

***IN THE COURT OF VIRENDER BHAT: ADDL. SESSIONS JUDGE-03:  
(NORTH-EAST): KARKARDOOMA DISTRICT COURTS: DELHI***

**Sessions Case No.26/21**

**FIR No.50/2020**

**PS Gokalpuri**

**U/s 147/148/149/380/427/436/34 IPC**

**State**

**Versus**

- 1 Deepak  
s/o Sh.Ganga Ram**
- 2 Prince  
s/o Mehander Singh**
- 3 Shiv  
s/o Raju**

**ORDER ON THE POINT OF 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. The case of the prosecution is that information was received in the PS Gokalpuri on 24.02.2020 at 7.49 p.m.to the effect that some people are demolishing the mosque near H.No.1/20 Gokalpuri Main Road, Sabhapur and about 15-20 persons are trapped inside the mosque. The information was recorded as GD no.126 A and its contents were conveyed to ASI Manvir singh on telephone for taking suitable action. Accordingly, ASI Manvir Singh reached the spot of incident where the SHO alongwith other staff was already present. Fire Brigade vehicle had also reached the spot which was extinguishing the fire in the mosque. About 400-500 people had gathered at the spot. They were having

wooden and iron rods in their hands and were resorting to vandalization as well as arson in the area. Nobody was found trapped in the mosque.

3. Accordingly, the FIR was registered u/s 147/148/149/427/436 IPC. The IO also prepared the rough site plan of the spot. No CCTV was found installed nearby the spot of incident and hence the CCTV footage could not be collected. The search for the assailants begun.

4. Crime team was called at the spot on 29.02.2020 which inspected and photographed the spot.

5. Further investigation of the case was handed over to SI Dhirender on 09.03.2020. On the same day, he alongwith other staff had left for Gokalpuri in connection with the investigation of this case. They met HC Mahesh, who told them that a secret informer has handed over a video footage to him which is regarding the incident of arson in Janati Masjid, Gokalpuri. HC Mahesh further told them that he had watched the video and had identified the assailants and those assailants namely Deepak, Prince and Shiv alongwith *R and B (both of whom were declared juveniles later on)* are present in A block park. Acting on the tip off given by HC Mahesh, the IO alongwith his staff reached A block park, Gokalpuri where the abovenamed 5 assailants were found present. They were apprehended and questioned. Thereafter all of them were arrested in this case. Since *R & B* were found to be juveniles, they were released on the same day. The three accused namely Deepak, Prince and Shiv are stated to have made separate disclosure statements admitting their involvement in the vandalization and setting ablaze the Janati Mosque, Gokalpuri.

6. It is further the case of the prosecution that the IO seized the above

referred CD from HC Mahesh alongwith certificate u/s 65 of Indian Evidence Act on 10.03.2020. The same was then sent to FSL for forensic examination and opinion.

7. Three more complaints are stated to have been received in the PS regarding the said incident. One of the complaints has been lodged by Mohd.Tohiq, who was working as *Imam* in Janti Masjid, Gokalpuri. He has stated in the complaint that cash in the sum of Rs.45,000/-, one mobile phone and all other goods lying in his room in the Janati Mosque were stolen as well as burnt by the rioters on 25.02.2020. His motorcycle bearing no.DL 14 SK 3797 was also set ablaze by the rioters. Another complaint was submitted by Mohd.Rashid Kamruddin, who was working as *Naib Imam* in the said mosque. He has stated in the complaint that Rs.75,000/- in cash alongwith jewellery worth Rs.1.40 lacs and scooty were stolen/set ablaze by the rioters on 24.02.2020 at about 7 p.m. Third complaint has been submitted by the members of the Management Committee of Janati Masjid, Gokalpuri wherein they stated that on 25.02.2020, a group of rioters attacked the said mosque, broke open its gate and after committing loot of the articles on the ground floor, first floor , second floor and third floor, they completely damaged the ground floor of the entire building by putting the same on fire and also caused damaged on the other floors. Complete details of damage/loss caused to the mosque and suffered by the people residing in the mosque were given in the said complaint.

8. All the above three complaints were clubbed with the FIR which had already been registered. Offence u/s 380 IPC was added to the FIR on the basis of these complaints. Statements of material witnesses were recorded. A CD related to the said incident prepared by a public person alongwith certificate u/s 65 of Indian Evidence Act was seized by the IO on 05.05.2020. Thereafter, upon

completion of investigation chargesheet was prepared and submitted to the concerned court.

