

**IN THE COURT OF SHRI RAVINDRA KUMAR PANDEY, ACMM-01,
ROUSE AVENUE DISTRICT COURTS, NEW DELHI**

**Criminal Case No. 30/2019
CNR No. DLCT12-0002092019
FIR No. 70/2016
PS Tilak Marg
State Vs. Om Prakash Sharma & Ors.**

26.10.2021

ID No.	: 30/2019
CNR No.	DLCT12-0002092019
Date of commission of offence	: 15.02.2016
Date of institution of the case	: 19.07.2016
Name of the complainant/Victim	: Sh. Ameeque Jamai S/o Sh. Laeeque Ahmad Khan R/o:- H.No. 15, Inderjeet Gupta Marg, ITO, Delhi.
Name of accused persons and addresses	: 1. Om Prakash Sharma S/o Sh Shiv Lal Sharma R/o:- H.No. 25, Defence Enclave, Vikas Marg, Delhi-110092 2. Tarvinder Singh Marwah S/o Sardar Lal Singh R/o:- H-12, Jungpura Extension, New Delhi.
Offence complained of	: U/s 323/341/506-II/34 IPC
Plea of the accused persons	: Pleaded not guilty
Final order	: Accused Om Prakash Sharma and accused Tarvinder Singh Marwah are acquitted.
Date of judgment	: 26.10.2021

JUDGMENT

1. The case of the prosecution in brief is that on 15.02.2016 at about 3.30 pm in front of Gate No. 2, Patiala House Court Complex, New Delhi, accused Om Prakash Sharma and accused Tarvinder Singh Marwah alongwith their unknown associates caused simple hurt to the complainant Ameeque Jamai and while causing the simple hurt they wrongfully restrained the complainant. It is further case of prosecution that accused Om Prakash Sharma criminally intimidated to the complainant while threatening to kill him.

2. After investigation, charge-sheet was filed regarding commission of offence punishable U/s 323/341/506/34 IPC against accused Om Prakash Sharma.

3. Vide order dated 12.02.2020, accused Om Prakash Sharma was charged for offence punishable U/s 323/341/506(II)/34 IPC.

4. Vide order dated 20.10.2020, witness PW1 was examined and cross examined and on 27.10.2020, witness PW2 and witness PW3 Ameeque Jamai/complainant was also examined.

5. Vide order dated 28.10.2020, application U/s 319 Cr.PC was moved on behalf of the State to summon the accused Tarvinder Singh Marwah as additional accused to face the trial. The application was allowed and disposed off and accused Tarvinder Singh Marwah was summoned as co accused as per

provision U/s 319 Cr.PC.

6. Vide order dated 15.01.2021, accused Tarvinder Singh Marwah was separately charged for commission of offence punishable U/s 341/323/34 IPC to which he pleaded not guilty and claim for trial.

7. The prosecution has examined 19 witnesses to prove its case against both the accused persons.

8. PW-1 HC Samey Singh has produced the original Register No. 19 regarding seizure of DVD and Certificate U/s 65-B of the Indian Evidence Act and deposed that the same was mentioned at serial no. 2416 vide dated 26.02.2016 Ex. PW1/A.

During cross examination of the witness on behalf of the accused Om Prakash Sharma, witness replied that he had no personal knowledge about the present case and there is no other entry in the above mentioned Register pertaining to the present case.

During cross examination on behalf of the accused Tarvinder Singh Marwah, nothing was asked.

9. PW-2 Ms. Prachi Yadav Principal Correspondent of Nav Bharat Times deposed that she was working in Nav Bharat Times Newspaper since June 2013 and she identified the newspaper Nav Bharat Times dated 16.02.2016 Ex. PW2/A in the Court.

During cross examination on behalf of the accused Om Prakash Sharma nothing was asked.

During cross examination on behalf of the accused Tarvinder Singh Marwah, witness replied that she has not brought any authorisation letter on behalf of the Nav Bharat Times for appearing as a witness on behalf of the Nav Bharat Times.

10. PW3 Sh Ameeque Jamai/complainant (examination dated 27.10.2020) deposed that on 15.02.2016 at about 12.00 noon to 3.00 pm, he was present at Patiala House Court as JNU Students Union President Mr. Kanhiya Kumar was to be produced in the Court. He further deposed that he was a Member of Communist Party of India at that time and was holding the post of General Secretary Minority Cell Delhi. PW3 further deposed that he alongwith one Professor Asha Kidwai, Vishwajeet Kumar and Binay Biswam were present in District Court premises and outside Court Room. He further deposed that a group of lawyers wearing black and white clothes started manhandling Professor Asha Kidwai and other journalists and it lead to beating of persons and they were chanting slogans such as *Bharat Mata Ki Jai and Bhartiya Janta Party Jindabad*. He further deposed that he felt bad while watching the incident and he rushed to Gate No. 2 to meet senior police officers who were present there, however, police officials did not responded. PW3 further deposed that live media coverage was going on there and some of media persons came to the witness for news bytes, so he informed

regarding the incident which took place inside the Court premises. PW3 deposed that accused Om Prakash Sharma alongwith Mr. Marwah of BJP accompanied by the mob attacked on him when he was giving news bytes to the media and when PW3 tried to escape from the spot, the mob followed him and someone from the mob pushed him down on the road. PW3 deposed that accused Om Prakash Sharma was leading the mob and he started giving fist blows and kicks on his head, back, face and chest. PW3 deposed that accused Om Prakash Sharma threatened the witness that he was standing with the *justice for Rohit Vamula campaign*. PW3 deposed that he escaped from the clutches of the accused by the cop and was put in the gypsy and was taken for medical examination. PW3 deposed that he lodged complaint Ex. PW3/A to the police in his own handwriting. In reply to the leading question put on behalf of the State, witness PW3 stated that he had mentioned the name of accused Tarvinder Singh Marwah in his complaint who was the then MLA from Shahdara and who was the person second in number and leading the mob and beaten him. Witness further replied and identified the accused O.P Sharma at point B and accused Tarvinder Singh Marwah at point C in the newspaper Ex. PW3/B and Ex. PW3/C.

