

IN THE COURT OF SHRI RAVINDRA KUMAR PANDEY,
ACMM-01, ROUSE AVENUE DISTRICT COURTS, NEW
DELHI

रविन्द्रा कुमार पाण्डे
RAVINDRA KUMAR PANDEY
अतिरिक्त मुख्यालय महानगर दण्डाधिकारी-1
Addl. Chief Metropolitan Magistrate-I
न्यायालय संख्या-203, द्वितीय तल
Court No. 203, 2nd Floor
राउज ऐवेन्यू जिला न्यायालय
Rouse Avenue District Court
नई दिल्ली
New Delhi

ID No. CBI/28/2021
CNR No. DLCT120000762021
RC No. 0062019S0012
PS CBI/ACB, Lucknow
CBI Vs. Kuldeep Singh Sengar & Ors.

20.12.2021

ORDER ON CHARGE

1. The present chargesheet was filed U/s 173 Cr.PC by the investigating agency i.e. CBI against the accused Ashish Kumar Pal S/o Suraj Pal regarding the allegation for commission of offence punishable U/s 304-A/338/279 of IPC and against the accused Kuldeep Singh Sengar (A-1), Vinod Mishra (A-3), Haripal Singh (A-4), Naveen Singh (A-5), Komal Singh (A-6), Arun Singh (A-7), Gyanendra Singh (A-8), Rinku Singh @ Prakhar Singh (A-9) and Awdesh Singh (A-10) regarding the allegation for commission of offence punishable U/s 120-B read with section 506(ii) of IPC. The instant case was registered as FIR No./Crime case 305/2019 dated 29.07.2019 PS Gurbaksh Ganj Raibareilly, U.P regarding commission of offence punishable U/s 302 /307/506 IPC read with section 120-B IPC on the basis of written complaint of complainant, who was lodged in Raibareilly jail vide GD No. 25 on 29.07.2019. The chargesheet /final report U/s 173 Cr.PC was initially filed before the Court of Ld. Special Judge, CBI, Lucknow on 11.10.2019. However, in view of directions of Hon'ble Supreme Court of India dated 01.08.2019, the same was forwarded to the Court of Ld. Principal District & Sessions Judge, West District, Tis Hazari Court Complex. The investigating



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Rouse Avenue District Court
नई दिल्ली
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agency/CBI have reached the finding after detail and scientific investigation to the effect that there was no evidence regarding the criminal conspiracy hatched as amongst the named persons in the FIR with the truck driver/accused Ashish Kumar Pal (A-11) and/or the cleaner or for that matter owner of the offending truck. The Court of Ld. Principal District & Sessions Judge, West District Tis Hazari Court, vide its detailed order dated 31.07.2021 took the cognizance of the offence punishable U/s 304-A/338/279 IPC against the accused/driver Ashish Kumar Pal and for offence punishable U/s 120-B IPC read with Section 506(ii) IPC against accused persons Kuldeep Singh Sengar (A-1) alongwith his associates accused Vinod Mishra (A-3), Haripal Singh (A-4), Naveen Singh (A-5), Komal Singh (A-6), Arun Singh (A-7), Gyanendra Singh (A-8), Rinku Singh @ Prakhar Singh (A-9) and Awdesh Singh (A-10) and accused persons were summoned accordingly and dismissed the objections of the complainant party regarding the chargesheet as filed by investigating agency. The Court of Ld. Principal District & Sessions Judge also observed that offences for which cognizance was taken were triable exclusively by the Court of Metropolitan Magistrate and accordingly the present case was send to the Court of Ld. CMM Special Judge CBI Rouse Avenue Court, New Delhi and the file was later on marked to this Court.

2. The brief allegation against the accused Ashish Kumar Pal S/o Suraj Pal as per chargesheet is that on 28.07.2019 in between 12.45 pm to 12.50 pm, he was driving the truck bearing no. UP-71-AT-8300 on the wrong side of the road coming from Raibareilly side towards



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राज्य प्रमुख न्यायालय, नई दिल्ली
Addl. Chief Metropolitan Magistrate-1
राज्य प्रमुख जिला न्यायालय
Rouse Avenue District Court,
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Lalganj side in rash and negligent manner and due to which, the car bearing no. DL-1-CL-8642 being driven by Mahender Singh Advocate collided with the rear portion of the truck resulting into the death of two lady passengers besides grievously injuring the driver Mahender Singh Advocate who later on succumbed to the injuries as also the victim AS (the name of the victim and name of the other witnesses related to the victim AS is withheld as she was the victim of sexual assault in case bearing no. SC No. 448/2019, FIR No. 96/2018, RC No. 08(S)/2018, PS CBI/ACB, Lucknow U/s 120-B r/w Sec. 363/366/376-(i)/506 IPC and Section 3 & 4 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 titled as CBI, ACB, Lucknow U.P Vs. Shashi Singh & Ors.).

