

**IN THE COURT OF SH. AMITABH RAWAT,
ADDITIONAL SESSIONS JUDGE-03
(SHAHDARA), KARKARDOOMA COURT, DELHI**

CNR No.		<u>SH01-002176-2021</u>
FIR No.	:	51/2020
Under Section	:	147/148/149/186/188/307/353/216 IPC & 25/27 Arms Act
Police Station	:	Jafrabad
Sessions Case No.	:	103-2021

STATE

.....PROSECUTION

V E R S U S

KALEEM AHMED

S/o Sh. Anwar
R/o H.No. 454, Bisatiyan, Khurgaan Road,
Kairana, Shamli U.P.

.....ACCUSED

Date of Institution	: 24.07.2020
Date of reserving judgment	: 07.12.2021
Date of pronouncement	: 07.12.2021
Decision	: Convicted

J U D G M E N T

1. The present judgment qua Kaleem Ahmed is the culmination of the criminal proceedings initiated against him in reference to the charge-sheet filed against him under Section 216 Indian Penal Code (IPC, in short) based upon the First Information Report lodged on the written complaint of complainant HC Deepak Dahiya. There are five other accused persons namely Shahrukh Pathan @

Khan, Ishtiyaq Malik @ Guddu, Shamim, Abdul Shehzad and Babu Wasim (declared Proclaimed Offencer).

2. (a) In gist, the case of the prosecution is that on 24.02.2020 at about 12.30 PM, clashes occurred between two communities/groups at 66 Foota Road between Jafrabad Metro Station and Maujpur Chowk. There was heavy stone pelting from both sides.

(b) The present case relates to a firing incident by Shahrukh Pathan @ Khan at 66 Foota Road, Jafrabad on 24.02.2020 and rioting by other accused persons. A video went viral showing firing at police officials in uniform in the area of Jafrabad. After disbursal of the crowd, three empty cartridges bearing the mark KF-7.65 were recovered from the spot. On 26.02.2020, Head Constable Deepak Dahiya who was deployed from Police Training School, Wazirabad for law and order duty in North-East District was identified as police official who had bravely faced rioters brandishing and firing from his pistol on 24.02.2020 at Jafrabad. On his statement, the present FIR No. 51/2020 dated 26.02.2020 was registered. As per his statement, at about 1.45 PM while being deputed on 66 Foota Road beneath Metro Line Jafrabad on 24.02.2020 a huge crowd had unauthorizedly gathered which was protesting and shouting slogans against Citizenship Amendment Act. The people in crowd were carrying stones, bottles and pistols and stone pelting was being done. From that crowd, one person brandishing pistol in hand came running towards him and fired 3-4 rounds towards other people. He kept warning that person against firing but he did not listen. However, for the safety of life of public and government property, he stood there strongly. When the said person was at a distance of about 9-10 feet from him, he

fired with the intention to kill him aiming at his head. However, he dodged and saved himself. He tried to calm him but he didn't pay any heed and came to him and pointed his pistol towards him. Thereafter, he pushed him by his left hand and at that time he told him to go back and maintain law and order. He had also warned him by showing stick. HC Deepak Dahiya stated that the said person fired on public and on him with the intention to kill him by keeping illegal arms and he can also identify him. A video was also prepared. That person was later on identified as Shahrukh Pathan.

(c) The incident of firing and rioting by Shahrukh was recorded on mobile phone by a journalist namely Saurabh Trivedi, Senior Reporter, The Hindu newspaper. He also identified accused Shahrukh Pathan.

(d) The accused Shahrukh absconded and his house was found locked. On 02.03.2020, on the receipt of a secret information by Narcotics Cell, Crime Branch, a police team left for Shamli, Uttar Pradesh to trace the accused Shahrukh and came to know that he would be coming between 7 to 9 a.m at Shamli Bus Stand for changing his hideout. A trap was laid and he was intercepted. He was subsequently arrested. HC Deepak Dahiya identified the accused Shahrukh. Accused Shahrukh Pathan made disclosure about his involvement in this case and also disclosed that on 26.02.2020, he was going to Punjab to take shelter from his friend Aman but while crossing Sonapat, Haryana his car developed snag and hence, he dropped the idea of going to Punjab and called his acquaintance namely Kaleem on Whatsapp for his assistance on his number i.e. 9045916506. Kaleem reached there and took him and his car by towing away the same. He further disclosed that he parked his car in front of house of Kaleem at H.No. 454,

Khurgan Road, near Kabristan, Kairana, Shamli where Kaleem got his car repaired. After reaching Kairana, he switched off his mobile phone and destroyed his phone while reaching Kairana from Sonapat. On the morning of 03.03.2020, he reached Bus Stand Shamli to change his hideout but was apprehended by police. He had parked his car near the house of Kaleem in which one mobile phone purchased by him at Kairana with the help of Kaleem was also there.