9. Upon receipt of the FSL results with regards to their above referred CD (which was seized by the IO from HC Mahesh), same was submitted in the court by way of supplementary chargesheet. Meanwhile, the statements of two more witnesses namely Shareem and Sajid had also been recorded which also were annexed to the supplementary chargesheet.

10. I have heard the Ld.Special PP and the Ld.Defence Counsels and have perused the entire material on record.

11. It was submitted by the Ld.Special PP that all the three accused have been identified, as rioters, vandalized and set on fire the Janati Mosque on 24.02.2020, by the two public witnesses Shareem and Sajid and also are clearly seen in the video footage which has been annexed with the chargesheet in the shape of a CD, which CD was handed over to the IO by HC Mahesh. He argued that charges for all the offences as mentioned in the chargesheet are made out against all the accused.

12. Ld.Counsels for the accused submitted that they are innocent and have been falsely implicated in this case. It is argued that the accused were arrested in this case on 09.03.2020 without there being any evidence against them on that date for the reason that the CD containing video footage of the incident was admittedly seized by the IO on 10.03.2020. It is further argued that the initial chargesheet was filed against the accused without there being any evidence against them and later on two witnesses were planted against them whose statements are stated to have been recorded on 05.09.2021. According to the

Ld.Counsels, it is a clear case of false implication and therefore, all the accused are liable to be discharged.

13. It is true that the three accused alongwith two JCLs were arrested in this case on 09.03.2020 whereas the video footage regarding the incident contained in the CD was seized by the IO from HC Mahesh on 10.03.2020. However, statements of HC Mahesh, Ct.Rakesh and Ct.Vipin need to be considered on this aspect. It comes out from their statements on 09.03.2020 when Ct.Rakesh, Ct.Vipin alongwith IO had reached near dustbin(*kuredan*) in Ganga Vihar on 09.03.2020 at 11.15 p.m., HC Mahesh met them and told them that the rioters namely Deepak, Prince and Shiv alongwith their two more associates, who had committed vandalization and arson in Janati Mosque on 24.02.2020 are present in A block park and he had identified all of them in a CCTV footage which has been given to him by a secret informer. Accordingly, they all reached the A block park, Gokalpuri and arrested the accused. Therefore, it can not be said that the arrest of the accused on 09.03.2020 was without any evidence about their involvement in the incident. The evidence was there in the shape of video footage which had been watched by HC Mahesh, even though the CD containing video footage was seized by the IO on the next day i.e.10.03.2020.

14. In the FSL result regarding the said CD, it has been stated that no indication of any alteration in the said video shoot has been observed on the basis of frame by frame examination. It has been clearly stated that no indication of any form of alteration in the audio as well as video file was observed. Therefore, prima facie there does not appear any tampering the said video footage and the same can not be disregarded at this stage.

15. Further, the accused had been identified as rioters by the two witnesses

namely Shareem and Sajid also, as already noted hereinabove. No doubt, the statements of these two witnesses have been recorded on 05.09.2021 but they have clearly mentioned in the statements that they did not disclose the incident to the police on account of fear and it is when the police reached their shop in Ganga Vihar for making inquiries with regards to their complaint in case FIR no.144/20, that they garnered courage to make a statement with regards to the incident involved in this case. It would be highly unjustified to disbelieve their statements at the threshold without testing their version on the touchstone of the cross examination during the course of trial. It needs to be kept in mind that on account of atmosphere of terror and trauma due to unprecedented riots that had taken in North East District of Delhi from 24.02.2020 to 27.02.2020, the public had got immensely traumatized to the extent that nobody was willing to come forward and make statement to the police with regards to the incidents of violence which they had witnessed. It is for this reason that the delay in recording the statements of above two witnesses in this case can not be held fatal to the prosecution case at this stage when charges are to be decided against the accused.

16. In view of the above discussion, it is held that there is prima facie sufficient material to frame charges against the accused. Hence, charges for the offences u/s 147/148/380/427/436 r/w section 149 IPC are liable to be framed against all the three accused.

**Announced through VC  
on 10.02.2022.**

**(VIRENDER BHAT)  
ASJ-03 (NE) / KKD Courts/Delhi**