



**IN THE COURT OF SH. PULASTYA PRAMACHALA  
ADDITIONAL SESSIONS JUDGE-03,  
NORTH-EAST DISTRICT,  
KARKARDOOMA COURTS: DELHI**

CNR No. DLNE01-003421-2022  
SC No. 353/22  
State v. Ankit & Ors.  
FIR No. 105/20  
PS Karawal Nagar

**U/s. 147/148/149/427/436/454/109/188 IPC**

**In the matter of: -**

**STATE**

**Versus**

- 1. Ankit**  
S/o. Sh. Faujdaar,  
R/o. H.No.249, Gali No.1, New Sabhapur,  
Gujran, Karawal Nagar, Delhi-94.
- 2. Sourabh Sharma**  
S/o. Sh. Siya Ram,  
R/o. H.No.D-253, Gali No.7,  
Mukund Vihar, Karawal Nagar, Delhi-94.
- 3. Rohit**  
S/o. Sh. Rajinder Singh,  
R/o. H.No.256, Gali No.1,  
New Sabhapur, Gujran, Karawal Nagar, Delhi-94.
- 4. Rahul Kumar**  
S/o. Sh. Purshottam,  
R/o. H.No.B-167, Gali No.6,  
Mukund Vihar, Karawal Nagar, Delhi.

**5. Sachin**

S/o. Sh. Purshottam,  
R/o. H.No. B-167, Gali No.6,  
Mukund Vihar, Karawal Nagar, Delhi.

**21.08.2023**

**ORDER ON THE POINT OF CHARGE**

Vide this order, I shall decide the question of charges against accused **1. Ankit, 2. Sourabh Sharma, 3. Rohit, 4. Rahul Kumar, and 5. Sachin.**

1. Brief facts of the present case are that, present case was registered on the basis of a complaint dated 01.03.2020, of one Mohd. Iliyas Khan, S/o. Siddik Khan, R/o.H.No.579, Gali No.13, Shaheed Bhagat Singh Colony, Karawal Nagar, Delhi. In his complaint, Mohd. Iliyas Khan alleged that on 25.02.2020, some persons had come and set on fire mosque as well as his aforesaid house. It was further alleged that ornaments weighing 7 tolas belonging to his wife as well as cash amounting to Rs.4 lakhs, were looted by those persons, in that incident. Mohd. Iliyas further alleged that fridge, almirah, washing machine and other households, were thrown outside and were damaged with hammer, by those persons. After registration of FIR, HC Shafeeq Ahmad was assigned investigation of the present case. However, subsequently investigation was entrusted to SI Ravi Kumar.
2. Eight more complaints were clubbed in this case for investigation. During investigation, IO added Sections 109/380/454 IPC in the present case. After examination of witnesses and identification of accused persons in a video of riot at same place of incident, accused persons were arrested in the

present case. That video was seized in FIR No.94/20 of PS Karawal Nagar.

3. After completion of investigation, on 06.06.2020 chargesheet was filed against accused Sonu @ Ashvani, Virender, Rohit (s/o. Sh. Bachchu Singh) for offences punishable u/s. 147/148/149/427/436 IPC, before Id. Duty MM, North-East District, Karkardooma Court, Delhi. Thereafter on 22.01.2021, Id. CMM (N/E) declined to take cognizance of any offence against aforesaid accused persons for want of any sufficient material on the record, except their confessional statements made to the police and discharged all three of them.
4. Thereafter on 18.02.2022, first supplementary chargesheet along with complaint u/s. 195 Cr.P.C. and other documents, was filed by SI Mandeep against accused Ankit, Sourabh Sharma, Rohit (s/o. Sh. Rajinder Singh), Rahul Kumar and Sachin for offences punishable u/s. 147/148/149/427/436/454/109/188 IPC. This supplementary chargesheet was filed before Id. CMM (N/E). On 06.07.2022, Id. CMM (N/E) took cognizance of offences u/s. 147, 148, 188, 427, 435, 436 and 454 r/w. Section 34 IPC. After compliance of Section 207 Cr.P.C., Id. CMM (N/E) committed the case to the court of sessions vide order dated 10.10.2022.
5. On 28.11.2022, an application for returning seven complaints i.e. complaint of Mustaqim, Salim Ahmad, Aashiq, Rahisuddin, Afsar, Jamila Begum and Abdul Khan, was allowed and same were ordered to be returned in original to IO vide order dated 28.11.2022, for separate investigation. Thereafter, one status report was filed by IO/SI Mandeep Kukana, stating that

complaint of Mustaqim, Salim Ahmad, Aashiq Khan, were clubbed with FIR No.116/20 of PS Karawal Nagar and complaint of Rahisuddin, Afsar, Jamila Begum and Abdul Khan, were clubbed with FIR No.122/20 of PS Karawal Nagar, on the basis of date and place of incidents in those complaints.

