post office.

(xvi) The chargesheet disclosed that during the course of investigation, certain material witnesses were examined at Balaghat, Madhya Pradesh. These witnesses were apparently interrogated with a view to tracing the source or details of purchase of the explosives which had allegedly been sent by the accused. These witnesses included Mahesh (driver of accused Kishore Samrite), the owner and sales girl of a fire crackers shop namely Anwar Ali and Purnima respectively, Hitesh Kade @ Vicky (one of the persons who purchased the fire crackers, Pawan @ Chottu (domestic help of the accused, who accompanied Hitesh Kade) and Samrat Saraswar (who was purportedly operating certain mines from where the accused had claimed to have arranged the explosive substance. It is pertinent to point out that during the examination of witnesses by the prosecution, only Anwar Ali (PW-17) came to be examined. Yet, the outcome of

interrogation from the other persons named above is recounted from the chargesheet for the purpose of understanding the expanse of investigation.

(xvii) Mahesh (Driver of accused Kishore Samrite) stated that he had not purchased either the Indian Flag or explosive material on the instruction of accused Kishore.

(xviii) Anwar Ali (Owner of fire crackers shop at Lanji) disclosed that the accused had asked him to provide an explosive material but he had refused to procure the same.

(xix) Purnima (Sales girl works at the shop of Anwar Ali) purportedly confirmed that on 20.08.2022 crackers were purchased by two persons named Vicky and Chhotu @ Pawan from the shop of Anwar Ali.

(xx) Hitesh Kade @ Vicky stated that he had gone with Chhotu (domestic help of accused) and purchased crackers from the shop of Anwar Ali.

(xxi) Pawan @ Chhotu (Domestic help of accused) rather admitted that on the instruction of accused Kishore Samrite, he had gone to Lanji market along with Vicky and purchased crackers from the shop of Anwar. He also purportedly confirmed that on 12.09.22, the accused had gone to Lanji post office to post alleged parcels.

(xxii) Mr. Samrat Saraswar (Zila Panchayat Adhyaksh, Balaghat, M.P.) denied the version of the accused who had claimed that he had arranged explosive substance from the mines operated by the former.

(xxiii) The accused, however, continued to maintain that he had arranged explosive substance from the mines of Mr. Samrat Saraswar through his driver Mahesh. The investigation could not corroborate this assertion.

(xxiv) Specimen signatures and handwritings of accused Kishore Samrite were also obtained for purpose of comparison with the writing on the speed post envelope allegedly sent by him and also the threatening letter ascribed to him. The admitted signatures of the accused were obtained from Manager, SBI Bank, Balaghat Branch, by way of a copy of the account opening form of the accused with the said bank.

(xxv) The chargesheet concluded that the statements of witnesses, location of the mobile phone of the accused, recovery of alleged threat letter and computer system at the instance of accused established his complicity in the incident and that the accused had thereby challenged the government authority in an illegal manner to fulfill his demands. Further, that the accused tried to create fear/threat in society by sending the suspected explosive material to the Parliament.

(xxvi) The chargesheet crystallized the evidence against the accused as under:

- (a)** Recovery of threat memo at the instance of accused from his rented house at Bhopal, Madhya Pradesh, having same contents which were written on the memorandum recovered from the alleged parcel.

- (b) Recovery of mobile phone, computer system used for preparation of threat letter at the instance of accused from his rented house at Bhopal, Madhya Pradesh.
- (c) Reply provided by the concerned official of post office Lanji, Balaghat which confirmed that the alleged parcel was sent by accused Kishore Samrite on 12.09.2022 from Lanji Post office.
- (d) Location of mobile number 9424664203 of accused purportedly corroborates that on 12.09.2022 he was present at Lanji, when alleged parcel was sent from Lanji.
- (e) During investigation, typist Dinesh Patel, who typed the alleged threat memo, also confirmed that he had typed the threat letter/memo as per the dictation given to him by accused Kishore Samrite.
- (f) Accused had sent similar parcel to the Hon`ble Supreme Court of India. Another case vide FIR No. 215/2022 was registered against the accused and he was also arrested in that case.
- (g) Applicant/accused himself claimed to have sent similar parcels to other dignitaries as well.
- (h) As per the record of police station Lanji, applicant/accused is allegedly previously involved in more than 19 Criminal Cases registered against him in different crime heads.

(xxix) The report from the FSL regarding the signatures and handwritings in question purportedly found them to be under his authorship.

(xxx) The report from the Ballistics Division of the FSL described the substance as being comprised of “Ammonium”, “Nitrate”, “Sodium”, “Chlorate”, “Chloride”, “Phosphate” and “Paraffin Wax” whereas the report from the Chemistry Division of the CFSL found the presence of paraffin wax in it.

7. The present charge sheet came to be filed under section 286/506 IPC read with section 9(B) of Explosive Act 1884, Section 4/5 of Explosive Substances Act 1908 & Section 2 of Prevention of Insult to National Honor Act 1971 Act against accused Kishore Samrite.

Charge

8. Charge was framed against the accused under section 5(a) of the Explosive Substances Act, 1908 and 9 B(1)(b) of the Explosives Act, 1884 as under:

That on 12.09.2022, you had sent a parcel through speed post from post office Lanji, Madhya Pradesh having threat letter dated 01.08.2022 alongwith material, which can be used as an explosive, the National Flag and the book of Constitution of India addressed to the Hon'ble speaker, Lok Sabha, New Delhi and the said parcel was received by the Rajya Sabha Secretariat, Parliament House, New Delhi on 16.09.2022 at about 5:00 p.m. and the said parcel remained in your control/possession till the time it was

delivered and since in the threat letter dated 01.08.2022, you had threatened to blow off the Parliament House, New Delhi, in case demands narrated in the threat letter dated 01.08.2022 are not met by 30.09.2022 shows that parcel having the explosive material was not sent by you for any lawful object and thereby, you committed an offence under Section 5 (a) of the Explosive Substances Act, 1908, which is within my cognizance.

That on 12.09.2022, you had dispatched an explosive material in the aforesaid parcel through speed post from post office Lanji, Madhya Pradesh, which was received by the Rajya Sabha Secretariat, Parliament House, New Delhi on 16.09.2022 at 5:00 p.m., in violation of Rule 10(4) (a) of the Explosives Rules, 2008 and thereby, you committed an offence under Section 9 (B)(b) of the Explosives Act, 1884, which is within my cognizance.

And I hereby direct that you be tried by this court for the aforesaid charges.

9. The accused pleaded not guilty to the above articles of charge.

Evidence led by the Prosecution

DO/DD writer

10. PW-9 (SI Ram Prasad), who recorded the FIR upon the present allegations, deposed that in the intervening night of 16/17 September, 2022, he was posted as duty officer at PS Crime Branch. At about 01:00 am, Head Constable Ratan Singh brought one *rukka* sent by Inspector Vivek Malik and handed over the same to him. He further deposed that on the basis of that *rukka*, he registered the FIR no. 212/22 dated 17.09.2022

(Ex. PW9/A) and made endorsement on the *rukka* (Ex. PW9/B). He proved his certificate (Ex. PW9/C) under section 65 B of Indian Evidence Act Ex. PW9/C. He also lodged DD no. 2A (Ex. PW9/D) and DD No. 5A (Ex. PW9/E) both dated 17.09.2022. It was further deposed by the witness that he had produced the copy of daily diary register vide Ex.PW9/F (OSR) containing DD no. 2 and DD No.5 along with certificate vide Ex.PW9/G under Section 65 B Indian Evidence Act.

Witnesses from the Rajya Sabha

11. PW1 Sh. Dayanand deposed that on 16.09.2022, he was posted as Joint Director (Security), Lok Sabha, Parliament House, New Delhi. Further, that between 6:30 pm to 7:30 pm, his senior officer Sh. S K Sharma, Director (Security), Rajya Sabha called him at his office in the presence of Sh. Raghbir Lal, Joint Secretary and told him that one parcel (containing one book of Constitution of India, bundle of paper, one Indian Flag and one suspected substance wrapped in the green polythene cover which was slightly leaking) addressed to Secretary General, Rajya Sabha had been received.

12. PW1 further deposed that Raghbir Lal prepared a covering letter and called police officials at his office. He proved the authorship of the said letter dated 16.09.2022 (Ex. PW1/P1) by Raghbir Lal upon the assertion that he had worked with him and had seen him writing as well as signing. This letter was addressed to the Commissioner of Police, Delhi Police, PHQ, New Delhi.

13. PW1 and the IO namely Inspector Vivek Malik (PW-25) also identified the Hindi letter (threatening letter) dated 01.08.2022 (Ex. PW1/P-2) which was addressed to Sh. Om Birla, Hon'ble Speaker, Lok Sabha. These two witnesses next identified the documents (Ex. PW1/P-3) accompanying the above threatening letter as well as the envelope (Ex. PW1/P-4) in which these letter and other articles were received. PW-1 and PW-25 had also identified the book of Constitution of Indian (Bare Act published by India Law House Indore) as Ex. P1, Indian Flag (cotton) as Ex.P2 and a green colour polythene containing the brown colour suspected material as Ex. P3.

14. The next witness from the Rajya Sabha establishment was Nitin Pal (PW-2). He deposed that on 16.09.2022, he was posted as Sessional Messenger at Distribution Branch of Rajya Sabha, Parliament House Annexee, New Delhi and as per procedure, the concerned dealing person handed over to him parcels for distribution to Secretary General and various other branches of the Secretariat. He further stated that on 16.09.2022, the concerned dealing person handed over 5-6 parcels/dak to him for distribution of the same to branches and thereafter he entered through gate no. 4 and handed over one of the parcels to Mr Tarun who was the 'P.A.' in the office of the Secretary General.

15. Tarun Padihar, the Personal Assistant at the office of Secretary General, Rajya Sabha, Parliament House, New Delhi came to be examined as PW-3. He too identified one speed post envelope (Ex PW-1/P-4), threatening letter dated 01.08.2022 (Ex PW-1/P-2), documents (Ex. PW-1/P-3(Colly.)), one book of

Constitution of India (Ex.P1), Indian National Flag (Ex.P2) and one light green colour polythin, containing brown colour suspected material (EX P3).

Police Witnesses

16. PW-8 (ASI Gajraj Singh) was the photographer who deposed that on 24.09.2022, on the request of the IO, he had used a digital camera to click 17 photographs of the proceedings related to drawing of the sample. The photographs were Ex.PW8/P-1 to P-17 whereas the certificate under Section 65-B of Indian Evidence Act was Ex.PW8/A.

