

DLNE010017512021



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

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CNR No. DLNE01-001751-2021
State v. Sandeep Bhati
SC No. 233/2021 FIR No. 98/2020, PS Karawal Nagar

Sessions Case No.	:	233/2021
Under Section	:	143/147/148/307/380/392/427/435/436/454 read with 149 IPC and 188 IPC
Police Station	:	Karawal Nagar
FIR No.	:	98/2020
CNR No.	:	DLNE01-001751-2021

In the matter of: -

STATE

VERSUS

Sandeep Bhati

S/o. Sh. Devender Singh,
R/o. H.No. 242, Gali No.10, Phase-9,
Shiv Vihar, Karawal Nagar, Delhi-110094.

...Accused

**Case registered on the
complaint of: -**

ASI Rakam Singh

Date of Institution : 24.03.2021
Date of reserving order : 19.12.2024
Date of pronouncement : 08.01.2025
Decision : Acquitted

(Section 437-A Cr.P.C. complied with by accused.)

JUDGMENT

THE CASE SET UP BY THE PROSECUTION

1. The above-named accused has been charge-sheeted by the police for having committed offences punishable under Section 147/148/149/188/307/380/392/394/427/436/454 IPC.
2. Brief facts of the present case are that on 24.02.2020, an information vide DD No.14-A was received from Guru Teg Bahadur Hospital (GTB Hospital) regarding admission of an unknown injured person vide MLC No. D-18, dated 24.02.2020. On the basis of afore-said information and MLC, on 01.03.2020 FIR was registered in the present case and investigation was

initiated by ASI Rakam Singh.

3. During the course of investigation, injured was identified as Shahrukh, S/o Shri Yakub Khan, whose statement was recorded. In his statement, Shahrukh stated that on 24.02.2020, at around 4.15 PM, he was returning from his maternal grandmother's home in an auto-rickshaw and when he reached near Shiv Vihar Tiraha, a riotous mob dragged him out of the auto, started beating him with sticks and stones, and thereafter somebody fired upon him as a result of which he received gunshot injuries upon his left leg and chest. He further stated that he became unconscious and when he gained his consciousness, he found himself in GTB Hospital. The nature of injuries sustained by injured Shahrukh was opined as "grievous".
4. During the course of investigation, site plan of the place of occurrence was prepared by IO at the instance of Ct. Ravi. As per this site plan, the place of incident was at Shiv Vihar Tiraha on Main Road, Karawal Nagar, which was going towards Joharipur from Karawal Nagar Chowk, via Shiv Vihar Tiraha. There was a Hanuman Temple besides the place of incident.
5. During the course of investigation, eight (08) other written complaints were received in the matter, the details whereof are as under: - (i) Complaint dated 04.03.2020 (recorded vide Dy.No. 480-DR, dated 05.03.2020), received from Mohd. Haneef, S/o Shri Ramjaan Ali; (ii) Complaint dated 19.03.2020 (recorded vide Dy.No.1173-DR, dated 19.03.2020 and Dy.No.193 dated 19.03.2020) received from Ms. Sayba, D/o Shri Irfan; (iii) Complaint dated 18.03.2020 (recorded vide Dy.No. 1107-DR,

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dated 18.03.2020, received from Smt. Ashma, W/o Shri Bhure Khan; (iv) Complaint (recorded vide Dy.No. 944-DR, dated 13.03.2020) received from Gulab Singh, S/o Shri Ram Chandra; (v) Complaint (recorded vide Dy.No.1013-DR and Dy.No.108, both dated 14.03.2020) received from Arif Ahmad, S/o Shri Shamshul Almad; (vi) Complaint (recorded vide Dy.No. 1057-DR, dated 16.03.2020) received from Mohd. Rahish, S/o Shri Haneef; (vii) Complaint (recorded vide Dy.No. 69 dated 12.03.2020 and Dy.No. 924-DR dated 13.03.2020) received from Smt. Sahab Jadi, W/o Shri Bashir and (viii) Complaint (recorded vide Dy.No.1020-DR and Dy.No.100, both dated 14.03.2020), received from Mohd. Khalid, S/o Mohd. Israel. These complaints were clubbed for investigation with the present FIR.

6. However, during investigation, complainant Arif Ahmad withdrew his complaint, on the grounds of his father having already made similar complaint. Later on, at the stage of charge, a status report was filed to say that incident reported by complainant Khalid pertained to 25.02.2020 and a separate investigation report would be filed qua that complaint. Thus, out of above-mentioned eight complaints only six complaints of complainants namely Mohd. Haneef, Ms. Sayba, Smt. Ashma, Sh. Gulab Singh, Mohd. Rahish and Smt. Sahab Jadi, were prosecuted in the present case, on the grounds of proximity of date, time and place of the incident.
7. As per chargesheet, the allegations made by afore-said six complainants are as under: -
 - 7.1 In his complaint, **Mohd. Haneef** alleged that he had a shop of

betel (Paan Khoka) near Hanuman Mandir, Shiv Vihar Tiraha. When the riots began in his area, he left his said khoka on 24.02.2020 and after two days when he returned to that place, he did not find his khoka there.

- 7.2 In her complaint, **Ms. Sayba** alleged that her father had a cart (Thela) and he used to sell fruits on this. On 24.02.2020 when the riots started in her locality, she along with her family members left her home and that Thela was standing in front of her house, with fruits. On 19.03.2020 when she returned to her home, she found that Thela was in damaged condition. After two days her father sold that cart.
- 7.3 In her complaint, **Smt. Ashma** alleged that she was a vegetable vendor and her husband was in Mainpuri Jail in a case. On 24.02.2020 when the riots started in her locality, she along with her family members had left her home. She further alleged that on 18.03.2020 when she returned to her home, she found that her house was ransacked and cash amount of Rs.20,000/-, gold jewelry and 250 grams silver jewelry had been looted from her house.
- 7.4 In his complaint, **Sh. Gulab Singh** alleged that on 24.02.2020 when the riots started in his locality, he along with his family members left his home and on 13.03.2020 when he returned to his home, he found that the lock of the gate of his house was broken and the lock of the iron box was also broken and his jewelry worth rupees 2 lakh and cash rupees 95 thousand had been looted.

