

**IN THE COURT OF SH. PARVEEN SINGH,  
ADDL. SESSIONS JUDGE – 03 (NORTH EAST DISTRICT)  
KARKARDOOMA COURT : DELHI.**

**SC No. 128/2020  
FIR No. 62/2020  
PS Karawal Nagar  
U/s. 147/148/149/436/427/395/302 IPC  
& 25/27 Arms Act**

**State**

**Versus**

**1. Lakhpat  
S/o. Sh. Netrapal  
R/o. H.No. 138, Gali No. 4, Prem Vihar,  
Shiv Vihar, Karawal Nagar, Delhi.**

**2. Kuldeep,  
S/o. Sh. Mangal Sen,  
R/o. H. No. B-87, Gali No. 1,  
Prem Vihar, Shiv Vihar,  
Karawal Nagar, Delhi.**

**3. Yogesh,  
S/o. Sh. Saudan Singh,  
R/o. H. No. 21, Gali No. 1, Phase-IV,  
Shiv Vihar, Karawal Nagar, Delhi.**

**4. Lalit,  
S/o. Sh. Niranjan Kumar  
R/o. H. No. B-97, Gali No. 1,  
Prem Vihar, Shiv Vihar,  
Karawal Nagar, Delhi**

5. Kuldeep,  
S/o. Sh. Shyam Babu,  
R/o. H. No. 182, Gali No. 5, Phase-IV,  
Shiv Vihar, Karawal Nagar, Delhi.

...Accused.

Date of Committal : 21.10.2020.  
Date of Arguments : 29.05.2026.  
Date of Pronouncement : 02.06.2026.

*(In compliance of directions passed in judgment Manojbhai Jethabhai Parmar (Rohit) v. State of Gujarat, list of prosecution witnesses is Annexure 1; list of documents exhibited by prosecution is Annexure 2 and list of admitted documents is Annexure 3, to the judgment.)*

(Section 481 BNSS complied by all the accused)

## JUDGMENT

### *Facts of Prosecution Case as per Charge Sheet*

1.1 Brief facts of the present case are, that the present case pertains to death of one sh. Mohd. Anwar s/o Md. Khacheru. On 27.02.2020, complainant Saleem Kassar reached PS Karawal Nagar and gave a statement alleging that on 25.02.2020, at about 9.00 a.m, a mob of some unknown persons had burnt his Nano car bearing Regn.No.DL4CAN/6537 and TSR bearing Regn. No.DL1RL/9401, which were parked in front of his house. He further alleged that the said mob had then gone to his elder brother Anwar, untied and taken away 17 goats from the house of brother and set on fire the household articles of his brother. On seeing this, he started to run towards his

house and then he heard the sound of a gunshot. He saw that his brother Mohd. Anwar had received gunshot injury. Thereafter, they burnt the body of his brother. He further alleged that the said mob had broken the door of his house, looted his household articles and then set his house on fire. Thereafter, ASI Rakam, along with the complainant, went to the place of incident, where traces of a burnt dead body were found with a piece of leg in unburnt condition.

1.2            Thereafter, on the statement of complainant, ASI Rakam made an endorsement and got the present FIR registered. After the registration of FIR, investigation was assigned to Insp. Prakash Roy.

1.3            During investigation, IO Insp. Prakash Roy and ASI Rakam went to the place of incident and prepared rough site plan. The recovered part of the body of deceased was deposited in GTB Hospital for post-mortem. On 29.02.2020, the post mortem of was conducted. As the recovered body was only in part, DNA test was conducted to establish its identity. DNA obtained from the blood samples of the daughter of Anwar namely Ms.Gulshan, complainant Saleem Kassar and the body part confirmed that the said part was a body part of deceased Mohd. Anwar. Thereafter, the investigation was transferred to Crime Branch.

1.4            During the investigation, on 11.03.2020, site was inspected by FSL team and some exhibits i.e. one human bone, burnt material and ash residue etc. were lifted from Ramleela Maidan and

two types of burnt material were lifted from the house of complainant.

1.5 During further investigation, it was learnt that one Lakhpat, who was local criminal, had played an active role in the riots. Mobile number of Lakhpat was provided by one Jitender. On 16.03.2020, accused Lakhpat was arrested from outside a wine shop near Shyam Colony, Ballabgarh and he disclosed that he had shot Anwar with a country made pistol given to him by Yogesh and Kuldeep. On 18.03.2020, accused Yogesh and Kuldeep s/o Mangal Sain were apprehended. Both these accused got recovered desi kattas from their houses. Accused Kuldeep, S/o Mangal Sain further got recovered one empty cartridge from Ramleela Maidan. He also got recovered one orange coloured full sleeve T-shirt from his house, which he was wearing at the relevant time.

1.6 During the course of further investigation, the aforesaid three accused further disclosed about the involvement of other persons namely Lalit, Neeraj, Rajender, Mohit @ Chatu and Kuldeep, S/o Shyam Babu. Accordingly, accused persons namely Lalit and Kuldeep, S/o Shyam Babu were arrested on 29.03.2020 and 31.03.2020 respectively. One wooden stick/danda each was also recovered at the instance of accused Lalit and Kuldeep, S/o Shyam Babu. On 04.04.2020, a hard disk of DVR of Parikshit Enterprises, 33 Foota Road, Shiv Vihar was seized. The CDRs of the mobile phones of the accused were analyzed which revealed their presence at or

around the spot at the relevant time. After completion of investigation, charge sheet for offences punishable u/s 147/148/149/436/427/395/302 IPC was filed against accused.

1.7 Thereafter, vide first and second supplementary charge sheets, statements of witnesses and FSL results etc. were filed before the court.

### **Charges**

2.1 On 16.09.2021, charge for offences punishable u/s 143/147/148 r/w section 149 IPC, u/s 454/427/395/436 IPC r/w section 149 IPC, u/s 435 IPC r/w section 149 IPC and u/s 395/302 IPC r/w section 149 IPC was framed against all the accused, to which they pleaded not guilty and claimed trial. On the same day, charge for offences punishable u/s 25/54/59 Arms Act was framed against accused Kuldeep s/o Mangal Sain and Yogesh to which they pleaded not guilty and claimed trial. On the same day, charge u/s 27/54/59 Arms Act was framed against accused Lakhpat to which he pleaded not guilty and claimed trial.

### **Prosecution Evidence**

3.1 Thereafter, the prosecution examined 33 witnesses. Details of these witnesses and brief description of their roles is annexed as Annexure 1. The list of documents proved by the prosecution and the witnesses who proved them, is Annexure 2. The list of admitted documents is Annexure 3.

**Statement of Accused**

4.1 Thereafter, on 05.05.2026, statements u/s 313 Cr.P.C/ 351 BNSS of all the accused were recorded and all the accused preferred not to lead evidence in their defence.

**Contentions of ld. SPP and of ld. Counsel for accused**

5.1 I have heard ld. SPP for State, ld. Counsel for complainant, as well as ld. counsels for the accused and perused the record very carefully.

5.2 It has been contended by ld. counsel for complainant as well as ld. SPP that the eye witnesses of this case specifically PW5 and PW8 have proved the entire case of the prosecution. They have further contended that the fact that the body of the deceased could not be recovered cannot be used as a hindrance to establish the fact that deceased had been killed because the leg of the deceased which was recovered from the burnt rubble, has been proved to be belonging to the deceased. They have further contended that as per statement of PW5 and PW18, ASI Rakam Singh had recovered one leg from Ramlila Maidan which was kept in a polybag and preserved in GTB Hospital and the document in this regard was Ex.PW18/A. The fact that this leg was preserved in hospital was also proved by MLC Ex.PW3/A. Thereafter, for the purpose of DNA examination, blood samples of Gulshan (PW20), the daughter of deceased and of complainant Salim, who appeared as PW5, were collected. This fact

has been proved by PW1 Dr. Zuha vide MLC Ex.PW1/A and Ex.PW1/B. Post mortem on the remains of the deceased was conducted and has been proved by PW2 and the post mortem report was Ex.PW2/A. The samples for the purpose of DNA identification were preserved. The seizure memo Ex.PW19/B proves this fact. They have further contended that these samples were sent to FSL, Rohini is established vide document Ex.PW28/E, which is a road certificate. These samples were examined at FSL and DNA report (Ex.PW4/A) establishes that DNA of the body part recovered had matched with the DNA of the blood samples of Gulshan and Salim and thus, identity of the deceased stands established. Further during the inspection of the scene of crime on 11.03.2020, bone and bony material were recovered and the said materials were sent to FSL for DNA examination and as per report, Ex.PW4/D, they belonged to the deceased. They have further contended that the site plans Ex.PW19/A and Ex.PW9/A were prepared on the basis of recovery. Even though there was no seizure memo of the recovery of the leg, this defect was remedied by subsequent seizure of bones dated 11.03.2020 (Ex.PW4/D), which were also found to be belonging to deceased Anwar. They have further contended that PW5 throughout has been consistent in his testimony. PW5 has been consistently deposing that on the day of incident, he was with his brother but during the riots, he had taken shelter in the house of Abhishek where, from the third floor of that house, he had

witnessed the entire incident. They have further contended that PW8 had also witnessed the incident throughout the day. The time line of the incident has been proved by PW5, PW8 as well as PW7. As per the testimony of PW8 as recorded on 17.12.2022, on 25.02.2020 at around 06.00 a.m, a mob of 50-60 people had started assembling in gali in front of Salim's house. PW7, who is a protected witness, corroborating PW8, had deposed that at around 7.00 a.m, he had seen 50-60 persons assembling outside Anwar's house and this mob had set ablaze TATA Nano car of Salim. They have further contended that as per PW20 Gulshan, there was a call between her and deceased which is proved vide CDR Ex.PW23/A and the number is corroborated by PW20, though she had stated that the call was made on 26.02.2020. She deposed that during this call, Anwar had informed her about the vandalism by the mob. The time line in continuity is being established by the witnesses.

5.3 They have further contended that the incident of around 9.00 a.m has been established by PW5 who stated that at around 9.00 a.m, he had seen a mob of around 200-250 people coming towards the factory and on seeing them, he went to his house and saw that wind shield of his Nano car had been broken and while leaving that place, he saw that his TSR had been burnt. Furthermore, PW5 and PW8 have deposed that from the house of Abhishek, where they sat at third floor, they had watched Anwar being murdered at around 12.00 p.m. PW5

deposed that the mob hit Anwar with rod, slapped him, kicked him, shot him on his forehead, lifted him threw him in fire and someone caused a blast which blew Anwar into pieces. PW5 categorically identified Lakhpat, Yogesh and Kuldeep s/o Shyam Babu. Vandalism, looting and attack had also been deposed by PW8. PW8 had corroborated the testimony of PW5 and identified all the five accused as a part of the rioting mob which murdered Anwar.

5.4 They have further contended that the fact that the deceased had been murdered before noon is also established by PW7 who had deposed that he returned at around 02.30 p.m and found Anwar's body in burnt condition. They have further contended that the delay in informing the police or making PCR call had been explained by PW5 when he stated, that Abhishek had asked him to break his phone so that he could not be tracked and he had taken out SIM card out of his phone and had broken it. PW5 further deposed that it is only when after the night and in the early hours of the next day they had reached Danish's house, that using the mobile phone of Danish, he started making calls to the police and he had been repeatedly making calls to the police for the action being taken.

5.5 They have further contended that the prosecution has proved its case beyond reasonable doubts through ocular testimony of the witnesses. They have contended that special credence has to be given to the testimonies of PW5 and PW8 who are injured witnesses

in this case. In this regard, reliance has been placed on the judgment of Hon'ble Supreme Court in Balu Sudam Khalde v. State of Maharashtra, 2023 SCC Online, SC 355 wherein it has been held as under:-

26. When the evidence of an injured eye-witness is to be appreciated, the undernoted legal principles enunciated by the Courts are required to be kept in mind:

26.1 The presence of an injured eye-witness at the time and place of the occurrence cannot be doubted unless there are material contradictions in his deposition.

26.2 Unless, it is otherwise established by the evidence, it must be believed that an injured witness would not allow the real culprits to escape and falsely implicate the accused.

26.3 The evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.

26.4 The evidence of injured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.

26.5 If there be any exaggeration or immaterial embellishments in the evidence of an injured witness, then such contradiction, exaggeration or embellishment should be discarded from the evidence of injured, but not the whole evidence.

26.6 The broad substratum of the prosecution version must be taken into consideration and discrepancies which normally creep due to loss of memory with passage of time should be discarded.

5.6 They have further contended that if there are any discrepancy with regard to the time or other minor discrepancy, the court has to discard them and these are to be attributed to lapse of time and memory and cannot be said to be material contradiction. As per the time line established and argued by the State, it clearly transpires from the testimony of PW5 that while the mob began to assemble at

around 9.00 a.m, by the time PW5 arrived at Abhishek's house and witnessed the murder, it was 12-1.00 p.m. This fact was also corroborated by PW12. They have further contended that the evidence has to be read de hors minor discrepancies, especially in riots cases. In this regard, reliance has been placed on the judgment of Hon'ble Supreme Court in **C. Muniappan v. State of T.N (2010) 9 SCC 567** wherein it has been held as under:-

54. Serious issues have been raised by learned senior counsel appearing for the appellants, submitting that inquest report was defective as there has been much irregularity in the inquest itself. Undoubtedly, three Investigating Officers, namely, T. Shanmugaiah, Police Inspector (PW116); S. Palanimuthu (PW121); and John Basha (PW122) had conducted the investigation at the initial stage. The occurrence was so ugly and awful that the IOs. had conducted the investigation under great anxiety and tension. The seizure memos were also prepared in the same state of affairs. Therefore, when the investigation had been conducted in such a charged atmosphere, some irregularities were bound to occur. There is ample evidence on record to show that after burning of the University bus, when the students came to know that three girls had been charred and large number of girl students had suffered burn injuries, they became so violent that they damaged the ambulance which had been brought to take bodies of the deceased girls for conducting autopsy. The State Authorities, after keeping all these factors in mind and realizing that the investigation had not been conducted in proper manner, had taken a decision to transfer the investigation to the CB CID. Therefore, the irregularities committed in the investigation by the earlier IOs have too little relevance on the merits of the case. The evidence collected by the said three IOs was not worth placing reliance on and has rightly been not relied upon by the subsequent investigating officer.