17. PW-10 HC Rajender Singh deposed that on 11.10.2022, on the instructions of IO, he obtained three sealed parcels/exhibits along with FSL form relating to the present case vide RC no.680/21/22, 681/21/22 for depositing the same with FSL Rohini. Copies of the above-said road certificates were marked as Mark PW10/A and B respectively. He thereafter deposited the above-said exhibits at FSL Rohini and obtained two acknowledgments (Ex.PW10/A and B) of case acceptance.

18. PW-12 (HC Gajender) and PW-13 (Const. Dinesh Kumar) deposed that on 19.09.2022, when they were posted as Head Constable and Constable respectively at Inter State Crime Cell, Crime Branch, Chanakyapuri, they had visited Bhopal, Madhya Pradesh where they met the investigating officer namely Inspector Vivek Malik. They deposed that the accused had been interrogated in their presence and arrested as well as searched by the IO vide memos Ex.PW12/A and Ex.PW12/B. The purported

disclosure statement of the accused was cited as Ex.PW12/C. They further deposed that the accused had led the police party to a house (D-61, Palace Orchid, Kolar, Bhopal) from where he got recovered one mobile phone of the make 'One Plus' which was taken into possession vide seizure memo Ex.PW12/D. The seizure memo of one CPU colour Black, one Monitor colour Black, one Key Board make Dell, one mouse, one power cable and a data cable was Ex.PW12/E whereas one typed memorandum running into 11 pages was recovered through seizure memo Ex.PW12/F. The typed memorandum itself was tendered in evidence as Ex.PW12/G collectively.

19. PW-12 and PW-13 also identified the mobile phone and sim card as (Ex. P5 (collectively)).

20. PW-18 (SI Roopesh Baliyan) deposed that on 19.09.2022, he went to Police Station Lanji where he collected the record relating to the previous involvement of the accused (Mark PW18/1).

21. SI Sanjay (PW-24) deposed that on 17.09.2022, he was posted as MHC(M) PS Crime Branch, Puspvihar, Sector-3, New Delhi and that on the said day, Inspector Vivek Malik had deposited one *pulanda* which was containing a suspicious substance. The entry of the same was made in Register no. 19 vide entry no. 5541 and tendered in evidence as Ex. PW24/1. He further deposed that on the same day, Inspector Vivek Malik had also deposited one *pulanda* containing one Indian Flag (cotton) and a book of constitution of India (Bare Act published by Indian Law House, Indore) vide entry no. 5542 (Ex. PW24/2).

22. PW-24 further deposed that on 24.09.2022, the *pulanda* was deposited vide entry no. 5541 and the was taken to the court of Sh. Ajay Narwal, MM Patiala House for preparing the sample. Two samples of 10 gram each ('A1' and 'A2') were drawn from the suspicious substance before the Id. MM. Thereafter, the substance was deposited with the *Malkhana* vide entry no. 5541.

23. PW-24 next deposed that on 27.09.2022 vide RC No. 640/21/22, one sealed transparent box marked 'A1' (10 grams) was sent to CFSL, Lodhi Colony through HC Ratan vide entry no. 5541. Further, that on 24.11.2022, one parcel along with result duly sealed with the seal of CFSL Delhi was received through ASI Sanjeev vide entry no. 5541.

24. He next deposed that on 03.10.2022, Inspector Vivek Malik deposited one Nokia mobile phone, along with SIM card, in unsealed condition vide entry no. 5674 in Register no. 19. The copy of the same was exhibited as Ex. PW24/3. PW24 stated that on the same day, Inspector Vivek Malik also deposited one *pulanda* containing one mobile phone of make 'One Plus' vide entry no. 5675 in register no. 19 (Ex. PW24/4).

25. It was next deposed by PW24 that on 03.10.2022, Inspector Vivek Malik also deposited two *pulanda* wherein one *pulanda* was containing one hard disk and the second *pulanda* was containing one paper box. The paper box contained one CPU, one Monitor with stand, one keypad, one mouse, one power cable and one data cable. These too were recorded in register no. 19 through entry no. 5676 (Ex. PW24/5). The copy of road certificate dated 27.09.2022 no. 640/21/22 was exhibited as

Ex. PW24/6 and the copy of road certificate dated 11.10.2022 no. 681/21/22 was Ex. PW24/7. The copy of road certificate dated 11.10.2022 No. 680/21/22 was exhibited as Ex. PW24/8.

Witnesses from the Postal Department

26. PW-6 Shiv Shankar Sharma deposed that in September 2022, he was working as Postman in Nodal Delivery Centre, GPO, New Delhi and was assigned to deliver speed post in beat no. 1. On 16.09.2022, he had received the parcel from Lanji, Madhya Pradesh which was to be delivered to Secretary General, Rajya Sabha. The parcel was delivered in sealed condition at Rajya Sabha D-Branch at about 2-3:00 pm vide certified copy of delivery manifest Ex.PW6/A while the delivery entry to the D-Branch of the Rajya Sabha at serial no. 26 was Ex.PW6/A1. He identified the envelope through which the parcel was delivered as Ex. PW1/P-4.

27. PW-7 (Gulshan Nagpal) deposed that on 11.11.2022, he was posted as Assistant Director (Delivery) New Delhi GPO. He stated that he had received a notice 'under Section 91' from the investigating officer. He proved his reply to the notice as Ex.PW7/A and also proved the copy of speed post manifest as Ex.PW7/B.

28. PW-16 (Savita Khandahe) was working as a *Dakpa* in Post Office Lanji, Balaghat, Madhya Pradesh. She stated that on 12.09.2022, one speed post article No. E1278545006IN was booked in the said post office. However, she could not remember whether it was booked by Kishore Samrite or anyone from his

office. She stated that they only checked whether the parcel was properly packed or not. Further, that if the customer did not disclose the contents, an inquiry would be made by the post office regarding the same. She next stated that an official from the Crime Branch, Delhi Police had come to the post office at Lanji and inquired about the said parcel. He had also served a notice under section 91 upon her. The notice was tendered in evidence as Ex. PW16/1 whereas her reply to the said notice was Ex. PW16/2. The copy of the booking details was Ex. PW16/3. She stated that the name of the sender was mentioned in her reply as Kishore Samrite who was an Ex-MLA of Lanji.

29. PW16 could not identify the accused and thus came to be cross-examined by the state. She denied stating to the Police in her statement under section 161 Cr.P.C. (Ex. PW16/PX1) that she could recognise the accused as he was regularly posting letters from her post office. She also failed to confirm whether the speed post parcel in question was booked personally by accused Kishore Samrite. She also failed to identify the accused when pointed out by the Id. Prosecutor.

Public witnesses from Bhopal

30. PW-14 Sh. Dinesh Patel deposed that in the year 2022, he was working as a part time operator (typist) with the accused for a monthly salary of Rs. 15,000/- and the accused used to provide him several letters, in his handwriting, for purpose of typing. He further stated that the investigating officer had shown him a letter dated 01.08.2022 addressed to Mr. Om Birla and that he had

identified the said letter as having been typed at the house of accused Kishore Samrite. This witness identified the original threatening letter (Ex. PW1/P-2) before the court and stated with reference to this letter that he had typed it on the computer at the residence of the accused. He also identified the signatures of accused Kishore Samrite on each page of this letter. He next stated that the said letter had been typed as a word file and a print out was given by him to the accused. Also, that he had deleted the said word file from the computer on the asking of the accused.

31. PW-14 further stated that he had got photocopied 15-16 sets of annexures with the said letter which had been given to him by the accused and that these photocopies were taken at a shop situated in Beema Kunj.

32. PW-17 (Anwar Ali Khawaza) deposed that he was running a small shop selling fire crackers at ward no. 5, Lanji District Balaghat, Madhya Pradesh in the name and style of Anwar Ali Khawaja. He claimed to know accused Kishore Samrite as a resident of his village and also as a former MLA from the area. PW-17 identified the accused correctly before the court and stated that in the year 2022, on the day of *Janmastmi*, two employees of accused namely Chotu and Vicky Kade had together purchased fire crackers worth Rs. 100/- from his shop where his employee namely Purnima was present. PW-17 also elaborated on the purported attempt of the accused to purchase 'blast material'. He deposed that in the year 2022, when he was walking at about 6:00 a.m and reached near the house of the

accused, the accused stopped him and asked him whether he could provide him some 'blast material'. PW-17 denied possession of such material, explaining to the accused that he was only a retail dealer for fire crackers. He also purportedly told the accused that since the area was a Naxal area, there was no possibility of him obtaining such blast material from any vendor. He lastly deposed that he had informed the police that he had not supplied such material to the accused and did not know as to who had provided him with such substance.

Forensic witnesses

33. PW-19 (Sh. V B Ramteke), who was the Deputy Director (Chemistry) from the CFSL, New Delhi proved his opinion on the suspicious substance examined by him. He stated that on 27.10.2022, a sealed parcel (Marked as Parcel No.A-1) was received in Chemistry Division through the Ballistic Division, CFSL, New Delhi and the examination of the 'brown colour damp substance', weighing 6.5 gms, generated a positive test for the presence of paraffin wax. He proved his report as Ex. PW19/1 and the examined substance as Ex. PW19/P1.

34. PW-21 (Smt. Babita Gulia) was Assistant Director/SSO-I, Ballistics, CFSL, New Delhi and deposed that on 27.09.2022, a sealed parcel was received in Ballistics Division of CFSL, Delhi . The witness stated that the examination of the 'light brown colour substance' led to the detection of "Ammonium", Nitrate", "Sodium", "Chlorate", "Chloride", "Phosphate" & "Paraffin wax", which could be used as explosive. She proved her detailed

report as Ex. PW21/1 and identified the case property as Ex. PW19/P1.

35. The handwriting expert (Ms. Preeti Chaudhary) was examined as PW-22. Being the Junior Forensic/Assistant Chemical Examiner (Document), FSL, Rohini, she deposed that on 11.10.2022, she had examined the questioned document viz an aqua colour envelope bearing writings and signatures as well as a copy of the threat letter dated 01.08.2022. She opined that the writing on the envelope was written by the accused and the signatures on the threat letter also belonged to the accused. She proved her detailed report as Ex. PW22/1 apart from identifying the threat letter as the previously exhibited Ex. PW1/P-2. PW-22 further identified the specimen signature of the accused and his specimen handwriting as Ex. PW5/2 and Ex. PW5/3. The envelope was also identified as Ex. PW1/P-4.

36. PW-23 (Ms. Nidhi) was Junior Forensic-cum-Assistant Chemical Examiner (Electronic Evidence), CFD, FSL, Rohini and deposed that on 11.10.2022, she had examined a mobile phone (Ex. P-5) of the make 'One Plus' and bearing a SIM card (Jio) alongwith a hard disk of 1TB capacity (Ex. PW23/P-2), she stated that data from both devices was kept in a pen drive (Ex. PW23/P-1). The witness proved her detailed report regarding data collection as Ex. PW23/1 and her certificate under section 65 B of the Indian Evidence Act as Ex. PW23/2.