ORDER QUA ACCUSED ASHISH KUMAR PAL

3. The investigating agency/CBI corroborated the allegation against accused Ashish Kumar Pal through the mechanical inspection report which got conducted regarding both the vehicles involved into the accident and also obtained expert opinion regarding the mode and manner of accident i.e. the CFSL New Delhi on the reconstruction of scene of crime. As per the report of CFSL New Delhi, it was raining at the time of the incident and the road was in a wet condition. There was a blind curve just before the place of occurrence in the direction from which the truck was moving i.e. from Raibareilly towards Lalganj. It is also observed in the report that there was no divider present on the road where the collision occurred. The truck had entered into the wrong side of the road in which the car was coming from Lalganj side. It is also observed in the report that there was skid marks of the truck on the wrong side of the road show that the brakes



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Addl. Chief Metropolitan Magistrate-I
राज्य सैन्य जिला न्यायालय
Rajwade Avenue District Court
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have been applied by the driver of the truck. It is also observed in the report that the truck skided after applying the brakes suddenly and as the road was wet and slippery owing to the rain, its rear portion collided with the car coming from the opposite side at the high speed. The investigating agency also obtained the opinion of the Team of the Expert of IIT New Delhi and as per report, the truck was coming from Raibareilly side to Fatehpur, while the car was coming from opposite direction moving towards Raibareilly. It is further reported that estimated speed of the truck was 50-60 k.m per hour and of the car was 70 k.m per hour. It is also reported that the car seems to have hit the right side of the truck after the second axle and before the third axle. It is also reported that the front of the car seems to have engaged with the third axle tyre of the truck. It is also reported that because of the ABS in the truck and the rain at the time of crash and after the crash, there was no skid marks found on the road. It is also reported that the car lodged in the area between the second and third axle of the truck, dragged alongwith the truck for some distance and in the process, its orientation changed significantly with respect to its original direction of motion. In the end, it stopped at an angle of about 135 degree with respect to its initial direction of motion. It is also reported that the car occupants were not wearing the seat belts, which would have added to the severity of the injuries of the occupants. It is also reported that the condition of the truck tyre was mostly poor and the tyres were worn out. The truck did not have under the right bars which could have helped reduced the severity of the crash. The investigating agency also obtained the opinion of the Expert of Central Road Research Institute. As per the report, the Brake was applied by the truck driver but not pressed continuously. It

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Ramesh Avenue District Court
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is also reported that there was no tyre mark of the car on the road, implying that the car driver did not see the danger till the truck driver again applied emergency brake, while changing the direction of the truck towards the inner lane. It is also reported that during the second part of braking, the truck practically blocked the lane of the car, resulting into the collision. It is also observed that situation become dangerous when the truck driver turned his vehicle to the inner lane and applied the brake which made the truck oblique to the direction of the travel and practically blocked the lane for the car. The investigating agency also obtained the technical inspection report of both the vehicles from expert of RTO, Lucknow and attached the report with the final chargesheet. The prosecution has also relied upon the statement of eye witness/victim AS apart from other witnesses of the accident.

During the arguments on the point of charge against accused/driver Ashish Kumar Pal S/o Suraj Pal, prosecution has prayed that prima-facie there is sufficient evidence against the accused to charge him for offences punishable U/s 304-A/338/279 IPC. Ld. Defence Counsel for accused Ashish Kumar Pal argued that there is no prima facie sufficient evidence to charge the accused Ashish Kumar Pal regarding the allegation for which he was chargesheeted.

The Court heard the submission of Ld PP for CBI/State and also heard the submission of Ld. Defence Counsel for accused Ashish Kumar Pal and also perused the material available with the chargesheet. The Court is of the considered view that prima-facie there is sufficient material available on record against the accused Ashish Kumar Pal to charge him for offences punishable U/s 304-A/338/279 IPC. Accordingly, he be charged separately for the same.



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महोदय अतिरिक्त अधीक्षक न्यायाधीश-1
राज न्याय भवन
मुंबई अवरूथ डिस्ट्रिक्ट कोर्ट
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ORDER REGARDING OTHER ACCUSED PERSONS

4. The allegation against the remaining accused persons namely Kuldeep Singh Sengar (A-1), Vinod Mishra (A-3), Haripal Singh (A-4), Naveen Singh (A-5), Komal Singh (A-6), Arun Singh (A-7), Gyanendra Singh (A-8), Rinku Singh @ Prakhar Singh (A-9) and Awdesh Singh (Advocate) (A-10) as per chargesheet is that on various occasions/ dates prior to 28.07.2019, in pursuance to the criminal conspiracy with accused Kuldeep Singh Sengar (A-1) with other co accused persons namely Vinod Mishra (A-3), Haripal Singh (A-4), Naveen Singh (A-5), Komal Singh (A-6), Arun Singh (A-7), Gyanendra Singh (A-8), Rinku Singh @ Prakhar Singh (A-9) and Awdesh Singh (Advocate) (A-10), the co accused persons Vinod Mishra (A-3), Haripal Singh (A-4), Naveen Singh (A-5), Komal Singh (A-6), Arun Singh (A-7), Rinku Singh @ Prakhar Singh (A-9) and Awdesh Singh (Advocate) (A-10) extended threat to cause death to the victim AS and her family members or to cause grievous hurt to the victim AS or her family members or her close relatives in order to pressurize her to withdraw her allegation against accused Kuldeep Singh Sengar (A-1) in criminal proceedings pending against him.