During cross examination on behalf of the accused Om Prakash Sharma, witness replied that his statement was recorded in Police Station Tilak Marg at around 7.30 pm and he read the complaint before signing it. Witness further replied that he was alone when he filed the complaint. Witness admitted that he had not mentioned the names of persons who accompanied him and visited victim to Patiala House Court in his complaint given to the police. Witness further admitted that he had not mentioned

the fact of beating of professor Asha Kidwai in his complaint given to the police. Witness also admitted that he had not mentioned the fact of chanting slogans by the crowd in his complaint given to the police. Witness also admitted that he had not mentioned the fact of beating before live media coverage in his complaint given to the police. Witness admitted after examining his complaint Ex. PW3/A that it was not mentioned in his complaint given to the police that accused Om Prakash Sharma was leading the mob and started beating to the witness. Witness voluntarily replied and explained that he was not in the state of mind to mention all the facts in his complaint as he was thrashed brutally by the mob. Witness admitted that he had not mentioned the fact of beating given by accused Om Prakash Sharma in his complaint Ex. PW3/A given to the police and mentioned the name of Mr. Tarvinder Singh Marwah as the person who beaten him. Witness admitted that accused Tarvinder Singh Marwah has no concern with Bhartiya Janta Party and he is a Member of Indian National Congress. Witness admitted that he had not mentioned in his complaint given to the police about the fact of giving fist blows, kick beatings by the accused Om Prakash Sharma to him. Witness further admitted that he had not stated the fact of threat given by the accused Om Prakash Sharma by seeking weapon from the crowd and killing the witness on the spot in the complaint given to the police Ex. PW3/A. Witness replied that he remained in Delhi till the year 2017 after the incident and he never approached to the higher police officials to record his statement regarding the incident in question from February 2016 till 2017. Witness admitted that he had not mentioned the name of accused Om Prakash Sharma as a

assaulter to the Doctor who medically examined him. Witness admitted that he knew the accused Om Prakash Sharma since the year 2013-2014. Witness replied that he left the police station after two hours of giving complaint to the police and during that period none of the professor came to the police station neither any supplementary statement of the complainant was recorded by police on that day. Witness admitted that he left CPI and joined the other political party. Witness denied the suggestion that he deposed falsely the name of accused Om Prakash Sharma as a assaulter as accused Om Prakash Sharma is MLA of BJP. Witness denied the suggestion that accused Om Prakash Sharma did not caused any injury to him nor he threatened him in any manner. Witness denied the suggestion that accused Om Prakash Sharma has not wrongfully restrained him. Witness denied the suggestion that on account of political rivalry witness deposed falsely.

During examination in chief of the witness, PW3 after summoning of the accused Tarvinder Singh Marwah U/s 319 Cr.PC, witness PW3/complainant deposed that on 15.02.2016 at about 12.00 noon to 2.00 pm, he was present at Patiala House Court as Kanhiya Kumar who was the then President of JNU Student Union was to be produced by police in the Court. He further deposed that he was present there alongwith Professor Asha Kidwai, Bishwajeet Kumar and Binay Biswal. He deposed that a mob of few persons who were wearing black coats and who were chanting the slogans of Bharat Mata Ki Jai and Bhartiya Janta Party Jindabad and were abusing in filthy language to the Communist Ideology and JNU and were trying to provoke the witness and his associates. Witness deposed that there were some journalists from media specifically women who

were being physically attacked by above said mob and security personnels who were present nearby the spot were not doing anything. He deposed that professor Aisha Kidwai was also being abused in filthy language by the mob. Witness further deposed that he moved towards Gate No. 2 of Patiala House Court Complex where various TV journalists were covering live telecast of the news regarding production of Kanhiya Kumar and met them and informed about the said incident. Witness deposed that in the meantime accused Om Prakash Sharma alongwith his 10 to 12 associates came towards him and after looking to the Om Prakash Sharma alongwith his associates, witness got frightened. Witness further deposed that due to unrest situation, he became hopeless and he tried to move from the spot to escape from the situation and he immediately ran towards the road outside Patiala House Court Complex. Witness deposed that associates of Om Prakash Sharma alongwith Om Prakash Sharma chased him on the road and accused Om Prakash Sharma alongwith his associates held him and throw him on the road. He deposed that accused Om Prakash Sharma said “ *Rohit Vaimula Ke Liye Ladai Lado Gye*”. Witness further deposed that accused Om Prakash Sharma alongwith his associates had given him beatings with fist blows, leg blows and with the shoes on the various body parts including chest, stomach, face, leg, however, witness was conscious but he suffered severe body pain. Witness deposed that accused Om Prakash Sharma had held him with his arm on his neck and one Sardar Ji who was in Saffron Turban alongwith the mob keep him beating mercilessly with the help of legs, fists, slaps and shoes on his body parts. Witness deposed that accused Om Prakash Sharma said that “ *Agar Bandook Hoti*

Toh Goli Maar Deta”.