Investigating Officers

37. PW-11 (HC Ratan Singh), who was a member of the team from the Crime Branch which first went to the Parliament House,

deposed that on 16.09.2022 at about 8:00 pm, he along with Inspector Pankaj Malik (PW-15) and IO Inspector Vivek Malik (PW-25) went to the Parliament where they met with one officer who had handed over one brown colour envelope containing one parcel. He stated that after opening the parcel, they found one complaint, two bundle of papers, one Indian Flag (cotton), one book of Constitution of India and one brown colour suspicious substance in a polythene on which “Super Power 90 danger explosive” was written. Thereafter, IO Insp. Vivek Malik seized the suspicious explosive substance vide seizure memo Ex.PW11/A. The IO was also stated to have seized the Indian Flag (cotton) and book of Constitution of India vide seizure memo Ex.PW11/B.

38. PW-11 further deposed that the IO prepared a *rukka* and handed over the same to him for the purpose of registration of the case and he handed over the *rukka* to the duty officer. He then obtained a copy of the FIR along with the *rukka* from the duty officer. These documents were handed over by him to IO/Insp. Vivek Malik who recorded his statement.

39. PW-11 (HC Ratan Singh) also identified the case property correctly viz Book of Constitution of India (Ex.P-1), Indian Flag (cotton) (Ex.P-2) and one green colour polythene containing brown colour suspected material (Ex.P-3).

40. He further deposed that on 27.09.2022, on the instructions of IO, he obtained the CFSL form and one exhibit i.e. one sealed parcel vide RC no. 640/21/22 and deposited the same with the CFSL, CBI Lodhi Road. He obtained the case acceptance receipt

(Ex.PW11/C) in this regard and came back and handed over the same to the IO. The copy of the RC no. 640/21/22 was identified as Mark PW11/A.

41. PW-15 (Inspector Pankaj Malik) and PW-25 (Inspector Vivek Malik) similarly deposed that on 16.09.2022, they were posted as Inspectors at ISC, Chanakyapuri and in the evening at about 8:00 pm, they received information that they had to proceed to the Parliament House as some suspicious substance had been found there. Thereafter, they left for Parliament House alongwith Head Constable Ratan Singh and upon reaching the office of Joint Director (Security), a gray colour envelope was handed over to them by Joint Director (Security). The said Joint Director stated to them that the said envelope was received by post and contained a suspicious substance in an aqua colour packet alongwith one written complaint from the Joint Secretary (Security). Thereafter, they returned to the ISC office at Chanakyapuri and the said envelope was opened by PW-25 in the presence of PW-15. It was found to be containing one aqua colour parcel. These two witnesses corroborated PW-11 in stating that the aqua colour parcel/envelope contained one Indian Flag, one Bare Act of Indian Constitution, bundle of papers including one threat letter addressed by the accused to Sh. Om Birla Speaker, Speaker Lok Sabha and one separate green colour polythene packet which was found containing one white colour polythene bearing the mark of "Super Power 90". They further stated that there was leakage in the white color polythene and some putty like material was oozing out from the said polythene.

42. The seizure memo of the flag and the Bare Act was proved as Ex. PW11/B while the seizure memo of the polythene containing suspected explosive substance, which was kept in a plastic box and sealed with the seal of 'VM', was Ex. PW11/A.

43. PW-25 Inspector Vivek Malik further deposed that he prepared a *rukka* (Ex. PW25/1) on the basis of the complaint of Joint Secretary, Lok Sabha. He reiterated the version of PW-11 in stating that he had handed over the *rukka* to HC Ratan who went to the police station, Crime Branch, Pusp Vihar for registration of the FIR, got the same registered and came back with the original *rukka* as well as a copy of the FIR. Thereafter investigation was taken over by PW-25. He then got recorded the statement of PW-15 (Inspector Pankaj Malik) regarding his role in the investigation. After receiving the copy of the FIR, PW-25 mentioned the FIR number by pen in both the seizure memos which were already prepared and thereafter deposited the case property, along with copy of seizure memo, in the *Malkhana*.

44. PW-25 described the further course of investigation whereby the police team went to the dispatch centre of the Postal Department situated at Bhai Veer Singh Marg and after enquiry, they came to know that the parcel was delivered by a postman named Sh. Shiv Shankar. The statement of Shiv Shankar was recorded in affirmation of the delivery of the parcel by him.

45. Since the threat letter was also bearing the contact number of the accused, PW-25 wrote a request letter for obtaining CDR and CAF of the mobile number of the accused.

46. PW-15 (Inspector Pankaj Malik) and PW-25 (Inspector Vivek Malik) deposed that on 18.09.2022, they went to the house of the accused in the intervening night of 18/19.09.2022. Upon enquiry, the accused purportedly admitted that he had sent the parcel to the Parliament.

47. PW-25 proved the previously exhibited arrest memo, personal search memo and purported disclosure statement of the accused as. PW12/A, Ex. PW12/B and PW12/C respectively. *(It is clarified by the court that the exhibit number of the purported disclosure statement of the accused was mistyped as Ex. PW11/C in the statement of PW-25).*

48. PW-25 also identified and proved the seizure memo of the threat letter as Ex. PW12/H and the purported supplementary disclosure of the accused as Ex. PW13/1.

49. PW-25 also proved the record related to the application for transit remand and police custody of the accused as Ex. PW25/2 to Ex. PW25/5. He also deposed that some IB officers had interrogated the accused.

50. PW-25 further deposed that he obtained the bank account statement of the accused from the local SBI bank and on 23.09.2022, he had recorded the statements of witnesses namely Anwar Ali, Poornima Channe, Vicky and Hitesh under section 161 Cr. PC.

51. PW-25 stated that since the accused had disclosed that the alleged explosive substance had been procured by him through his driver namely Mahesh, the latter was asked to clarify. However, Mahesh denied the purported version of the accused.

52. PW-25 also joined a person named Anurag Chaturmohta to the investigation to learn about the processes and substances used in the mining industry and also issued notice to a friend (named Samrat) of the accused upon the assertion of the accused that he had sourced the explosive substance from Samrat. Since Samrat as well as Mahesh denied any involvement and no incriminating evidence could be collected against them, PW-25 relieved them after interrogation. The source of the alleged explosive substance could not be determined during investigation.

53. It was next stated by PW-25 that since the CFSL officials had directed that only a sample weighing 10 gms could be accepted for examination, he directed SI Amit to seek a sample. SI Amit then got the sample drawn under the supervision of the Ld. MM at Patiala House Courts whereby two samples of 10 gms each were drawn and seized before the court.

54. The court may point out that the Ld. MM (Sh. Ajay Narwal) deposed as PW-4 in confirmation of the proceedings of the collection of samples. He deposed that the accused had been produced before him in police custody on 24.09.2022 after SI Amit Kumar moved an application for de-sealing, re-sealing and drawing samples from the seized exhibit. Further, that SI Amit Kumar was accompanied by photographer ASI Gajraj Singh, Dr. Avaish Chand, SFA, Crime Branch and HC Rajinder Singh from PS Crime Branch, Pushp Vihar. The Ld. MM granted permission for de-sealing the exhibit (Ex. No.1) and inspected the same. He also granted permission for drawing of samples from the white colour polythene containing a skin coloured substance. PW-4

stated that two samples of 10 gms each were drawn and marked as Mark A1 and A2. The photographs of the proceedings were also taken and PW-4 directed the photographer to prepare two sets of photographs, one for SI Amit Kumar and the other for the court record. The Ld. MM proved the proceedings dated 24.09.2022 as Ex.PW4/1.

55. The remaining portion of the testimony of PW-25 may next be recounted. PW-25 further deposed that on 03.10.2022, he sealed and seized the case property recovered from the house cum office of the accused viz CPU, Monitor, Keyboard, mouse, power cable and data cable through seizure memo Ex. PW12/E. He proved his endorsement on the seizure memo as Ex. PW25/6. The seizure memo of the mobile phone (with Sim Card) of the accused, was identified as the previously exhibited Ex.PW12/D (*wrongly mentioned as Ex. PW12/I in the statement of PW-25*) while the mobile phone and the same card were identified as Ex. P-5 (collectively).

56. PW-25 also deposed that he had obtained the specimen signatures (Ex.PW5/2) and the specimen handwriting (Ex. PW5/3) from the accused before the Ld. MM at Patiala House Courts. The Ld. MM (Ms. Tarunpreet Kaur) had previously deposed as PW-5 to prove the proceedings dated 20.09.2022 when Inspector Vivek Malik sought permission for obtaining specimen signature and handwriting of the accused. PW-5 had proved the proceedings dated 20.09.2022 as Ex.PW5/1, along with the specimen signatures and specimen handwriting of the accused as Ex.PW5/2 and Ex. PW5/3 respectively.

57. PW-25 lastly deposed that after recording of the statements of the witnesses, he filed the main chargesheet and thereafter, he requested the concerned District Magistrate for requisite sanction/permission under Section 7 of Explosive Substances Act, 1908. After obtaining sanction, he received results from the Document Division, FSL, Rohini and filed the supplementary chargesheet. The report from FSL Rohini regarding the mobile phone and hard disk was filed through the second supplementary chargesheet.

58. PW-20 Sh. Santosh Kumar Rai deposed that in the month of May 2023, he was posted as District Magistrate and granted sanction for prosecution of the accused under section 7 of Explosive Substance Act vide Ex. PW20/1.

Submissions on behalf of the State

59. The Ld. Prosecutor prayed for a conviction under both articles of charge citing the evidence led by the prosecution. It was firstly submitted that the suspicious substance had been found to be an explosive by the two CFSL experts examined as PW-19 and PW-21. It was submitted that PW-21 had specifically referred to the contents of the suspicious substance as being capable of being used as an explosive.

60. Reference was also made by the Ld. Prosecutor to the deposition of the Investigation Officer namely Vivek Malik (PW-25) having described the explosive as “Super Power 90”, as mentioned on the white colour polythene which contained the

suspicious substance. It was the assertion of the prosecutor that a substance of this description was a commonly known explosive, thereby rendering the accused liable for conviction under sections 5(a) of the Explosive Substances Act, 1908 & 9(B)(b) of the Explosive Act, 1884.

61. Besides, support was sought to be drawn from the statement of the handwriting expert (PW-22) who had recorded the finding that the handwriting on the speed post article as well as the signatures on the threatening letter were those of the accused. The allied deposition of the person who typed the said letter viz PW-14 was also cited by the Ld. Prosecutor in submitting that the accused had consciously got typed a letter threatening to blow up the Parliament of India and then brazenly sent it in his own name, as written on the envelope containing the threatening letter, along with a suspicious substance.