- 7.5 In his complaint, **Mohd. Rahish** alleged that on 24.02.2020 when the riots started in his locality, he along with his family members left his home. On 16.03.2020 when he returned to his home, he found that his motorcycle make and model Passion Pro bearing registration No. DL 14S B 0896, which was standing in a plot besides his house, had been damaged by the rioters. He further stated that after two days he got the said motorcycle repaired.
- 7.6 In her complaint, **Smt. Sahab Jadi** alleged that she had left her home along with her family members for her ancestral village in Badayun District of U.P. On 01.03.2020 when they returned to their home, they found that her house had been ransacked and articles of her house had been damaged and burnt. She further alleged that cash amount of Rs.1,00,000/-, jewelry worth rupees one lakh and other household articles were found stolen.
8. During the course of further investigation, IO recorded the statements of these complainants. On 20.11.2020, brother of injured Shahrukh namely Sameer Khan produced one CD containing two video-clips to the IO, showing his brother being dragged by the riotous mob and he identified the accused in the said video-clip. Accordingly, accused Sandeep Bhati was arrested in the present case on 23.12.2020.
9. Certified Call Data Records of Mobile No. 9999270575 of accused Sandeep Bhati was obtained alongwith CAF, Cell ID Chart and certificate under Section 65-B of Indian Evidence Act from the nodal officer of Vodafone-Idea. As per the CAF above mentioned mobile number of the accused was found in the name of the accused Sandeep Bhati. The CDRs of his mobile number

was analysed using Cell Id Chart and it was found that on the day of incident i.e. 24.02.2020 from 16:17:39 hrs to 16:42:29 hrs the location of his mobile number was near Rajdhani Public School, A-1, Babu Nagar, Shiv Vihar, Delhi. This Rajdhani Public School was just adjacent to the Shiv Vihar Tiraha, where the injured Shahrukh was found in unconscious condition.

10. During the course of investigation, victim stated that at the time of incident he was having a mobile phone make I-Phone and the same was looted by the rioters at that time, but due to lack of memory and trauma caused by the injuries, he was not able to recollect about the mobile phone. At that time, he could not provide any details of the mobile phone. On 09.03.2020 Sameer Khan (brother of victim/injured) provided the bill of the looted mobile phone. It was I-phone 6, 32 GB, having IMEI No. 359220076368514. The details of the mobile phone were sent to concerned Nodal officers of Telecom Companies for Call Data Records and reports regarding this have been received from the Nodal Officers of Airtel, Idea-Vodafone and Jio.
11. Section 188 IPC was added in the present case on the basis of violation of Prohibitory Order under Section 144 Cr.P.C., passed by the DCP/North-East District in view of the riots taking place in North-East Delhi. On the basis of the statements of the complainants of clubbed complaints, sections 427/436/380/454 IPC were added in the present case. On the basis of supplementary statement of injured/victim Shahrukh, Section-392/394 IPC was also added in the present case as his mobile phone i.e. I-Phone 6 was also looted by the rioters.

12. After completion of investigation, on 24.03.2021 a charge sheet was filed against accused Sandeep Bhati, for offences punishable under Section 147/148/149/188/307/380/392/394/427/436/454 IPC. This chargesheet was filed before Id. CMM (North-East District), Karkardooma Courts, Delhi. On 25.03.2021, Id. CMM (NE), took cognizance of offences punishable under Section 147/148/149/188/307/380/392/393/427/436/454 IPC. Thereafter, case was committed to the court of sessions vide order dated 31.03.2021.
13. On 22.12.2021, first supplementary chargesheet along with complaint under Section 195 Cr.P.C. and other document, was filed before Id. CMM (N/E). This supplementary chargesheet was sent to the court of sessions by Id. CMM (N/E) vide order dated 03.01.2022. On 29.03.2022, second supplementary chargesheet along with CD containing video clips, FSL reports and other documents, was filed before Id. CMM (N/E). This supplementary chargesheet was sent to the court of sessions by Id. CMM (N/E) vide order dated 12.04.2022.
14. On 30.08.2024, third supplementary chargesheet with E-challan and Hash Value Certificate, FSL result and a sealed parcel purportedly containing copy of Exhibit-1(1/3), was filed directly before this court.

CHARGES

15. On 30.09.2021, charges were framed against accused Sandeep Bhati, for offences punishable under Section 143/147/148/307/380/392/427/435/436/454 read with 149 IPC and 188 IPC, to which he pleaded not guilty and claimed trial. The charges were framed in following terms: -

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“That in the evening of 24.02.2020, in the area at or around Shiv Vihar Tiraha, main Karawal Nagar, Delhi-110094, within the jurisdiction of PS Karawal Nagar, you being from a particular community alongwith your other associates (unidentified) formed an unlawful assembly, the object whereof was to cause maximum damage to the property and persons, including committing murder, commit criminal trespass, vandalism, robbery and arson in the shops, houses and other properties of the persons residing in the said area, damage their vehicles, use force, violence and firearms in prosecution of the common object of such assembly and thereby committed offences punishable under Section(s) 143/147/148 IPC read with Section 149 IPC and within my cognizance.

***Secondly,** on the aforesaid date and place, between 4.00 PM to 6.00 PM, you being member of said unlawful assembly in furtherance of your common object alongwith your other associates (unidentified) caused gunshot injuries upon the person of Shahrukh, S/o Shri Yakub Khan, aged about 25 years, merely on account of the fact that he belonged to the other community and with such intention knowledge that had his death been caused, you would have been guilty of murder and thereby committed an offence punishable under Section 307 IPC read with Section 149 IPC within my cognizance.*

***Thirdly,** on the aforesaid date, in the evening, exact time unknown, at **"Paan Shop"**, situated behind Hanuman Mandir, Karawal Nagar, Delhi, you being member of said unlawful assembly in furtherance of your common object alongwith your other associates (unidentified) completely destroyed/vandalized the aforesaid **"paan-shop"**, belonging to complainant Mohd. Haneef, S/o Shri Ramjaan Ali and thereby committed an offence punishable under Section 427 IPC read with Section 149 IPC and within my cognizance.*

***Fourthly,** on the aforesaid date, exact time unknown, at House No.370, Gali No.22, Phase-7, Shiv Vihar, Karawal Nagar, Delhi, you being member of said unlawful assembly in furtherance of your common object alongwith your other associates (unidentified) committed theft of fruits from the cart (**thela**), which at the relevant time was lying stationed/parked*

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outside the aforesaid house belonging to complainant Ms.Sayba, D/o Shri Irfan and thereafter damaged/vandalized the said cart (thela) and thereby committed offences punishable under Section(s) 380/427 IPC read with Section 149 IPC and within my cognizance.