5. It is averred in the chargesheet/final report filed U/s 173 Cr.PC by the investigating agency after conducting detailed investigation that accused Kuldeep Singh Sengar (A-1) conspired with the co accused persons namely Vinod Mishra (A-3), Haripal Singh (A-4), Naveen Singh (A-5), Komal Singh (A-6), Arun Singh (A-7), Gyanendra Singh (A-8), Rinku Singh @ Prakhar Singh (A-9) and Awdesh Singh (A-10) to extend threat of causing death or grievous



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injury to the victim AS and/or her close relatives and family members.

It is further averred in the chargesheet that victim AS and other family members of the complainant used to tell the complainant that accused Kuldeep Singh Sengar forcibly used to talk to them over the phone by making calls at the mobile number of his henchman in Makhhi, Unnao from the mobile number of Simple Mishra and used to threat for life or to resile from their statement in the Court in all the pending cases. It is alleged that these threats were made over phone through his henchman in front of police personnels deployed at his residence in the Makhhi.

It is also alleged that complainant had directed to his family members to give written application about these threats to PS Makhhi and many such complaints about the threats were made by his family members both personally and through registered post but no action was taken on them.

It is further averred in the chargesheet that the accused persons who were involved in the execution of criminal conspiracy to give threat to the family members of the complainant and victim AS were Manoj Singh Sengar (already expired), Vinod Mishra (A-3), Haripal Singh (A-4), Naveen Singh (A-5), Komal Singh (A-6), Arun Singh (A-7), Gyanendra Singh (A-8), Rinku Singh (A-9), Advocate Awadesh Singh (A-10) and 15 to 20 other unknown persons in order to pressurize the complainant to arrive on compromise with Kuldeep Singh Sengar else all his family members would be murdered while going here and there.

It is also averred in the chargesheet that these accused persons threatened to go away with Pairokari of his cases as he had been



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imprisoned by them only and they would eliminate him after 10 to 15 years on his release from jail.

It is also averred in the chargesheet that all the threats were communicated to him by his deceased wife on his meetings with her on various dates in the Unnao Court.

It is also averred in the chargesheet that after denial of bail of one Shashi Singh wife of accused Haripal Singh (A-4) from the High Court, all the above said accused persons mounted pressure and started threatening more regularly to reach on compromise else they would be murdered.

It is also averred in the chargesheet that these threats were given by Manoj Singh (already expired), Naveen Singh and one Kunnu Mishra on 07.07.2019 and 16.09.2019. It is also alleged that accused Haripal Singh entered in his house at Makhi on 08.07.2019 and threatened to his family members.

It is also averred in the chargesheet that accused Arun Singh (A-7), resident of Nawabganj came alongwith 10 to 12 persons in two vehicles and threatened to withdraw cases against accused Kuldeep Singh Sengar (A-1) and threatened to eliminate the entire family on failure when the wife of the complainant and victim AS were residing in Chaudhary Charan Singh Guest House.

It is also averred in the chargesheet that complainant and his family members had made 30 to 40 complaints regarding threat extended by or on behalf of accused no. 1 Kuldeep Singh Sengar to eliminate the complainant and victim AS family.

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It is also alleged that one Awdesh Singh (who met the complainant in jail) was having rivalry/dispute with Kuldeep Singh Sengar (A-1) and Arun Singh (A-7) and said Awdesh Singh protested Dharana against Kuldeep Singh Sengar on the death of the brother of the complainant.

It is also alleged that complainant informed to the said Awdesh Singh that the henchman of the MLA used to give threat to the wife of complainant and victim AS.

It is averred in the chargesheet that accused Haripal Singh gave threat on 08.07.2019 by visiting to the house of victim AS at Makhhi and the presence of accused Haripal Singh clearly established in the video clip recorded by the sister of the victim. It is also alleged that presence of the accused Haripal Singh corroborated by the police security personnels deployed at the residence on that day. The mother of the victim AS also stated about the threats given by accused Haripal Singh and she corroborated the version of the sister of the victim AS.

It is also averred in the chargesheet that wife of the complainant had informed him about various threats as conveyed to her to the complainant during her visit at Raibareilly jail.

It is also averred in the chargesheet that complainant alleged in his complaint dated 29.07.2019 and other complaints to various authorities made by victim's family members that all the named accused persons including Kuldeep Singh Sengar, Manoj Singh Sengar (since expired), Komal Singh, Gyanendra Singh, Rinku Singh and Awdesh Singh threatened to the victim and her family members in furtherance of the criminal conspiracy hatched between them and this



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Case Investigation Report-1

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सत्यमेव जयते
मुख्य अध्यापक
केन्द्रीय बोर्ड
नया दिल्ली

fact was corroborated by the version of complainant, victim and her family members.