62. The Ld. Prosecutor lastly referred to the statements of the witnesses (PW-1 and PW-3) at the Parliament House who had initially seen the contents of the speed post article as including the threatening letter, suspicious substance as well as the book of the Indian Constitution alongwith the Indian National Flag. The statements of the various police witnesses including the investigating officer (PW-25) and other police officers were referred by way of highlighting the various steps in investigation including the sending of the suspicious substance to the CFSL alongwith the envelope and threatening letter contained in the same.

Submissions on behalf of the accused.

63. The arguments in defence of the accused stressed upon perceived deficiencies in the chain of evidence regarding the custody of the suspicious substance from 4:30 P.M. till about 7 P.M. on 16.09.2022 at the Rajya Sabha and also the purported harmless nature of the suspicious substance, described as an 'explosive' by the prosecution.

64. The Ld. Counsel for the accused represented, on the basis of PW-3 receiving the parcel at around 04-04:30 p.m. in the office of the Secretary General, Rajya Sabha and the other witness from the Rajya Sabha viz PW-1 seeing the parcel only between 6:30 pm to 7:00 pm on the said date, that the intervening period remained unexplained. The proposition put forth by the Ld. Counsel was that the contents of the parcel could have been tampered with or compromised in the 2-3 hours and that this possibility ought to enable the benefit of doubt in favour of the accused. It was also suspected by the counsel for the accused that the non joining of other security officials namely S K Sharma and Raghubir Lal to the investigation was an indication of the chargesheet having concealed material facts from the court.

65. The reference by the IO (PW-25) to the suspicious substance as 'Super Power 90' was sought to be contrasted with the failure of PW-3 and PW-1 to have noticed any such inscription on the packet containing the suspicious substance.

66. The factum of 'Super Power 90' being reflected only in the letter dated 16.09.2022, written by Raghubir Lal, Joint Secretary

(Security) was cited by the Ld. Defence Counsel as an interpolation suggestive of a break in the chain of custody of the purported explosive substance itself.

67. Another aspect sought to be projected as a material infirmity in the deposition of the police team (which retrieved the parcel from the Rajya Sabha) was the time taken by the police team to reach their office at Chanakyapuri after leaving the Parliament building. It was pointed out that Inspector Pankaj Malik, Inspector Vivek Malik and HC Ratan (PW-15, PW-25 and PW-11 respectively) had said that they left Parliament around 08:45 pm and it took them around 15-20 minutes to reach Chanakyapuri Office. However, in their deposition before the court, they indicated a timeline of about 10:00 pm for reaching the office of the Crime Branch at Chanakyapuri. The Ld. Counsel for the accused maintained that the want of explanation for this one hour created a doubt regarding the unsealed parcel having remained untampered during transit from the Rajya Sabha to Chanakyapuri.

68. It was further submitted that the non production of the brown envelope used for transporting the parcel in question (as stated by PW1, 11, 13 & 25) also cast suspicion on the prosecution version.

69. It was next argued by the Ld. Counsel for the accused that, to the own admission of PW24 and PW25, the suspicious material had been taken out from the Malkhana on 19.09.2022 unofficially and taken to undisclosed place without any instructions or authority. Also, that no road certificate was

obtained for this movement of the case property. This circumstance was also projected as indication of tampering with the case property. The allied submission was that even on 24.09.2022, when the sample was sent from the *Malkhana* to CFSL, the said sample was not accompanied by any road certificate. The ld counsel thus argued that the entire subsequent testing and report from the CFSL became illegal, doubtful and unreliable.

70. Doubts were further sought to be raised on the CFSL report tendered by PW-21. The Ld. defence counsel submitted that the report of PW21 is inconclusive as it only expressed that the substance “could be used as explosive”. Further, that in her cross examination, she had admitted that none of the substances noted in her report were explosive in their individual capacity and these substances could become explosive in nature only when used in combination or as a compound.

71. The defence counsel essentially argued that the possession of an explosive substance/explosive by the accused had not been proved by the prosecution, thereby entailing acquittal under both articles of charge.

Submissions in rebuttal made by the prosecution

72. As a response to the above submissions from the Ld. Counsel for the accused, it was agitated on behalf of the State that the statements of the experts from the CFSL regarding the chemical composition of the suspicious substance in question were required to be seen holistically and not in a piecemeal

manner for understanding the intentions of the accused and the nature of the substance. The Ld. Prosecutor reiterated that the suspicious substance was infact of the description “Super Power 90 danger explosive”. It was further reiterated that the description of the suspicious substance as ‘dynamite’ in the threatening letter sent by the accused left no doubt that the accused himself was aware of the explosive of the nature of the substance sent by him to the Rajya Sabha.

Discussion and reasons

73. The findings upon the twin articles of charge are contingent upon proof of the following material facts in issue:

- (i) Evidence regarding possession and dispatch of the speed post article No. E1278545006IN by the accused
- (ii) Evidence regarding receipt of the speed post article No. E1278545006IN at the office of the Secretary General, Rajya Sabha.
- (iii) Authorship of the handwritten name of the sender and addressee on the envelope sent as speed post article No. E1278545006IN.
- (iv) Contents of the speed post article No. E1278545006IN.
- (v) Authorship of the threatening letter dated 01.08.2022.
- (vi) Whether the substance in question constitutes an “Explosive” under the Explosives Act,1884 or/and “Explosive Substance” under the Explosive Substances Act, 1908.

74. The findings of the court with respect to the above facts in issue are as under:

(i) Evidence regarding possession and dispatch of the speed post article No. E1278545006IN by the accused

75. A pivotal aspect of the evidence advanced by the prosecution is the purported proof of dispatch of the speed post article No. E1278545006IN in the envelope (Ex. PW1/P-4) by the accused from the post office at Lanji, Balaghat, M.P and it being delivered at the Rajya Sabha through the General Post Office, Delhi. The consequential exercise for the prosecution was to prove the contents of this envelope.

76. The dispatch of this speed post article through the envelope Ex. PW1/P-4 is taken up first for discussion.

77. The relevant witnesses here were three officials of the Postal Department, one of whom viz PW16 (Savita Khandahe) was the Sub Post Master from the post office at Lanji, Balaghat, M.P. whereas PW6 (Shiv Shankar Sharma) and PW7 (Gulshan Nagpal) were the Postal Assistant/Postman and Assistant Director (Delivery) respectively from the GPO, New Delhi. Tarun Padihar (PW-3), the Personal Assistant to the Secretary General, Rajya Sabha was the official at the Rajya Sabha who received this speed post article. The next official from the Rajya Sabha who deposed regarding the contents received by him in this envelope was Daya Nand (PW-1), Joint Director (Security), Lok Sabha, Parliament House, New Delhi.

78. The proof of dispatch of the speed post article in question was canvassed by the prosecution from the deposition of PW16. She deposed regarding the booking of a speed post article bearing no. E1278545006IN at the post office Lanji, Balaghat, M.P. on 12.09.2022. The notice given to her by the Crime Branch, Delhi Police under section 91 Cr. PC and which also bears her signature was proved by her as Ex. PW16/1 whereas her reply dated 20.09.2022 to this notice was proved by her as Ex. PW16/2.

79. A perusal of this reply shows that she described the said speed post article to have been booked at about 12:30 pm on 12.09.2022 by Kishore Samrite. She had further stated in the reply that this speed post article had been dispatched to National Hub, Jabalpur. The details of dispatch were also sought to be proved through the Back Office report (Ex. PW1/3) which showed the number of the speed post article as E1278545006IN and the name of the customer as Kishore Samrite.

80. In light of the citing of the above details by PW-16, certain objections raised by the the Id. Counsel for the accused are required to be noticed.

81. The Ld. Defence counsel had point out to the fact that PW16 could not remember during her examination-in-chief whether the article was booked by accused Kishore Samrite or anyone from his office. It was pointed out that the witness was, infact, cross-examined by the prosecution itself as she had purportedly resiled from her previous statement under section 161 Cr.P.C. The Id. Counsel for the accused pointed out that even

during her cross-examination, PW16 denied making the following portion of her statement under section 161 Cr.P.C. (Ex. PW16/PX1).

"वो यँहा से लेटर पोस्ट करवाते रहते हैं इसलिए हम उन्हें पहचानते हैं।" (*Who Yahan Se Letter Post Karwate Rehten Hain Isliye Hum Unhe Pehchante Hain*)

82. It was further highlighted by the Ld. Defence Counsel that PW16 had herself volunteered to state during the cross-examination that the sender of an article may often be different from the person who actually came to the post office counter for booking the parcel through speed post. The Ld. Counsel finally quoted from the cross-examination of PW16 where she could not say whether the speed post article in question had been personally booked by the accused Kishore Samrite.

83. The court has considered the import of the deposition of PW16. Undoubtedly, PW16 failed to assert that Kishore Samrite was a regular customer who would post letters from the post office at Lanji, Balaghat, M.P. It is also apparent that despite being prodded by the Id. Prosecutor to identify the accused during cross-examination on behalf of the State, PW16 was clear in stating that she did not know the identity of the person projected to her and whether he was Kishore Samrite or not.

84. The court would observe that the deposition of a witness, while required to be seen in totality, must be addressed for its core function for the party which has called the witness. The witness in question was an official of the post office at Lanji,

Balaghat, M.P. She was essentially cited to prove the record of booking of the speed post article which was finally received at the Rajya Sabha. She was more a witness to the record than the identification of the accused. PW16 was not cited as an acquaintance of the accused or being familiar with the contents or circumstances in which the accused purportedly sent the speed post article in question. Thus, her failure to identify him as the person who personally came to book the speed post article is not detrimental to the core of her deposition which is infact documentary in nature.

85. Documentary evidence is impervious to ocular accompaniment. The reference by PW16 to the notice from the Crime Branch (sent by SI Rupesh Baliyan) and its proof as Ex. PW16/1, followed by proof of her own reply (PW16/2), together constitute satisfaction with the principal purpose of her evidence which was to bring on record the proof of dispatch of speed post article no. E1278545006IN through its recorded sender viz accused Kishore Samrite. Again, much like the evidence of a witness, the evidence of multiple witnesses is also to be seen in totality and in conjunction with each other. Whether Kishore Samrite indeed was the effective sender of the parcel is not contingent on him having personally come to the post office for booking the speed post article. Such proof may also emerge from other tools including the evidence of the handwriting expert which has indeed been led with respect to the envelope and the letter which was found inside the envelope at the Rajya Sabha and ascribed to the accused.

86. Besides, SI Rupesh Baliyan, who came to be examined as PW18, also proved his notice under section 91 Cr. PC (Ex. PW16/1) given to PW16 and her reply (Ex. PW16/2). He further deposed that she had handed over the booking details (Ex. PW16/3).