55. There may be highly defective investigation in a case. However, it is to be examined as to whether there is any lapse by the IO and whether due to such lapse any benefit should be given to the accused. The law on this issue is well settled that the defect in the investigation by itself cannot be a ground for acquittal. If primacy is given to such designed or negligent investigations or to the omissions or lapses by perfunctory investigation, the faith and confidence of the people in the criminal justice administration would be eroded. Where there has been negligence on the part of the investigating agency or omissions, etc. which resulted

in defective investigation, there is a legal obligation on the part of the court to examine the prosecution evidence de hors such lapses, carefully, to find out whether the said evidence is reliable or not and to what extent it is reliable and as to whether such lapses affected the object of finding out the truth. Therefore, the investigation is not the solitary area for judicial scrutiny in a criminal trial. The conclusion of the trial in the case cannot be allowed to depend solely on the probity of investigation. (Vide Chandra Kanth Lakshmi v. State of Maharashtra, Karnel Singh v. State of Madhya Pradesh, Ram Bihari Yadav v. State of Bihar, Paras Yadav v. State of Bihar, State of Karnataka v. K. Yarappa Reddy, Amar Singh v. Balwinder Singh, Allarakha K. Mansuri v. State of Gujarat, and Ram Bali v. State of U.P.

5.7 Further reliance has been placed on the judgment passed in **Edakkandi Dineshan v. State of Kerala, 2025 INSC 28** wherein it has been held as under:-

21. One more thrust of argument from the appellants was that the prosecution has not conducted the investigation in a fair and impartial manner as they have tried to rope in innocent persons who were not present at the spot. There was an attempt to rope in one Ashraf and there was a consistency in the statements of the eyewitnesses that they had seen Ashraf when the crime was taking place. Admittedly, there is a rivalry between the two groups so the possibility of exaggeration cannot be ruled out. When the fact that Ashraf was not at all present during the crime and that he was present in the hospital came to light of the prosecution, they had moved a report and sought deletion of his name.

22. A cumulative reading of the entire evidence on record suggests that the investigation has not taken place in a proper and disciplined manner. There are various areas where a properly investigation could have strengthened its case. In the case of Paras Yadav & ors. vs. State of Bihar<sup>5</sup>, the Apex Court observed as under:

“Para 8 - ..the lapse on the part of the Investigating Officer should not be taken in favour of the accused, may be that such lapse is committed designedly or because of negligence. Hence, the prosecution evidence is required to be examined de hors such omissions to find out whether the said evidence is reliable or not. For this purpose, it would be worthwhile to quote the following observations of this Court from the case of [Ram Bihari Yadav v. State of Bihar and others](#), J.T. (1998) 3 SC 290.

"In such cases, the story of the prosecution will have to be examined de hors such omissions and contaminated conduct of the officials otherwise the mischief which was deliberately done would be perpetuated and justice would be denied to the complainant party and this would obviously shake the confidence of the people not merely in the law enforcing agency but also in the administration of justice."

Hence, the principle of law is crystal clear that on the account of defective investigation the benefit will not inure to the accused persons on that ground alone. It is well within the domain of the courts to consider the rest of the evidence which the prosecution has gathered such as statement of the eyewitnesses, medical report etc. It has been a consistent stand of this court that the accused cannot claim acquittal on the ground of faulty investigation done by the prosecuting agency. As the version of eyewitnesses in specifically naming the appellants have been consistent throughout the trial, we find that there is enough corroboration to drive home the guilt of the accused persons. When the testimony of PW1 Jitesh, PW 2 and PW4 is seen cumulatively, their versions can be seen to be corroborating each other. All of them being eyewitnesses, what is material to be seen is their stand is consistent when they said that it was A2 who was responsible for inflicting blows on both the deceased. It may not be out of place to mention that though the unfortunate incident took place at midnight around 1 am, it was a full moon night and as such, it was not pitch dark. This has also not been vehemently disputed by the defence counsel. Hence, the version put forth by the prosecution witnesses inspires confidence of this Court. The specific role attributed by the prosecution witnesses cannot be challenged on extraneous grounds which have been raised by the defense. There is no contradiction when it comes to assigning specific role to the above accused. Admittedly, there was an enmity between the witnesses as they were from different political groups. Moreover, it can be seen from the record that the Accused and the witnesses were well acquainted with each other as PW1, PW 2 and PW4 had defected from the CPI and had joined RSS. The witnesses could have tried to implicate anyone had they wished to take advantage of their past acquaintance and recent rivalry.

5.8 They have further contended that burnt condition of the house of Anwar as well as PW5 has been established by PW22 Danish

and PW34 Bhikam Singh. This fact has also been corroborated by the visits of FSL at the scene of crime and the reports of FSL are Ex.A-7 and Ex.A-8, which are unchallenged.

5.9 They have further contended that the court should rely upon the ocular evidence which is the best evidence and even in absence of TIP, dock identification is more than conclusive evidence. In this case, though there had been no TIP but all the accused had been identified by PW8 and three of the accused had been identified by PW5. In this regard, reliance has been placed on the judgment of hon'ble Supreme Court in Sidhartha Vashisht @ Manu Sharma v. State (NCT of Delhi) (2010) 6 SCC 1 wherein it has been held as under:-

256. The law as it stands today is set out in the following decisions of this Court which are reproduced as hereinunder

Munshi Singh Gautam vs. State of M.P.:

16. As was observed by this Court in *Matru vs. State of U.P.* identification tests do not constitute substantive evidence. They are primarily meant for the purpose of helping the investigating agency with an assurance that their progress with the investigation into the offence is proceeding on the right lines. The identification can only be used as corroborative of the statement in Court. (See *Santokh Singh vs. Izhar Hussain*.) The necessity for holding an identification parade can arise only when the accused are not previously known to the witnesses. The whole idea of a test identification parade is that witnesses who claim to have seen the culprits at the time of occurrence are to identify them from the midst of other persons without any aid or any other source. The test is done to check upon their veracity. In other words, the main object of holding an identification parade, during the investigation stage, is to test the memory of the witnesses based upon first

impression and also to enable the prosecution to decide whether all or any of them could be cited as eyewitnesses of the crime. The identification proceedings are in the nature of tests and significantly, therefore, there is no provision for it in the Code and the Evidence Act. It is desirable that a test identification parade should be conducted as soon as after the arrest of the accused. This becomes necessary to eliminate the possibility of the accused being shown to the witnesses prior to the test identification parade. This is a very common plea of the accused and, therefore, the prosecution has to be cautious to ensure that there is no scope for making such an allegation. If, however, circumstances are beyond control and there is some delay, it cannot be said to be fatal to the prosecution.

17. It is trite to say that the substantive evidence is the evidence of identification in court. Apart from the clear provisions of Section 9 of the Evidence Act, the position in law is well settled by a catena of decisions of this Court. The facts, which establish the identity of the accused persons, are relevant under Section 9 of the Evidence Act. As a general rule, the substantive evidence of a witness is the statement made in court. The evidence of mere identification of the accused person at the trial for the first time is from its very nature inherently of a weak character. The purpose of a prior test identification, therefore, is to test and strengthen the trustworthiness of that evidence. It is, accordingly, considered a safe rule of prudence to generally look for corroboration of the sworn testimony of witnesses in court as to the identity of the accused who are strangers to them, in the form of earlier identification proceedings. This rule of prudence, however, is subject to exception, when, for example, the court is impressed by a particular witness on whose testimony it can safely rely, without such or other corroboration. The identification parades belong to the stage of investigation, and there is no provision in the Code which obliges the investigation agency to hold or confers a right upon the accused to claim a test identification parade. They do not constitute substantive evidence and these parades are essentially governed by Section 162 of the Code. Failure to hold a test identification parade would not make inadmissible the evidence of identification in court. The weight to be attached to such identification should be a matter for the courts of fact. In

appropriate cases it may accept the evidence of identification even without insisting on corroboration. (See Kanta Prashad vs. Delhi Administration, Vaikuntam Chandrappa vs. State of A.P., Budhsen Vs State of U.P. and Rameshwar Singh vs. State of J&K)

19. In Harbhajan Singh vs. State of J&K, though a test identification parade was not held, this Court upheld the conviction on the basis of the identification in court corroborated by other circumstantial evidence. In that case it was found that the appellant and one Gurmukh Singh were absent at the time of roll call and when they were arrested on the night of 16.12.1971 their rifles smelt of fresh gunpowder and that the empty cartridge case which was found at the scene of offence bore distinctive markings showing that the bullet which killed the deceased was fired from the rifle of the appellant. Noticing these circumstances this Court held:

4. In view of this corroborative evidence we find no substance in the argument urged on behalf of the appellant that the investigation officer ought to have held an identification parade and that the failure of Munshi Ram to mention the names of the two accused to the neighbours who came to the scene immediately after the occurrence shows that his story cannot be true. As observed by this Court in Jadunath Singh vs. State of U.P. absence of test identification is not necessarily fatal. The fact that Munshi Ram did not disclose the names of the two accused to the villagers only shows that the accused were not previously known to him and the story that the accused referred to each other by their respective names during the course of the incident contains an element of exaggeration. The case does not rest on the evidence of Munshi Ram alone and the corroborative circumstances to which we have referred to above lend enough assurance to the implication of the appellant.

Malkhansing vs. State of M.P.:

7. It is trite to say that the substantive evidence is the evidence of identification in court. Apart from the clear provisions of Section 9 of the Evidence Act, the position in law is well settled by a catena of decisions of this Court. The facts, which establish the identity of

the accused persons, are relevant under Section 9 of the Evidence Act. As a general rule, the substantive evidence of a witness is the statement made in court. The evidence of mere identification of the accused person at the trial for the first time is from its very nature inherently of a weak character. The purpose of a prior test identification, therefore, is to test and strengthen the trustworthiness of that evidence. It is accordingly considered a safe rule of prudence to generally look for corroboration of the sworn testimony of witnesses in court as to the identity of the accused who are strangers to them, in the form of earlier identification proceedings. This rule of prudence, however, is subject to exceptions, when, for example, the court is impressed by a particular witness on whose testimony it can safely rely, without such or other corroboration. The identification parades belong to the stage of investigation, and there is no provision in the Code of Criminal Procedure which obliges the investigation agency to hold, or confers a right upon the accused to claim a test identification parade. They do not constitute substantive evidence and these parades are essentially governed by Section 162 of the Code of Criminal Procedure. Failure to hold a test identification parade would not make inadmissible the evidence of identification in court. The weight to be attached to such identification should be a matter for the courts of fact. In appropriate cases it may accept the evidence of identification even without insisting on corroboration.

5.10 They have further contended that the fact, that PW5 and PW8 knew some of the accused, would lend more credence to their ocular evidence. In this regard, reliance has been placed on the judgment of Hon'ble Supreme Court in Nathuni Yadav v. State of Bihar (1998) 9 SCC 238 wherein it has been held as under:-

9. We have considered the said contention from all its angles. Ever assuming that there was no moonlight then, we have to gauge the situation carefully. The proximity at which the assailants would have confronted with the injured, the possibility of some light reaching there from the glow of stars, and the fact that the murder was committed on a

roofless terrace are germane factors to be born in mind while judging whether the victims could have had enough visibility to correctly identify the assailants. Over and above those factors, we must bear in mind the further fact that assailants were no strangers to the inmates of the tragedy bound house, the eye witnesses being well acquainted with the physiognomy of each one of the killers. We are, therefore, not persuaded to assume that it would not have been possible for the victims to see the assailants or that there was possibility for making a wrong identification of them. We are keeping in mind the fact that even the assailants had enough light to identify the victims whom they targeted without any mistake from among those who were sleeping on the terrace. If the light then available, though meagre, was enough for the assailants why should we think that same light was not enough for the injured who would certainly have pointedly focussed their eyes on the faces of the intruders standing in front of them. What is sauce for the goose is sauce for the gander.

5.11 Further reliance has been placed on the judgment of **Zainul v. The State of Bihar 2025 INSC 1192** wherein it has been held as under:-

69. The law on conflict between the medical evidence and ocular evidence has been succinctly explained in *Abdul Syeed v. State of M.P.*, (2010) 10 SCC 259, succinctly explained thus:—

*“Medical evidence versus ocular evidence*

*32. In Ram Narain Singh v. State of Punjab [(1975) 4 SCC 497 : 1975 SCC (Cri) 571 : AIR 1975 SC 1727] this Court held that where the evidence of the witnesses for the prosecution is totally inconsistent with the medical evidence or the evidence of the ballistics expert, it amounts to a fundamental defect in the prosecution case and unless reasonably explained it is sufficient to discredit the entire case.*

XXX

*38. In State of U.P. v. Hari Chand [(2009) 13 SCC 542 : (2010) 1 SCC (Cri) 1112] this Court reiterated the aforementioned position of law and stated that : (SCC p. 545, para 13)*

*“13. ... In any event unless the oral evidence is totally irreconcilable*

with the medical evidence, it has primacy.”