6. It is argued on behalf of the State by Ld. PP for CBI that at the time of incident of the accident, the complainant was in judicial custody in Raibareilly District Jail and complainant is the uncle of one of the victim AS of the accident and husband of the one of the female victim of the accident. It is further argued that prior to the incident of accident dated 28.07.2019, on unknown date, time and place, accused no. 1 Kuldeep Singh Sengar conspired with other co accused persons namely Manoj Singh Sengar (already expired), Vinod Mishra (A-3), Haripal Singh (A-4), Naveen Singh (A-5), Komal Singh (A-6), Arun Singh (A-7), Gyanendra Singh (A-8), Rinku Singh (A-9), Advocate Awadesh Singh (A-10) and 15 to 20 other unknown persons in order to pressurize the complainant and victim AS and their family members to arrive on compromise with accused Kuldeep Singh Sengar, else all his family members would be murdered while going here and there. It is further argued that in furtherance to the criminal conspiracy between accused persons, on various occasions and prior to 28.07.2019, accused persons namely Vinod Mishra (A-3), Haripal Singh (A-4), Naveen Singh (A-5), Komal Singh (A-6), Arun Singh (A-7), Gyanendra Singh (A-8), Rinku Singh (A-9), Advocate Awadesh Singh (A-10) and 15 to 20 other unknown persons extended threat to the victim AS and her family members. It is further argued that statement of witnesses recorded during the investigation U/s 161 Cr.PC corroborate the fact of conspiracy between the accused persons and also corroborate the fact of extending threat by the accused persons on various occasions to the family members of the victim AS as well as victim AS.

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It is further argued that PW1 is the mother of the victim AS, PW2 is the sister of the victim AS, PW3 is the family member of the victim AS, PW4 is the complainant who is uncle of the victim AS, PW5 is the victim herself. It is further argued that statement of witness PW1 clearly reflect that one of the accused namely Haripal Singh (A-4) extended threat to kill the victim's family if they do not compromise and the video recording regarding his visit dated **08.07.2019** at the address of the family of the victim is part of the record of the chargesheet and is duly verified. It is further argued that another co accused namely Naveen Singh (A-5) also extended threat to the family members of the victim on 24.07.2019 and the same is mentioned in the statement of witness PW1 recorded U/s 161 Cr.PC. It is further argued that statement of witness PW2 also corroborate the visit of the accused Haripal Singh (A-4) at the address of the victim's family and threat extended by him. It is further argued that statement of witness PW3 recorded U/s 161 Cr.PC discloses the threat extended by accused Vinod Mishra (A-3) and Naveen Singh (A-5) to the victim's family. It is further argued that statement of complainant PW4 recorded U/s 161 Cr.PC clearly discloses about the criminal conspiracy entered between the accused no. 1 Kuldeep Singh Sengar and other accused persons and the motive behind the criminal conspiracy and the threat extended to the family members of the complainant in pursuance to the criminal conspiracy. It is further argued that on various occasions, the family members of the complainant including victim AS discloses the threat extended by accused Vinod Mishra, Naveen Singh, Haripal Singh, Awdesh Singh and Komal Singh during their visit at Raibareilly jail where complainant was lodged in the custody. It is further argued that *statement of complainant*

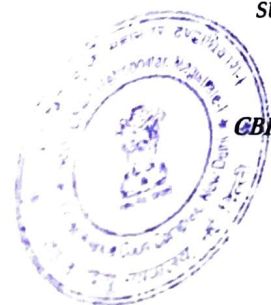
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डिजिटल नुस्खालिये साक्ष्य लक्षित :-
Audi. Chief Metropolitan Magistrate-1
महान नैजु दिना न्यायालय
Arauz Avenue District Court
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PW4 recorded U/s 161 Cr.PC further discloses the threat extended by accused Manoj Singh (already expired), Naveen Singh and Arun Singh alongwith his associates. It is further argued that there was strong motive for extending threat to the family members of the victim AS and in pursuance to the criminal conspiracy between accused no. 1 Kuldeep Singh Sengar and other co accused persons, other co accused persons extended threat to the victim AS as well as her family members. It is further argued that accused Naveen Singh and Haripal Singh were having long association being neighbour of accused Kuldeep Singh Sengar. It is further argued that accused Arun Singh was also associated with the accused Kuldeep Singh Sengar. It is further argued on behalf of the CBI by Ld. PP for CBI that there is sufficient prima-facie evidence on the basis of statement of witnesses PW1, PW2, PW4 and PW5 to charge the accused persons namely accused no. 1 Kuldeep Singh Sengar and accused Vinod Mishra (A-3), Haripal Singh (A-4), Naveen Singh (A-5), Komal Singh (A-6), Arun Singh (A-7), Gyanendra Singh (A-8), Rinku Singh (A-9) and Advocate Awdesh Singh (A-10) regarding commission of offence punishable U/s 120-B IPC read with section 506(ii) IPC.

7. The accused Kuldeep Singh Sengar (A-1) submitted as mentioned in ordersheet dated 14.12.2021 that he is not willing to address arguments on charge qua the offences punishable U/s 120-B IPC read with Section 506(ii) IPC regarding which cognizance was taken and he was summoned and he further submitted that charges may be framed as per law against him.