On 04.03.2020, consequent to disclosure statement of accused Shahrukh Pathan, the Ascent Car bearing no. DL-4CS-3564, which was used by him for escaping from Delhi after committing crime on 24.02.2020, was recovered from near Kabristan, Khurgan Road, Kairana, Shamli, U.P at his instance. From the search of his car one mobile phone make OPPO, Black & White (without SIM) alongwith original bill Invoice No. 68 dated 27.02.2020 of mobile phone issued in his name was also recovered. The accused after absconding had taken shelter in the house of accused Kaleem. Search of accused Kaleem was made but he was found absconding. The said Ascent car was found to be registered in the name of one Samar s/o Aas Mohammad and who stated that one month back, he had sold the said car to Shahrukh but the documents were not transferred in the name of Shahrukh. Accused Shahrukh during interrogation stated that he had hidden the illegal acquired pistol and two live rounds in Pigeon's Cage on the roof of his house and can also get recovered the T-Shirt which he was wearing at the time of incident. At the instance of accused Shahrukh, one pistol and two live rounds were recovered from the place disclosed by the accused. The entire process of recovery was photographed and videographed. The T-Shirt was also produced by his mother. He had also disclosed that in the month of December 2019, he had purchased one pistol and 20 rounds from Babu Wasim S/o Babu Khan R/o Vikas

Colony, Meerut against Rs. 30,000/-.

In relation of the CDR of mobile phone bearing no. 9315207759 used by accused Shahrukh (found in his personal search and seized) revealed that on 24.02.2020, his location was at the spot in area of Jafrabad between 02.16 PM to 03.15 PM whereas at 2.30 PM, he was seen in the video seized in the case firing from the pistol on HC Deepak Dahiya and the crowd in the opposite carriageway. On 26.02.2020, his location started moving from Delhi to Haryana and the last location of Delhi is at 6.38 PM at Alipur, Delhi. Thereafter, he entered Kundli, Sonapat at 6.53 PM and stayed at Sonapat till 8.45 PM. Thereafter, his location came at Panipat at 9.30 PM. His last location is in Panipat is of Devika Textile, VPO-Sewah, NH-1, Panipat at 11.12 PM. Thereafter, his last location on the night of 26/27.02.2020 is at Kairana, U.P at 1.57 PM.

As per the CDR analysis of mobile number 9045916506 of accused Kaleem Ahmed, his location was at Kairana, Shamli, U.P at about 09.14 PM and thereafter, his location moved towards Panipat, Haryana. Tower Cell ID of both the mobile phones i.e. Shahrukh and Kaleem may be different due to different telecom service providers but it clearly shows that Shahrukh was waiting for Kaleem at Panipat, HR and Kaleem Ahmad reached Panipat for his help. At 11.20 PM, location at Kaleem was of Ind. Area Section 29, Village Slwah, District Panipat, Haryana i.e. the place where Shahrukh was waiting for him to get his car repaired and to go Kairana with him. Hence, the CDR locations corroborate the disclosure statements of accused Shahrukh and Kaleem. From the night of 26/27.02.2020 to the morning of 03.03.2020 accused Shahrukh Khan stayed in the house of Kaleem at Kairana.

CAF of mobile number 9315207759 used by the accused Shahrukh on the day of incident i.e. 24.02.2020 was obtained which showed that the mobile number is in the name of Shahrukh's mother Sahana Begum. The mobile phone is yet to be recovered.

As per the CAF, mobile no. 9045916506 was found issued in the name of accused Kaleem Ahmad. Shahrukh switched off his phone after reaching Kairana on the night of 27.02.2020 and Kaleem helped Shahrukh in hiding after committing crime and the same is corroborated by their mobile phone locations. Kaleem also helped Shahrukh in purchasing new mobile phone in Kairana and the Bill No. 68 dated 27.02.2020 of mobile phone purchased by accused Shahrukh from Alina Mobile Shop, Kairana has the mobile number 9045916506 of accused Kaleem written on it.

The DVR installed at the shop Alina Mobile Center, Kairana, Shamli, U.p from where the accused Shahrukh Pathan had purchased the mobile phone was checked and it was found that on 27.02.2020 at about 12.50 PM, both accused Shahrukh and Kaleem had visited together at the said shop for buying a mobile.

3. Cognizance of the offence under Section 216 IPC was taken against the accused Kaleem Ahmed on 10.12.2020 by Ld. Metropolitan Magistrate.

4. After compliance of provisions of Section 207 Code of Criminal Procedure, the present case was committed to Court of Sessions, which in turn, assigned the case to this Court for trial in accordance with law.

5. Vide a detailed order on charge dated 07.12.2021, charges under Section 216 IPC was framed against the accused Kaleem Ahmed. The charge was explained to him in Hindi language in the presence of his counsel and the accused voluntarily pleaded guilty to the charge framed against him.

6. Since the accused has voluntarily pleaded guilty to the charges framed against him under Section 216 IPC, hence, he is held guilty and accordingly convicted for the offence under Section 216 IPC.

7. In these circumstances, accused Kaleem is convicted of the offence punishable under Section 216 IPC.

Announced in the open court
today i.e. 07.12.2021

(Amitabh Rawat)
Additional Sessions Judge-03 (Shahdara)
Karkardooma Courts, Delhi