39. Thus, the position of law in cases where there is a contradiction between medical evidence and ocular evidence can be crystallised to the effect that though the ocular testimony of a witness has greater evidentiary value vis-à-vis medical evidence, when medical evidence makes the ocular testimony improbable, that becomes a relevant factor in the process of the evaluation of evidence. However, where the medical evidence goes so far that it completely rules out all possibility of the ocular evidence being true, the ocular evidence may be disbelieved.”

.....

.....

77. A common man may legitimately argue that if all the eyewitnesses are to be disbelieved then who is to explain the various injuries suffered by them. In other words, a common man may say that it is not even the case of the accused persons that no injuries were suffered by the eyewitnesses or that they were self-inflicted. In such circumstances, why should the eyewitnesses be outrightly disbelieved?

78. It needs to be emphasized that injuries on the eyewitnesses, at the best, may ensure their presence at the scene of occurrence but that is not enough. Before a criminal court even accepts the testimony of an injured eyewitness, it has to be satisfied that he is a truthful witness and had no reason to falsely implicate the accused persons. We have extensively explained or rather discussed the various infirmities in the oral evidence of all the eyewitness. These eyewitnesses in their police statements recorded under Section 161 of the Cr. P.C. have gone to the extent of implicating even those persons who were ultimately not arrayed as an accused in the chargesheet including those who ultimately came to be acquitted by the trial court.

79. In cases like the one in hand, the courts must make an attempt to separate grain from the chaff, the truth from falsehood, yet this could only be possible when the truth is separate from the falsehood.

5.12 They have further contended that the identity of Lakhpat as a shooter has also been established by PW7 X, who is a protected witness when he stated that it was Lakhpat who had shot the deceased. Though this witness did not identify Lakhpat as one of the assailants

in the court but naming Lakhpat clearly establishes the identity of Lakhpat as a shooter and no cross examination of this witness was done by the defence.

5.13 They have further contended that while FSL report (Ex.A-1) did not find any residue of petrol/ kerosene still the FSL site visit reports (Ex.A-7 and Ex.A-8) clearly establish the presence of soot and burnt debris.

5.14 They have further contended that the presence of accused at the place of incident is also established through their CDRs. The CDRs of PW5 and the deceased corroborate the testimonies of PW5 and PW8 because the location of deceased is proved through the testimony of PW5, PW20 as well as CDR dated 25.02.2020 starting from 7.42 a.m and ending at 11.41 a.m. The said CDR is Ex.PW23/A-B. This CDR shows the location of deceased at Shiv Vihar. This also corroborates the time of death of deceased between 12-1.00 p.m. when PW5 was in the house of PW21. The location of PW5 is further proved through his own CDR (Ex.PW23/C-D) starting from 7.32 a.m and ending at 2.32 p.m. This CDR shows his location at Shiv Vihar.

5.15 The location of the accused persons are also proved at Gali No. 1, Shiv Vihar through their CDRs. As per the CDR of accused Lakhpat, which is Ex.PW16/B-C starting from 7.18 a.m till 1.30 p.m, his location was at Gali No. 1, Shiv Vihar though there were some brief gaps. As per the CDR of accused Kuldeep s/o Mangal

Sain, which is Ex.PW16/D-E, starting from 9.49 a.m till 12.48 p.m, his location was at Gali No. 1, Shiv Vihar. As per the CDR of accused Yogesh, which is Ex.PW16/F-G, starting from 9.04 a.m till 12.56 p.m, his location was at Gali No. 1, Shiv Vihar. As per the CDR of accused Kuldeep s/o Shyam Babu, which is Ex.PW16/J-K, starting from 8.01 a.m till 09.58 a.m, his location was at Gali No. 1, Shiv Vihar.

5.16 They have further contended that crime in fact is a crime committed by unlawful assembly and the accused were members of a large armed mob, whose communal slogans and targeted attacks on Muslim persons and property establish the common object beyond reasonable doubts. They have further contended that this fact has been proved by dock identification of PW5 and PW8. This mob acted in concert, some fired at Anwar, some threw him into fire, some looted Salim's house and some burnt vehicles. Each member of the assembly was liable for all acts in furtherance of the common object. The common object of an assembly is to be ascertained from the acts and language of the members composing it and from a consideration of all the surrounding circumstances. In this regard, reliance has been placed on the judgment of **Gangadhar Behera v. State of Orissa (2002) 8 SCC 381**, wherein it has been held as under:-

23. "Common object" is different from a "common intention" as it does not require a prior concert and a common meeting of minds before the attack. It is enough if each has the same object in view and their number is five or more and that they act as an assembly to achieve that object. The 'common object' of an assembly is to be ascertained from the acts

and language of the members composing it, and from a consideration of all the surrounding circumstances. It may be gathered from the course of conduct adopted by the members of the assembly. What the common object of the unlawful assembly is at a particular stage of the incident is essentially a question of fact to be determined, keeping in view the nature of the assembly, the arms carried by the members, and the behaviour of the members at or near the scene of the incident. It is not necessary under law that in all cases of unlawful assembly, with an unlawful common object, the same must be translated into action or be successful. Under the Explanation to [Section 141](#), an assembly which was not unlawful when it was assembled, may subsequently become unlawful. It is not necessary that the intention or the purpose, which is necessary to render an assembly an unlawful one comes into existence at the outset. The time of forming an unlawful intent is not material. An assembly which, at its commencement or even for some time thereafter, is lawful, may subsequently become unlawful. In other words it can develop during the course of incident at the spot co instanti.

24. [Section 149](#), IPC consists of two parts. The first part of the section means that the offence to be committed in prosecution of the common object must be one which is committed with a view to accomplish the common object. In order that the offence may fall within the first part, the offence must be connected immediately with the common object of the unlawful assembly of which the accused was member. Even if the offence committed is not in direct prosecution of the common object of the assembly, it may yet fall under [Section 141](#), if it can be held that the offence was such as the members knew was likely to be committed and this is what is required in the second part of the section. The purpose for which the members of the assembly set out or desired to achieve is the object. If the object desired by all the members is the same, the knowledge that is the object which is being pursued is shared by all the members and they are in general agreement as to how it is to be achieved and that is now the common object of the assembly. An object is entertained in the human mind, and it being merely a mental attitude, no direct evidence can be available and, like intention, has generally to be gathered from the act which the person commits and the result therefrom. Though no hard and fast rule can be laid down under the circumstances from which the common object can be called out, it may reasonably be collected from the nature of the assembly, arms it carries and behaviour at or before or after the scene of incident. The word 'knew' used in the second branch of the section implies something more than a possibility

and it cannot be made to bear the sense of 'might have been known'. Positive knowledge is necessary. When an offence is committed in prosecution of the common object, it would generally be an offence which the members of the unlawful assembly knew was likely to be committed in prosecution of the common object. That, however, does not make the converse proposition true; there may be cases which would come within the second part but not within the first part. The distinction between the two parts of [Section 149](#) cannot be ignored or obliterated. In every case it would be an issue to be determined, whether the offence committed falls within the first part or it was an offence such as the members of the assembly knew to be likely to be committed in prosecution of the common object and falls within the second part. However, there may be cases which would be within first offences committed in prosecution of the common object would be generally, if not always, with the second, namely, offences which the parties knew to be likely committed in the prosecution of the common object. (See *Chikkarange Gowda and others v. State of Mysore*)

5.17 They have further contended that accused Lakhpat led the arrest of Kuldeep and Yogesh and disclosed about possessing country made pistol. Pistols from accused Kuldeep and Yogesh were recovered and seized and these recoveries were corroborated by PW10, PW14, PW15 and PW33. An empty cartridge was recovered at the instance of Kuldeep s/o Mangal Sain vide memo Ex.PW33/3. The FSL report, Ex.PW12/A, proved that both the pistols were in working condition and the empty cartridge was fired from one of these pistols. These pistols had been identified in the court as Ex.PW12/Article-1 and Ex.PW12/Article-2. They have contended that there may have been discrepancies in the chain of custody of the pullandas but the defects have been remedied through identification of guns in the court

and the accused cannot claim acquittal on the ground of faulty investigation.

5.18 On the other hand, ld. counsels for accused have contended that the prosecution's case is completely based upon false and manipulated testimonies and evidence. They have contended that the entire case of the prosecution specifically rests upon the testimony of PW5 and to some extent on the testimony of PW8. However, both these witnesses have made material improvements during their testimonies to falsely implicate the accused and the improvements are of the nature which go to the root of the matter and would reflect that they are false witnesses. They have further contended that the first and foremost point is that, PW5 had initially stated that the time of incident was at around 9.00 a.m. This fact is visible from his initial complaint to the police which is Ex.PW5/A. As per this complaint, it is at around 9.00 a.m that the entire incident including the killing of deceased Anwar had happened. He keeps similar stand in his statement dated 06.03.2020 which is Ex.PW5/D1 and states that incident had happened at around 9.00 a.m. However, he then made improvements upon this statement and gave another supplementary statement u/s 161 Cr.P.C dated 27.05.2020, where he stated that he had initially stated that the incident with Anwar had happened at around 11.00 a.m and it was so stated under nervousness and in fact, the incident had happened at around 12.00 p.m when Anwar was shot

dead. This change in stand was made by this witness because by 27.05.2020, when Ex.PW5/D2 was recorded by IO, IO had received the CDR of the phone calls made by the deceased. As per the same, the last call had been made by deceased at 11.40 a.m., as is proved from Ex.PW23/A and that is why, despite stating that incident had happened at 9.00 a.m, this witness changed his stand. They have further contended that the time of 9:00 a.m. is also visible from PCR calls made by this witness. They further contended that during the cross examination by Id. SPP, PW5 had changed the place of incident and stated that the murder had happened at his factory and the leg portion of deceased Anwar was also found at his factory. They have further contended that initially this witness had clearly stated in his complaint and subsequent statement that he did not know any of the rioters and they were unknown people but he could identify them by their faces. However, with the passage of time, he kept adding names and still he did not know all the names and it is only after the arrest of the accused that he had added the names. Even in his statement under section 164 Cr.P.C, he had only named accused Lakhpat. They have further contended that as per the statement of Abhishek, it was only PW5 that had come to his house and he was hidden on the ground floor near the staircase and therefore, he could not have seen anything as claimed by him. They have further contended that the IO had clearly admitted during testimony that from the place where Saddam

had claimed to have hidden himself, the Ramleela ground, where the incident had happened, was not visible at all and it is at the insistence of complainant that pen drive, wherein the video was recorded by the IO, was played. The video clearly reflects that from the place where PW5 claims to have hidden himself, he could not have seen either the murder of Anwar or the assailants. They have further contended that it is also not clear whether Anwar was murdered on 25.02.2020 or not or, whether Anwar was ever murdered because the identity of the deceased has not been established.

5.19 They have contended that the DNA report is not sufficient to prove identity and cannot be said to be an absolute proof. In this regard, reliance is placed on the judgment of Hon'ble Supreme Court in Rahul v. State 2022 (4) RCR (Cr.) SC. There are so many contradictions with regard to the establishment of this identity. There is no seizure memo which would show that ASI Rakam Singh had in fact recovered the burnt leg part of the deceased and where it was kept before it was allegedly taken for MLC and taken to mortuary. They have further contended that as per ASI Rakam Singh and as per MLC Ex.PW3/A, it was only one leg below the knee that was found and preserved in the mortuary. Surprisingly, when the post mortem was conducted, more pieces from this body appeared. This clearly shows the manipulation because, as per post mortem, what was available before autopsy surgeon was one partial left leg with foot and one

pelvis with exposed femur. These were two different parts whereas ASI Rakam Singh and PW5 had only claimed about recovery of partial leg and not of pelvic bone. They have further contended that as per ASI Rakam Singh, only two blood samples were given to him in two bottles. However when the DNA was matched, it was not matched from the blood in the bottles but was matched from the blood on gauze and this clearly reflects manipulation of the evidence. Therefore, even the DNA was not properly matched. They have further contended that it is also under doubt whether Anwar was killed on 25.02.2020 or not because PW20 had stated that on 25.02.2020, she had talked to her father and on the next day at around 11.00 a.m again she had conversation with her father. If that be the case, as she had conversation with her father on 26.02.2020 at 11.00 a.m, it is evident that Anwar was alive at that time. They have further contended that it is for this reason that the prosecution has deliberately taken CDR of mobile number of Anwar only for 25.02.2020 and not for 26.02.2020. This reflects that accused have been falsely implicated. They have further contended that PW5 has claimed that Anwar was shot thrice but cause of death could never be ascertained by autopsy surgeon and there is no cause of death available. In this regard reliance is placed upon the judgment of Hon'ble Supreme Court in **C.K Raveendran v. State of Kerala, 2000 (1) JCC (SC) 20.**

5.20 They have further contended that the name of one

Lakhpat by protected witness X does not establish that accused Lakhpat was the one who had shot Anwar because after naming Lakhpat, this witness categorically looked inside the court room and stated that none of the persons who were the assailants were present in the court room. On that day, Lakhpat was present in the court room. They have further contended that it was not the duty of the defence to prove that Lakhpat, who had been named by the witness, was not the accused but it was for the prosecution to bring it out from the witness and prosecution did not even bother to ask a specific question regarding who was that Lakhpat whom he had seen shooting Anwar and therefore, it could have been some other Lakhpat and not the accused.