6. Subsequently on 06.07.2023, second supplementary chargesheet was filed by IO/SI Mandeep Kukana, directly before this court. As per this supplementary chargesheet, only two complaints were being prosecuted by the prosecution in the present case, which are complaints of Mohd. Iliyas Khan and Ali Ahmad.

**Arguments of Defence**

7. I have heard ld. Special PP and ld. defence counsels on the point of charge. I have perused the entire material on the record.
8. **Sh. Shailendra Singh**, ld. counsel for accused Ankit, Sourabh and Rohit, made no arguments to oppose the charges.
9. **Sh. Amit Singh**, ld. counsel for accused Rahul and Sachin, argued that TIP of accused persons was not conducted. It was further argued that complainant Ali Ahmad was not the eyewitness and this was so reflected from concluding lines of his statement u/s.161 Cr.P.C. It was further argued that complaint of Ali Ahmad is silent in respect of incident taken place at home of Iliyas and time of incident.

**Arguments of Prosecution**

10. Per contra, **Sh. Nitin Rai Sharma**, ld. Special PP for State argued that all the alleged offences are duly supported by evidence. He submitted that Ali Ahmed had seen the incidents

and last lines of his statement does not reflect that he was not there.

**Appreciation of arguments, facts and law: -**

11. I have perused the statements of the witnesses and other materials placed on the record. First of all, I shall refer to the provisions dealing with the alleged offences and other relevant offences.
1. Section 109 IPC provides punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.
  2. Section 147 IPC provides punishment for guilty of rioting.
  3. Section 148 IPC provides punishment for committing riot being armed with a deadly weapon or with any-thing which being used as a weapon, is likely to cause death.
  4. Section 149 IPC provides liability of each member of unlawful assembly for any offence committed by any member of that assembly in prosecution of the common object of that assembly or within knowledge of members of that assembly to be likely committed in prosecution of that object.
  5. Section 188 IPC provides punishment for disobedience to order duly promulgated by public servant.
  6. Section 380 IPC provides punishment for committing theft in any building, tent or vessel, used as a human dwelling, or used for the custody of property.

7. Section 427 IPC provides punishment for committing mischief and thereby causing loss or damage to the amount of fifty rupees or upwards.
8. Section 436 IPC provides punishment for committing mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property.
9. Section 454 IPC provides punishment for lurking house trespass or house breaking in order to commit offence.
10. Section 450 provides for punishment for committing house-trespass in order to the committing of any offence punishable with imprisonment for life.
11. Section 34 provides punishment for committing criminal act by several persons in furtherance of the common intention of all.
12. In addition to his complaint dated 01.03.2020, complainant Mohd. Iliyas in his statement dated 10.06.2020, recorded u/s. 161 Cr.P.C., stated that on 24.02.2020, due to riot he along with his family left for Chaman Park, Mustafabad, locking his aforesaid house. When the atmosphere calmed down, he came to his house. He found that the lock of his house was broken and the house was set on fire. In his statement, Mohd. Iliyas explained that gold bangles, chain, ring, ear rings etc. were part of aforesaid 7 tolas ornaments. It was further stated that he came to know from the

neighbours that on 24.02.2020 at around 11 PM, rioters set the mosque on fire and on 25.02.2020 at around 11-11:30 AM, rioters carried through loot, vandalism and arson in his house, breaking the lock of the same. It was further stated that from the neighbours itself, he came to know about arson and vandalism in the mosque situated near gali no.12, by the rioters.