8. It is argued on behalf of the accused Vinod Mishra (A-3), Gyanendra Singh (A-8) and Awdesh Singh (A-10) through counsel



that on the date of incident of accident, the complainant was in judicial custody in another case and he lodged complaint and FIR of the present case was registered on the basis of information allegedly given him by his wife (one of the deceased victim of the accident), victim AS and his other family members on various occasions when they used to visit to meet him in jail or in the Court prior to the incident of accident dated 28.07.2019. It is further argued on behalf of the accused Vinod Mishra, Gyanendra Singh and Awdesh Singh that complainant narrated the details of the alleged threat given to the victim AS and her family members, on the basis of previous information given by the victim AS and his other family members during their visit at Raibareilly jail. It is further argued that during investigation the statement of the witnesses were recorded and in the statement of PW1, we do not find any reference of accused Vinod Mishra, Gyanendra Singh and Awdesh Singh neither there is any disclosure regarding their involvement in commission of offence of threat or criminal conspiracy against victim AS or her family members. It is further argued that another witness of the prosecution PW2 in the statement recorded U/s 161 Cr.PC, do not disclose anything regarding involvement of accused Gyanendra Singh and Awdesh Singh and she only referred the name of accused Vinod Mishra but in the vague manner. It is further argued that statement as given by PW4 i.e. complainant U/s 161 Cr.PC, do not have any relevance as he himself was not the witness of the alleged threat or conspiracy. It is further argued that witness PW5 do not disclose or refer any role or involvement of the accused Vinod Mishra, Gyanendra Singh and Awdesh Singh in any manner in commission of offence of extending threat against victim AS or her family members.

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It is further argued that in similar manner witnesses PW16, PW17 and PW29 also not refer or assign any role regarding involvement of accused Vinod Mishra, Gyanendra Singh and Awdesh Singh in the commission of any offence against victim AS or her family members. It is further argued that the law laid down in case titled as "**Parminder Kaur Vs. State of Punjab**" (2020) 8 SCC 811 and law laid down in "**Manik Taneja & Anr. Vs. State of Karnataka**" (2015) 7 SCC 423 is applicable in fact and circumstances of the case. It is further argued that there was no occasion to enter into any criminal conspiracy between accused Kuldeep Singh Sengar and other co accused persons as accused Kuldeep Singh Sengar was already in custody since 12.10.2018 in RC No. 8/2018 CBI, ACB, Lucknow and no record regarding any such meeting or any evidence to the effect of criminal conspiracy between accused persons and accused Kuldeep Singh Sengar was found during investigation neither any such material is attached with the chargesheet. It is further argued that accused Vinod Mishra, Gyanendra Singh and Awdesh Singh may be discharged from the present case.

It is argued on behalf of the accused Haripal Singh (A-4) and accused Naveen Singh (A-5) through counsel that there is no evidence of criminal conspiracy punishable U/s 120-B IPC for which all the accused persons are chargesheeted. It is further argued that there was no motive assign to the accused persons namely Haripal Singh and Naveen Singh to extend threat against victim AS or her family members and neither any such record or evidence was filed by the investigating agency with the chargesheet. It is further argued that accused Haripal Singh is chargesheeted on the basis of alleged incident dated 08.07.2019. However, accused Haripal Singh was only chargesheeted on the basis of oral statement of interested witnesses/



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family members of the complainant. It is further argued that accused Naveen Singh is chargesheeted for alleged threat allegedly extended on 09.07.2019, 16.07.2019 and 24.07.2019. However, no evidence was put on record to establish the fact that accused Naveen Singh was present at the place of alleged threatening in the Unnao. It is further argued that the alleged eye witnesses of prosecution including PW1 have made vague allegation in their statement U/s 161 Cr.PC having no evidentiary value. It is further argued that there is no admissible evidence on record regarding commission of offence punishable U/s 120-B IPC by the accused persons namely Haripal Singh and Naveen Singh or their any association with the accused Kuldeep Singh Sengar or any other co accused. It is further argued that both the accused persons may be discharged from the present case as there is no evidence against them to charge for commission of any offence.

It is argued on behalf of the accused Komal Singh (A-6) that complainant lodged his complaint on the basis of information given to him by his family members including PW2, his wife, PW5 victim AS, PW16, PW17 and PW1 on the basis of which the FIR of the present case was registered and investigation was carried out by investigating agency. It is further argued that all these witnesses are interested witnesses being family members of the complainant and there was a previous dispute between complainant's family and accused no. 1 Kuldeep Singh Sengar. It is further argued that in her statement recorded U/s 161 Cr.PC, witness PW1 did not disclose or refer any role against accused Komal Singh regarding commission of any offence against the family members of victim AS or victim AS. It is further argued that witness PW2 in her statement recorded U/s 161 Cr.PC, had also not referred any role regarding commission of any



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offence against the victim AS or her family members. It is further argued that similarly witness PW16 and PW17 had also not referred any role of accused Komal Singh in commission of any offence in the present case. It is further argued that there is no evidence of any nature against accused Komal Singh in the present case. Hence, accused Komal Singh may be discharged from the present case.