5.21 They have further contended that FIR is ante dated and ante timed. Had the FIR been registered before the post mortem, the copy of FIR should mandatorily have been sent with inquest papers and this reflects manipulation of record. In this regard, reliance is placed on the judgment of Hon'ble Supreme Court in **Meharaj Singh v. State of U.P, 1994 SCC (Cr.) 1390**, wherein it has been held as under:-

12. FIR in a criminal case and particularly in a murder case is a vital and valuable piece of evidence for the purpose of appreciating the evidence led at the trial. The object of insisting upon prompt lodging of the FIR is to obtain the earliest information regarding the circumstance in which the crime was committed, including the names of the actual culprits and the parts played by them, the weapons, if any, used, as also the names of the eye witnesses, if any. Delay in lodging the FIR often results in embellishment, which is a creature of an afterthought. On account of delay, the FIR not only gets bereft of the advantage of spontaneity,

danger also creeps in of the introduction of a coloured version or exaggerated story. With a view to determine whether the FIR was lodged at the time it is alleged to have been recorded, the courts generally look for certain external checks. One of the checks is the receipt of the copy of the FIR, called a special report in a murder case, by the local Magistrate. If this report is received by the Magistrate late it can give rise to an inference that the FIR was not lodged at the time it is alleged to have been recorded, unless, of course the prosecution can offer a satisfactory explanation for the delay in despatching or receipt of the copy of the FIR by the local Magistrate. Prosecution has led no evidence at all in this behalf. The second external check equally important is the sending of the copy of the FIR along with the dead body and its reference in the inquest report. Even though the inquest report, prepared under Section 174 Cr.P.C. is aimed at serving a statutory function, to lend credence to the prosecution case, the details of the FIR and the gist of statements recorded during inquest proceedings get reflected in the report. The absence of those details is indicative of the fact that the prosecution story was still in embryo and had not been given any shape and that the FIR came to be recorded later on after due deliberations and consultations and was then ante-timed to give it the colour of a promptly lodged FIR. In our opinion, on account of the infirmities as noticed above, the FIR has lost its value and authenticity and it appears to us that the same has been ante-timed and had not been recorded till the inquest proceedings were over at the spot by PW8.

5.22 They have further contended that there is no proof filed by the IO on record that the six cartridges, which were sent to FSL Rohini, were procured by the IO. The fired cartridge was not produced on record and the cartridges, which were returned by FSL Rohini after the test, were also not produced on record. They have contended that this clearly shows manipulation. They have further contended that the recoveries are tainted as no recovery was effected. There are contradictions between the testimonies of IO, PW10, PW14 and

PW15. They have contended that these recoveries are not admissible and, in this regard, reliance is placed upon the judgment of Hon'ble Supreme Court in A. Shankar v. State of Karnataka, (2011) 6 SCC 279.

5.23 They have further contended that the recoveries have been found to be tainted because of the fact that IO appears to have planted the recoveries. IO, during his cross examination, admitted that when he went for the recovery of pistols at the instance of Kuldeep and Yogesh, he was having an inkling that these weapons might be connected to the murder of Anwar but he did not take any precautions to preserve the finger prints and he outrightly lied before the court when he stated that he found the weapons wrapped in a cloth and he sealed them as it is. However, his lie was caught when he was confronted with the situation that he had made a sketch of the weapons and he admitted, that he had removed the cloth and handled the weapons. The fact that he had not joined any public person during the sealing of weapons and the fact that they were not sealed at the place of recovery further point towards the possibility that a bullet might have been planted and shown to have been recovered at the instance of Kuldeep from the alleged place of incident. They have further contended that this is more so possible because had there been a bullet at the place of incident, it would have been recovered during the FSL inspection on 11.03.2020. They have therefore contended that

the accused are entitled to an acquittal.

### **Findings**

6.1 I have considered the rival submissions and carefully examined the record.

6.2 The first the question which needs to be decided is, whether Anwar had died and if yes, whether, his death was homicidal or not?

6.3 To answer these questions, a further question needs to be answered and that is, whether the pieces of body, which were recovered at the alleged place of incident i.e. Ramleela ground, belonged to Anwar or not?

6.4 It is correct that there are many discrepancies in the manner in which these body pieces were handled. In fact, there is no seizure memo prepared by ASI Rakam Singh at the time of recovery of part of the body i.e a piece of leg. However, the fact that this piece of the leg was preserved in the mortuary on 27.02.2020 as is visible from Ex.PW18/A and again sent to mortuary after formal MLC as is visible from Ex.PW3/A. Further human bone was recovered which was seized by IO vide seizure memo dated 11.03.2020 (Ex.PW14/A). The fact that these articles were deposited in malkhana is proved vide Malkhana register entries which are Ex.PW28/H and Ex.PW28/I and there has been no substantial challenge to any of these documents. That being the case, the minor lapse on the part of initial IO in keeping

detailed record of things can be ignored and therefore, as far as preservation of remnants of dead body is concerned, not much weightage can be given to the argument of Id. Counsels for accused.

6.5 Then there is the contention of Id. Counsels for accused that the blood samples, according to ASI Rakam Singh, were received in bottles whereas blood samples of PW5 Saleem and PW20 Gulshan, which were analysed by forensic expert PW4, were found to be on gauze. On this issue, I find that here again there is some variation in the testimony of PW18 ASI Rakam Singh but the record sets things right. As per the record, these blood samples were deposited in malkhana vide entry Ex.PW28/G. Thereafter they were sent to FSL on 16.03.2020 vide RC no. 399/21/2020, which is Ex.PW28/E. No significant contradiction has emerged in the testimony of PW28 who has proved these documents. Ex.PW4/A reflects that even at FSL, blood on gauze of Saleem was found in parcel 3A, which was duly sealed with the seal of MLC GTB HOSPITAL SHD DELHI95 and similarly, parcel 5A was found containing blood on gauze of Gulshan and that parcel was also sealed with the seal of MLC GTB HOSPITAL SHD DELHI 95. Therefore, I find that two DNA reports established that the body part that was recovered on 27.02.2020 and the bone pieces that were recovered on 11.03.2020, belonged to deceased Anwar. The condition in which the body parts were discovered further makes me come to a conclusion that this stands

proved that the death of Anwar was homicidal in nature.

6.6 The next question which needs to be decided is when and how Anwar was killed and who were responsible for it?

6.7 In order to prove these facts, the prosecution only has four witnesses. Three are stated to be direct witnesses and the fourth one could be a witness of circumstance. Direct witnesses are PW5 Saleem, PW8 Saddam and PW7 protected witness. The indirect witness could be PW20 Gulshan that is the daughter of the deceased and she would prove the last conversation that she had with the deceased.

6.8 However, even amongst the direct witnesses, as far as the murder of deceased is concerned, the case of the prosecution heavily relies upon the statement of PW5 Saleem.

6.9 PW5 Saleem is the complainant of this case. He deposed that on 25.02.2020 at around 9.00 a.m, he had reached his factory at 33 Foota Road. His brother Anwar was with him and they were sweeping the factory. He further deposed that on hearing some commotion, he went outside and saw a mob of 200-250 people coming towards his factory. This mob was armed with country made pistols, iron rods etc. The mob was raising slogans '*Jagdish Pradhan zindabad, Kapil Mishra zindabad, Nand Kishore zindabad*' and some of the people in the mob were saying '*nand Kishore gujjar ne yeh kaha hai ki prashasan humare sath hai, koi mulla katua nahi bachna*

*chahiye*. Upon hearing these slogans, he returned to his factory and asked his brother to shut the factory. Thereafter, he reached his house and sat on a chair in front of his house. He saw that some persons had broken the wind shield of his Nano car bearing no. ---65 and were pushing it from front side. He ran inside and informed his children that the situation was grave and they had to leave. They had left the house but could not leave because of the area being surrounded by the mob from all sides. The mob had also set ablaze his auto rickshaw bearing no. DL1RL9401. In this situation, they had entered the house of their neighbour Abhishek. Abhishek made them sit in a room on third floor of the house. He kept his family members in that room and he himself started to look outside from a window pane. He saw that the mob had set loose all the goats belonging to his brother and set fire to his factory. His brother, with folded hands, was pleading with the mob, however a person from the mob hit his brother on the back with a thick rod. When his brother turned around to see who that person was, another person slapped his brother. One person from the mob fired at the chest of his brother. His brother fell on the ground. Some persons from the mob started kicking his brother. Somehow, his brother stood up but was shot again in the chest by some person. About 15-16 persons lifted his brother and threw him in fire. Even in fire, his brother stood up and at that time, it was Lakhpat (whom he correctly identified in the court) who shot his brother in forehead. Someone

threw a ball type thing in the fire due to which a blast happened and blew his brother into pieces. A goods rickshaw, which was lying in the near the spot, was lifted and thrown upon his brother. Thereafter, the mob broke open the gate of his house. The gate of his house was not visible but he could see the mob in the gali in front of his house. The mob took out refrigerator, cylinder etc. from his house and looted all the household articles including the dowry articles of his daughter who was to be married on 15.03.2020. The mob sprinkled petrol on his house and set it ablaze and damaged another auto rickshaw belonging to him bearing no. DL1RL 1734. The mob also set fire to his motorcycle bearing no. ----0808. Meanwhile, Abhishek reached him, he told him that the mob was searching for him and therefore, asked him to hide himself and break his mobile phone so that he could not be traced. He overheard the people searching for Salim Katua (referring to himself). The mob remained in the gali till evening. In the evening, he requested Abhishek to take him out of the house but Abhishek said that the mob was still in the gali. At around 12 midnight, Abhishek's mother went to them and asked them to go somewhere else otherwise they would not be saved. He tried to make a call to 100 number but the call did not go through. He inserted his Sim card in the mobile phone of Abhishek and tried to make a call at 100 number but again in vain. After taking out Sim card from his mobile, he broke his phone. Thereafter Abhishek's mother gave him saffron

clothes to wear and applied *tilak* on him and his family members. They left Abhishek's house and reached the house of Danish at Babu Nagar, Mustafabad, Delhi. He inserted his Sim card in the mobile phone of Danish and made a call at 100 number. The call was answered twice and he narrated the entire incident to the officials on other side of the call but nobody came to help him.

6.10 On 26.02.2020, one unknown person reached him and told him that he had been sent by Jagdish Pradhan and that, a leg of his brother was lying in the factory where he had been burnt. He reached the Nigam Parshad of the area namely Maroof, narrated the entire incident to him and sought his help in locating the body of his brother. Parshad made a call to SHO Karawal Nagar and at about 7.00 p.m, he received a call from SHO Karawal Nagar who told him that he had located the leg of his brother inside their factory near a wall. In the morning, the SHO Sharma sent two officials to the office of Maroof. He was summoned at the office and his statement (Ex.PW5/A) was recorded. He tried to tell them the names of the assailants but they stated to him that they would only record his statement if he did not disclose the names of the assailants. Therefore, they did not record the names of any of the assailants in that statement. He had to tell them the name of Hari Kant, who had hit his brother, Lakhpat, Yogesh, Chhota Kuldeep and Rahul and all these persons were present in the mob at that time. These two police

officials had asked him to sign two blank papers but he refused to do so. Thereafter, he went to GTB Hospital where he met ASI Rakam Singh, who asked him to help him tracing the leg of his brother which had been brought to the hospital. After a long wait in the hospital, he was shown the leg of his brother at around 4.00 p.m and from there, he again went to the office of Maroof. Two police officials had already reached there but instead of recording his detailed statement, they recorded his brief statement which he signed. The said statement was Ex.PW5/B. After 1½ month of the incident, he alongwith his niece Gulshan, who was the daughter of deceased, went to the hospital where their blood samples were taken. He correctly identified accused Lakhpat, Chhota Kuldeep s/o Shyam Babu, Yogesh as the assailants. However, he pointed towards accused Lalit and stated that he was Bada Kuldeep and then stated that he did not know the name of the fifth person present in the court. He then stated that about two years prior to his testimony, Chhota Kuldeep used to go to him for computer training. He further deposed that his statement u/s 164 Cr.P.C had been recorded by a Magistrate. The said statement was exhibited during his testimony as Ex.PW5/C.

6.11 During his cross examination, he deposed that he was using mobile no.9268082074. He further deposed that he did not remember the exact time, but the first PCR call was made by him after midnight in the intervening night of 25/26.02.2020 and that he

would have made around 10-12 PCR calls. He had mentioned the time of the incident taken place on 25.02.2020, in his call made to PCR but he had not mentioned the time at 100 number call rather he had mentioned the time before police (sic).