Witness failed to identify accused Tarvinder Singh Marwah as a Member of the mob who assaulted him and stated that accused Tarvinder Singh Marwah is not the said Sardar Ji who assaulted him on the date of incident.

Witness deposed that one Constable of Delhi Police rescued him from the mob and witness was taken to RML Hospital where he was medically examined. In reply to the Court question, witness stated that he named accused Tarvinder Singh Marwah in his complaint on the basis that he heard the word Marwah in the mob when mob was beating him.

During cross examination as per provision U/s 154 of the Indian Evidence Act on behalf of the State, witness admitted that he gave statement to the police on 15.02.2016 regarding the incident in his own handwriting as Ex. PW3/A. Witness replied that the contents of his complaint is correct, however, he may be incorrect regarding mentioning the name of the accused. Witness further replied that Sardar Ji as mentioned in document Ex. PW3/C is not the same person who is present in the Court as accused Tarvinder Singh Marwah. Witness was asked that in his statement to the police he named one MLA from BJP namely Tarvinder Singh Marwah had chased him at Gate No. 2 of Patiala House Court and he had physically assaulted the witness by restraining him alongwith co accused Om Prakash Sharma and had gave him fist and leg blows due to which witness fell down on the ground to which witness replied that he had only heard the name of accused Tarvinder Singh Marwah in the mob and the Sardar Ji who had beaten him is not the accused Tarvinder Singh

Marwah present in the Court. Witness did not reply the role of accused Om Prakash Sharma in the question put in cross examination on behalf of the State regarding the beatings given by him as mentioned in the complaint and statement given to the police. In reply to the Court question regarding any enquiry or investigation qua the verification of identity of the accused persons from the witness, witness replied that he was never made the part of investigation neither he was provided the copy of complaint, acknowledgment or copy of FIR and he came into the knowledge regarding the pendency of the case in the year 2019. Witness stated that police had not investigated the case fairly. Witness denied the suggestion that he deliberately not identified accused Tarvinder Singh Marwah in order to protect him from legal consequences. Witness denied that he had seen the accused Tarvinder Singh Marwah on the date of incident and due to the same reason, he named him in his complaint Ex. PW3/A and deposed incorrectly in the Court in order to protect him from legal consequences. Witness denied the suggestion that he deposed falsely regarding the identity of the accused persons.

During cross examination on behalf of the accused Tarvinder Singh Marwah, witness replied that accused Tarvinder Singh Marwah is not known to him neither he is aware that accused Tarvinder Singh Marwah is MLA of Congress Party.

11. Witness PW4 SI Ranjit Singh deposed that on 15.02.2016, he was posted at PS Tilak Marg as SI and his duty hours were from 4.00 pm to 12.00 midnight and he was performing the duty as a Duty Officer and at about 4.50 pm, he received rukka send by IO SI Kishan Lal through Ct. Rajendra for registration of the FIR and he made endorsement on the back side of rukka from

point X to X1 Ex. PW4/A and thereafter, he handed over rukka for registration of the FIR to the Computer Operator. PW2 deposed that on the basis of contents of rukka, FIR was registered and copy of the FIR and rukka were handed over to Ct. Rajendra to further hand over to IO SI Kishan Lal. PW4 produced the FIR Book No. 51 to 100/16 of PS Tilak Marg which was containing the FIR No. 70/16 PS Tilak Marg Ex. PW4/B.

During cross examination on behalf of accused Om Prakash Sharma, witness replied that he do not remember whether any written complaint in the present FIR was received by IO before the witness.

During cross examination on behalf of accused Tarvinder Singh Marwah, nothing was asked.

12. PW5 SI Sanjeev Kumar deposed that on 15.02.2016, he was posted at PS Tilak Marg as SI and on that day he was assigned the duty at Patiala House Court Complex at Gate No. 2. He deposed that he saw a mob of 10 to 20 people which was beating/assaulting a man who was lying on the ground. He deposed that he immediately entered into the mob and rescue the victim from the clutches of the mob and put him in the PCR Van which was standing at Gate No. 2 of Patiala House Court Complex. He further deposed that he left the victim in PCR Van and returned to the spot for further duties. Witness deposed that he noticed one of the assailant was wearing a coat but he could not see his face or face of any other assailants because he was more concern to rescue the victim. He deposed that he heard that mob was uttering the name of one Om Prakash Sharma as one of the assailant. PW5 deposed that IO SI Kishan Lal came at the

spot and prepared site plan Ex PW5/A at the instance of witness PW5. PW5 deposed that IO recorded his statement U/s 161 Cr.PC at the spot.