It is argued on behalf of the accused Arun Singh (A-7) that no date and time of alleged threatening allegedly given by accused Arun Singh at the Guest House during the stay of victim AS and her family members is came on record, neither any such material is attached with the chargesheet. It is further argued that prosecution has not placed any evidence of any nature regarding any connection of accused Arun Singh (A-7) with any other accused persons including accused Kuldeep Singh Sengar which clearly rules out the possibility of commission of offence punishable U/s 120-B IPC read with Section 506(ii) IPC by the accused Arun Singh. It is further argued that no evidence is placed on record with the chargesheet neither there is any reference of any material in the chargesheet regarding the presence of accused Arun Singh at the place of incident of threatening at Guest House. It is further argued that the present chargesheet against the accused Arun Singh (A-7) was solely filed on the basis of statement of complainant PW4 who himself was not present at the time of alleged incident of threatening and his statement is mere hearsay without any corroboration of any nature by any evidence or by any witness. It is further argued that PW1 i.e. mother of the victim AS in her statement recorded U/s 161 Cr.PC clearly stated that except the threatening given by co accused Naveen Singh, no other threatening was given to them. It is further argued that another witness PW2 who is family



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member of the victim AS have also not referred any alleged threatening given by accused Arun Singh (A-7) at the Guest House at any point of time. It is further argued that victim AS/PW5 have also not disclosed regarding any threatening given by any person or by accused Arun Singh at the Guest House in her statement recorded U/s 161 Cr.PC. Similarly, the prosecution witnesses PW16 and PW17 have also not disclosed anything against the accused Arun Singh regarding any alleged threat extended by him to the victim AS or her family members. It is further argued that complainant with ill motive materially improved his subsequent statement from his initial statement and falsely named the accused Arun Singh in the present case. It is further argued that the police officials whose statement was recorded U/s 161 Cr.PC during investigation who were guarding the victim's family at the Guest House have also not disclosed or referred in any manner regarding the visit of the accused Arun Singh at the Guest House or any alleged threat given by him. It is further argued that there is no evidence available on record to charge the accused Arun Singh for commission of any offence in the present case. Hence, accused Arun Singh may be discharged from the present case.

It is argued on behalf of the accused Rinku Singh @ Prakhar Singh (A-9) that complainant lodged his complaint on the basis of information given to him by his family members including PW2, his wife, PW5 victim AS, PW16, PW17 and PW1, on the basis of which the FIR of the present case was registered and investigation was carried out by investigating agency. It is further argued that all these witnesses are interested witnesses being family members of the complainant and there was a previous dispute between complainant's family and accused no. 1 Kuldeep Singh Sengar. It is further argued



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that in her statement recorded U/s 161 Cr.PC, witness PW1 did not disclose or refer any role against accused Rinku Singh @ Prakhar Singh regarding commission of any offence against the family members of victim AS or victim AS. It is further argued that witness PW2 in her statement recorded U/s 161 Cr.PC have also not referred any role against accused Rinku Singh @ Prakhar Singh in the commission of any offence against the victim AS or her family members. It is further argued that similarly the witnesses PW16 and PW17 have also not referred any role of accused Rinku Singh @ Prakhar Singh in the commission of any offence in the present case. It is further argued that there is no evidence of any nature against accused Rinku Singh @ Prakhar Singh in the present case. Hence, accused Rinku Singh @ Prakhar Singh may be discharged from the present case.

9. The Court heard the submission of the State on point of charge as advanced by Ld PP for CBI and also heard the submission as advanced on behalf of the accused persons namely Vinod Mishra (A-3), Haripal Singh (A-4), Naveen Singh (A-5), Komal Singh (A-6), Arun Singh (A-7), Gyanendra Singh (A-8), Rinku Singh @ Prakhar Singh (A-9) and Awadesh Singh (A-10). The Court also perused the written submission filed on behalf of the accused persons and reply of the discharge application as filed on behalf of the accused Arun Singh (A-7). The Court also perused the case law as relied upon by the parties in support of their respective arguments. The Court also perused the entire record of the present case.

10. The findings of the investigating agency/CBI on the point wise allegation of FIR and further allegations made by the complainant as mentioned in report U/s 173 Cr.PC is as follows:-