6.12 Thereafter it was observed by my learned predecessor that he had stated that he did not know the meaning of PCR call. He then went on to state that during his call made at 100 number, he had not mentioned the time of his brother getting injured with bullet shot. His first statement was recorded by police on 27.02.2020 when police visited the locality where he was residing. He denied that his statement was recorded in the Police Station on 27.02.2020. He denied that on that day, he had stated to the police that he could not have identified any rioter involved in the aforesaid incident. As on 27.02.2020, he did not know name of rioters whom he had identified. He further deposed that he had informed the police, on 27.02.2020 that he could identify the rioters by their faces. He was confronted with his statement Ex.PW 5/A where this fact was not so stated. He denied that he had not made any PCR call to the police. He admitted that during the time period of incident, he was running a computer coaching centre from his home and that accused Kuldeep s/o Sh. Shyam Babu used to take classes in his aforesaid coaching centre. In response to court query, he deposed that Chhota Kuldeep might have taken such classes around 2 years prior to the riots. He denied that on

27.02.2020, he had stated to the police that some unknown persons had been involved in the riot in the aforesaid incident and volunteered, that he had mentioned the names. He was confronted with his statement Ex.PW5/A where no names were mentioned and it was stated that unknown persons had committed the riot. He further deposed that his second statement was recorded by the police on 06.03 because at the time of recording of this statement, he had seen the date 06.03 mentioned in that statement and hence, he remembered that day. In that statement, he had mentioned names of all the rioters which had been identified by him. He was confronted with his statement Ex.PW5/B where this fact was not recorded. He admitted that he knew Kuldeep s/o Shyam Babu even prior to 25.02.2020 and volunteered that he did not know his name or name of his father though he knew them by their faces and he had '*dua salam*' with the father of Kuldeep. He denied that prior to 30.03.2020, he did not know name of any of the rioters and volunteered, that he knew name of Lakhpat and had informed about his name. He denied that he did not know face of any of the rioters prior to 30.03.2020. He further deposed that he did not remember if he had made any complaint to any senior police officer regarding his statement being improperly recorded by police and not letting him know the contents of his statement. He denied that the incident of Anwar getting gunshot injury had taken place somewhere between 9-10 a.m. and deposed

that it had happened after 12 p.m. though he did not remember the exact time. He further deposed that at no point of time, did he tell the police that earlier he had wrongly mentioned that Anwar had been shot at 11.00a.m. He was confronted with his statement dated 27.05.2020 (Ex.PW5/D1) where this fact was recorded from portion A to A. He denied that he had deliberately changed his version regarding the time of firing of Anwar after 12 p.m because by that time, he had come to know that the last call from the mobile phone of Anwar was at 11.40 a.m. He then deposed that first his house was looted and then incident of firing on Anwar had taken place. He did not remember if he ever told police that Abhishek had told him about incident taken place with Anwar. He was confronted with his statement, Ex.PW5/D2 where this fact was recorded from portion B to B1. He denied that he had not seen the incident of Anwar being shot. In response to court query, he stated that when the riot had taken place, he was residing at A-44, Gali no. 1, Prem Vihar. The factory of Anwar was situated on a plot which was not having any number and it was situated on the back side gali of gali no.1. When he came back to his house from this factory, his brother Anwar stayed back at the factory. Anwar was shot at his factory. The factory was around 2-4 minutes walk from the house of Abhishek. By that time, he had already transferred his factory at 33 foota road to Salman. The factory visited by him and Anwar, on 25.02.2020 was not on 33 foota road.

He denied that Anwar did not have any factory or that he was not running any factory with Anwar, or that he did not go to the house of Abhishek on 25.02.2020, or that he did not stay at the house of Abhishek on that day, or that no incident of firing at Anwar had taken place in the aforesaid factory. He further deposed that he did not take police to the factory where the incident had taken place. He did not remember if he had called at 100 number and informed police about burning of his 2 TSRs, one motorcycle and one car. He further deposed that he did not remember if in his statement u/s 164 Cr.P.C, he had mentioned the name of Kuldeep s/o Shyam Babu. He denied that he had been changing his version from time to time and had falsely added new facts in his statement u/s 164 Cr.P.C. He denied that he had not seen any of the accused persons amongst the rioters on 25.02.2020, or that he had deposed falsely in the court against all the accused persons. He further deposed that around a year prior to the riots, Kripal, brother of Yogesh, had stolen a mobile phone from his factory at 33 foota road which was subsequently transferred to Salman and volunteered, that at that time, his father had come for a settlement and the matter was settled at Rs.10,000/-. He denied that Yogesh had also come with his father for the settlement. He did not know Yogesh prior to the riots. He had only '*dua salam*' with father of Yogesh. In response to court query, he deposed htat he did not know that Yogesh was son/brother of Kripal. He denied that Yogesh was

falsely identified by him in this case because of aforesaid conduct of Kripal.

6.13 The next witness is PW7, protected witness. He deposed that in the month of February 2020, he was residing with the family of one Anwar in Ramleela ground. Anwar had 14-15 goats and on the intervening night of 24/25.02.2020, Anwar asked him not to sleep in his house. He accordingly slept in an open place nearby the parking. Next day i.e. on 25.02.2020 at around 7.00 a.m, he reached Anwar's house in Ramleela Ground and about 15-20 minutes later, he saw an assembly of a mob of around 15-20 people. This mob vandalized the auto rickshaw of Anwar's brother Saleem and also set ablaze the TATA Nano vehicle of Saleem. He returned to Anwar's house and saw some persons beating him. He got terrified and ran away from that place. He returned to Anwar's house at about 2.30 p.m and saw Anwar's body lying in a burnt condition. Thereafter, he left that place. He knew one of the persons who were beating Anwar and his name was Lakhpat. He could identify the remaining assailants if shown to him but after looking at all the five accused including Lakhpat, he did not identify them and further stated that none of the assailants, who had beaten Anwar on that day, were present in the court.

6.14 He was cross examined by Id SPP and admitted that during the investigation, police officials had shown him 4-5 photographs. He denied that he had identified persons in those photographs as the

assailants who were beating Anwar. He denied that those photographs were of the accused, who were present in the court on the day of his testimony. He denied that upon seeing the photographs, he identified Lakhat, Yogesh, Lalit, Kuldeep s/o Mangal Sain and Kuldeep s/o Shyam Babu and those were the same persons who were present in the court on the day of his testimony. He denied that in his presence, the accused had attacked Anwar and he was also shot by Lakhat. He denied that he was not identifying accused as he had been won over by the accused. His statement u/s 161 Cr.P.C was read to him and he denied that this statement (Ex.PW1/X1) was the correct statement given by him in which correct facts were mentioned by him but he was denying those facts to save the accused.

6.15 The next witness is PW8 Saddam, who was the son of PW5. He deposed that on 25.02.2020 at about 06:00 am-07:00 am, he alongwith his family was present in his previous house in Gali No. 1, Shiv Vihar near Ramleela Ground. His father had gone to open his factory. He was at home and saw a mob of around 50-60 persons in the gali in front of his house. The said mob was setting fire to a factory of almirah/safe. The mob was carrying danda, iron rod etc. The mob was raising slogan of *Jai Shree Ram*. At that time, he saw his father returning. Thereafter, his father took all of them to the house of Abhishek. They were on the third floor of the house. He did not have any idea of the time, however, when he came out to go

washroom, he saw from the window that a number of persons may be around 70-80 persons were there in the gali and at his home. They were setting fire to his house and taking articles out of his house. He saw them taking out fridge, boxes, cylinder and many other articles. Four of the members of the mob were already known to him and they were Kuldeep (two persons with name of Kuldeep), Lalit and Yogesh. He had seen them coming out of his home after setting his home on fire alongwith the mob. Thereafter, he went back to the room. He had also given a statement u/s 164 Cr.P.C. He identified his signatures on that statement. He further deposed that in the year 2020, one Crime Branch sir had shown him five photographs. He knew the persons in those photographs and they were Lalit, Kuldeep (two persons), Yogesh and Lakhpat. On seeing those photographs, he had told Crime Branch Sir that those five persons were member of riotous mob at his home. He had correctly identified all the accused in the court.

6.16 During his cross examination, he deposed that on the day when the photographs were shown to him, he had not stated before Crime Branch officer that it was later that he came to know that the rioters/ mob had set ablaze his house and destroyed the articles of his house. He further deposed that in his statement u/s 164 Cr.P.C, he had stated about his father having gone to the factory but he was not sure whether, he had stated the time as 6/7 a.m and that in the said statement, he had stated that his father had taken them to the house of

Abhishek where from a window, he saw 70-80 people in the gali and that persons were taking the articles from his house and the mob was setting fire to his house. He was confronted with his statement u/s 164 Cr.P.C where these facts were not recorded. He further deposed that he had informed his father the names of five accused persons whom he had seen in the riots. He had given this information about 2-3 weeks or a month after the incident. He further deposed that when he was shown photographs by the police, he had not mentioned name of Mohit @ Chatu before police as member of the mob and that he had not mentioned name of Mohit in his statement u/s 164 Cr.P.C. He was confronted with his statement u/s 164 Cr.P.C, where this name was recorded. He then deposed that he had mentioned in his statement u/s 164 Cr.P.C that two persons with the name of Kuldeep were members of the mob. He was confronted with his statement u/s 164 Cr.P.C where only name of one Kuldeep was mentioned. He then deposed that he had mentioned the name of Lakhpat in his statement u/s 164 Cr.P.C. He was confronted with his statement u/s 164 Cr.P.C where name of Lakhpat was not mentioned. He denied that he had not seen anyone setting fire to his house or taking away articles from his house. He denied that he was in visiting terms with Kuldeep s/o Shyam Babu. He denied that he did not know Lalit prior to photographs being shown to him by Crime Branch officials. He deposed that there were three floors in Abhishek's house i.e. ground floor, first floor and

second floor. He deposed that on the second floor where they had taken shelter, there was only one room in the house of Abhishek and they all family members had taken shelter in that room.

6.17 A careful examination of testimony of PW5, who is the star witness and on whom hinges the entire case of the prosecution as far as the murder of Anwar is concerned, reveals that there are serious departures, improvements and contradictions in the testimony of this witness.

6.18 The first and foremost being the time of incident as stated by this witness. While appearing in the court, he deposed that Anwar had been beaten, shot and killed at 12.00 p.m on 25.02.2020. However, in his initial statements including the complaint (Ex.PW5/A), he had stated the time of incident to be of 9.00 a.m. It was only on 27.05.2020, when his supplementary statement u/s 161 Cr.P.C (Ex.PW5/D-2) was recorded, that he stated that incident had happened at 12.00 p.m. During his cross examination, he was specifically confronted with this statement and the situation that he had changed the time of incident from 9.00 a.m to 12.00 p.m but instead of putting forward an explanation, he simply denied this suggestion. It could be argued that the witness had not stated the time of incident as 9.00 a.m and police might have recorded it on its own and it is the fault of the IO, but then standing in the way of credibility of this witness about the timing of the incident are the PCR calls made

by him, which have been admitted to have been made by him. The PCR forms of the PCR calls are Ex.PW24/B to Ex.PW24/D. Out of these PCR forms, three PCR forms have the time of incident as stated by the caller. The information recorded is to the effect that 9-10.00 a.m in the morning of that day (25.02.2020), brother of caller had been shot. The mobile phone through which this call was made is bearing no. 9268082074. The fact that this mobile phone belongs to PW5 is established by CAF (Ex.PW23/D). Therefore, on the day of incident, the first time the witness intimated the authorities about the incident, was through these PCR calls and at that time, he had stated that incident had happened at around 9-10.00 a.m or 10.00 a.m. Hence, instead of IO making a mistake in recording the statements of PW5, it is more probable that when his statement Ex.PW5/A (which became the basis of FIR) was recorded, he had stated the time of 9.00 a.m.

6.19 Thus apparently, the witness had initially stated that the incident had happened at around 9.00 a.m and stuck to this stand for about three months and then gave a statement (Ex.PW5/D2) that the time of incident was of 12.00 p.m. Therefore, when the witness was asked about this change of time and suggested that he had done so after coming to know that phone of deceased was active till around 11.40 a.m, he was required to put forward an explanation for initially stating the incorrect time of incident. However, despite being given an opportunity, he did not put forward any explanation and was in

simple denial when he stated that the time initially given by him was not of 9.00 a.m. Therefore, this change of time from 9.00 a.m to 12.00 p.m, without putting forward any explanation, creates a serious doubt about the witness having seen the incident wherein deceased Anwar had been shot.

6.20 Further noticeable is the fact, that PW5 then went on to state that he wanted to name the rioters when his initial statement was recorded by the police but police official refused to record those names. However, during his cross examination, he contradicted himself when he stated, that he did not know the names of the rioters whom he had identified on 27.02.2020 and then further went on to state, that he had informed police on 27.02.2020 that he could identify the rioters by their faces. Therefore, on the one hand, the witness stated that he wanted to name the rioters because he knew them and on the other hand, during his cross examination, he stated that he knew them by faces, though even that fact was not recorded in EX.PW5/A and Ex.PW5/D1. His cross examination belies his stand that he could have named the rioters and wanted to name the rioters because he knew them, but police refused to do so.

6.21 Not only this, the fact, that he might not have known the name of the rioters, further fortified during his later part of the cross examination when he denied the suggestion that he did not know the names of any of the rioters prior to 30.03.2020 and then volunteered,

that he knew the name of Lakhpat. So even if this part of his volunteered statement is taken to be correct then till 30.03.2020, he only knew about Lakhpat and no other rioter.

6.22 However, the failure of this witness to mention any name the persons involved in the incident is compounded by the fact that he would have at least know one person amongst those rioters. The person he was definitely knowing is Kuldeep s/o Shyam Babu. I say so because , he had categorically deposed in his cross examination that he used to run a computer centre and about 02 years prior to the riots, Kuldeep s/o Shyam Babu was a student at his centre. However, at a later stage in his cross examination, he deposed that he knew Kuldeep s/o Shyam Babu even prior to 25.02.2020 and in his voluntary statement, he takes an about turn and states that he did not know the name of Kuldeep or Kuldeep's father and he knew them by faces and had *dua salam* with Kuldeep's father.