87. It is found to be proved from the deposition of PW16 and PW18 that upon notice issued by the latter, the former provided the documentary details of the speed post article no. E1278545006IN, reflected by the record to have been booked by Kishore Samrite. The dispatch of the said speed post article, with its recorded sender being Kishore Samrite, is proved beyond doubt.

(ii) Evidence regarding receipt of the speed post article No. E1278545006IN at the office of the Secretary General, Rajya Sabha.

88. The next leg of the evidence was with respect to the receipt of the speed post article No.E1278545006IN at Delhi and its delivery at the office of the Secretary General, Rajya Sabha.

89. The relevant witnesses here were PW6 and PW7. PW6 (Shiv Shankar Sharma) was the Postal Assistant at GPO, New Delhi who deposed that during September 2022, he had been assigned the delivery of speed post in the area of North Block, Parliament, Rashtrapati Bhavan, Sector-2, Gol, Market and Kalibari. His deposition was again supported by documents. He firstly stated that on 16.09.2022, he had received the parcel from Lanji, Balaghat, M.P. which was to be delivered to the Secretary General, Rajya Sabha. He collected this parcel at about 10-11:00

a.m. from the speed post office centre and delivered the same at Rajya Sabha, D Branch at about 2-2:30 p.m. He further stated that the parcel was in sealed condition when he delivered the same.

90. He further proved the delivery manifest (Ex. PW6/A) including the relevant entry (Serial no. 26) which related to the delivery of the parcel by him at the D Branch of the Rajya Sabha. This entry was Ex. PW6/A1. The envelope itself was identified by him as the previously exhibited envelope Ex. PW1/P-4. This envelope had previously been proved by the Joint Director of Security at Parliament House, namely Dayanand (PW1).

91. A perusal of the delivery manifest for 16.09.2022 (Ex. PW6/A) shows that it was bearing the name of PW6 (Shiv Shankar Sharma) and recorded a number of articles addressed to various persons in the area of New Delhi, bearing the Pincode 110001. The entry at serial no. 26 of this manifest (Ex. PW6/A1) recorded the same speed post article number (E1278545006IN) as was provided in the reply (Ex. PW16/2) of the postal official (PW16) from Post office Lanji, Balaghat, Madhya Pradesh. Entry no. 26 also reflected the addressee of this article as *Maha Sachiv*, Rajya Sabha, Sansad Bhavan, New Delhi, GPO, New Delhi 110001, Delhi, India.

92. The court finds, without any uncertainty, that PW6 stands proved as the postman entrusted with delivery of postal articles in the area of New Delhi on 16.09.2022 and that he delivered the same speed post article at the Rajya Sabha on 16.09.2022 as had

been received from post office Lanji, Balaghat, M.P. with the name of the sender being Kishore Samrite (as proved by PW16).

93. The allied witness was the Deputy Chief Post Master, GPO, New Delhi (PW7) who also proved the delivery manifest (Ex. PW6/A) apart from proving the notice (Ex. PW7/A) to him from the IO and the speed post manifest (Ex. PW7/B) provided by him in reply.

94. The envelope delivered as speed post article no. E1278545006IN itself was identified and proved by multiple witnesses. The Joint Director, Security, Parliament House namely Daya Nand (PW-1) identified the said envelope as Ex. PW1/P-4 after stating that he had seen the said parcel in the office of S K Sharma, Director (Security), Rajya Sabha at about 6:30-7:00 pm on 16.09.2022. This envelope was also identified by the Personal Assistant to the Secretary General, Rajya Sabha who also received the parcel. Similarly, PW-6, the postman who delivered the same to Rajya Sabha identified it as the already exhibited Ex. PW1/P-4. This envelope does bear crucial details from the postal department including the speed post no. E1278545006IN and the source being Lanji S.O. It also bears the stamp of the Lanji Post Office of the date 12.09.2022 apart from the handwritten name of the sender as Kishore Samrite, former MLA (in Hindi) and the name of the addressee as the Secretary General, Rajya Sabha (in Hindi).

95. The discussion of the statements of PW16, PW6 and PW7, coupled with the account of PW18, prove beyond doubt that an envelope (Ex. PW1/P-4) was indeed sent as speed post article

No. E1278545006IN with the name of Kishore Samrite as the sender and was received at the office of the addressee viz the *Maha Sachiv*, Rajya Sabha.

96. The next exercise for the court is to determine the authorship of the above inscriptions on the envelope and the contents of the envelope.

(iii) Authorship of the handwritten name of the sender and addressee on the envelope sent as speed post article No. E1278545006IN.

97. It was the allegation of the prosecution that the accused had been found to have himself written, in Hindi, his name as the sender and the designation of the addressee on the speed post parcel which was the envelope Ex. PW1/P-4.

98. The investigating officer (PW25 - Inspector Vivek Malik) had deposed that he had obtained the specimen signatures of the accused on ten white pages (Ex. PW5/2) alongwith the specimen handwriting of the accused on fourteen white pages (Ex. PW5/3). Further, that the pages containing the specimen signature, specimen handwriting and the admitted signatures of the accused on an account opening form, along with the letter expressing threat as well as the aqua colour envelope addressed to *Maha Sachiv*, Rajya Sabha were sent to the FSL, Rohini for comparison of the handwriting and signature.

99. The opinion on the handwriting inscribed upon the envelope (Ex. PW1/P-4) and which was ascribed to the accused came to be provided by Ms. Preeti Chaudhary (PW22) who was

the Forensic/Chemical Examiner document at FSL, Rohini. She proved her report as Ex. PW22/1.

100. This report described the specimen signatures and handwriting (standards) as S1 to S24. The specimen handwriting of the accused is recorded from page S11 to S24 in Ex. PW5/3.

101. PW22 deposed that the questioned writing, stamped and marked Q1 and Q2 was written by the same person who wrote the specimen handwriting, stamped and marked mark S-11 to S-24. It is noted by the court that Q1 was the name of the sender recorded in the envelope Ex. PW1/P-4 in the following manner:-

किशोर समरीत, पूर्व विधायक, लांजी, तहसील लांजी, जिला बालाघाट G/Y
481222

Q2 was the name of the addressee upon this envelope as under:-

महासचिव, राज्य सभा, सचिवालय, संसद भवन, संसद मार्ग, नई दिल्ली-110001.

102. The opinion from the handwriting expert was quite definitive in finding, on the basis of similarities in writing and habit, that the same person had written the sample writing and the questioned writings (Q1 and Q2). The cross-examination of PW22 did not elicit any infirmity in her account so as to induce disbelief in her findings. The court finds the deposition of the handwriting expert to be credible. It stands established that the envelope (Ex. PW1/P-4) bears the handwriting of the accused,

both with respect to details of the addressee viz *Maha Sachiv* Rajya Sabha and name of the sender viz Kishore Samrite.

103. The court has already reached the finding that the speed post article no. E1278545006IN in the form of the envelope Ex. PW1/P-4 was sent from Post Office Lanji, Balaghat, M.P. in the name of the accused and received at Parliament House through GPO, Delhi. The authorship of the accused upon this envelope proves beyond any measure doubt that this article was booked by him at post office Lanji, Balaghat, M.P. for being delivered to the *Maha Sachiv*, Rajya Sabha. It is immaterial whether the accused himself went to the post office Lanji, Balaghat, M.P. or got the article booked through some other person. His name as the sender, coupled with his handwriting on the envelope, establishes without any doubt that he sent the envelope in question to the Secretary General of the Rajya Sabha, Parliament of India.

104. The critical question which must consequentially be decided by the court is regarding the contents of this envelope when it was opened at the Rajya Sabha.

(iv) Contents of the speed post article No. E1278545006IN (Ex. PW1/P-4).

105. After PW-6 (Shiv Shankar Sharma), postman from GPO, New Delhi had delivered the parcel from Lanji, MP at the Rajya Sabha D Branch and obtained the signatures of the person who received the same on the delivery manifest (Ex.PW6/A1), an official from the D Branch namely Nitin Pal carried the same to

Tarun Padihar, Personal Assistant in the office of the Secretary General, Rajya Sabha, Parliament of India.

106. Nitin Pal had deposed as PW-2 to state that after the concerned dealing person handed over 5-6 parcels to him for distribution to the branches, he handed over one of these parcels to Mr. Tarun. Further, that police officials had later made enquiry from him regarding him having handed over the parcel to Mr. Tarun.

107. Tarun Padihar (PW-3) was a crucial witness for the prosecution who confirmed that he had received one parcel from PW-2 at about 4:30 pm on 16.09.2022. He described the contents of the parcel opened by him to be as under:

- (i) One book of Constitution of India.
- (ii) One Indian National Flag
- (iii) Two bundles of papers
- (iv) One suspicious rod like material, packed in a plastic wrapper, which was partially leaking.

108. He asserted that since he found the material to be suspicious, he informed his seniors. PW-3 also recalled the name of the sender as Kishore Samrite and stated that his seniors had informed the Parliament Security Officers for further necessary action. According to PW-3, the security staff then took away the parcel alongwith the articles/material.

109. When the case property was seen by PW-3 during the course of his deposition, he identified the envelope as Ex.

PW1/P-4 and a letter dated 01.08.2022 in Hindi, purportedly written by Kishore Samrite and addressed to Sh. Om Birla, Hon'ble Speaker, Lok Sabha as Ex. PW1/P2. The other documents found in the envelope were identified by him as Ex. PW1/P3 (collectively). The book of the Constitution of India and the Indian National Flag also came to be identified by him as Ex. P1 and Ex. P2.

110. PW-3 lastly identified the green colour polythene containing the purported suspected brown colour substance as Ex. P3.

111. The court finds no break in the chain of events depicted in the testimony of PW-2 and PW-3. Their account is a believable chain of circumstances commencing from delivery of a parcel by PW-2 to PW-3, followed by the latter opening the same to find four distinct articles. The identification of these four articles by PW-3 was not vitiated by any circumstance and is apparently an identification in the natural course of recollection. Since he was the Personal Assistant to the addressee of the envelope viz the Secretary General, Rajya Sabha, Parliament House, it was again in the natural course of his duties to receive the postal articles addressed to the Secretary General and to open the same for scrutiny or verification. His description and identification of the articles found inside the envelope is adequate proof of the contents of the envelope. It stands established that the four articles, as deposed by PW-3, were found inside envelope Ex.PW1/P-4.

112. There are two articles among these four that have a material bearing on the articles of charge. The first of these is the threatening letter (Ex. PW1/P2) whereas the other is the suspicious substance (Ex.P3) presented as an explosive by the prosecution.

(v) Authorship of the threatening letter dated 01.08.2022 (Ex.PW1/P2).

113. The authorship of the letter Ex. PW1/P2 was again proved by the handwriting expert (PW-22) who had proved the writings on the envelope Ex. PW1/P-4.