During cross examination on behalf of the accused Om Prakash Sharma, witness replied that IO recorded his statement at about 6.00 pm and at that time IO was accompanied by Ct. Rajendra and statement of witness was recorded at Gate No. 2 of Patiala House Court. Witness further replied that at that time no other police officer except the above mentioned officer was present. Witness replied that distance between the spot and police station Tilak Marg is about 500 km. Witness admitted that there were some Advocates present at the spot. Witness replied that he cannot tell whether any political leader was present at the spot and no one had informed him the name of assailant as accused Om Prakash Sharma. Witness replied that the public persons present at the spot were talking about the name of accused Om Prakash Sharma and due to the same reason he came to know the name of accused Om Prakash Sharma. Witness denied the suggestion that he came to know the name of the victim at the time of incident contrary to his statement recorded U/s 161 Cr.PC by the IO Mark 5/A from point A to A1 where the name of complainant was mentioned as Ameeque Jamai. Witness replied that he had not made any call at 100 number regarding incident from 3.30 pm to 5.30 pm. Witness stated that he only put the victim in the PCR Van and he cannot say whether any other person or accused Om Prakash Sharma was also put in the PCR. Witness replied that he had not visited the hospital alongwith victim. Witness admitted that his statement Mark 5/A was recorded by the IO. Witness denied the suggestion that he

deposed falsely.

During cross examination by accused Tarvinder Singh Marwah, nothing was asked.

13. Witness PW6 Raj Kumar Medical Record Clerk Dr. RML Hospital New Delhi appeared and produced the record of MLC Register Serial No. 0033551 to 0033600 from 15.02.2016 to 18.02.2016. He deposed that as per record of MLC No. E-32676-16 Ex. PW6/A, one patient namely Ameeque Jamai was examined on 15.02.2016 at about 6.45 pm.

During cross examination on behalf of accused Om Prakash Sharma witness admitted the record of MLC No. E—32585/16 dated 15.02.2016 of about 4.30 pm Ex. PW6/D1 of accused Om Prakash Sharma and stated that same is the part of the record of the hospital.

During cross examination on behalf of the accused Tarvinder Singh Marwah nothing was asked.

14. Witness PW7 Medical Record Clerk Dr. RML Hospital appeared on the basis of summons of the Court and produced the record of MLC No. E-32676/16 dated 15.02.2016 Ex PW6/A. PW7 deposed that he worked as Medical Record Clerk in Dr. RML Hospital since 1988 and the said MLC was prepared by Dr. Chirag Jaiswal who was the then MS (Ortho) Senior Resident and one Dr. Anurag Mishra, CMO Resident PG of Department of General Surgery of the said Hospital. Witness deposed that he identified the handwriting and signature of both the doctors namely Dr. Chirag Jaiswal and Dr. Anurag Mishra as he had seen their handwriting and signature on several occasions while signing various documents like MLCs during their tenure in the

hospital. Witness identified the signature of Dr. Chirag Jaiswal at point A and signature of Dr. Anurag Mishra at point B in MLC Ex. PW6/A.

During cross examination on behalf of accused Om Prakash Sharma witness admitted that the MLC was not prepared in his presence and he had no personal knowledge about the present case.

During cross examination on behalf of accused Tarvinder Singh Marwah nothing was asked.

15. Witness PW8 Dharambir Prajapati Assistant Legal ABP News deposed that during investigation of the present case, one notice was served upon the ABP news which had covered the incident dated 14.02.2016 by the then IO. Witness deposed that in reply to the said notice, two DVDs and Certificate U/s 65-B of The Indian Evidence Act was handed over to the IO by the witness at PS Vasant Kunj. Witness identified the Certificate U/s 65-B as Ex. PW8/A bearing signature of one Vikram Paul who was the then Assistant Manager (Legal). Witness deposed that IO prepared seizure memo of the DVDs as Ex. PW1/A. Witness also identified the seized DVDs as Ex. PW8/B and Ex. PW8/C.

During cross examination on behalf of accused Om Prakash Sharma, witness replied that his office had received notice from the IO of PS Vasant Kunj on which he was appointed and was sent to the PS Vasant Kunj to hand over the above said DVDs. Witness further replied that he had not visited to any other police station vis-a-vis the present case. Witness further replied that he do not remember the details of police official whom he met at the police station. Witness further replied that he was not

aware about the contents of DVDs neither he was aware about the contents of Certificate.

During cross examination on behalf of accused Tarvinder Singh Marwah nothing was asked.

16. Witness PW9 Deepak Shukla deposed that he was employee of Times Now News Channel and was working as Admn Executive from 2015 to June 2018. He deposed that he was deputed to hand over a big envelope on which Times Now was written by legal team of the Times Now news to hand over to one Police Station. Witness identified his signature on the seizure memo Ex. PW9/A.

During cross examination on behalf of the State after seeking permission from the Court, in reply to the question put on behalf of the State, witness stated that he do not remember the police station to which he had visited to hand over the CD and he cannot say it was police station Tilak Marg. Witness replied that he was asked by IO to give receiving on Ex. PW9/A. Witness further replied that he had not read Ex. PW9/A and he handed over the CDs to him. Witness denied the suggestion that he had given the envelope which was smaller in size. Witness denied that he had handed over the envelope Mark PW9/B and PW9/C to the IO of PS Tilak Marg and stated that those envelopes were big in size. Witness denied the suggestion that he had handed over the envelope small Mark PW9/B and Mark PW9/C to the IO which were handed over to him from the said department. Witness denied the suggestion that he deposed falsely.

During cross examination on behalf of accused Om Prakash Sharma nothing was asked.

During cross examination on behalf of accused

Tarvinder Singh Marwah nothing was asked.