***Fifthly**, on the aforesaid date, exact time unknown, at House No.375 B/A, Gali No.22, Phase-7, Shiv Vihar, Karawal Nagar, Delhi, you being member of said unlawful assembly in furtherance of your common object alongwith your other associates (unidentified) committed robbery of various articles (including gold and silver ornaments and cash worth Rs.20,000/-) in the said house, belonging to complainant Smt. Ashma, W/o Shri Bhure Khan and thereafter committed mischief fire or explosive substance by setting on fire two carts (thelas) which at the relevant time were lying stationed/parked outside the said house of complainant and thereby committed offences punishable under Section(s) 392/435 IPC read with Section 149 IPC and within my cognizance.*

***Sixthly**, on the aforesaid date, exact time unknown, at House No.330, Gali No.20, Phase-7, Shiv Vihar, Karawal Nagar, Delhi, you being member of said unlawful assembly in furtherance of your common object alongwith your other associates (unidentified) committed lurking house-trespass in the said house, belonging to complainant Gulab Singh, S/o Shri Ram Chander to commit offences, committed robbery of various articles lying therein and thereby committed offences punishable under Section(s) 454/392 IPC read with Section 149 IPC and within my cognizance.*

***Seventhly**, on the aforesaid date, exact time unknown, outside House No.41 G/F, Khasra No.5, Gali No.3, main 25 foota road, Shiv Vihar, Karawal Nagar, Delhi, you being member of said unlawful assembly in furtherance of your common object alongwith your other associates (unidentified) completely destroyed/damaged/vandalized the motorcycle bearing Regn. No.DL-14SB-0896 (model Passion Pro), belonging to complainant Mohd. Rahish, S/o Shri Haneef, which at the relevant time was lying parked outside the said house and thereby committed an offence punishable under*

Section 427 IPC read with Section 149 IPC and within my cognizance.

Eightly, on the aforesaid date, exact time unknown, at House No.341, Gali No.21, Phase-7, Shiv Vihar, Delhi, you being member of said unlawful assembly in furtherance of your common object alongwith your other associates (unidentified) committed lurking house-trespass in the said house, belonging to complainant Smt.Sahab Jadi, W/o Shri Bashir by breaking open its lock, to commit offences, vandalized/damaged the same and thereafter committed robbery of various articles lying therein (including jewelleries and cash worth Rs.1.00 lakh) and thereby committed offences punishable under Section(s) 454/427/302 IPC, read with Section 149 IPC and within my cognizance.”

16. On 30.09.2021, additional charge was framed against this accused for offence punishable under Section 188 IPC, to which he pleaded not guilty and claimed trial. The additional charge was framed in following terms: -

“That, in the evening of 24.02.2020 at about 4 p.m. onwards, in the area at or around the area of Shiv Vihar, main Karawal Nagar, Delhi-94, within the jurisdiction of PS Karawal Nagar, accused being member of an unlawful assembly alongwith your other associates (unidentified) were present at aforesaid place, in prosecution of the common object of an unlawful assembly and in violation of the proclamation issued u/s 144 Cr. PC by the competent authority/DCP, North East vide order dated 24.02.2020 bearing no.10094-170 X-1, North East, Delhi dt. 24.02.2020, which was duly announced in all the localities of District North East including area of PS Karawal Nagar, thereby you committed offence punishable under Section 188 IPC and within my cognizance. And I hereby direct that you be tried by this Court for the aforesaid charge.”

DESCRIPTION OF PROSECUTION EVIDENCE

17. Several witnesses were dropped on the basis of admission of documents under Section 294 Cr.P.C. and prosecution examined 21 witnesses in support of its case, as per following description: -

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Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
PW1/Asma	In the riot dated 24.02.2020, her house situated near Shiv Vihar Tiraha, had been vandalized and articles kept therein including silver ornament weighing 250gms and cash of Rs.20,000/- had been stolen, by the rioters. PW1 submitted her complaint in this regard to the police on 18.03.2020. PW1 was not witness to the incident taken place at her house.	Ex.PW1/A (complaint of PW1)
PW2/Ms. Khalid	On 24.02.2020 when the riot had started, PW2 had shut down his mobile phone shop situated in Gali No.21, Phase-VII, 25 Foota Road, Shiv Vihar, Delhi and he went to his home. After about 3 or 4 days, when PW2 visited his shop again, he found that the entire shop as well as the goods lying therein had been reduced to ashes. PW2 submitted a complaint in this regard to the police on 14.03.2020. PW2 was also not witness to the incident taken place at his shop.	Ex.PW2/A (complaint of PW2)
PW3/Mohd. Rahish	In February, he was residing at H.No.41, Phase-VII, Gali No.3, Shiv Vihar, Karawal Nagar, Delhi. On 24.02.2020, riot had started in that locality. In the evening PW3 locked his afore-said home and left with his wife and children for Eidgah at Mustafabad. When PW3 came to his home after about 3 weeks or a month, he found his motorcycle bearing no. DL-0896, which was parked outside to his home, in broken condition. PW3 was also not witness to the incident taken place at his house.	