6.23 In my opinion the two consecutive admissions about knowing Kuldeep s/o Shyam Babu, in view of the flip flop of this witness, are more reliable than his voluntary statement that he did not know Kuldeep by name and only knew him by face. This being the case, had he seen the incident, he would certainly have named Kuldeep s/o Shyam Babu in his initial statement Ex.PW5/A.

6.24 Then there is another contradiction between the examination in chief and the cross examination of this witness. In his

examination in chief, PW5 stated that killing of Anwar had happened first and his house was looted later on whereas during his cross examination, he deposed that first it was his house that was looted and then the incident of firing at Anwar had taken place.

6.25 Then there is an issue of this witness, despite his claim of being an eyewitness, not making any PCR call prior to the early hours of 26.02.2020.

6.26 PW5 has tried to explain this and prosecution emphasized on the fact, that during the time when PW5 was hiding in the house of Abhishek, Abhishek had asked him to take out his SIM Card and break his phone so that he could not be traced. It has further been contended that in the situation in which PW5, it could not be expected that he would immediately call PCR rather than taking care of his own safety and that of his family.

6.27 I have considered this submission and I find that it is highly unbelievable that a person would expect that the rioters would have a technology to track a person through his phone. However, for the sake of arguments, even if I accept this contention that his mobile phone might have been broken by PW5 and that is why, he was not able to call PCR, the documentary evidence on record does not support this contention. The evidence which I am referring to is the CDR of mobile phone of PW5 which is Ex.PW23/C. This CDR pertains to mobile number 9268082074 of PW5 and it was the same

mobile number which was used to make the PCR call. As per PW5, he had taken out the SIM card from his mobile phone and broken his mobile phone. It is only after reaching at the house of Danish that he took mobile phone of Danish and was able to insert SIM card in that mobile phone and made a call at 100 number. In between, he had inserted his SIM card in the handset of Abhishek and tried calling PCR, but the call did not go through. Meaning thereby, that from about the time of murder of Anwar and till he reached the house of Danish, he was not in a position to make a call.

6.28            However, it emerges from evidence that on 25.02.2020, this witness had used two different mobile phones for using his SIM card. The first mobile phone with IMEI No. 911661001350220 was used from 02.38 a.m in the morning til about 11.37 a.m. Thereafter, from 12.12 p.m on 25.02.2020 till 23.57p.m on 25.02.2020, same SIM card was being used in mobile phone with IMEI No. 911657450888140. During this period i.e. from 12.12 p.m on 25.02.2020 till about 23.57p.m on 25.02.2020, there were around 50 calls of various duration made by this witness. Therefore, his contention that he could not make PCR call because, his phone had been broken seems an entirely made up story because he was using the same phone throughout the day and he had spoken to various people during this period.

6.29            At the same time, it must be kept in mind that in his

statement u/s 164 Cr.P.C, Ex.PW5/C, he had stated before the Magistrate that he had repeatedly called police during the incident but police did not come to help him. However, no such call was found in his CDRs.

6.30 Then there are portions of his testimony that contradict the stand of the prosecution. According to the prosecution, the piece of leg of the deceased was recovered on 27.02.2020 at the instance of PW5. This was also deposed about by PW18 and, re-asserted by the prosecution through Ex.PW18/D. However, PW5 had a different story to tell. According to him, on 26.02.2020, an unknown person reached the house where he was residing and told him that he was sent by Jagdish Pradhan. That person further told him that one leg of his brother was lying in his factory where his brother had been burnt. He contacted Maroof, the Nigam Parshad of the area who made a call to SHO PS Karawal Nagar and at about 7.00 p.m, he received a call from SHO PS Karawal Nagar who told him that leg of his brother had been located inside their factory near a wall. The prosecution did not even try to clarify this point from this witness.

6.31 This brings me to another point where this witness not only contradicts himself but also the case as built by the prosecution. The witness initially deposes about he and his brother reaching his factory at 33 Foota Road, the mob gathering around, him returning home and asking the deceased to lock the factory. Then during his

cross-examination in response to court query he introduced a new fact. This was that the deceased had a factory which was at the backside of gali number 1 and that Anwar, the deceased, had been shot at his factory. This was the second time in his testimony that he referred to the place of incident as a factory. During his examination in chief also he had stated about being informed about the leg of his brother lying in his factory and then being informed about recovery of this leg from his factory. However, during his cross-examination, as can be seen above, he introduced a new factory and that one being the factory of the deceased. However, from his own testimony, this assertion of PW5 is found to be false. I say so because while referring to this factory, he deposed that when he came back from this factory his brother Anwar had stayed back at the factory however, as per his examination in chief on the morning of the incident, they had gone to his factory at 33 Foota Road. This being the case, PW5 would have returned from his own factory at 33 Foota Road and thus by implication, as per his testimony the place of incident changes to his factory at 33 Foota Road. However, the witness did not stop here he went on to depose that the factory at 33 Foota Road had already been transferred by him to one Salman and that on that day the factory that was visited by him and the deceased was not on the 33 Foota Road, but stops short of stating where this factory was. This is in direct contradiction of the opening lines of his testimony where he

deposed that on 25.02.2020 at about 9 a.m. he reached his factory at 33 Foota Road, the deceased was with him and they were sweeping the floor. Therefore, this continuous change in his stand about the place incident from Ram Leela Maidan to his factory and then newly introduced factory of Anwar raises doubt about his claim of having witnessed this incident.

6.32 With regard to the timing of incident, there is a further contradiction about the stand of this witness with the testimony of PW7, who is a protected witness. As per the testimony of PW5, it was at about 9.00 a.m that he and his brother reached his factory at 33 Foota Road and they were sweeping that factory. It is thereafter that he had seen burning of his Nano car, his TSR and his motorcycle. Therefore, as per the testimony of this witness, till 09.00 a.m, nothing had happened and he and his brother were at their factory which was at 33 Foota Road. However, as per PW7 X, the first incident witnessed by him had happened after about 15-20 minutes after 7.00 a.m. when he saw a mob of 15-20 people vandalizing auto rickshaw of Saleem and setting ablaze TATA Nano vehicle of Saleem. At around the same time, this witness returned to Anwar's house and saw some persons beating Anwar. Therefore, as per the independent witness cited by the prosecution, by around 8.00 a.m, Nano car and TSR belonging to PW5 had already been set on fire and Anwar had been beaten. However, PW5 states that it was after 9.00 a.m that these two vehicles were

burnt. Had it been the case that Anwar had been beaten by 8.00 a.m, at least Anwar would have informed PW5 about it but the statement of PW5 seems to suggest that by that time i.e. around 9.00 a.m, everything was normal.

6.33 Then there is a question of vantage point when this witness i.e. PW5 might have seen the incident. As per PW5, after reaching the house of Abhishek, Abhishek made them hide at third floor of his house wherefrom he saw the entire incident. However, as per Abhishek, who appeared as PW21, it was at the ground floor of his house near the staircase that he had hidden PW5. The prosecution did not bother to clarify during trial that which of the two stands i.e. of PW5 or of PW21, does the prosecution accept because both cannot co-exist. However, for the sake of arguments, even if I accept that PW5 with his family was hiding at third floor of the house of Abhishek, still the most damaging evidence to the entire credibility of PW5 having seen the murder of his brother from the place where he claims to have seen it, has come through the testimony of PW33 i.e. the IO of this case and that too at the insistence of the complainant.

6.34 After PW33 has been examined, cross examined and discharged, an application came to be moved by the complainant/ PW5 u/s 230 BNSS/ 311 Cr.P.C. The basis of the said application was that the IO, in order to verify the claim of PW5 that PW5 had seen the entire incident from the 2nd floor of the house of Abhishek, had

conducted videography from the point, where PW5, as per his claim, was at the time of incident and wherefrom, he was looking at the place where the incident had happened. This application was opposed by the prosecution as well as defence, but was allowed by the court and PW33 Insp. Rajeev Ranjan i.e. the IO of this case was recalled for further examination and cross examination. His further examination was recorded on 15.01.2026. During his examination, a pen drive which was in open condition was accessed in the court. This was having a video file by the name of WhatsApp Video 2020-09-26 at 13:17:02 mp4. This video was played in the court and PW33 deposed that he had taken this video from the second floor window of the house of Abhishek Chaudhary. PW33 further deposed that the portion which was reflected in the video i.e. an open space across a brick wall, was the Ramleela Ground and it was only a portion of Ramleela Ground which was visible from that place. He further deposed that the visible portion was not the portion of Ramleela Ground where the deceased was burnt alive. This video was fully played in the court. He further stated that throughout the video, the place where deceased was burnt alive was not visible from the window and thus, was not visible in the video. The video was marked as mark PW33/A.

6.35 The testimony of IO, that from the vantage point as claimed by PW5 the place where the deceased as allegedly burnt was not visible, has remained unchallenged and till date even the

complainant has not raised any objections to it or to the authenticity of the video Mark PW33/A.

6.36 This video was also seen by me during the testimony of PW33 and has been seen by me today also, and the portion of Ramleela Ground which is visible from this video is very small corner and that too at a faraway distance. I am conscious of the fact that this video has not been proved as per Indian Evidence Act. However, as it is the prosecution evidence, as far as prosecution is concerned, it has to be considered to be proved against the prosecution.

6.37 This being the case, even if it is admitted that PW5 along with his family was hiding at third floor of the house of Abhishek, as claimed by him and not on the ground floor as claimed by the owner of house namely Abhishek, this witness would not have been able to see the murder of his brother and that too, with such vivid details as deposed by him in the court.

6.38 This brings me back to the testimony of PW21 Abhishek who had deposed that he had hidden PW5 on the ground floor of his house and to the cross examination of PW5, where he stated that he did not remember if he had told the police that Abhishek had told him about the incident that had taken place with Anwar. On this statement being made, PW5 was confronted with his statement Ex.PW5/D from portion B to B where it was recorded, that Abhishek had told him that mob had shot and burnt his brother. He did not deny making this

statement to the police and did not put forward any explanation about it. Therefore, this probability cannot be denied that Abhishek was telling the truth and PW5 was hidden on the ground floor of the house of Abhishek wherefrom he could not have seen the incident and may be it is for this reason that there are so many contradictions and improvements in the testimony of PW5 with regard to witnessing the incident that had happened with deceased Anwar.

6.39 It has been contended of behalf of the complainant that these are minor variations that come with passage of time and PW5 and PW8 being injured witnesses they deserve special credence. In this regard I find that firstly, it has been incorrectly claimed that these two witnesses are injured or stamped. Secondly, the reliance by the complainant on the judgments of Muniappan(supra) and Edakkandi Dineshan (supra) is misplaced because these judgments primarily deal with the effect of a faulty investigation vis-à-vis the testimonies of eyewitnesses. At the same time, there is no contest with the submission that minor variations are bound to happen and as such should not be confused as contradictions. However, what has been culled out earlier from the testimony of PW5, visibly, these are not minor variations; these are serious departures, improvements and contradictions, which individually and cumulatively, shake the credibility of this witness and to me, there does not appear even a ring of truth in it. I accordingly find that PW5 is not a credible witness.

6.40 This brings me to the testimony of PW7. PW7, X, has in fact created a dent in the credibility of PW5, as had been discussed above. PW7 had claimed that he had seen the mob beating Anwar at around 7-8 a.m. He further deposed that one of the members of that mob was Lakhpat. This part of his testimony remained unchallenged. It has been contended by the prosecution that even if he failed to identify accused Lakhpat as a member in that mob but as he named Lakhpat and that part of his testimony remained unchallenged, it stands proved that Lakhpat was a part of that mob which killed Anwar.

6.41 On the other hand, the defence has argued that it was for the prosecution to ask and bring on record whether this witness knew only one Lakhpat in his life and establish through this witness, that he had seen accused Lakhpat and it was not the duty of the defence.

6.42 I have considered this contention. I find that first of all even if his statement is taken to be absolutely correct, this statement cannot connect any of the accused to the murder of Anwar because, the incident had been seen by the witness at around 7-8 a.m whereas Anwar was murdered after 11.40 a.m and there is no evidence that the same mob continued to beat Anwar for almost three hours and then murdered him.

6.43 It is more so because in between, there were certain calls made by Anwar and had Anwar been in the clutches of the mob, he would not have been able to make those calls.

6.44 Therefore, even if it is accepted that there was one Lakhpat in that mob, it has not been proved that the said mob had killed Anwar.

6.45 Further, I find force in the contention of Id. counsels for accused that it was for the prosecution to establish that the Lakhpat, who was named by the protected witness, was the same Lakhpat who was facing trial in this case. This was more necessary in view of the fact that after looking at the accused present in the court, PW7 stated that none of these persons were members of that mob and Lakhpat was amongst these accused. Therefore, it is possible that witness might have been talking about some other Lakhpat because the Lakhpat, who is facing trial in this case, had not been identified by him. Thus prosecution was required to seek clarification from the protected witness, but despite cross-examining this witness, the prosecution failed to do so. Therefore, I find that the testimony of PW7 also cannot connect any of the accused to the murder of Anwar.

6.46 Then there is circumstantial evidence which has been pressed into service by the prosecution and it is in the form of CDRs of the accused and recovery of country made pistols at the instance of Kuldeep s/o Mangal Sain and Yogesh.