114. The threatening letter itself was typed in nature but purportedly had the signatures of the accused on each page. The specimen signatures of the accused were taken by the investigating officer (PW-25) on ten different pages which were 'S1 to S10' and were collectively exhibited as Ex.PW5/2. The examined signatures on the threatening letter (Ex. PW1/P-2) were Q3 to Q14. The handwriting expert (PW-22) compared the specimen and questioned signatures to record the finding that the similarities in the writings habit were significant and sufficient to indicate that the questioned and specimen signature were written by the same person.

115. The above finding from the handwriting expert did not have any qualifications which could doubt the authorship of the signatures on the letter of threat.

116. It stands established beyond doubt that accused Kishore Samrite had signed the letter which was sent to the Parliament

expressing a threat to blow up the Parliament building with the use of dynamite. The specific threat expressed in the letter is reproduced below:

भारत की जनता का अपनी ही चुनी हुई सरकार एवं अपनी लोक तांत्रिक व्यवस्था पर विश्वास कम हो इससे पहले देश में लोकतंत्र के मंदिर संसद भवन को तथा नया निर्माणधीन संसद भवन को 30.09.2022 को 11 बजे मेरे द्वारा डायनामाईट लगाकर उड़ाया जायेगा। मेरा उद्देश्य भी जनमानस को छति पहुंचाना नहीं है। इस गूंगी बहरी सरकार को चेतावनी देना है कि सरकार भारत की 134 करोड़ जनता के लिये ईमानदारी से कार्य करे। पत्र के साथ में डायनामाईट की छड भेज रहा हूँ जो विस्फोटक होती है। किंतु बिना बैटरी एवं वायर के इससे विस्फोट नहीं होगा। भारत की 134 करोड़ जनता के हित में मेरी निम्न माँगो पर भारत सरकार विचार करे।

(Translated to English by the court as under:

Before the faith of the Indian public upon its chosen government and democratic system is diminished, I shall blow up the temple of democracy, the Parliament House and the under construction New Parliament House at 11:00 o'clock on 30.09.2022 by dynamite. My intention is not to damage the public consciousness but to warn this deaf and dumb government that it should work for the 134 crores population of India with honesty. I am sending a dynamite rod, which is an explosive, with the letter. However, without a battery and wire, it shall not cause an explosion. My demands may be considered by the Government of India in the interest of the 134 crores population.)

117. In consequence of the proof of the accused having signed the threatening letter and it having been typed upon his instructions, the entire contents of this letter including the above reproduced threat alongwith the remaining contents of the above letter, which were in the nature of wide ranging grievances expressed to the Government on behalf of various sections of society, stand proved as having emanated from the accused.

Custody of the parcel and its contents received at the office of the Secretary General, Rajya Sabha

118. The Ld counsel for the accused had sought to raise doubts on the purported untampered nature of the contents of the parcel received at the office of the Secretary General, Rajya Sabha on the submission that its custody between 4:00 – 4:30 pm and 7:00 pm on the date of incident remained unexplained. Reference had been made to PW-3 deposing that the parcel was received at 4:30 pm and the deposition of PW-1 who stated that he had seen the parcel at 7:00 pm when he was called by his seniors namely S K Sharma and Raghubir Lal to their room. The Ld. Counsel had submitted that none of the security officers who took away the contents of the parcel, as stated by PW-3, had been examined and the prosecution had also not cited S K Sharma or Raghubir Lal as witnesses. It was argued by the Ld. Counsel that considering the suspicious nature of the substance allegedly found in the parcel, allegations of it being an explosive could not be saddled on the

accused when there was a manifest possibility of tampering with the contents of the parcel between 4:30 pm and 7:00 pm.

119. Besides, the Id. Counsel had referred to the statements of PW-3 and PW-1 having omitted to say that the substance was contained in a packaging with the inscription 'Super Power 90 Danger Explosive'. It was agitated that the said inscription was only mentioned in the letter dated 16.09.2022 from Raghubir Lal, Joint Secretary, (Security), Parliament House, Delhi to the Commissioner of Police, Delhi which asserted that the brown colour suspicious substance was inside one white colour polythene bearing the title 'Super Power 90 Danger Explosive'. It was the argument of the Ld. Defence Counsel that the repetition of this description of the suspicious substance by the investigating officer (PW-25) before the court as 'Super Power 90' belied the non noticing of such inscription by the two witnesses (PW-1 and PW-3) who were presented by the prosecution as having seen this substance at the Parliament House.

120. The court may observe that there is no inexorable conclusion of tampering only because tampering may be possible. Public servants are presumed to be acting in due discharge of their duties and cannot be presumed, at the outset, to have tampered with the contents of the parcel, unless proved otherwise.

121. Yet, in the interest of objective appreciation of the fears expressed by the Ld. Counsel for the accused, the court may test

this apprehension against objective parameters available from the evidence.

122. The parcel had two contents capable of being tampered with viz the threatening letter and the suspicious substance. The remaining two articles viz the book of Constitution of India and the Indian National Flag may ordinarily may not be seen as being capable of tampering to make the accused look culpable.

123. The first of the material contents was the threatening letter Ex. PW1/P2.

124. As discussed thus far in the present judgment, the court has believed, upon the proof of dispatch and receipt of the speed post article booked in the name of the accused, the statement of the handwriting expert (PW-22) and the typist of the letter (PW-14) that this letter was sent by the accused. Once the authorship of the letter is established as being under the hand of the accused, the question of tampering is defunct. Even if the letter remained unaccounted for between 4:30 pm and 7:00 pm, it could not have been tampered with as it was already bearing the signatures of the accused. Besides, it has also been established that the speed post article in question was booked at post office Lanji by accused Kishore Samrite and this very article was received at the Rajya Sabha.

125. Thus, the apprehension of tampering with respect to one of the two material contents of the speed post parcel viz the threatening letter is completely unfounded.

126. The court shall discuss the question of tampering with the second of the material contents of the speed post parcel viz the

suspicious substance in light of the discussion on the nature of the substance itself which is the next segment of this judgment.

(vi) Whether the substance in question constitutes an “Explosive” under the Explosives Act, 1884 or/and “Explosive Substance” under the Explosive Substances Act, 1908.

127. The articles of charge against the accused comprised two separate provisions related to explosives. The first article of charge is under section 5(a) of The Explosive Substances Act, 1908. The second article of charge pertains to section 9B(1)(b) of The Explosives Act, 1884. Both provisions incorporate definitions in relation to explosives. While the former act defines “explosive substance”, the later statute defines “explosive”. A finding from the court on the nature of the substance tested by the CFSL in the present investigation is therefore material to the allegations under the two articles of charge.

128. The relevant definitions are noted below.

The Explosive Substances Act, 1948

129. An “Explosive Substance” is defined under The Explosive Substances Act, 1948 as under:

2(a) the expression, “explosive substance” shall be deemed to include any materials for making any explosive substance; also any apparatus, machine, implement or material used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; also any part of any such apparatus, machine or implement;

130. The punishment for possession of any explosive substance or special category explosive substance under suspicious circumstances is provided under section 5 of this Act which is noted below:-

Section 5. Punishment for making or possessing explosives under suspicious circumstances

Any person who makes or knowingly has in his possession or under his control any explosive substance or special category explosive substance, under such circumstances as to give rise to a reasonable suspicion that he is not making it or does not have it in his possession or under his control for a lawful object, shall, unless he can show that he made it or had it in his possession or under his control for lawful object, be punishable,-

(a) in the case of any explosive substance, with imprisonment for a term which may extend to ten years, and shall also be liable to fine;

(b) in the case of any special category explosive substance, with rigorous imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

The Explosives Act,1884

131. An “explosive” is defined under The Explosives Act, 1884 in the following manner:

4(d) “explosive” means gun-powder, nitroglycerine, nitroglycol, gun-cotton, di-nitrotoluene, tri-nitrotoluene, picric acid, di-nitrophenol, tri-nitrotoluene (styphnic acid), cyclo-trymethylene-trinitramine, penta-erythritol-tetranitrate, tetryl, nitroguanidine, lead azide, lead styphynate, fulminate of mercury or any other metal, diazo-di-nitrophenol, coloured fires or any other substance whether a single chemical compound or a mixture of substances, whether solid or liquid or gaseous used or manufactured with a view to produce a practical effect by explosion or pyrotechnic effect; and includes fog-signals, fireworks, fuses, rockets, percussion-caps, detonators, cartridges, ammunition of all descriptions and every adaptation or preparation of an explosive as defined in this clause;

132. Contravention of rules made under section 5 of the Act, including possession or transport of any explosives, is made punishable under section 9B(1)(b) as under :

9B. Punishment for certain offences

(1) Whoever, in contravention of rules made under section 5 or of the conditions of a license granted under the said rules,-

(a) manufactures, imports or exports any explosive shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees, or with both;

(b) possesses, uses, sells or transports any explosive shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to three thousand rupees, or with both, and

(c) In any other case, with fine which may extend to one thousand rupees.

2.....

3.....

Whether the suspicious substance in question was an “explosive”

133. For reason of its more detailed nature, the court would examine the definition of “explosive” under section 4(d) of the Explosives Act, 1884 at the outset. This definition is exhaustive in listing the substances which can be treated as an explosive. After naming some of these substances including Gun Powder, Nitroglycerine etc., the second part of the definition incorporates ‘any other substance’, ‘whether a single chemical compound or a mixture of substances’, used or manufactured with a view to produce a practical effect by ‘explosion or pyrotechnic effect’ like fireworks and cartridges.

134. It is apparent that a substance may satisfy the definition of “explosive” under section 4(d) in either of two scenarios – firstly,

if it has been described by name in the definition and secondly, if it is a substance used or manufactured for creating an explosion or pyrotechnic effect.

135. The prosecution had relied upon two reports from the CFSL to contend that the substance examined at the CFSL was an “explosive” within the definition of section 4(d). The court would first test the findings in these two reports from the CFSL against the definition under section 4(d) of the Explosives Act 1884.

136. The first report was the report dated 23.11.2022 from V.B. Ramteke, Principal Scientific Officer (Chemistry), which he tendered in evidence as Ex. PW19/1. His findings upon examination of the ‘light brown color damp substance’ was that it ‘gave positive tests for the presence of paraffin wax’.

137. The second report dated 23.11.2022 was from Ms. Babita Gulia, SSO-I Ballistics, which she tendered as Ex. PW21/1. Her findings upon examining the ‘light brown coloured substance’ was that the following components were detected in this substance:-

“Ammonium”, “Nitrate”, “Sodium”, “Chlorate”, “Chloride”, “Phosphate” and “Paraffin Wax”.