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Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
PW4/Arif Ahmed	In February 2020, he was residing at H.No. 317, Phase-VII, Gali No.21, Shiv Vihar, Karawal Nagar, Delhi-94. On 24.02.2020 in the evening, PW4 was present at his home. At that time, a mob was coming from the side of nala and another mob was coming from the side of Shanti Nagar, Main Road. At around 2.00 a.m. midnight, police came to rescue him and took PW4 and others to Chaman Park in the camp. PW4 had left his home after locking the same. After around a month when he returned home, he found that safe of his almirah was in broken condition. Clothes and other articles were lying scattered inside his home. Cash of around Rs.50,000/- and one or two tolas of jewelries were missing from his house. PW4 was also not witness to the incident taken place at his house.	
PW5/Sh. Ajit Singh	He was Alternate Nodal Officer, in Vodafone Idea Ltd. Situated at A-26/5, Mohan Co-operative Industrial Area, Mathura Road, Delhi. PW5 had received a notice u/s 91/92 Cr.PC from SI Ankit, PS Karawal Nagar, thereby demanding CDR of mobile no.9999270575 for period w.e.f. 22.02.2020 to 26.02.2020. In response to afore-said notice, PW5 obtained CDR of aforesaid number from his system alongwith EKYC and thereafter, PW5 furnished certified copy of CDR of this number for aforesaid period with certified copy of EKYC, a certificate u/s 65B of I.E. Act and a cell ID chart. All these documents were furnished with a forwarding letter. As	Ex.PW5/A (forwarding letter of PW5); Ex.PW5/B (colly 5 pages) & Ex.PW5/C (CDR and EKYC of mobile no. 9999270575, respectively) Ex.PW5/D (certificate u/s 65B of I.E Act); &

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Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
	per EKYC, the aforesaid number was issued in the name of accused Sandeep Bhati s/o Sh. Devender Bhati on 10.11.2017.	Ex.PW-5/E (certified copy of Cell ID Chart).
PW6/SI Rakam Singh	On 24.02.2020, at about 5-6 PM, he was present in the PS Karawal Nagar. PW6 was assigned a call received vide DD No.48A. This call was in respect of injury to a person due to gunshot at Shiv Vihar Tiraha. PW6 alongwith Ct. Ashok went to Shiv Vihar Tiraha, where PW6 was informed that injured was already taken to GTB hospital. Thereafter, PW6 went to GTB hospital and injured was found in the hospital. PW6 obtained MLC bearing no. D-18 of injured. Injured was unfit for statement. Thereafter, PW6 came back to place of incident and prepared site plan at the instance of Ct. Ravi, who met him there. Ct. Ravi had informed PW6 that from that place, he had taken injured to the hospital. Thereafter, PW6 came back to PS and prepared tehrir on the basis of afore-said DD entry and got the FIR registered through D.O. PW6 identified his endorsement/tehrir from point A to A-1.	Ex.PW6/A (Tehrir); & Ex.PW-6/B (site plan prepared by PW6)
PW7/Ct. Ravi Kumar	On 24.02.2020 he was on duty as driver of SHO. On that day, PW7 had taken SHO to Shiv Vihar Tiraha in official vehicle at about 3-4 p.m. PW7 had parked the official vehicle at a distance of about 100 meters from Shiv Vihar Tiraha towards Karawal Nagar Chowk. At about 6 p.m., one person came to PW7 and informed that one injured was lying near Shiv Vihar Tiraha. PW7	

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Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
	went towards Shiv Vihar Tiraha alongwith aforesaid person and he found that one person was lying on the road. He was in semi-conscious condition. His physical condition was bad and he was bleeding. His clothes were blood stained. With the help of some public persons, PW7 brought him to the official vehicle and thereafter he took him to GTB hospital in the official vehicle. PW7 got him admitted in GTB hospital. On 01.03.2020, IO/ASI Rakam Singh took PW7 to the place, where aforesaid injured was found lying and PW7 pointed out that place to him. IO/ASI Rakam Singh prepared a site plan (Ex.PW6/B) of that place. The injured was found by PW7 at point A, as shown in the site plan.	
PW8/Ms. Sayba	In the month of February 2020, she was residing in H.No.370, gali no.22, phase VII, Shiv Vihar, Karawal Nagar, Delhi, alongwith her father. Her father used to sell fruits and vegetables on handcart in Som Bazar, nala road, Shiv Vihar, Delhi. On 24.02.2020, PW8 alongwith her father was present at their home till about 4-5 p.m. Their handcart was standing in the gali near their home. Due to ongoing riots, PW8 and her father went to the place of their relative in Mustafabad. After about 4-5 days, when they came back to their home, they found that their handcart was lying in broken condition and all the articles kept there upon viz. vegetables and fruits were missing. PW8 identified her signature at circle X on her complaint, which was prepared by someone at Eidgah, Mustafabad.	Ex.PW8/A (complaint of PW8)

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Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
	PW8 was also not witness to the incident taken place at her house.	
PW9/HC Ravinder	On 24.02.2020 he was working as Reader to SHO. That day at about 09:00 am a copy of order passed by DCP, North-East u/s 144 Cr.P.C. was received by SHO in PS. On the instruction of SHO, PW9 made entry of that order in the diary register and he announced that order in the area of PS Karawal Nagar through loud hailer.	
PW10/ Mohd. Haneef	On 24.02.2020, at around 11 a.m.-12 p.m. due to start of riot in the area of Shiv Vihar, he had closed his betel shop and went away at about 12.30 p.m. This shop was situated on the 33 foota road, on the back side of Hanuman Temple, Shiv Vihar, Karawal Nagar, Delhi. PW10 went back there after 6-7 days and found that there was nothing in the name of his betel shop. PW10 was also not witness to the incident taken place at his shop.	
PW11/Ms. Shahabjaadi	She was resident of H.No. 341, gali no.21, Shiv Vihar, Karawal Nagar, Delhi. PW11 had left her home alongwith her family to Badayun (U.P) on 21.02.2020. Riot had taken place in her area on 24.02.2020. Someone from her gali made telephonic call after 5-6 days of her leaving Delhi, to inform that her house was vandalized by rioters. After around 8 days when PW11 came back to Delhi, she found that there was nothing left in her home. The home was burnt from inside also and all the articles were either missing or were in damaged condition. PW11 was also not witness to the incident taken place at her house.	
PW12/Insp. Prakash Roy	In November 2021 he was posted as Insp. Investigation in PS Karawal Nagar. Main charge-sheet was already filed. On the instruction of SHO, PW12 conducted	