6.47 As far as the CDRs are concerned, the first and foremost observation that I need to make is that it is now well established that CDR location of a person does not establish his exact location and is

only indicative of the broader area where he/she might be at that particular time. Secondly, all the accused are residents of Shiv Vihar, Karawal Nagar and therefore, their locations being found in the area of Shiv Vihar, Karawal Nagar, cannot be said to be an incriminating circumstance to establish their guilt.

6.48 This brings me to the recovery of country made pistols at the instance of Kuldeep s/o Mangal Sain and Yogesh. The witnesses to these recoveries are PW10 HC Himanshu, PW14 HC Dinesh, PW15 | SI Harvinder Singh and PW33 Insp. Rajeev Ranjan.

6.49 A careful perusal of these statements of the witnesses reveals certain contradictions in their testimonies. As per PW10 when they left for recoveries at the instance of accused Kuldeep s/o Mangal Sain and Yogesh, they had also taken accused Lakhpat with them whereas, as per IO and other witnesses, Lakhpat was left at the police station and only accused Kuldeep and Yogesh were taken to their houses.

6.50 Further, according to the IO, recovery was first effected at the instance of and from the house of accused Yogesh, whereas the rest of the witnesses had deposed, that first recovery was effected at the instance and from the house of Kuldeep.

6.51 Further, according to PW10, after the recoveries were effected at the instance of accused Kuldeep and Yogesh from their respective houses, the sketches of these pistols were prepared, FSL

forms were filled, and pullandas of these pistols were prepared and sealed at the houses of both these accused. He also went on to depose that formal documents of arrest of accused Kuldeep were prepared at his house, whereas accused Yogesh was arrested after returning to Crime Branch Office at Rohini. However, the rest of the witnesses have deposed that due to fact that a large number of persons had gathered at both the houses, they did not conduct any proceedings at those houses and returned to Crime Branch Office at Rohini and it is at that place, that the sketches of the pistols were prepared, pullandas of pistols were prepared and sealed, seizure memos of pistols were prepared and arrest memos and personal search memos of these accused were prepared.

6.52 PW 10 has deposed about pelting of stone by the crowd that had gathered at the house of Yogesh. No other witness deposed about it.

6.53 It is also to be noticed that according to PW14, PW10 and PW33, the recovery at the instance of accused Yogesh was effected from a chhajja in a room on the ground floor. However, as per PW15, the pistol was recovered from a chhajja in the corridor and not from any room.

6.54 It is also to be noticed that as per the IO, no site plan of the place of recovery was prepared. However, as per PW10, site plan of the place of recovery was prepared.

6.55 It can be argued that these departures are minor variations which are bound appear in testimonies of truthful witnesses. However, these differences are not on some minute or micro facts. The facts upon which the witnesses have been found to contradicting each other are macro facts relating to how the day proceeded, who all were there, what was done and where was it done and these, a truthful witness would not mix up. At the same, the prosecution during the testimonies of these witnesses, did even bother to make an effort to set the record straight by seeking clarifications or otherwise. Therefore, in my considered opinion these, collectively, are serious contradictions which considerably dent the claim of the prosecution that these recoveries were effected at the instance of accused. What also stands out is the fact, that alleged disclosure statements of accused were recorded post recovery of weapons and the basis of recoveries is an oral disclosure. The urgency that necessitated the recoveries prior to arrest and recording of written disclosure has not been explained.

6.56 I fail to understand that when these accused, after their apprehension had already had been brought to the police station, what was the haste in effecting the recoveries without recording the disclosure statements of accused and arresting them. This departure from the usual process is an oddity unexplained.

6.57 Considering these facts and circumstances, I find that there are serious doubts about the recoveries of country made pistols

being effected at the instance of accused Kuldeep s/o Mangal Sain and accused Yogesh.

6.58 Resultantly, the recovery of an empty cartridge from Ramleela ground at the instance of accused Kuldeep also comes under a shadow of doubt. It is more doubtful for another simple reason that the area, wherefrom the recovery of the cartridge was effected, was inspected by the FSL team on 11.03.2020 which had prepared crime scene reports, Ex.A-7 and Ex.A-8. Had there been any such cartridge, it would certainly have been found on 11.03.2020 when the crime scene was inspected by the experts. It is not the case of the prosecution that this cartridge was hidden at some place and therefore, only the accused could have had specific knowledge of it and got it recovered. Thus, the discovery of this cartridge at the instance of accused Kuldeep also doubtful.

6.59 Now I shall take the issue of the loot and arson at the house of PW5.

6.60 There are two witnesses of this incident. They are PW5 and PW8.

6.61 PW5 deposed that after Anwar had been killed, the mob broke open the gate of his house. The gate of his house was not visible but he could see the mob in the gali in front of his house. The mob took out refrigerator, cylinder etc. from his house and looted all the household articles including the dowry articles of his daughter. The

mob sprinkled petrol upon his house and set it ablaze and then the mob set ablaze his auto rickshaw and motorcycle.

6.62 On the other hand, PW8 deposed that on on 25.02.2020 at about 06:00 am-07:00 am, he was present at his house and his father had gone to open his factory. He was at home and saw that a mob of around 50-60 persons was there in the gali in front of his house. This mob was setting ablaze a factory which was at 5-10 minutes walk from his house. At the same time, he saw his father returning and after coming back, his father took them to the house of Abhishek. This house was situated after one house from his house. They were on the third floor of this house. He had no idea about the time, however, when he came out of the room to go washroom, he saw from the window that a number of persons, maybe around 70-80, were in the gali and at his home. They were setting fire to his house and taking articles out of his house. He saw them taking out fridge, boxes, cylinder and many other articles. He saw four persons in that mob and they were already known to him. Those persons were Kuldeep (two persons with name of Kuldeep), Lalit and Yogesh. He had seen them coming out of his home after setting his home on fire. Thereafter, he went back to his home. He further deposed that he had given a statement u/s 164 Cr.P.C and he identified his signatures at point X on the said statement. The said statement was Ex.A-5.

6.63 During his cross examination, he deposed that he had

stated before madam (Magistrate) that he saw a mob of 70-80 persons in the gali and that persons from that mob were taking away articles from his house and that mob was setting his house on fire. He was confronted with his statement u/s 164 Cr.PC where these facts were not recorded. He further deposed that he had informed his father about the names of five accused persons whom he had seen in the riot. He did not remember the date or month when he informed his father about this fact but it was after 2-3 weeks or a month of the incident. Prior to this, he did not inform this fact to anyone. He denied that he did not inform about this fact to anyone prior to telling his father because he had not seen these five persons in the riot at his home or that such names were taken by him on the tutoring of his father. He further deposed that when he was shown photographs by the police, he had not mentioned the name of Mohit @ Chatu before the police as a member of the mob. He had not mentioned the name of Mohit before madam (Magistrate) in Karkardooma Court while giving his statement u/s 164 Cr.P.C. He was confronted with his statement u/s 164 Cr.P.C where from point A to A1 this fact was recorded. He further deposed that before the madam (magistrate) he had mentioned two persons with the name of Kuldeep as being members of the mob. He was confronted with his statement u/s 164 Cr.P.C where name of only one Kuldeep was mentioned. He deposed that before the madam (Magistrate), he had mentioned the name of Lakhpat also as a member

of the mob. He was confronted with his statement u/s 164 Cr.P.C where this fact was not mentioned. He denied that he had not seen anyone setting fire his house or taking articles away from his house. He further deposed that in front side of the house of Abhishek, there was only one window each on the first floor and second floor. He denied that there were some higher houses than the house of Abhishek in that gali and near his house. He did not know the name of the person who was the owner of the house in between his house and the house of Abhishek. He denied that he was a tutored witness or that neither he nor his family had taken any shelter in the house of Abhishek or that he was tutored only one name of Abhishek.

6.64 As discussed earlier, there are serious doubts about PW5 seeing any incident including the incident of rioting at his house because there is doubt whether this witness had hidden himself at ground floor of the house of Abhishek, as deposed by PW21 Abhishek, - a fact that had not been challenged by the prosecution during his testimony- or he had hidden himself at the third floor of the house of Abhishek, wherefrom there could be a possibility of seeing the street. However, there would not have been any possibility for this witness to see his house or what was happening inside his house because between his house and the house of Abhishek, there was another house and as per site plan, Ex.PW9/A, height of the house of Abhishek and the adjoining house, which was between the house of

Abhishek and PW5, was the same and thus, there could only be frontal view available to this witness as there was no side window in that house.

6.65 This witness has also admitted that gate of his house was not visible from where he was allegedly seeing the incident. That further fortifies the claim that the window was in front portion of the house of Abhishek wherefrom the house of complainant would not have been visible.

6.66 It is also to be noticed that on the one hand, complainant (PW5) clearly deposes that he could not see his house but could only see people in the gali and on the other hand, PW8 claims that he clearly saw the accused entering his house, taking articles out of his house, setting his house on fire and some of the accused coming back with bags in their hands. This creates doubts about the testimony of PW8 also.

6.67 Furthermore, testimony of PW8 is also not very trustworthy for a very simple reason that it is very late that he appeared as a witness and what is to be noticed is, that according to the defence, at the most, it was Salim who had hidden himself in the house of Abhishek and not the family of Salim including PW8 because Abhishek had deposed, that it was Salim who had followed him inside his house and he had hidden Salim in his house and Abhishek is completely silent about the family of Salim alongwith

PW8. Here again the prosecution failed to clarify whether Salim was alone or accompanied by his family.

6.68 In these circumstances, I find that on this account also, accused are entitled to a benefit of doubt.

6.69 In view of my aforesaid discussions, I find that the prosecution has failed to prove its case beyond all reasonable doubts. All the accused are entitled to benefit of doubt. All the accused are accordingly acquitted of all the charges framed against them. Their bail bonds stand cancelled. Sureties stand discharged. File be consigned to record room.

Pronounced in open court  
on 02.06.2026.

**(Parveen Singh)**  
ASJ-03, North East Distt.,  
Karkardooma Court, Delhi.

(This judgment has 69 pages  
and from page no. 70 to 84 are  
the annexure-1, annexure-2 and annexure-3.  
Each page bears my signatures)

**Annexure 1****List of Prosecution Witnesses**

<b>Prosecution Witness No.</b>	<b>Name of Witness</b>	<b>Description</b>
PW-1	Sh. Dr. Zuha	On 29.02.2020, he was posted as Jr. Resident A and E department, GTB hospital and on that day, he prepared the MLC of Salim and Ms. Gulshan.
PW-2	Dr. Arvind Kumar	He was one of the members of the Board which conducted post mortem examination of deceased and he prepared the PM report as Ex.PW2/A.
PW-3	Sh. Dr. Saurabh Uniyal	On 28.02.2020, he was posted as CMO Casualty in GTB Hospital and on that day, he examined leg of Anwar and prepared his MLC.
PW-4	Sh. Dheeraj Bhardwaj	He conducted the DNA examination of the exhibits received in the lab for forensic examination. The FSL reports and allele data are Ex.PW4/A to Ex.PW4/D.
PW-5	Sh. Saleem Kassar	He was the complainant in this case. His detailed testimony shall be discussed at a later stage as and when found relevant.
PW-6	Sh. Saudan Singh	As per his testimony, mobile no.

<b>Prosecution Witness No.</b>	<b>Name of Witness</b>	<b>Description</b>
		8130055057 was allotted in the name of his wife. However, suggestion was denied during cross examination by Id. SPP that the said phone was being used by his son Yogesh and not by his wife.
PW-7	Protected witness X	He was the public witness who had witnessed the vandalizm of auto rickshaw of Saleem (Anwar's brother) and had also witnessed setting ablaze of his TATA Nano vehicle. He also witnessed that some persons were beating Anwar and later on found Anwar's dead body lying in burnt condition. He could only name one of the persons as Lakhpat, however he could not identify any of the assailants in the court. However, during cross examination by Id.SPP, he denied the suggestion of having seen the incident as well as identifying all the accused persons in the photographs shown by the police.
PW-8	Saddam	As per his testimony, he had witnessed 70-80 persons setting his home on fire and taking out

<b>Prosecution Witness No.</b>	<b>Name of Witness</b>	<b>Description</b>
		fridge, boxes, cylinder and many other articles, out of his home. He had witnessed that his house was set on fire by four persons namely Kuldeep (two persons with name of Kuldeep), Lalit and Yogesh, alongwith the mob. He had correctly identified all the accused persons in the court.
PW-9	ACP Mahesh	He was working as a Inspector Draftsman in crime branch and on 14.05.2020, he prepared scaled site plan on the basis of rough notes.
PW-10	HC Himanshu	He was the material witness of arrest of accused Lakhpat, Kuldeep & Yogesh, recovery and seizure of pistol/country made pistol. His detailed testimony will be considered at a later stage as and when found relevant.
PW-11	Kashi Ram Ahirwal	As per his testimony, in April/May 2020, police had informed him that riot had taken place in his plot bearing no. 11, Prem Nagar, Shiv Vihar, Karawal Nagar, wherein one Anwar started living there. He had shown document of his

<b>Prosecution Witness No.</b>	<b>Name of Witness</b>	<b>Description</b>
		aforesaid plot (GPA) to the police.
PW-12	Ms. Anubha Lal	He was an expert of FSL, Rohini and after examining the exhibits, he had proved his report as Ex.PW12/A.
PW-13	Dr. Joy Tirkey	He accorded sanction u/s 39 Arms Act for prosecuting accused Yogesh and Kuldeep and proved sanction order as Ex.PW13/A.
PW-14	HC Dinesh	He was the material witness who had taken part in arrest of accused Lakhpat, Kuldeep and Yogesh. As per his testimony, documents i.e. seizure memo of pistols recovered from accused Kuldeep & Yogesh, sketch of empty cartridge & seizure memo of T-shirt worn by Kuldeep, were prepared in his presence.
PW-15	SI Harvinder Singh	He was the material witness, who participated in investigation of the case alongwith other members of the raiding team and witnessed the arrest of accused Lalit. List of articles, which were looted, burnt and damaged during the incident, was seized in his presence.