17. Witness PW10 Dr. Chirag Jaiswal deposed that he worked in Dr. RML Hospital from 2010 to 2016 and on 15.02.2016 at about 6.45 pm he was working as Senior Resident and on that day MLC No. E/32676/16 Ex. PW6/A of the patient Ameeque Jamai was prepared and patient was referred to the witness qua medical opinion and he examined the patient and observed the opinion from point X to X1 on the basis of x-ray report and injury was simple in nature.

During cross examination on behalf of accused Om Prakash Sharma, witness replied that he had no personal knowledge about the present case. Witness further replied that patient was referred to him as MLC was already prepared and in general practice, they generally used to mention the detail of assailant as known or unknown but generally do not use to mention the name of assailant.

During cross examination on behalf of accused Tarvinder Singh Marwah nothing was asked.

18. Witness PW11 Dr. Anurag Mishra deposed that he was working in Dr. RML Hospital from the year 2015 to 2018 as a Post Graduate and was posted as CMO during the said period. He deposed that on 15.02.2016 at about 6.45 pm, one injured patient namely Ameeque Jamai was brought by one Ct. Babu Lal and he examined the patient and prepared MLC Ex. PW6/A bearing number E-32676/16. Witness deposed that he also prepared case history and noted the same as alleged history of assault on 15.02.2016. Witness deposed that pain killers were given to the patient and patient was referred to Ortho Emergency

Department. Witness identified his signature on the MLC at point B and endorsement of his seal at point F on Ex. PW6/A.

During cross examination on behalf of accused Om Prakash Sharma, witness replied that he had no personal knowledge about the present case and as per the protocol of the hospital, they were not supposed to mention the name of the assailant.

During cross examination on behalf of accused Tarvinder Singh Marwah nothing was asked.

19. Witness PW12 SI Iccha Ram deposed that on 18.02.2016, he was posted at PS Tilak Marg as Sub Inspector and on that day at about 4.00 pm to 4.30 pm, he was present in the Police Station and he was called by IO Inspector Sushil Kumar the then SHO to join the investigation and he joined the investigation. He deposed that accused Om Prakash was present in the Police Station and accused joined the investigation. PW12 deposed that IO made some enquiries from the accused and also shown one video footage. Witness deposed that accused Om Prakash was formally arrested by IO and his personal search was conducted and memos Ex. PW12/A and Ex. PW12/B were prepared.

During cross examination on behalf of accused Om Prakash Sharma, witness replied that the arrest memo and personal search memo were prepared in police station. Witness further replied that he had no personal knowledge about the present case. Witness denied the suggestion that he never joined the investigation at any point of time or he deposed falsely.

During cross examination on behalf of accused Tarvinder Singh Marwah nothing was asked.

20. Witness PW13 Ct. Rajendra deposed that on 15.02.2016, he was posted at PS Tilak Marg as a Constable and was performing the emergency duty from 8.00 am to 8.00 pm and on that day IO SI Kishan Lal received DD No. 44-B and on his instruction, witness joined the investigation and went alongwith the IO to the spot at Gate no. 2, Patiala House Court Complex, New Delhi where they found public persons alongwith some media persons and some worker of CPI and BJP. Witness deposed that workers of CPI and BJP were quarreling among themselves. Witness deposed that after noticing the presence of IO and witness, some of the persons present at the spot left the spot. PW 13 deposed that IO made enquiry from public persons and came to know that one Ameeque Jamai and Om Prakash Sharma were taken to the hospital. Witness further stated that IO came to know that quarrel took place between workers of CPI and BJP. Witness PW13 further deposed that IO made endorsement on DD entry and handed over the same to the witness for getting the FIR registered at PS Tilak Marg. PW13 deposed that he went to the PS Tilak Marg and handed over the DD entry to the Duty Officer for registration of the FIR. PW13 deposed that after sometime, FIR was registered and the Duty Officer handed over him the DD entry alongwith copy of the FIR. PW13 deposed that he immediately took the above said documents and returned to the spot and handed over the same to the IO. PW13 deposed that he alongwith IO went to Dr. RML Hospital where they met with Om Prakash Sharma and Ameeque Jamai who were having injuries received in the present case. PW13 deposed that IO obtained the MLC of Ameeque Jamai and

Ameeque Jamai informed to the IO that he will come to the police station to lodge the complaint. PW13 further deposed that he alongwith IO returned to the spot where they met with SI Sanjeev Kumar. PW13 deposed that SI Sanjeev Kumar shown the spot to the IO and IO prepared site plan Ex. PW5/A at his instance. PW13 deposed that IO recorded the statement of SI Sanjeev Kumar. PW13 deposed that he alongwith IO returned to the Police Station Tilak Marg where injured Ameeque Jamai came and he handed over written complaint to the IO. PW13 deposed that IO recorded the statement of Ameeque Jamai U/s 161 Cr.PC and also recorded the statement of witness PW13.