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Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
	further investigation/remaining job in this case. On 16.11.2021, PW12 recorded statement of HC Ravinder. PW12 obtained complaint u/s 195 Cr.P.C. from the office of DCP/NE. PW12 prepared a supplementary charge-sheet alongwith aforesaid material and filed the same in the court in December, 2021. In this case, a report was received from FSL, Rohini regarding examination of a mobile phone. FSL had communicated that said mobile phone was password protected. Therefore, on 11.12.2021, PW12 called accused Sandeep in the PS and demanded password of his mobile phone in writing and accused gave it in writing to PW12. Thereafter PW12 again sent that mobile phone alongwith a forwarding letter mentioning aforesaid password, to FSL Rohini. Once again, response was received from FSL that given password was incorrect. One another report from FSL regarding examination of a video was lying in malkhana. PW12 prepared next supplementary charge-sheet alongwith all these reports from FSL and filed the same in the court in March, 2022.	
PW13/Sh. Ashish Saini	He was Junior Forensic Assistant/Chemical Examiner (cyber), FSL, Rohini, Delhi. He examined the case property of this case i.e. mobile phone make Realme on two occasions for retrieval of its data. On both occasions due to wrong password provided, he could not retrieve the data from above-said mobile phone. PW13 prepared his report on both occasions. PW13 identified afore-said mobile, which was taken out from the parcel bearing FSL number 'SFSL	First report is Ex.PW13/A and the second report is Ex.PW13/B; & Ex.PW13/Article-1 (mobile phone make Realme)

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Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
	DLH/12699/CO/2024/21' with particulars of this case and endorsement of Ext.MP1.	
PW14/ Shahrukh	PW14 was the victim, regarding whom this FIR was registered. On 24.02.2020 he was returning to his house situated at Toli Mohalla, Dari factory, near Noor Masjid, Loni, Ghaziabad (U.P.), from the house of his maternal uncle etc. (nanihal) situated at Chaman Park, Mustafabad, Delhi. At about 4 p.m., PW14 reached near Anil Sweets, Shiv Vihar and found that a huge mob was present there, equipped with danda, gun, stone etc. and people were causing ruckus. They were also raising slogan of 'Jai Shree Ram'. They stopped the auto and de-boarded PW14. At that time, PW14 was also wearing his round cap and was also having beard. Those persons started beating and assaulting PW14. From the mob itself, firing was being done and PW14 sustained three injuries of gunshot in his left leg and one injury over his chest. They had also hit PW14 on his head with danda. His both eyes were also damaged there. PW14 had become unconscious. When PW14 regained his consciousness, he found himself in GTB hospital. PW14 was informed that he had regained consciousness after about 18-19 days. In the hospital itself, police had come to PW14 and made enquiry from him. PW14 became blind during the riots. During aforesaid incident, a mobile phone of Apple company with Jio SIM, was taken away by the rioters from PW14. They had torn clothes of PW14. PW14 had subsequently informed his brother Sameer about snatching of this mobile phone by the rioters. PW14 could not support the case of prosecution, on the point of identification of accused, as he was unable to see.	

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Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
PW15/Dr. Rashmi Sharma	On 07.11.2023 he was working as Sr. Scientific Officer (Physics), FSL Rohini, Delhi. PW15 had examined one CD-R of Writex, which was taken out from a sealed envelope having seal of 'FSL DR.B.B.DELHI'. She found 2 video files in MP4 format. She examined both these video files, using Video Analyst System and Audio Analyst System and she found that there were no indications of any tampering in both the video shots. No kind of alteration was found in audio track of both the video files. PW15 prepared her report accordingly. PW15 prepared 3 mirror copies of aforesaid CD and also issued certificate u/s 65B of IE Act, in respect of the mirror copies. PW15 identified aforesaid CD, which was taken out from a sealed parcel bearing endorsement of 'SFSL(DLH)-12908/Phy(AV)-855/23/P (AV)-895/23' with particulars of this FIR and as parcel-1.	Ex.PW15/A (report prepared by PW15); Ex.PW15/B (certificate u/s 65B of IE Act); & Ex.PW15/ Article-1 (CD)
PW16/Sh. Sameer Khan	On 24.02.2020 at about 4 p.m., on seeing a viral video being shown in TV news, he came to know that his elder brother i.e. PW14/Shahrukh Khan had become injured in the riots taken place at a Tiraha, near Mustafabad, Delhi. Shahrukh was appearing in that video and it was also appearing that rioters were beating Shahrukh with danda. On same day at about 6 p.m., PW16 had	Ex.PW16/A (seizure memo of screenshots and photographs) Ex.PW16/B (certificate u/s 65B of IE

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	received that viral video on his mobile phone through WhatsApp. PW16 had handed over that video in a CD to police. PW16 had got the video copied in the aforesaid CD through a shop and no changes were made in that video, while copying the same in the CD. PW16 had also given around 17-18 photographs to the police, which included some screenshots from the video and some photographs of PW14/Shahrukh, which were clicked by PW16 through his mobile phone, when PW14/Shahrukh was in the hospital in injured condition. PW16 identified his signature at circle X on the seizure memo. The date mentioned beneath his signature on Ex.PW16/A, was put by him on the same day. PW16 also identified his signature at circle X on the certificate u/s 65B of IE Act. PW16 was informed that one boy i.e. accused Sandeep as appearing in aforesaid video, was having a medical store at Shiv Vihar Tiraha. PW16 had gathered this information through his known persons and relatives, on the basis of his photo appearing in that video and thereafter PW16 had shared this information with the police. Subsequently, once PW16 had gone to PS Karawal Nagar and at that time, PW16 had seen the same boy i.e. accused sitting in the PS and PW16 had	Act); Ex.PW16/C (certificate u/s 63 BSA, in respect of 18 photographs; Ex.PW16/V-1 (file with time duration of 7 seconds); Ex.PW16/V-2 (file with time duration of 15 seconds); Ex.PW16/P1 to Ex.PW16/P18 (18 photographs)