<b>Prosecution Witness No.</b>	<b>Name of Witness</b>	<b>Description</b>
PW-16	Sh.Ajay Kumar	He was the Nodal Officer in Bharti Airtel Ltd. and had proved CDRs & CAFs in respect of mobile nos. 9599521198, 9971028575, 8130055057, 7428441182 & 9717979100. He had also proved the Cell ID Chart and certificate u/s 65B of IE Act.
PW-17	SI Sanjay	As per his deposition, danda was seized at the instance of Lalit and Kuldeep. On 04.04.2020, he participated in investigation of the case alongwith IO, ASI Harvinder Singh & HC Himanshu and seized the hard disk of CCTV installed in a shop in Shiv Vihar, Ramlila Maidan. However, during cross examination by Id. SPP, he denied the suggestion that accused Lalit had also accompanied aforesaid members of the team on 31.03.2020 to Shiv Vihar or that dandas were recovered from Lalit and Kuldeep s/o Shyam Babu.
PW-18	Retd. SI Rakam Singh	As per his deposition, at the instance of complainant Saleem, some vehicles in burnt condition

<b>Prosecution Witness No.</b>	<b>Name of Witness</b>	<b>Description</b>
		and one leg piece of a human body were found in an open plot in front of B-44. He had proved request letter for conducting post mortem on leg piece as Ex.PW18/B, seizure memo of two glass bottles related to blood sample of Gulshan and Saleem as Ex.PW18/C and rukka as Ex.PW18/D. However, he denied the suggestion during cross examination by Id. SPP that he had gone to the place of incident with Saleem on 27.02.2020.
PW-19	Insp. Prakash Roy	He was the 1 <sup>st</sup> IO of the case. His testimony will be considered at a later stage as and when found relevant.
PW-20	Smt. Gulshan	She was the daughter of the deceased Anwar who came to know through her uncle Salim that her father had been killed with gunshot injury on 26.02.2020.
PW-21	Sh. Abhishek Kumar	He was the witness from whom enquiry was made by the police about murder taken place during riots on 24/25.02.2020. As per his testimony, Salim stayed in

<b>Prosecution Witness No.</b>	<b>Name of Witness</b>	<b>Description</b>
		his house after hearing hue and cry of the persons. However, he did not see the rioter and did not remember, if police had prepared any site plan. During cross examination by Id. SPP, he denied the suggestion that the site plan was signed by him.
PW-22	Mohd. Danish	He was the witness who, after the incident, had deposed about seeing Salim's house as well as his Nano car in burnt condition.
PW-23	Sh. Praveen Kumar	He was the Nodal Officer of Reliance Jio Company and he had proved CDRs & DKYC in respect of mobile no.8882458994 & 9268082074. He had also proved certificate u/s 63 of BSA and Cell ID chart.
PW-24	HC Sudhir Kumar	He was the Nodal Officer in CPCR and had proved PCR forms with certificate u/s 63 of BSA as Ex.PW24/A to Ex.PW24/D.
PW-25	HC Daya Ram	He dispatched the calls taken by him to an official, who forwarded the calls to the control room of concerned district.
PW-26	W/Ct. Sonam	As per her testimony, PCR form

<b>Prosecution Witness No.</b>	<b>Name of Witness</b>	<b>Description</b>
		Ex.PW24/A reflects that the call was taken by her at 1.28 a.m of 26.02.2020 and PCR form Ex.PW24/D reflects that the call was taken by her at 1.38 a.m of 26.02.2020.
P.W-27	ASI Mahesh Singh	He was assigned the duty of taking the call on channel no.32. The PCR form with endorsement ExPW24/C reflects that the call was taken by him on 10.15 a.m. of 26.02.2020.
PW-28	HC Purshottam	R/C nos. 421/21/20, 422/21/20, 423/21/20, 424/21/20, 399/21/20 and 440/21/20 were prepared by him and the copies of the same are Ex.PW28/A to Ex.PW28/O.
PW-29	Retd. ASI Raj Kumar	After taking the sealed envelopes from the DO, this witness had delivered the same at the respective residential houses of Joint CP, MM and DCP/NE.
P.W-30	Sh. Mandeep Singh	He inspected Ram Lila Maidan in the area of Karawal Nagar, alongwith Sh. Brijesh Kumar (Reporting Officer) and 4 other officials. As per his testimony, he had taken 26 photographs and handed over the print of the

<b>Prosecution Witness No.</b>	<b>Name of Witness</b>	<b>Description</b>
		same to the police officials. He had proved certificate u/s 63 of BSA in respect of the photographs as Ex.PW30/A.
P.W-31	Ct. Yogesh	On the instructions of IO, this witness had brought the FSL report & sealed exhibits and handed over the same to the IO. Thereafter, he deposited the same in the malkhana, PS Karawal Nagar.
P.W-32	ASI Rajesh Kumar	On the instructions of IO/Insp. Rajiv Ranjan, he went to FSL Rohini and at FSL, he was handed over two sealed envelopes, which he gave it to IO.
P.W-33	Insp. Rajeev Ranjan	He was the 2 <sup>nd</sup> IO of this case and his detailed testimony shall be discussed later on as and when found relevant.

**Annexure 2****List of Prosecution Exhibits**

<b>Exhibit No.</b>	<b>Description of the Exhibit</b>	<b>Proved/ Attested by</b>
Ex.PW1/A and Ex.PW1/B	MLC of Salim and Ms.Gulshan	PW-1
Ex.PW2/A	Postmortem report	PW-2
Ex.PW3/A	MLC of Anwar	PW-3
Ex.PW4/A	FSL report in respect of DNA examination of exhibits	PW4
Ex.PW4/B & C	Allele data	PW-4
Ex.PW4/D	DNA examination	PW-4
Ex.PW5/A & B	Statements of Saleem Kassar	PW-5
Ex.PW5/C	Statement u/s 164 Cr. PC	PW-5
Ex.PW9/A	Site plan	PW-9
Ex.PW10/A and Ex.PW10/B	Arrest and p/search memo of accused Lakhpat	PW-10
Ex.PW10/C and Ex.PW10/D	Arrest memo and p/search memo of accused Kuldeep	PW-10
Ex.PW10/E	Sketch of pistol recovered from Kuldeep	PW-10
Ex.PW10/F	Sketch of pistol recovered from Yogesh	PW-10

<b>Exhibit No.</b>	<b>Description of the Exhibit</b>	<b>Proved/ Attested by</b>
Ex.PW10/G	Seizure memo of pistol recovered from Kuldeep	PW-10
Ex.PW10/H	Seizure memo of pistol recovered from Yogesh	PW-10
Ex.PW10/I and Ex.PW10/J	Arrest and p/search memo of accused Yogesh	PW-10
Ex.PW11/A	GPA in favour of Kashi Ram Ahirwal	PW-11
Ex.PW12	FSL report dt. 30.09.2020	PW-12
Ex.PW12/ Article 1	Pistol found in parcel no.1/3	PW-12
Ex.PW12/ Article-2	Pistol found in parcel no.2/3	PW-12
Ex.PW12/ Article-3	Cartridge case	PW-12
Ex.PW13/A	Sanction order	PW-13
Ex.PW14/A	Seizure memo of body parts	PW-14
Ex.PW14/B	Seizure memo of ash	PW-14
Ex.PW14/C	Seizure memo of boxes [mark 1(A) and 2(A)] containing soil material lifted from Ramleela Maidan	PW-14
Ex.PW14/D	Sketch of empty cartridge	PW-14
Ex.PW14/E	Seizure memo of T-shirt	PW-14
Ex.PW15/A and Ex.PW15/B	Arrest and p/search memo of accused Lalit	PW-15
Ex.PW15/C	Seizure memo of list of articles of	PW-15

<b>Exhibit No.</b>	<b>Description of the Exhibit</b>	<b>Proved/ Attested by</b>
	Salim and Anwar (brother of Salim) burnt/damaged during the incident	
Ex.PW16/A	Forwarding letter dt.01.06.2020	PW-16
Ex.PW16/B & Ex.PW16/C	Certified copy of CDR of mobile no.9599521198 and EKYC	PW-16
Ex.PW16/D and Ex.PW16/E	Certified copy of CDR of mobile no.9971028575 and EKYC	PW-16
Ex.PW16/F and Ex.PW16/G	Certified copy of CDR of mobile no.8130055057 and CAF	PW-16
Ex.PW16/H and Ex.PW16/I	Certified copy of CDR of mobile no.748441182 and EKYC	PW-16
Ex.PW16/J and Ex.PW16/K	Certified copy of CDR of mobile no.9717979100 and EKYC	PW-16
Ex.PW16/L	Cell ID Chart	PW-16
Ex.PW16/M	Certificate u/s 65B of IE Act	PW-16
Ex.PW17/A	Seizure memo of hard disk	PW-17
Ex.PW17/B	Arrest memo of accused Kuldeep	PW-17
Ex.PW18/A	Request letter to keep the leg piece in the mortuary of GTB hospital	PW-18
Ex.PW18/B	Request letter for taking blood sample of Gulshan and Saleem	PW-18
Ex.PW18/C	Seizure memo of 2 glass bottles with 2 sample seal	PW-18
Ex.PW18/D	Rukka	PW-18

<b>Exhibit No.</b>	<b>Description of the Exhibit</b>	<b>Proved/ Attested by</b>
Ex.PW19/A	Unscaled site plan prepared at the instance of ASI Rakam Singh	PW-19
Ex.PW19/B	Seizure memo of wooden box containing leg piece of deceased	PW-19
Ex.PW23/A & Ex.PW23/B	CDR of mobile no.8882458994 and DKYC	PW-23
Ex.PW23/C and Ex.PW 23/D	CDR of mobile no.9268082074 and DKYC	PW-23
Ex.PW23/E	Certificate u/s 63 of BSA in respect of mobile nos. 8882458994 & 9268082074	PW-23
ExPW23/F	Cell ID Chart	PW-23
Ex.PW24/A to Ex.PW24/D	PCR forms with certificate u/s 63 of BSA	PW-24
Ex.PW28/A	R/C no.421/21/20	PW-28
Ex.PW28/B	R/C no.422/21/20	PW-28
Ex.PW28/C	R/C no.423/21/20	PW-28
Ex.PW28/D	R/C no.424/21/20	PW-28
Ex.PW28/E	R/C no.399/21/20	PW-28
Ex.PW28/F	R/C no.440/21/20	PW-28
Ex.PW28/G	Entry made at S.No.46 in register no.19	PW-28
Ex.PW28/H	Entry made at S.No.47 in register no.19	PW-28
Ex.PW28/I	Entry made at S.No.64 in register no.19	PW-28

<b>Exhibit No.</b>	<b>Description of the Exhibit</b>	<b>Proved/ Attested by</b>
Ex.PW28/J	Entry made at S.No.81 in register no.19	PW-28
Ex.PW28/K	Entry made at S.No.83 in register no.19	PW-28
Ex.PW28/L	Entry made at S.No.101 in register no.19	PW-28
Ex.PW28/M	Entry made at S.No.103 in register no.19	PW-28
Ex.PW28/N	Entry made at S.No.131 in register no.19	PW-28
Ex.PW28/O	Entry made at S.No.132 in register no.19	PW-28
Ex.PW30/A	Certificate u/s 63 of BSA prepared by Mandeep Singh in respect of photos	PW-30
Ex.PW30/P1 to Ex.PW30/P26	Photographs taken by Mandeep Singh	PW-30
Ex.33/1 & Ex.PW33/2	Two disclosure statements of accused Kuldeep	PW-33
Ex.33/3	Seizure memo of empty cartridge	PW-33
Ex.PW33/4	Disclosure statement of accused Lalit	PW-33
Ex.PW33/5	p/search memo of accused Kuldeep	PW-33
Ex.PW33/6	Disclosure statement of accused Kuldeep	PW-33
Ex.PW33/7	Pointing out memo at the instance of Salim	PW-33
Ex.PW33/8	Rough site plan of house of Abhishek	PW-33

**Annexure 3**

**List of Admitted Documents u/s 294 Cr.P.C**

<b>S. No.</b>	<b>Description of the document</b>	<b>Exhibit No.</b>
1	Endorsement on Rukka	Ex.A-1
2	FIR	Ex.A-2
3	Certificate u/s 65B of IE Act in respect of FIR	Ex.A-3
4	FSL report dated 11.06.2020	Ex.A-1
5	Proceedings u/s 164 Cr.P.C of witness Saleem	Ex.A-4
6	Proceedings u/s 164 Cr.P.C of witness Saddam	Ex.A-5
7	TIP proceedings	Ex.A-6
8	FSL report dated 25.08.2021	Ex.A-7
9	FSL report dated 09.01.2024	Ex.A-8
10	FSL report dated 18.11.2024	Ex.A-9