

FIR No. 96/21

PS : Kotwali

State Vs. Sandeep Singh Sidhu @ Deep Sidhu, S/o Late Sh. Surjit Singh  
U/s 147/148/149/152/186/269/279/353/332/307/308/395/397/427/188/120-B/34  
IPC & 25/27/54/59 Arms Act, Section 3 PDPP Act, Section 3-D AMASR Act

**26.02.2021**

**At 1<sup>st</sup> call**

**Proceedings conducted through video conferencing.**

**An application for issuing directions to the investigating agency to include all videos and other material showing innocence of accused in the record of investigation and to conduct fair and impartial investigation as per directions of Hon'ble Supreme Court in various decisions, moved on behalf of applicant/accused Sandeep Singh Sidhu @ Deep Sidhu.**

Present: None for the State.

Sh. Abhishek Gupta and Sh. Vipun Bhardwaj, Ld. Counsels for accused/ applicant.

Reply to the application has been filed. Taken on record. Same has been shown to Ld. Counsels for accused/ applicant who has perused the same.

Arguments on behalf of accused/ applicant heard.

It is to be noted that Ld. APP for the State could not join the proceedings through video conferencing due to technical glitch on his part.

Be awaited for Ld. APP for the State.

(Gajender Singh Nagar)  
CMM/Central/Delhi  
26.02.2021

**At 2<sup>nd</sup> call**

Present: Sh. Rajiv Kamboj, Ld. APP for the State.

None for accused/ applicant.

Arguments on behalf of State heard.

Put up the matter for orders at **4:00 pm**.

(Gajender Singh Nagar)  
CMM/Central/Delhi  
26.02.2021

**At 4:00 pm**

Present: Sh. Rajiv Kamboj, Ld. APP for the State.  
None for accused/ applicant.

It is contended by Ld. Counsel for accused/ applicant that accused was not an instigator of the incident at Red Fort. There is no video of him calling the people to gather at Red Fort. He did not indulge in any kind of violence taken place at Red Fort. He was only a peaceful protestor. Infact, he was staying at a hotel in Murthal. He checked out from there at 12:00 noon. By that time people had already reached Lal Qila. It is contended that CCTV footage of that hotel would show that he left the hotel only at 12:00 noon. Further, his call records and mobile location would also establish timing of his presence enroute Murthal to Red Fort. Further, the car navigation system installed in the Ford Endeavor car used by him which is in police possession would also show the route taken by the accused to reach from Murthal to Red Fort alongwith timings and time taken in the same. It is requested that there are CCTV footage of Red Fort where present accused can be seen helping the police by requesting the crowd to leave the rampart where they were trying to hoist the flag. Ld. Counsels relied upon judgment delivered by Hon'ble Supreme Court in a case titled as ***Kumar Vs. State, (2018) 7 SCC 536 @544, para 28*** wherein it was held that *"the criminal justice must be above reproach. It is irrelevant whether the falsity lie in the statement of witnesses or the guilt of the accused. The investigative authority has a responsibility to investigate in a fair manner and elicit truth. At the cost of repetition, I must remind the authorities concerned to take up the investigation in a neutral manner, without having regard to the ultimate result."* He has also relied upon judgment delivered by Hon'ble Supreme Court in a case titled as ***Sakiri Vasu Vs. State of U.P. & Ors., Criminal Appeal No. 1685 of 2007, decided on 07.12.2007, paras no. 13 & 15*** wherein it was held that :-

*“13. The same view was taken by this Court in Dilawar Singh vs. State of Delhi JT 2007 (10) SC 585 (vide para 17). We would further clarify that even if an FIR has been registered and even if the police has made the investigation, or is actually making the investigation, which the aggrieved person feels is not proper, such a person can approach the Magistrate under Section 156(3) Cr.P.C., and if the Magistrate is satisfied he can order a proper investigation and take other suitable steps and pass such order orders as he thinks necessary for ensuring a proper investigation. All these powers a Magistrate enjoys under Section 156(3) Cr.P.C.*

*14. XXX*

*15. Section 156(3) provides for a check by the Magistrate on the police performing its duties under Chapter XII Cr.P.C. In cases where the Magistrate finds that the police has not done its duty of investigating the case at all, or has not done it satisfactorily, he can issue a direction to the police to do the investigation properly, and can monitor the same.”*

Per contra, it is argued by Ld. APP for the State that accused cannot guide the police to conduct investigation in a particular manner. Police is duty bound to conduct fair and impartial investigation. However, accused cannot be allowed to divert the investigation of the police from its path. It is argued that by moving the present application, accused is trying to guide the investigation being done by the police.

Heard. Record perused.

Police officials are directed to investigate on the points as mentioned in the application made by the complainant to unearth the truth. Furthermore, appropriate action may be taken and appropriate sections may be added if accused is trying to mislead the investigation by fabricating false evidence. IO is duty bound to conduct proper investigation in the matter in fair and impartial manner. He is not supposed to collect the evidences only to prove the guilt of the accused, rather he has to bring true picture before the Court. Application stands disposed of accordingly.

**Copy of this order be given dasti to the Ld. Counsel for accused  
by way of WhatsApp/email.**

**Copy of this order be also sent to IO for compliance.**

(Gajender Singh Nagar)  
CMM/Central/Delhi  
26.02.2021