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	informed the same police official about this, to whom PW16 had given aforesaid CD. After 2-3 days, PW16 visited PS and at that time, police had informed PW16 that said boy i.e. accused Sandeep was arrested by them. Police also informed PW16 his name as Sandeep Bhati. PW16 had furnished IMEI number of mobile phone make I-Phone 6 belonging to PW14/Shahrukh, to the police. During his testimony, PW16 identified his brother PW14/Shahrukh and accused Sandeep Bhati in the video file having particulars as VID-20201118-WA0010 with time duration of 7 seconds. In other video file having particulars as VID-20201118-WA0012 with time duration of 15 seconds, PW16 identified a person being dragged by other group of persons, as his brother i.e. PW14/Shahrukh. Both these video files were contained in CD Ex.PW15/Article-1. PW16 identified 18 photographs, which were given to the police, by him. During his testimony, PW16 had produced certificate u/s 63 BSA, in respect of aforesaid photographs.	
PW17/Dr. Bharti Bhardwaj	On 22.03.2021 he was working as Sr. Scientific Officer (Physics), FSL Rohini, Delhi. On that day, PW17 received two sealed parcels with seal of	Ex.PW17/A (report prepared by

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	‘AK’ alongwith a file. Before opening the parcel, PW17 compared the seals on both the parcels, which were intact and similar to specimen seals. On opening the first parcel, one CD was taken out, which was marked by her as Exhibit-1. Second parcel contained 2 colour photographs, which were marked by her as Exhibit-2. PW17 examined the CD, which was containing 2 video files. PW17 examined those video files, using Amped software. On the basis of external feature identification method, PW17 concluded that there was resemblance in the person wearing brown jacket as appearing in one video with the image appearing in photographs Exhibit-2. PW17 prepared her report accordingly. IO had also asked for one mirror copy of that CD and accordingly, PW17 had prepared a mirror copy of that CD. PW17 sealed CD Exhibit-1 in one parcel with seal of ‘DR.B.B. FSL DELHI’. PW17 sealed photographs Exhibit-2 with same seal in another parcel. PW17 sealed mirror copy of CD with her report in a third parcel with same seal. During her testimony, PW17 identified her signature at circle X on her afore-said report. She identified her endorsement SFSLDLH/2914/Phy(AV)-134/21/P (AV) -146/21, over the parcel as well as	PW17); & Ex.PW17/ Article-1 (two photographs examined by PW17)

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	over aforesaid CD, which is Ex.PW15/Article-1. She also identified her initial appearing at point X on both afore-said photographs.	
PW18/SI Abhimanyu	On 23.07.2024 he was posted in PS Karawal Nagar. On that day, MHC(M) handed over one FSL report in this case and SHO directed PW18 to file the same before the court. PW18 prepared a supplementary chargesheet for the purpose of filing FSL report, which was filed by him in the court on 30.08.2024.	
PW19/HC Ajay	On 22.03.2021 he was posted in PS Karawal Nagar as Constable. On that day on the instruction of MHC(M), PW19 obtained 2 forwarding letters, 2 road certificates and 3 sealed pullandas in this case, in order to deliver the same in FSL, Rohini. MHC(M) had handed over the forwarding letters and road certificates (R/C) alongwith the sealed pullandas. At that time, PW19 obtained his receiving on both R/Cs. PW19 identified his signature appearing at point X on R/C no.745/21/21. PW19 handed over aforesaid pullandas in sealed condition in FSL, Rohini and PW19 was given 2 acknowledgments in the FSL. PW19 had handed over forwarding letter and a copy of R/C in FSL. After coming back to PS, PW19 handed over the acknowledgment with copy of R/C to MHC(M). In the FSL, Rohini, his signature was obtained on acknowledgments issued by them and	Ex.19/A (OSR) (Photocopy of afore-said R/C no. 745/21/21); Ex.19/B (OSR) (Photocopy of acknowledgment); Ex.PW19/C (OSR) and Ex.PW19/D (OSR), (Photocopy of R/C bearing no. 746/21/21 and acknowledgment, respectively)

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Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
	same appears at point X. R/C bearing no. 746/21/21 bore his signature appearing at point X. The pullandas were not tampered by anyone, before handing over the same in FSL and till the time they remained in the custody of PW19	
PW20/Ct. Rahul Kumar	On 07.11.2023 he was posted in PS Karawal Nagar. On that day on instruction of MHC(M), PW20 obtained one sealed envelope and 4 pen-drives in unsealed condition, one forwarding letter and one road certificate, in order to deliver the same in FSL, Rohini. MHC(M) had handed over afore-said forwarding letter and road certificate (R/C) alongwith the sealed envelope. At that time, PW20 signed on the R/C. PW20 identified his signature appearing on R/C no. 268/21/23 at point X. PW20 had handed over afore-said envelope and pen-drives in FSL, Rohini and PW20 was given one acknowledgment in the FSL. PW20 had handed over forwarding letter and a copy of R/C in FSL. After coming back to PS, PW20 handed over the acknowledgment with copy of R/C to MHC(M). In the FSL, Rohini, his signature was obtained on acknowledgment issued by them and same appears at point X. PW20 handed over the acknowledgment with copy of R/C to MHC(M). The envelope was not	Ex.20/A (OSR) (Photocopy of R/C no. 268/21/23); & Ex.20/B (OSR) (Photocopy of acknowledgment)

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	tampered by anyone, before handing over the same in FSL and till the time it remained in his custody.	
PW21/SI Ankit	On 22.06.2020 he was posted as SI in PS Karawal Nagar. On that day, PW21 was assigned investigation of this case and he received case file from MHC(R). Prior to PW21, SI Ravi was the previous IO. On 20.11.2020, when PW21 was present in the PS, PW16/Sameer i.e. brother of injured PW14/Shahrukh, came to PS and PW16 handed over one CD to PW21. PW21 deposed on the same lines as deposed by PW16 in respect of Ex.PW16/A. PW21 pasted aforesaid photographs on white sheets and put his signature on those sheets. PW21 also obtained signature of Sameer on those sheets. On 27.11.2020, PW21 went to Shiv Vihar in search of medical shop as per location informed to him by PW16/Sameer. Prior to this day, PW21 had confirmed identity of the person running this medical shop, while making enquiry from the secret informer. Secret informer had provided PW21 photograph of this accused/person running aforesaid shop and PW21 had compared the same with the person appearing in the video, to be confirmed about his presence in the video. On 15.12.2020, PW21 visited aforesaid medical shop and got information about his name and residential address on this day. His name was disclosed as accused Sandeep Bhati s/o Sh. Devender. On 22.12.2020, PW21 went to his residential address at H.No.242, gali no.10, phase IX, Shiv Vihar and accused was found present at his home. PW21 brought him to PS, interrogated him and showed him afore-said video clips. Thereafter PW21 arrested accused Sandeep Bhati in the PS, vide arrest and personal search memo, which	