13. In his complaint dated 05.03.2020 (recorded vide Dy.No.507-DR), complainant Ali Ahmad alleged that on 24.02.2020 at around 7 o'clock a riot broke out in his area i.e. Karawal Nagar, Shaheed Bhagat Singh Colony, Delhi-94. It was further alleged by him that the riotous mob damaged tiles of outside wall of his house bearing no.664/12 as well as electricity meter installed in the basement. Complainant Ali Ahmad further alleged that rioters broke the basement lock; took his motorcycle make and model Hero Splendor bearing registration no. DL-13SA-8093 as well as one Atlas bicycle, which were parked in the basement to outside on the road and set them on fire. In his statement dated 02.09.2020, recorded u/s. 161 Cr.P.C., complainant Ali Ahmad stated that on 24.02.2020 he along with his family was present at his aforesaid house, when the riot started. It was further stated by him that on 24.02.2020 at around 11 PM, rioters vandalised and set fire to a mosque situated in front of his house in his gali. It was further stated that next morning, riotous mob of around 200-300 in numbers, having lathi and danda in their hands, was crossing the gali raising slogans of "Jai Shree Ram". They hit the gate with danda, damaged outside tiles and electricity meter of his house. Ali Ahmad further stated that he had seen all these

incidents from his terrace while hiding himself. It was further stated that at around 11 AM, rioters again started vandalism and arson in the said mosque, raising slogan that “already they had burnt a number of houses of Mullo (Muslims) and would set more fires in the street”. Thereafter, rioters entered into the house of Iliyas, breaking the lock of the same. They took away the goods and set it on fire. They were raising slogans of “Jai Shree Ram”. That house was adjacent to aforesaid mosque. Ali Ahmad identified five persons involved in the riots on 25.02.2020, in CCTV footage and photographs, shown to him. They had also indulged in stealing goods, vandalism and arson in the house of Iliyas and said mosque. It was further stated that those five persons were also involved in the incident of vandalism and arson committed on 24.02.2020 at around 11 PM, in mosque situated in gali no.12. In his statement, Ali Ahmad took name of Rahul, Sachin, Rohit, Ankit and Saurabh Sharma. It was further stated that on 25.02.2020 at around 5 PM, he was taken away to Idgah, Chaman Park, with the help of police.

14. As per statement dated 10.06.2020, recorded u/s. 161 Cr.P.C. HC Junaid and HC Mithilesh were on patrolling duty on 25.02.2020 near SBS Colony, Gali No.12, Pusta Road, Karawal Nagar. At about 11 AM, both of them saw mob of around 100-150 persons equipped with weapons in Masjid Wali Gali no.12, SBS Colony. This mob set ablaze the mosque and nearby houses including the house of Ali Ahmed and Mohd. Iliyas. These police officials tried to control them, but due to huge number of persons in the mob they could not control them. They had seen some of the rioters.



Subsequently on 19.06.2020, both these police officials were shown footage from CCTV camera installed in H.No.593, Gali No.12 and H.No.119, Gali No.4, SBS Colony. Both these officials pointed out to five persons from these footages, as the members of the mob which vandalized and set ablaze house of Mohd. Iliyas and Ali Ahmad. Subsequently, they identified accused Rahul and Sachin on 06.07.2020, when they were being interrogated by IO in the police station. On 15.07.2020, once again these two police officials identified accused Rohit, Ankit and Sourabh Sharma, in the police station. They also explained the role of Rohit, Ankit and Sourabh.

15. The statement given by Ali Ahmad and above mentioned two police officials, do show that there was an unlawful assembly, which had assembled in Gali No.12, SBS Colony on 25.02.2020 at about 11AM and they were vandalising the properties belonging to Muslim Community. They trespassed into houses of the victims so as to vandalise and set it on fire. Thus, they were acting out of a common object being shared by all the members of that assembly i.e. to damage the properties of persons from Muslim community. Accused persons were duly identified by these witnesses to be the members of the aforesaid mob and by virtue of Section 149 IPC, all five accused persons are liable for the offences committed by this mob.
16. Furthermore, it is also noticed that during the period of abovesaid incidents, the proclamation was made u/s. 144 Cr.P.C. in compliance of order of DCP North-East. This announcement was made by police officials. Allegedly, accused persons were outside

their home and were part of an unlawful assembly, consequently violating the same which satisfies the ingredient of offence u/s. 188 IPC.

17. Thus, on the basis of above-mentioned observations and discussions, I find that a prima facie case for offence punishable u/s. 148/380/427/435/436/450 IPC r/w. Section 149 IPC as well as u/s. 188 IPC is made out, against accused **1. Ankit, 2. Sourabh Sharma, 3. Rohit, 4. Rahul Kumar and 5. Sachin.** Accused persons are liable to be tried accordingly.

Ordered accordingly.

Announced in the open court **(PULASTYA PRAMACHALA)**  
today on 21.08.2023 **ASJ-03(North East)**  
**(This order contains 10 pages) Karkardooma Courts/Delhi**