138. Considering the above substances mentioned by PW19 and PW21 in light of the twin scenarios contemplated by section 4 (d) of the Explosives Act, the court would notice that neither component of this definition is satisfied from the findings in the two reports from the FSL.

139. “Paraffix Wax”, which was found by PW19 and PW21 in the substance examined by them is not named as an explosive under section 4(d). Similarly, “Ammonium”, “Nitrate”, “Sodium”, “Chlorate”, “Chloride”, “Phosphate” and “Paraffin Wax” are not specified in section 4(d). Thus, none of the components found in the substance examined by PW19 and PW21 are named explosives within the meaning of the first segment of the definition under section 4(d) which cites many explosives by name.

140. The second component of the definition under section 4(d) relates to the substance being used or manufactured to produce an explosion or pyrotechnic effect. This ingredient is quite specific in nature. Unless a substance has been used or manufactured for creating an explosion or pyrotechnic effect, it would not satisfy the definition of explosive under section 4(d). The reports from PW19 and PW21 did not even allege that the components found by them in the Light Brown coloured substance were manufactured for producing an explosion or pyrotechnic effect. Indeed, no other evidence was lead by the prosecution to even remotely suggest that paraffin wax, “Ammonium”, “Nitrate”, “Sodium”, “Chlorate”, “Chloride”, “Phosphate” and “Paraffin Wax” could be manufactured for creating an explosion.

141. The solitary strand of evidence cited by the Ld. Prosecutor from the deposition of PW19 was his assertion during cross-examination that paraffin wax can be used in an explosive substance. While this assertion may have a bearing on the

findings to be rendered by the court upon the charge under section 9B(1)(b) of the Explosive Substances Act, it has no bearing on the charge under section 4(d) of the Explosive Act as PW1 admitted that paraffin wax is not an explosive on its own. He did not claim that Paraffin Wax can somehow be manufactured for producing an explosion either. In fact, the court finds it to be an extremely open ended statement from him to have claimed that it could be used as an explosive substance. Even an expert witness is not permitted to expand upon statutory definitions without reference to the definition or the science behind his assertion. In sum, the deposition of PW19 and PW21 does not indicate that their reports Ex. PW19/1 and Ex. PW21/1 justify any finding from the court regarding an “explosive”, within the meaning of section 4(d) of the Explosives Act, having been found in the substance which they examined.

142. The first article of charge under section 9B(1)(b), which seeks to penalise the possession, use, sale or transport of any explosive, remains not proved against the accused as the substance ascribed to his possession and dispatched by him has not been found to be an “explosive” within the meaning of section 4(d) of the Explosives Act.

Whether the suspicious substance in question was an “Explosive Substance”

143. The second exercise in the context of the articles of charge is to test the findings from the two forensic experts against the definition of “explosive substance” under section 2(a) of The

Explosive Substances Act, 1908 which is relevant to the charge under section 5(a) of the said Act.

144. The definition under section 2(a) is quite striking as it does not describe any chemical substance or compound by name so as to be included within the definition of “explosive substance”. This definition again has two parts. The first part creates a deeming definition of explosive substance so as to include any materials for making any explosive substance. The second part includes any apparatus in the nature of machines, implements or materials used or intended to be used for causing an explosion. Apparently, the first part relates to chemical substances and the second part pertains to hardware which may be detonators, triggers, timers or batteries etc. The first part of the definition is indeed very wide in encompassing any material which can be used for making an explosive substance. Yet, the investigation must at least establish that the substance found in an examined substance is a material component of the intended explosive substance. It is common knowledge that some chemicals and compounds can be used for both – explosive and harmless purposes. Thus, the wide arc of the definition under section 2(a) cannot operate in an improbable, outlandish and inherently unreasonable manner.

145. Seen in the above understanding, it is difficult for the court to treat the “paraffin wax” or other substances like “ammonium”, “nitrate”, “sodium”, “chlorate”, “chloride”, “phosphate” and “paraffin wax” as being an explosive substance within the meaning of section 2(a). PW-19 had stated in his report Ex.

PW19/1 itself that the light brown colour damp substance had not been examined for presence of explosive substances. The substance had rather been examined by physico – chemical methods, gas chromatography and other techniques for its chemical constituents only. Thus the report of PW-19 is not at all relevant for the charge under section 5(a) of The Explosive Substances Act, 1908 as this charge is contingent upon proof of an explosive substance having been scientifically ascertained.

146. The assertion from PW-19 that paraffin wax can be used in an explosive substance was made only made as a voluntary statement during his cross examination by the Id counsel for the accused and after he had admitted the suggestion from the defence counsel that paraffin wax is a petroleum/hydrocarbon product used in making of candles, cosmetics and polish etc. The witness had occasion to improve upon his version during the course of cross examination and this solitary assertion is not worthy of basing any finding regarding paraffin wax being capable of use in explosive substances. Moreso, as PW-19 admitted that paraffin wax is not an explosive on its own.

147. Though PW-21 had stated in her report Ex. PW21/1 itself that substances found by her inter alia “ammonium”, “nitrate”, “sodium”, “chlorate”, “chloride”, “phosphate” and “paraffin wax” could be used as explosive, the said assertion is quite speculative and not authoritative. The word of an expert is not conclusive and the court has to consider the circumstances in totality. Undoubtedly, these substances are found in a variety of domestic or industrial scenarios. The cross examination of

PW-21 elicited her agreement with suggestions that ammonium was used in refrigeration whereas sodium is a basic nutrient for health, being part of table salt; phosphate is used in toothpastes while soil itself may contain ammonium, nitrate, sodium, chlorate, chloride and phosphate.

148. The court would therefore express that these substances can well be treated as being harmless unless combined with other components so as to constitute an explosive, capable of causing an explosion within the meaning of section 4(d) or being an explosive substance intended for causing an explosion. The court is not bound to draw a presumption favouring the definitions of 'explosive' or 'explosive substance' from the possible dual use of these substances only because the accompanying letter from the accused threatened to blow up the Parliament of India. The substances examined by PW-19 and PW-21 appear to have been a harmless concoction of paraffin wax, ammonium, nitrate, sodium, chlorate, chloride and phosphate.

149. Pertinently, PW-21 did not state that these substances, even in the combination detected in the light brown colour powder examined by her, was capable of causing an explosion. PW-21 did not say that the combination of ammonium, nitrate, sodium, chlorate, chloride, phosphate and paraffin wax was capable of causing an explosion. PW-21 infact only asserted the definitional requirement of section 2(a) by claiming in her report that the substances found by her could be used as explosive.

150. Neither expert from the CFSL was definitive in convincing the court that the light brown colour substance examined by them

was of a nature which would be punishable either under section 5(a) of the Explosive Substances Act 1908 or under section 9B(1) (b) of the Explosives Act 1884.

151. It is a material circumstance that no triggering device was found alongwith the substance in question when it was received at the Parliament. Evidently, no electrical or other hardware, which could be used for causing an explosion, was found with the substance. Hence, the substance in question could not have caused any explosion. In essence, it was a harmless and non explosive substance not falling within the definition of section 2(a) of The Explosive Substances Act 1908 or section 4(d) of The Explosives Act, 1884.

152. Thus, regardless of the proof of dispatch of this substance, alongwith the threatening letter and other articles by the accused to the Parliament, the Articles of Charge are incapable of being proved. Since the substance in question has not been established as either an explosive or an explosive substance, the charge relating to its possession (section 5(a) of The Explosive Substances Act, 1908) and its transport (section 9B(1)(b) of The Explosives Act, 1884) remains not proved.

Question of tampering with the suspicious substance in question

153. The court had recorded earlier that the question of tampering with the substance in question would be taken up after determining the nature of the substance itself.

154. The above analysis of the findings of the experts from the CFSL, in light of the definitions of “explosive” and “explosive

substance”, has discounted the possibility of the substance found in the parcel in question to be either an explosive or explosive substance. Since the substance in question has not been found to be dangerous or capable of causing any explosion, apprehensions of it being tampered are wholly irrelevant. What was not an explosive or explosive substance to begin with could not have been tampered to assume this harmless status either. The question of tampering may have been relevant only if the reports from the CFSL experts had established the substance to be within the definition of “explosive” or “explosive substance”. The very fact that the substance was determined as being harmless rules out the possibility of it having been tampered between 4:30 pm and 7:00 pm on 16.09.2022 after it was taken away by security officers from PW-3 and later noticed by PW-1 at the office of S K Sharma.

155. The argument of the Ld. Defence counsel casting doubts on the fidelity of composition of the substance in question is infructuous for another reason. The court has specifically held that the substance in question has not been proved to be an explosive of the description “Super Power 90 Dangerous Explosive”. What has been found to be benign could not possibly have been tampered to any worse status.

156. Besides, the court has noted in the context of the threatening letter that an article cannot be presumed to have been tampered only because it could have been tampered and public servants are presumed to be acting in due discharge of their duties unless proved otherwise.

157. While the prosecution may have supplemented its evidence by also examining S K Sharma and Raghbir Lal, their non examination does not necessarily indicate that the version of PW-1 or PW-3 is false. Since the chain of dispatch and receipt of the parcel as well as its contents being found to have been sent by the accused has inspired faith with the court, there is absolutely no basis for the court to perceive tampering with any of the contents.

158. In sum, while the contents of the substance found in the parcel were harmless in terms of their capability to cause an explosion, the prosecution has succeeded in establishing that the entire parcel was sent by the accused.

159. The evidence led by the prosecution being inadequate for basing a finding of guilt qua the articles of charge framed against the accused, the court has considered whether the evidence does constitute commission of any other offence. The court finds that the evidence does point to commission of the offence punishable under section 506 IPC. This aspect is addressed next.

Question of culpability of the accused under section 506 IPC

160. The court would examine here whether the commission of any other offence, specifically section 506 IPC, is established from the proof advanced by the prosecution regarding the dispatch of the threatening letter (Ex.PW1/P-2) and associated articles along with the substance in question (Ex.P3) to the Parliament.

161. While the articles of charge under section 5(a) of The Explosive Substances Act, 1908 and section 9B(1)(b) of The Explosives Act, 1884 remained not proved, it is nevertheless established that the accused sent a letter with the threat to blow up the Parliament of India if his demands were not met. It is only reasonable to inquire whether the arrival of such a threatening letter, accompanied as it was with a suspicious substance, at the Parliament, through the office of the Secretary General, Rajya Sabha, caused alarm among the officials in charge of the security at the Parliament of India.

162. This assessment can be made on two parameters, the first of which is based on ordinary principles of prudence. It is to be reasonably assumed in light of the sensitive nature of security of the Parliament of India and the nature of the threatening letter, as well as possibility of a harmful substance being received that all officials at the Parliament would have experienced apprehension and consternation, undoubtedly causing severe alarm. Once a threat and that too relating to an explosion at a highly protected and sacrosanct premises like the Parliament of India is received, it is to be concluded on ordinary principles of reasonableness that severe alarm would be occasioned.