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	are Ex.A-4 and Ex.A-5 (admitted documents), respectively. PW21 had also obtained information of his mobile number from him and thereafter PW21 applied for CAF and CDR of his mobile number. Ct. Vinod was present with PW21 at the time of arrest of accused Sandeep Bhati and PW21 had recorded his statement. On 23.12.2020 during day time, PW16/Sameer had also come to PS to make enquiry about this case and he had identified accused in the PS, to confirm that he was appearing in the video and accused was running aforesaid medical shop. On 24.12.2020, PW21 had received CDR of mobile number of accused and found that on 24.02.2020 at around 4.30 p.m., location his mobile phone was near Rajdhani Public School. On 20.01.2021, victim Shahrukh (PW14) had come to the PS and he informed that his mobile phone was also forcibly taken away from him during the incident. On 07.02.2021, Sh. Mukesh Bhati i.e. uncle of accused Sandeep Bhati, produced a mobile phone before PW21, stating that it was mobile phone of accused Sandeep Bhati. That mobile phone was password protected. PW21 seized that mobile phone, vide a seizure memo which is Ex.A-6 (admitted document). Said mobile phone was deposited in the malkhana. PW21 had also deposited above mentioned CD etc. in the malkhana on 20.11.2020. On 13.02.2021, PW21 sent request to obtain certified copy of CAF and CDR of the mobile phone used by accused. On 09.03.2021, PW16/Sameer Khan produced bill of a mobile phone, which was snatched from the victim of this case. PW21 received certified copy of	

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	CAF and CDR with Cell ID chart and certificate u/s 65B of IE Act in respect of mobile phone of accused. Eight other complaints were already clubbed in this case, apart from incident related to Shahrukh. PW21 had examined 6 of those 8 complainants namely Sahebjaadi, Aisha, Haneef, Aasma, Gulab Singh and Mohd. Raees. On 22.03.2021, PW21 got sent mobile phone and CD to FSL Rohini, for retrieval of data from the mobile phone and to check the authenticity of video clip in the CD. PW21 had also sent 2 photographs of accused Sandeep Bhati alongwith aforesaid exhibit, for face recognition examination. Thereafter PW21 had prepared chargesheet in this case against accused and filed the same before the court. PW21 identified the video clips and photographs, which were provided by Sameer (PW16) to him. Sameer had furnished certificate u/s 63 BSA before the court in respect of aforesaid photographs during his examination. Those photographs are Ex.PW16/P1 to Ex.PW16/P18. PW21 deposed on the same lines as deposed by PW16 in respect of Ex.PW16/V1, Ex.PW16/V2 and Ex.PW15/Article-1. During his testimony, PW21 correctly identified accused Sandeep Bhati before the court.	
	Admitted documents under Section 294 Cr.P.C. GD no.148A as Ex.A-1; FIR as Ex.A-2; certificate u/s 65B of I.E. Act as Ex.A-3; arrest memo of accused Sandeep Bhati as Ex.A-4; personal search memo as Ex.A-5; seizure memo of mobile phone of accused as Ex.A-6; MLC dated 24.02.2020 as Ex.A-7; order u/s. 144 Cr.P.C. as Ex.A-8; complainant u/s. 195 Cr.P.C. as Ex.A-9 and endorsement on rukka as Ex.A-10.	

PLEA OF ACCUSED U/S. 351 BNSS

18. Accused Sandeep Bhati denied all the allegations and pleaded innocence, taking plea that witnesses falsely deposed against him, being interested witnesses. Accused took further plea that he had nothing to do with the commission of alleged offences and he had been falsely implicated in the present case. Accused did not opt to lead any evidence in his defence. He took further plea that at the time of handing over his mobile phone, he had provided correct password to the police official. Accused took further plea that the proceedings as stated were not conducted with regard to visiting the medical store and making inquiries.

ARGUMENTS OF PROSECUTION & DEFENCE

19. I heard ld. Special PP as well as ld. counsel for accused. I have perused the entire material on the record.
20. **Sh. Shailendra Singh**, ld. counsel for accused Sandeep Bhati, argued that IO could not ascertain the place of crime. He did not find out source of video. IO used two photographs of accused for Face Recognition examination, but he did not obtain certificate under Section 65-B of Indian Evidence Act, in respect of those photographs. Ld. defence counsel further argued that PW16/Sameer Khan said that such video was telecast on T.V. on same day. Defence produced D-1 to show that prosecution produced incomplete video and IO admitted that video in D-1 was extended version of video produced by him. It was further argued that PW7/Ct. Ravi said that victim was lifted from Shiv Vihar. Video in D-1 shows that accused was not carrying any weapon of offence, rather he was stopping others from assaulting

the victim. It was further argued that due to large gathering, it could not be possible for accused to take victim to hospital or to approach police. It was further argued that aggression is shown to protect someone also, which appears in D-1. Video of prosecution does not show role of accused in assault of victim.

21. Per contra, **Sh. Naveen Raheja**, Id. Special PP for State argued that IO deposed in respect to video in D-1, only on the basis of seeing that video. But he was not expert to say if this video was doctored. This video otherwise reinforces claim of prosecution that accused was present at the scene of crime. Video in D-1 does not guarantee that accused was saving the victim from others. It was further argued that video of prosecution shows that accused was at the scene of crime, where offence was committed. Since only accused Sandeep could be identified, hence, he was prosecuted. Id. Special PP further deposed that accused otherwise did not approach police or assist police in taking the victim to the hospital. Rather he fled away. It was further argued that there was no bonafide intention in not providing password of his mobile phone to the police official.