During cross examination on behalf of accused Om Prakash Sharma witness replied that he alongwith IO SI Kishan Lal reached at the spot at about 4.00 pm and remained there till 5.30 pm. Witness further replied that there were many public persons present at the spot but he cannot tell whether IO had asked any public person about their names who had informed him about the incident. Witness further replied that the name of the injured person was not disclosed in his presence by any public person to the IO at the spot. Witness further replied that he alongwith IO SI Kishan Lal went to the hospital at about 5.45 pm where they met with accused Om Prakash Sharma but he cannot tell whether he was accompanied by some public persons. Witness further replied that IO made enquiry from accused Om Prakash Sharma and recorded his statement. Witness further replied that IO obtained MLC of the complainant and also made enquiry from him but did not recorded his statement in the hospital. Witness further replied that they remained in the hospital for 30 to 45 minutes. Witness further replied that they

returned to the spot where they met with SI Sanjeev Kumar and they stayed at the spot for about 30 minutes. Witness further replied that he do not remember whether complainant was sitting in the police station when they returned from the spot to the police station. Witness replied that IO recorded his statement U/s 161 Cr.PC in his own handwriting. Witness replied that he do not remember whether accused Om Prakash Sharma was the suspect of the incident when they visited to the hospital. Witness again replied that the accused Om Prakash Sharma was suspect of the incident in the hospital itself. Witness failed to reply the basis of his knowledge that the accused Om Prakash Sharma was suspect of the incident. Witness denied the suggestion that he did not join the investigation or visited the spot or the hospital. Witness further denied the suggestion that whole proceedings /investigation was conducted by the IO while sitting in the police station or witness deposed falsely.

During cross examination on behalf of accused Tarvinder Singh Marwah nothing was asked.

21. Witness PW14 Rajiv Aggarwal Senior Executive (Personnel)The Indian Express Newspaper New Delhi deposed and identified the newspaper dated 16.02.2016 Ex. PW3/B as authenticated newspaper after comparing the record of archives of the news agency. Witness deposed that he has no personal knowledge nor he was involved in printing, publishing and circulating the same news item of the date of incident. Witness deposed that he had not witnessed the incident as published in the newspaper.

During cross examination on behalf of accused Om

Prakash Sharma, nothing was asked.

During cross examination on behalf of accused Tarvinder Singh Marwah nothing was asked.

22. Witness PW15 Kapil Yadav Legal Officer, Nai Duniya of Jagran Prakashan deposed and produced the Authority Letter Ex. PW15/A issued from the news agency for appearance in the present case. Witness deposed that the newspaper Ex. PW3/C dated 16.02.2016 is authenticated newspaper after comparing with the record of archives of news agency. Witness deposed that he has no personal knowledge about the news item printed, published and circulated on that day nor he had witnessed the incident published in the newspaper.

During cross examination on behalf of accused Om Prakash Sharma, nothing was asked.

During cross examination on behalf of accused Tarvinder Singh Marwah nothing was asked.

23. Witness PW16 Hem Raj Singh Library Head Zee News deposed that record of the incident were given to the IO of the case in CD on behalf of the news agency. Witness identified the reply Ex PW16/A given by news agency to the IO in response to the notice of the IO. Witness also identified the signature of Narender Kumar who was working in the news agency at that time and who replied the notice of the IO. Witness identified the CD as Ex. PW16/P1 and deposed that Certificate U/s 65-B was issued by the witness. Witness deposed that he has no personal knowledge about the incident in question nor he was involved in any manner regarding the contents of the CD.

During cross examination on behalf of accused Om Prakash Sharma, nothing was asked.

During cross examination on behalf of accused Tarvinder Singh Marwah nothing was asked.

24. Witness PW17 IO/ACP Sushil Kumar deposed that on 15.02.2016, he was posted at PS Tilak Marg and at about 3.45 pm, he received wireless information regarding the injury received by the then MLA Om Prakash Sharma and as per information Om Prakash Sharma was taken to RML Hospital by police officials. He deposed that the said information was marked to SI Kishan Lal who immediately went to the spot outside Gate No. 2, Patiala House Court Complex, New Delhi and SI Kishan Lal made enquiry regarding the incident and he got registered the FIR in the present case. PW17 deposed that he took over the investigation of the present case on 17.02.2016 and send notice U/s 160 Cr.PC to the Om Prakash Sharma to join the investigation and he joined the investigation on 18.02.2016 while visiting to PS Tilak Marg. PW17 deposed that he made enquiries regarding the incident from the Om Prakash Sharma and accused Om Prakash Sharma was arrested. Witness deposed that he made enquiries from Om Prakash Sharma regarding the presence of one Sikh Man who was involved in the offence and was visible in the photograph and video footage recorded by media persons. He deposed that accused Om Prakash Sharma informed him that said Sikh person had only informed him to came from Punjab and he sought some work from Om Prakash Sharma. Witness deposed that Om Prakash Sharma disclosed that he was not aware about the details of said Sikh person. Witness deposed that after

arresting the accused Om Prakash Sharma, he prepared arrest memo Ex. PW12/A and conducted his personal search and prepared memo Ex. PW12/B. Witness deposed that accused was released on bail. PW-17 deposed that he had issued several notices to media houses regarding the recordings and publication of various news articles of the incident of 15.02.2016. PW17 deposed that further investigation was handed over to IO SI Kishan Lal. PW17 deposed that after completion of investigation, final charge sheet was filed by him as SHO PS Tilak Marg on 19.07.2016 and was send to senior authorities. Witness deposed that it was specifically mentioned in the charge sheet that if any whereabouts of the said sikh person involved in the commission of offence be discovered, he will be chargesheeted as per Section 173 (8) Cr.PC. Witness deposed that he was transferred to Security Unit on 12.09.2016.

