

***IN THE COURT OF SH. VIRENDER BHAT: ASJ-03  
NORTH-EAST DISTRICT: KARKARDOOMA COURTS: DELHI***

**Sessions Case No.332/21  
FIR No.58/20  
PS Gokalpuri  
U/s 147/148/149/380/427/436 IPC**

**State**

**Versus**

- 1. Ankit Chaudhary @ Fauzi s/o Raj Kumar  
r/o H.No.G-14, Ganga Vihar, Gokalpuri, Delhi.**
- 2. Sumit Badshah s/o Om Prakash  
r/o H.No.A-367, Gokalpuri, Delhi.**
- 3. Pappu s/o Manka Singh  
r/o H.No.B-21, Gokalpuri, Delhi.**
- 4. Vijay s/o Sushil  
r/o H.No.A-91, Gali no.2, Ganga Vihar, Delhi.**
- 5. Ashish Kumar s/o Ram Kumar  
r/o B-69, Gokalpuri, Delhi.**
- 6. Sourabh Kaushik s/o Jagdish  
r/o H.No.D-3, gali no.2, Ganga Vihar, Delhi.**
- 7. Bhupender s/o Gula Ram  
r/o H.No.H-12, Gali no.1, Ganga Vihar, Delhi.**
- 8. Shakti Singh s/o Surender Singh  
r/o H.No.A- 111, gali no.3, Ganga Vihar, Delhi.**
- 9. Sachin Kumar @ Rancho s/o Krishan dutt Sharma  
r/o H.No.D-107, Gali no.5, Ganga Vihar, Delhi.**
- 10. Rahul s/o Prakash  
r/o H.No.B-21, Gokalpuri, Delhi**

**11. Yogesh s/o Hardev Sharma  
r/o H.No.C-534, gali no.2, Ganga Vihar, Delhi.**

**ORDER ON CHARGE:-**

1. The above named accused have been charge-sheeted by the police for having committed offences u/s 147/148/149/380/427/436 IPC.

2. In this case, the FIR has been registered on the basis of written complaint submitted in the PS by the complainant Naseem Khan on 29.02.2020 stating therein that some unknown persons had trespassed into his shop no.D-1/3 Ganga Vihar, Delhi on 24.02.2020 at about 11.00 p.m. and looted the same as well as set the same ablaze. After registration of the FIR, the investigation was entrusted to SI Satyadev, who proceeded to the incident spot and prepared its site plan at the instance of the complainant.

3. Accused Ankit Chaudhary & Sumit @ Badshah are stated to have been arrested in this case on 05.03.2020 at the instance of a secret informer. They are stated to have made their separate disclosure statements also admitting their involvement in the incident of rioting with regards to the complainant's shop . They are also stated to have disclosed the names of their other associates, who were the members of the unlawful assembly on 24.02.2020. Thereafter, the IO came to know that remaining assailants have already been arrested in case FIR no.126/2020 who, during interrogation in that case, have admitted their involvement in this case also. Accordingly, they were formally arrested in this case. All of them are stated to have made their

disclosure statements admitting their involvement in this case. After completion of investigation, chargesheet was submitted before the Ld.CMM, who committed case to the Court of Sessions.

4. I have heard the Ld.Special PP, Ld.Counsels appearing for the accused and have perused the entire material on record.

5. As already noted hereinabove, the complainant had not named any assailant in the written complaint submitted by him in the PS on the basis of which FIR has been registered. However, statements of public witness namely, Imran Sheikh and Sazid as well as the police witnesses namely HC Jahangir and HC Mahesh have been recorded during the course of further investigation of this case after the filing of the main chargesheet and the same have been produced in the court by way of a supplementary chargesheet. Witnesses Imran & Sazid have clearly mentioned in their statements that all the accused were the members of the unlawful assembly which had resorted to vandalization and burning of properties in Gokalpuri area and they had also looted, damaged and set on fire the shop of complainant Naseem Khan in Gokalpuri area. They have specifically taken the names of all the accused stating that they were known to them previously and identified them amongst the rioters at the time of incident. Similarly, HC Jahangir and HC Mahesh also have identified the accused amongst the rioters on 24.02.2020, who had, apart from damaging and burning other properties in the area, vandalized and set ablaze the shop of the complainant Naseem Khan.

6. It was argued by the Ld.Counsels for the accused that the

accused have been falsely implicated in this case without there being any incriminating evidence against them. It was also argued that none of the accused are seen in the CCTV footages with regards to the riotous incidents that had taken place in Gokalpuri area on 24.02.2020. These arguments have been noted only to be rejected.

7. The fact that the accused are not seen in the CCTV footages can not be made a ground for their discharge in this case for the reason that they have been clearly identified by two public witnesses and two police witnesses. It is nowhere the case of the accused that the concerned CCTV footage was pertaining to the exact spot of incident involved in this case i.e.the shop of the complainant Naseem Khan. The availability of the CCTV footage with regards to the incident involved in this case would have served as a corroborative evidence and its absence does not in any way discredit the prosecution case at this stage.

8. Accused Ankit Chaudhary and Sumit @ Badshah were the first to be arrested in this case at the instance of a secret informer and later on the remaining accused were arrested pursuant to their disclosure statements made in case FIR no.126/20. Their involvement in the incident in question had become further evident by virtue of the statements of the above named public witnesses/police witnesses. It will be totally unjustified to discard the statements of these witnesses at this very stage of deciding charges against the accused without testing their truthfulness or otherwise during the trial of the case.

9. It needs note here that at the time of deciding the charges

against the accused, the Court is not expected to go deep into the probative value of material on record. At this stage, the Court is not to apply exactly the standard and test which it finally applies for determining the guilt or otherwise of the accused. The Court is not supposed to decide whether the material collected by the investigating agency provides sufficient grounds for conviction of the accused or whether the trial is sure to culminate in his conviction. What is required to be seen at this stage is whether, the conviction of the accused is reasonably possible if the material on record remains unrebutted or whether there is strong suspicion which may lead the Court to think that there is ground for presuming that the accused has committed the offence.

10. In the case at hand, it is manifest that if the material placed on record by the prosecution alongwith the chargesheet remains unrebutted during the trial of the case, the conviction of the accused is reasonably possible. Hence, no case for discharge of the accused has been made out.

11. In view of the above discussion, it is held that the charges u/s 147/148/380/427/436 IPC r/w Section 149 are liable to framed against all the accused.

**Announced through VC  
on 31.01.2022**

**(VIRENDER BHAT)  
ASJ-03(NE)/KKD COURTS/DELHI**