APPRECIATION OF FACTS AND EVIDENCE

UNLAWFUL ASSEMBLY & RIOTS

22. The un rebutted testimony of victim PW14, leaves no doubt that on 24.02.2020 at about 4 p.m., an unlawful assembly had been present near Anil Sweets, Shiv Vihar, which forced PW14 to deboard the auto and which badly assaulted him. PW14 also sustained gun shot injuries, as fired by someone from that mob. Such version of PW14 is duly supported by description of

injuries as mentioned in his MLC/Ex.A-7. Testimony of PW7/Ct. Ravi is also not challenged, wherein he deposed that he found PW14 in bad physical condition, while lying on road near Shiv Vihar Tiraha and then he took PW14 to GTB Hospital. Therefore, an unlawful assembly indulging in riot and assaulting PW14, is well established.

23. However, IO clubbed 8 more complaints in this case and finally a stand was taken to prosecute six complaints in this case. Such stand of IO and prosecution, however, remained based on presumption that same mob would have been involved in those six incidents as well. Record shows that in the name of investigation on those six complaints, IO only recorded statement under Section 161 Cr.P.C. and prepared site plan for three complainants. IO even did not remember about preparing three site plans and it was only during cross examination by defence that IO admitted his signature on these three site plans. Apart from aforesaid steps, nothing more was done to investigate into other six complaints. IO even did not confirm as to when did these six incidents had actually taken place. It was well known to IO that none of these six complainants had seen their respective incident. Thus, they mentioned the date of incident in their respective complaints, only on the basis of some other source. IO did not bother to find out source of their information or any witness to such incidents, if taken place as reported by these six complainants. No photographs were taken or obtained in respect of property of Ashma, Gulab Singh and Sahab Jadi, which was otherwise being done in routine manner in such cases. Thus, it is

well apparent that IO literally shrugged off his duty to properly investigate all these complaints and to submit his report based on complete investigation. That is the reason that in the charges exact time of such incidents were not mentioned. There is no concrete evidence on the record of this case, except testimonies of these complainants, to establish the alleged incidents and reasons thereof. Giving any finding qua these six complaints in this case, on the basis of illegal and unprofessional conduct of IO to simply club them in this case without complete and proper investigation, will be injustice with these six complainants. All of them were entitled for a fair and proper investigation into their complaints, which was not done. Hence, I am not returning any finding qua above-mentioned additional six complaints in this case.

IDENTIFICATION OF ACCUSED

24. As far as involvement of accused in the assault upon PW14 is concerned, prosecution came up with two videos only, to establish this allegation. Even out of these two videos i.e. Ex.PW16/V-1 and Ex.PW16/V-2, accused was identified in one video only. Said video is Ex.PW16/V-1 and its total duration is 7 seconds. Defence also produced a video during cross examination of IO i.e. D-1. IO was confronted with this video and IO on seeing that video, deposed that same was bigger version of the video filed by him i.e. Ex.PW16/V-1. D-1 has duration of 12 seconds and same victim (PW14) and accused are appearing therein. IO denied the suggestion of defence that D-1 was given to accused by IO himself, in order to seek information about assailants seen in the video. It is worth to mention here that

in the video Ex.PW16/V-1, accused is not seen assaulting the victim and his close up is there for very short time, which was used for face recognition examination. At the same time, face of no other person is visible in Ex.PW16/V-1.

25. Ld. prosecutor argued that since only accused could be identified in that video therefore, only he was chargesheeted. But, video D-1 shows further part of video Ex.PW16/V-1 for another 5 seconds. In this video accused is seen stopping the others from assaulting the victim. Ld. prosecutor took an objection that this video was not forensically examined, hence cannot be looked into. However, that objection cannot be a reason not to compare this video with some photographs proved by prosecution itself as Ex.PW16/P-1 to P-13.
26. According to testimony of Sameer/PW16 and IO, PW16 had given 18 photographs to IO. PW16 deposed that some of these photographs were screen shots taken from the video given to police i.e. IO. Ex.PW16/P-1 to P-13 are those screen shots. The photographs Ex.PW16/P-5 to P-8 and P12 to P-13, could not be screen shots taken from video Ex.PW16/V-1 i.e. the video placed on the record by IO, because such pictures/frames do not appear in that video at all. Rather, these frames appear in video D-1 only, during further part of video in next 5 seconds. This goes on to show that PW16 and IO did have video D-1 with them. IO did not use that longer video, rather he cut short that video for 5 seconds, to omit the portion showing role of accused as stopping others from assaulting the victim. Photograph Ex.PW16/P-7 and P-8 showed the persons, who were part of assaulting group. But,

IO instead of tracing and prosecuting those actual culprits, framed accused herein for assault on the victim. The above-mentioned suggestion of defence as given to IO, thus, appears to be a possible scenario.

27. IO probably omitted to be conscious of aforesaid screen shots being part of the longer version of video, before placing the smaller version of the same on the record. IO deposed that he did not even try to find out the person, who had posted/forwarded this video on WhatsApp group. He did not try to find source of this video at all. Thus, it remains without any doubt that IO did not investigate this case properly and accused herein was falsely implicated in this case on the basis of video Ex.PW16/V-1. As already observed herein above, apart from this video, prosecution did not come up with any other evidence against accused.

CONCLUSION & DECISION

28. In view of my foregoing discussions, observations and findings, accused Sandeep Bhati is acquitted of all the charges levelled against him in this case.
29. Before parting with this judgment, in view of peculiar observations made in respect of conduct of IO, regarding not properly investigating this case, clubbing six complaints in this chargesheet without actually investigating those incidents completely, and implicating accused on the basis of manipulated piece of video, I deem it fit to refer this matter to Id. Commissioner of Police, to make assessment of the conduct of IO, in the background of observations made herein above, and to take suitable steps. At the same time, it goes without saying that

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task of proper and complete investigation into aforesaid six complaints, is to be completed. Hence, same must be done by registering separate cases on the basis of those complaints and final report of investigation should be filed before the court accordingly.

Announced in the open court (PULASTYA PRAMACHALA)
today on 08.01.2025 ASJ-03 (North- East)
(This order contains 34 pages) Karkardooma Courts/Delhi