During cross examination on behalf of the accused Om Prakash Sharma, witness admitted that he had not visited the spot on the date of incident. Witness further replied that on 15.02.2016, he had not met with accused the Om Prakash Sharma at RML Hospital. He further replied that on the basis of MLC of the accused Om Prakash Sharma, no case was registered against any person. Witness admitted that IO SI Kishan Lal had made enquiries from accused Om Prakash Sharma, however, he do not remember the name of person whose statement was recorded by him during investigation. Witness replied that he had prepared arrest memo, personal search memo, bail bond, conviction slip and several notices were issued to various media houses during the course of investigation done by him but the said documents were not prepared in his own handwriting and he do not

remember in whose handwriting those documents were prepared. Witness replied that initially the case was registered U/s 160 IPC and later on during the investigation when it came into the notice that the accused Om Prakash Sharma had assaulted the complainant the legal provision was amended accordingly. Witness replied that he had gone through the contents of FIR and the FIR was registered on the basis of DD entry 44-B dated 15.02.2016. Witness further replied that he had gone through the contents of complaint made by complainant and his statement recorded U/s 161 Cr.PC. Witness admitted after going through the complaint Ex. PW3/A of the complainant that name of the accused Om Prakash Sharma is not mentioned and name of one Tarvinder Singh Marwah, BJP MLA from Shahdara is mentioned in it. Witness replied that he had not verified who was the MLA of BJP from Shahdara Constituency. Witness denied the suggestion that he had not done any investigation in the present case at any point of time or the accused Om Prakash Sharma was falsely implicated in the present case due to political rivalry. Witness denied the suggestion that he deposed falsely.

During cross examination on behalf of accused Tarvinder Singh Marwah, nothing was asked.

25. Witness PW18 SI Kishan Lal deposed that on 15.02.2016, he was posted at PS Tilak Marg as SI and on that day he was on emergency duty from 8.00 am to 8.00 pm and on that day at about 3.45 pm, he was informed by Duty Officer regarding DD No. 44-B dated 15.02.2016 regarding the injuries received by MLA Om Prakash Sharma who was moved to RML Hospital. PW18 deposed that on the said information, he alongwith Ct.

Rajendra went to the spot at Gate No. 2, Patiala House Court Complex and he made enquiries from the persons present at the spot and came to know that quarrel took place between the workers of CPI and BJP and some persons received injuries in the said quarrel. PW18 deposed that he prepared tehrir Ex. PW4/A and handed over the same to Ct. Rajendra for getting the FIR registered. PW18 deposed that after registration of FIR, Ct. Rajendra returned to the spot with copy of FIR and original rukka and handed over the same to the witness. Witness deposed that he started the investigation and he alongwith Ct. Rajendra went to RML Hospital where they obtained the MLC of the Om Prakash Sharma already Ex. PW6/D1. PW18 deposed that he made enquiries from Om Prakash Sharma. PW18 deposed that he obtained the MLC of Ameeque Jamai already Ex. PW6/A and asked him to join the investigation to which he replied that he will come to the police station and give his complaint. PW18 deposed that he alongwith Ct. Rajendra returned to the spot where they met with SI Sanjeev Kumar and witness prepared site plan at the instance of SI Sanjeev Kumar. PW18 deposed that he recorded the statement of SI Sanjeev Kumar and checked the CCTV footage but the place of incident was not covered by the camera installed. PW18 deposed that he alongwith Ct. Rajendra returned to the Police Station and he recorded the statement of Ct. Rajendra. Witness PW18 further deposed that on 16.02.2016, the further investigation of the case was marked to the then SHO Sushil Kumar and witness handed over the entire case file to him. Witness deposed that on 25.02.2016, the investigation of the present case was again marked to him. Witness deposed that notices were already served by Inspector Sushil Kumar to news

agencies like Zee News, Times Now, ABP news regarding the recordings of the incident and after obtaining the reply and CDs, they were seized and memos Ex. PW1/A to Ex. PW9/A were prepared. Witness identified the seized CDs from the judicial record. PW18 further deposed that he obtained some replies from print media regarding the various news articles published in newspapers like Nai Duniya, Nav Bharat Times and Indian Express and witness identified the replies from judicial record as Ex. PW18/C, Ex PW2/A, Ex. PW3/C and Ex. PW3/B respectively. Witness deposed that he tried to search the other accused persons involved in assaulting the Ameeque Jamai but they could not be traced. Witness deposed that after completion of investigation, he prepared chargesheet against accused Om Prakash Sharma and filed the same before the Court.

During cross examination on behalf of accused Om Prakash Sharma, witness replied that he reached the spot after receiving no. 44-B at about 4.00 pm and remained there till 5.30 pm. Witness further replied that he do not remember the names of persons with whom he met at the spot or who informed him about the injured person sent to the hospital or recorded any statement of any public person during that interval of time. Witness further replied that he cannot tell the name of persons who informed him that some quarrel took place between workers of BJP and CPI. Witness replied that he reached to the hospital at about 5.45 pm where he met with accused Om Prakash Sharma and other persons but he do not remember the names of those other persons. Witness replied that he made enquiry from accused Om Prakash Sharma and same was reduced in writing but same was not part of the judicial record. Witness replied that accused Om