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The investigating agency in the para 16.34 of the final report concluded that one of the victim of the accident who was the wife of the complainant expired in the accident and she could not be examined on the point of allegation that accused Kuldeep Singh Sengar forcibly used to talk to them over the phone by making call at the mobile number of his henchman in the Makhi Unnao from the mobile number of one Simple Mishra and used to threat for life or to resale from their statement in the Court in all the pending cases. The investigating agency/CBI examined the witness PW1 and recorded her statement U/s 161 Cr.PC. The prosecution has relied upon the statement of PW1 to corroborate the allegation of conspiracy between accused Kuldeep Singh Sengar and other co accused persons. In her statement dated 01.08.2019, PW1 in para-3 disclosed that accused Haripal Singh (A-4) threatened to them and asked them to settle the dispute otherwise he will fire them (*Sulaha Kar Lo Nahi Toh Goli Maar Doonga*). She further stated that accused Haripal Singh entered into her house and when witness shouted, the security personnels came and made the accused Haripal Singh to run away from there. She further disclosed that one video of the incident was recorded and the incident of threatening by accused Haripal Singh was of the 08.07.2019. She further disclosed that accused Naveen Singh (A-5) S/o Haripal Singh also threatened them when she visited to Unnao to attend the date of the Court and the date of threat given by accused Naveen Singh was 24.07.2019 in the Court of Unnao District. Witness further disclosed that apart from the threat given by accused Haripal Singh and Naveen Singh, no other threat was given to them.

11. The investigating agency/CBI in para-16.36 of the final report /chargesheet concluded that investigation was carried out

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रविन्द्र कुमार पण्डेय [सह-निरीक्षक]
Addl. Officer Metropolitan Magistrate-I
महानगर न्यायालय
Kuldeep Avenue District Court
एन.ए. रोड
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specifically to establish the role of all the accused/suspect persons namely Kuldeep Singh, Vinod Mishra, Hairpal Singh, Naveen Singh, Komal Singh, Arun Singh, Gyanendra Singh, Rinku Singh, Awdesh Singh and 15-20 unknown persons regarding the threat to pressurize the complainant to arrive on compromise with the accused Kuldeep Singh Sengar (A-1) else all his family members would be murdered while going here and there and the threat to do away with pairokari of the cases against accused Kuldeep Singh Sengar and the threats which were communicated to the complainant by his late wife while his meeting with her in the various dates at Unnao Court and the investigating agency/CBI found that allegation as mentioned above could not be substantiated by any independent evidence except the version of complainant, victim and victim's family. The CBI also mentioned in the final report of para 16.36 that information about the threats was communicated to the complainant by his late wife who could not be examined during investigation as she expired during fatal collision.

12. The investigating agency/CBI in the final report para 16.37 concluded that the threat was allegedly given by accused Haripal Singh (A-4) on 08.07.2019 and he visited at the house of the victim and video was recorded regarding his visit. The conclusion of the investigation corroborated by the statement of PW1 recorded on 01.08.2019, the statement of PW2 recorded on 01.08.2019 para-3, statement of victim AS/ PW5.

13. The CBI in the final report para 16.39 further concluded that extensive investigation was carried out at different angles to collect the evidence of conspiracy hatched by accused/suspect persons.



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It is averred that evidence emerged during investigation in the form of statement of disinterested natural witnesses who saw the occurrence of accident of the truck with the car and the affirmative scientific forensic evidence of expert of various laboratories, record collected during investigation including CDRs of the concerned persons/ tower dump /CCTV footage of all the three jails i.e. Raibarielly, Seetapur and Lucknow supported by the statement of all the concerned witnesses does not support the allegation.

14. The investigating agency in para 16.42 of the final report averred that during the investigation statement of security personnels deployed at Chaudhary Charan Singh Guest House namely Jagat Narain, Vir Bhan Singh, Ankit Kumar, Dharam Pal Singh Yadav, Satender Singh, Palender Singh, Jitender Kumar, Sunil Kumar, Shaktidhar Shukla, Govind Singh, Samsuddin, Anand Kumar were recorded who stated about their duty with victim's family at Chaudhary Charan Singh Guest House, Unnao and they also stated that they had never seen or heard about any threat given to the victim's family by the accused Arun Singh.

15. The CBI in final report para 16.46 concluded that the said person namely Awdesh Singh have not stated anything regarding the corroboration of allegation of threat to the victim AS and family members of the complainant.

16. It is the admitted case of the prosecution that complainant himself not witnessed any of the threat allegedly given by accused Kuldeep Singh Sengar (A-1), Vinod Mishra (A-3), Haripal Singh (A-4), Naveen Singh (A-5), Komal Singh (A-6), Arun Singh (A-7), Gyanendra Singh (A-8), Rinku Singh @ Prakhar Singh (A-9), Awdesh Singh (A-10).