163. The second criteria for determining whether alarm was caused at the Parliament of India upon the unravelling of the contents of the parcels sent by the accused is the testimony of the witnesses from the establishment of the Parliament. These witnesses were PW-1 and PW-3.

164. PW-3, who received the parcel in question described one of the contents of the parcel to be “one suspicious rod like material, packed in a plastic wrapper, which was partially leaking”. He also deposed that he found the material to be suspicious and informed his seniors regarding the same and that the security staff took the parcel away. During his cross examination, PW-3 elaborated that he had described the material as suspicious as such rod like material was generally not received at the Parliament and it was also leaking. The court would observe that the first reaction of an official at the Rajya Sabha is to be accepted as the natural response of a reasonable person working in a sensitive establishment. The suspicious shape and contents of the leaking substance would certainly have caused alarm at the Parliament House.

165. The second witness from the Parliament was PW-1 (Daya Nand) who was the Joint Director (Security) at the Lok Sabha, Parliament House. This witness too described seeing a “suspected substance wrapped in the green polythene cover which was slightly leaking”. During his cross examination, this witness further stated that since the threat letter Ex. PW1/P-2 had threatened that Parliament House would be blown up with dynamite, he assumed that the packet was having some kind of explosive material.

166. There is ample indication from the combined reading of the accounts given by PW-1 and PW-3 that grave alarm was caused at the security establishment of the Parliament of India upon receipt of the letter received from the accused with the

threat to blow up the Parliament building and the letter being accompanied by a suspicious substance.

167. Such alarm lies within the meaning of criminal intimidation as defined under section 503 IPC and punishable under section 506. The second part of section 506 pertains to threat to cause destruction of property by fire apart from threat to cause death or grievous hurt.

168. Sections 503 and section 506 IPC are reproduced below:-

Section 503. Criminal Intimidation- Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

506. Punishment for criminal intimidation.— Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; If threat be to cause death or grievous hurt, etc.— and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or [imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

169. The ingredients of sections 503 and 506 IPC can be gainfully cited from the decision in *Mohammad Wajid & Anr. Vs State of UP. & Ors. 2023 INSC 683* wherein it was reiterated as under:

24. An offence under Section 503 has following essentials:-

- 1) Threatening a person with any injury;
(i) to his person, reputation or property; or
(ii) to the person, or reputation of any one in whom that person is interested.*
- 2) The threat must be with intent;
(i) to cause alarm to that person; or
(ii) to cause that person to do any act which he is not
legally bound to do as the means of avoiding the execution of such threat; or
(iii) to cause that person to omit to do any act which
that person is legally entitled to do as the means of avoiding the execution of such threat.*

27. A bare perusal of Section 506 of the IPC makes it clear that a part of it relates to criminal intimidation. Before an offence of criminal intimidation is made out, it must be established that the accused had an intention to cause alarm to the complainant.

170. Also, in *Manik Taneja & Anr vs State Of Karnataka & Anr, 2015 (7) SCC 423*, the Hon'ble Supreme Court highlighted the aspect of 'alarm' in allegations of criminal intimidation as under:

15. In the instant case, the allegation is that the appellants have abused the complainant and obstructed the second respondent from discharging his public duties and spoiled the integrity of the second respondent. It is the intention of the accused that has to be considered in deciding as to whether what he has stated comes within the meaning of "Criminal intimidation". The threat must be with intention to cause alarm to the complainant to cause that person to do or omit to do any work. Mere expression of any words without any intention to cause alarm would not be sufficient to bring in the application of this section. But material has to be placed on record to show that the intention is to cause alarm to the complainant. From the facts and circumstances of the case, it appears that there was no intention on the part of the appellants to cause alarm in the minds of the second respondent causing obstruction in discharge of his duty. As far as the comments posted on the Facebook are concerned, it appears that it is a public forum meant for helping the public and the act of appellants posting a comment on the Facebook may not attract ingredients of criminal intimidation in Section 503 IPC.

171. Being the sender of the suspicious substance and the author of the threat letter, the accused is established beyond doubt as having intentionally caused alarm at the Parliament House, within the contemplation of section 503 and section 506 Part II IPC.

172. To the firm finding of the court, the threat, from the accused, to blow up the Parliament building constitutes a threat to cause destruction of property by fire (which would

undoubtedly ensue upon an explosion), thereby rendering him liable for conviction under Part II of section 506 IPC. The threat to cause death or grievous hurt is also implicit in the threat to blow up the Parliament building as such premises are always occupied or manned by security personal. The evidence led by the prosecution justifies conviction under Part II of section 506 IPC on this count too.

173. It is noticed here by the court that in the order of charge framed by the Ld. Predecessor of this court on 16.10.2023, a short observation regarding the applicability of section 506 IPC in the present allegations was given in the following manner:-

46. As far as Section 506 IPC is concerned, there is no material on record to show that by the alleged threat letter dated 01.08.2022, any alarm was caused to any official of the Lok Sabha Secretariat. Therefore, offence under section 506 IPC is also not made out against accused.

174. The court may therefore determine whether conviction of the accused under section 506 Part II IPC is constrained by the above observation in the order framing charge.

175. While the Ld. Predecessor of this court did not find it justifiable at the stage of framing charge to also incorporate section 506 IPC as one of the articles of charge, this court finds no impediment to the court reaching the finding of guilty under the said provision if evidence warrants such a finding. Also, charge itself is amenable to amendment at any stage by virtue of section 216 of the Cr.P.C. If the evidence which comes to record

during the trial justifies the invoking of a penal provision not framed as charge, conviction can still follow under such provision.

176. The court would also cite section 221 Cr. PC which permits the accused to be convicted of an offence different from the offence with which he was charged if the evidence warrants such conviction.

177. Section 221 Cr. PC is noted below:

221. Where it is doubtful what offence has been committed.

(1) If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

(2) If in such a case the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of subsection (1), he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

178. The decision of the Hon'ble High Court of Patna in ***Vikash Kumar @ Vikash Kumar Singh vs The State of Bihar CRIMINAL APPEAL (SJ) No.2756 of 2017 dated 12.07.2019***

may be cited here where, in the facts of the said case, it was observed as under:

11. Now, the question remains whether such conviction could be recorded as no charge has been framed and for that, Section 221(2) read with Section 215 of the Cr.P.C. is there to rescue.

12. In K. Prema S. Rao and another vs. Yadla Srinivasa Rao and others reported in A.I.R. 2003 (SC) 11, it has been held:-

“22. Mere omission or defect in framing charge does not disable the Criminal Court from convicting the accused for the offence which is found to have been proved on the evidence on record. The Code of Criminal procedure has ample provisions to meet a situation like the one before us. From the Statement of Charge framed under Section 304B and in the alternative Section 498A, IPC (as quoted above) it is clear that all facts and ingredients for framing charge for offence under Section 306, IPC existed in the case. The mere omission on the part of the trial Judge to mention of Section 306, IPC with 498A, IPC does not preclude the Court from convicting the accused for the said offence when found proved. In the alternate charge framed under Section 498A of IPC, it has been clearly mentioned that the accused subjected the deceased to such cruelty and harassment as to drive her to commit suicide. The provisions of Section 221 of Cr.P.C. take care of such a situation and safeguard the powers of the criminal court to convict an accused for an offence with which he is not charged although on facts found in evidence, he could have been charged for such offence. Section 221 of Cr. P.C. needs reproduction:-

"221. Where it is doubtful what offence has been committed-(1) If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged. In the alternative with having committed some one of the said offences.

(2) If in such a case the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of sub-section (1), he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

23. The provision of sub-section (2) of Section 221 read with sub-section (1) of the said Section can be taken aid of in convicting and sentencing the accused No. 1 of offence of abetment of suicide under Section 306 of IPC along with or instead of Section 498A of IPC.

179. The above decision also enables this court to proceed against the accused under section 506 IPC. The caveat of course is that an accused should not have been put to any prejudice.

180. In the present trial, the accused has been represented throughout trial by diligent counsels and each witness has been substantially cross-examined. The charge framed under sections 5(a) of the Explosive Substances Act, 1908 & 9(B)(b) of the Explosive Act, 1884 also brought it to the notice of the accused that he had threatened to blow up the Parliament House if the demands narrated in the threat letter dated 01.08.2022 were not met by 30.09.2022. The accused was therefore put to notice

through the existing charge itself that the allegations involved him threatening an explosion at the Parliament building. The court does not find the accused to have been prejudiced by the non framing of the charge under section 506 IPC.

181. The court has expressed earlier that the evidence is required to be considered in conjunction with various facets of the depositions. The prosecution has succeeded in establishing the following facts in issue beyond reasonable doubt.

- (i) Accused Kishore Samrite booked a speed post article bearing No.E1278545006IN in envelope Ex. PW1/P-4 for being delivered to the Secretary General of the Rajya Sabha.
- (ii) This very speed post article was received at the office of the Secretary General, Rajya Sabha.
- (iii) The name of the accused, as sender of this speed post article, as well as the designation of the Secretary General, Rajya Sabha, as addressee of the speed post article, was written by the accused in his own handwriting.
- (iv) Upon being opened, the speed post article was found to contain a threatening letter (Ex. PW1/P-2) and a suspicious substance (Ex. P3) apart from a book from the Constitution of India (Ex. P1) and the Indian National Flag (Ex.P2).
- (v)(a) The threatening letter (Ex. PW1/P-2) was typed upon the instruction of the accused and signed by the accused himself.

- (b) The threatening letter was explicit in expressing the intention to blow up the Parliament of India, using dynamite, on a specific date and time viz 11 o'clock on 30.09.2022 if the demands expressed in the letter by the accused were not met.
- (vi) Although the substance in question does not constitute an "Explosive" under the Explosives Act, 1884 or/and "Explosive Substance" under the Explosive Substances Act, 1908, the letter from the accused, threatening to blow up the Parliament building, constitutes a threat to cause destruction of property by fire, thereby rendering him liable for conviction under Part II of section 506 IPC.

182. The evidence led by the prosecution constitutes proof beyond reasonable doubt that accused Kishore Samrite committed the offence punishable under section 506 Part II IPC.

ORDER

183. Accused Kishore Samrite is acquitted of the charge under section 5(a) of the Explosive Substances Act, 1908 and section 9B(1)(b) of the Explosives Act, 1884.

184. Accused Kishore Samrite is convicted under section 506 Part II IPC.

Dictated and announced in open Court

on 18th February, 2025

**(Vishal Gogne)
Special Judge (PC Act) CBI-24
(MP/MLA Cases), RADC
New Delhi**