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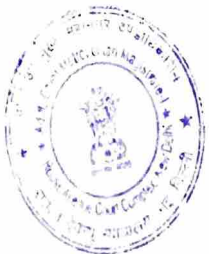
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The source of information regarding the threat allegedly extended by these accused persons in conspiracy with the accused Kuldeep Singh Sengar (A-1) was the victim AS or wife of the complainant who expired in the accident of the present case or other family members of the victim. The complainant was in custody during the period when the alleged threat was extended to the victim AS or his other family members. On perusal of statement of PW1 recorded U/s 161 Cr.PC, it is found that there is no reference of accused Vinod Mishra (A-3), accused Gyanendra Singh (A-8) and accused Awdesh Singh (A-10), Komal Singh (A-6), Arun Singh (A-7), Rinku Singh @ Prakhar Singh (A-9). PW1 referred the name of accused Haripal Singh regarding the threat extended by him which was also recorded in mobile phone and recording of the same was attached with the chargesheet. PW1 also referred the name of accused Naveen Singh (A-5) regarding the threat extended by him on 24.07.2019 in Unnao Court Complex. On perusal of statement of other eye witness PW2, there is only reference of accused Haripal Singh (A-4), accused Vinod Mishra (A-3) and accused Naveen Singh (A-5) and there is no reference of any threat given by any other accused persons. On perusal of statement of witness PW5, there is no reference of accused Vinod Mishra (A-3), Gyanendra Singh (A-8), Awdesh Singh (A-10), Komal Singh (A-6), Arun Singh (A-7), Rinku Singh @ Prakhar Singh (A-9) regarding any threat extended to the victim AS or her family members. Similarly, the other two witnesses of the prosecution PW16 and PW17 who are family members of the victim also not disclosed or made any reference regarding the threat if any extended by the accused persons.



The investigating agency itself concluded in para 16.39 of the chargesheet that after examining all the evidence, expert opinion and CDRs of the concerned persons/tower dump/CCTV footage of all the three jails i.e. Railberilly, Sitapur and Lucknow, no evidence of meeting of the accused persons namely Vinod Mishra (A-3), Haripal Singh (A-4), Naveen Singh (A-5), Komal Singh (A-6), Arun Singh (A-7), Gyanendra Singh (A-8), Rinku Singh @ Prakhar Singh (A-9), Awdesh Singh (A-10) with the accused Kuldeep Singh Sengar (A-1) neither any such record or evidence is attached with the chargesheet. The chargesheet also not find mention any record or evidence regarding the criminal conspiracy between the accused persons namely Vinod Mishra (A-3), Haripal Singh (A-4), Naveen Singh (A-5), Komal Singh (A-6), Arun Singh (A-7), Gyanendra Singh (A-8), Rinku Singh @ Prakhar Singh (A-9), Awdesh Singh (A-10) with the accused Kuldeep Singh Sengar (A-1) or between the accused persons namely Vinod Mishra (A-3), Haripal Singh (A-4), Naveen Singh (A-5), Komal Singh (A-6), Arun Singh (A-7), Gyanendra Singh (A-8), Rinku Singh @ Prakhar Singh (A-9) and Awdesh Singh (A-10). The accused Kuldeep Singh Sengar was in judicial custody during the period when alleged threat were extended to the victim AS or her family members and admittedly the case of prosecution is that he conspired with the other accused persons to extend the threat to the victim AS or her family members and he himself not extended any threat. However, no evidence of any nature regarding criminal conspiracy apart from oral statement of the complainant and his family members is produced or attached with the Court record. The accused Kuldeep Singh Sengar himself opted to not contest the



charges regarding which he was chargesheeted and summoned vide order dated 31.07.2021 and vide order dated 14.12.2021, his submission for not contesting the charge is came on record. However, when there is prima facie no evidence came on record to charge the accused Kuldeep Singh Sengar (A-1) regarding the criminal conspiracy to extend threat to kill the victim AS or her family members, no charges can be framed against him and no charges are made against him.

17. The Court is of the considered view, in view of the above discussion that prima facie there is no evidence against accused Kuldeep Singh Sengar (A-1), accused Komal Singh (A-6), accused Arun Singh (A-7), Gyanendra Singh (A-8), Rinku Singh @ Prakhar Singh (A-9), Awdesh Singh (A-10) to charge them for commission of any offence regarding the present case. Hence, they are discharged from the present case and they are directed to furnish bail bonds/surety bonds for sum of Rs. 10,000/- each in terms of Section 437-A Cr.PC by 21.12.2021 at 2.00 pm.

18. The Court is of the considered view that there is prima facie sufficient evidence against the accused Vinod Mishra (A-3), Haripal Singh (A-4), Naveen Singh (A-5) to charge them for commission of offence punishable U/s 506(ii) IPC read with Section 34 IPC and request of prosecution to charge them for offence punishable U/s 120-B IPC is declined as prima facie no evidence of criminal conspiracy came on record for commission of any offence.

19. Be put up for framing of formal charges against accused Ashish Kumar Pal (A-11) and framing of charges against accused Vinod Mishra (A-3), Haripal Singh (A-4), Naveen Singh (A-5) on 21.12.2021 at 2.00 pm.

20. Accused Kuldeep Singh Sengar is in the custody in the present case as he failed to furnish even personal bond. Hence, he is directed to be released from present case and be released from custody if not required in any other case.

Announced in open Court today
Dt. 20.12.2021

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(Ravindra Kumar Pandey)
ACMM-01/RADC/New Delhi
20.12.2021

राजस्थान प्रशासनिक सेवाएँ, दिल्ली
जुड़वा, चीफ़ मेट्रोपॉलिटन मॅजिस्ट्रेट (I)
राजस्थान प्रशासनिक सेवाएँ
जुड़वा अधीनस्थ दिशा: चीफ़
ऑफ़िस
दिल्ली