Prakash Sharma had also received injuries and MLC was also prepared, however, no FIR was registered on complaint of Om Prakash Sharma regarding injuries received by him and no action was taken. Witness replied that he remained in the hospital till about 6.20 pm and there were public persons present in the hospital. Witness replied that he reached again at the spot at about 6.30 to 6.35 pm and remained there till 7.10 pm and at that time, no public person were present at the spot. Witness replied that he made enquiries from public persons at the spot as well as at the hospital but there was no eye witness of the incident and he did not give any notice to any persons regarding the enquiries conducted by him about the incident. Witness replied that he did not meet with any eye witness of the incident in the capacity of investigating officer of the case. Witness replied that he had recorded statement U/s 161 Cr.PC of two witnesses namely SI Sanjeev Kumar and Ameeque Jamai apart from Ct. Rajendra. Witness replied after going through the complaint Ex. PW3/A of the complainant that complaint was not reduced in writing in his presence and same was pre-prepared by the complainant. Witness further admitted that in the complaint, the name of accused Tarvinder Singh Marwah was mentioned as the person who assaulted the complainant. Witness further replied that the accused Tarvinder Singh Marwah was not identified during the investigation because his name was mentioned in the complaint as belonging to BJP Political Party holding the post of MLA. Witness further replied that he had conducted enquiry regarding who was sitting MLA from Shahdara Constituency, however, he do not remember his name and neither he annexed any document regarding the enquiry conducted by him. Witness further replied

that no judicial TIP was conducted during investigation to identify the correct suspect and voluntarily replied that there was no dispute regarding the identity of the accused Om Prakash Sharma. Witness replied that he cannot tell the documents which were prepared by IO/SHO Sushil Kumar during the investigation conducted by him except the arrest memo and personal search memo. Witness denied the suggestion that accused Om Prakash Sharma was falsely implicated in the present case due to political rivalry. Witness denied the suggestion that he deposed falsely at the instance of complainant.

During cross examination on behalf of accused Tarvinder Singh Marwah, nothing was asked.

26. Witness PW19 Vikram Paul deposed that on 15.02.2016, he was working with ABP news network and was posted in Noida office as Assistant Manager (Legal). Witness identified the signature on Certificate U/s 65-B of the Indian Evidence Act Ex. PW8/A.

During cross examination on behalf of accused Om Prakash Sharma, witness admitted that he had seen the CDs/DVDs Ex. PW8/C before handing over to the IO/concerned authority. Witness further replied and admitted after going through the contents of the document written by him/replied by him that there was no video footage relating to the 15.02.2016 of Gate No. 2 of Patiala House Court and footage was actually relating to 17.02.2016 of Gate No. 2 of Patiala House Court and that was provided to the IO.

During cross examination on behalf of accused Tarvinder Singh Marwah nothing was asked.

27. After prosecution evidence, statement of both the accused persons were recorded U/s 313 read with Section 281 Cr.PC and all the incriminating evidence available on record were put up and explained to both the accused persons. Both the accused persons opted not to lead any defence evidence.

28. Final arguments advanced at length on behalf of the State and on behalf of the accused Om Prakash Sharma and accused Tarvinder Singh Marwah.

29. It is submitted on behalf of the State by Ld. APP for the State that prosecution has proved its case beyond reasonable doubt against both the accused persons and both the accused persons are liable to be convicted regarding the charges against them. It is further submitted that complainant duly identified the accused Om Prakash Sharma during his examination in the Court and also narrated the sequence of the incident. It is further submitted that the identity of the accused Tarvinder Singh Marwah is also proved by prosecution through the copy of newspaper collected during the investigation. It is further submitted that accused Om Prakash Sharma is liable to be convicted for the offence punishable U/s 323/341/506 (II)/34 IPC and accused Tarvinder Singh Marwah is liable to be convicted for offence punishable U/s 341/323/34 IPC.

30. It is submitted on behalf of the accused Tarvinder Singh Marwah that accused Tarvinder Singh Marwah was summoned U/s 319 Cr.PC and during the trial complainant specifically denied the presence of accused Tarvinder Singh

Marwah at the place of incident or any role regarding the commission of offence against the complainant so accused Tarvinder Singh Marwah is liable to be acquitted from the present case.

31. It is submitted on behalf of the accused Om Prakash Sharma that case of prosecution is not proved as no incriminating evidence or corroborative evidence came on record against the accused Om Prakash Sharma regarding his presence at the spot or alleged injuries caused by him or alleged wrongful restrain of the complainant by him or alleged threatening to kill the complainant by him. It is further submitted that no judicial TIP was conducted to rule out the possibility of dispute of identity of the accused person and complainant had not mention the name of accused Om Prakash Sharma in his complaint regarding the person who wrongfully restrained him or caused him injuries on his body. It is further submitted that no proper reason was assigned regarding not recording the statement of complainant in the hospital and when complainant allegedly later on gave his complaint to the police, he moved complaint with after thought and with motive to falsely implicate the accused Om Prakash Sharma. It is further submitted that complainant made material improvement from his complaint to the statement recorded in the Court when he was firstly examined as PW3 on 27.10.2020 and secondly when he again examined after summoning of accused Tarvinder Singh Marwah as a co accused as PW3 on 03.02.2021. It is further submitted that complainant himself admitted in his cross examination that he knew the accused Om Prakash Sharma since the year 2013-2014 i.e. much prior from the date of alleged

incident. It is further submitted that during his examination in the Court, PW3 disclosed regarding the presence of other alleged eye witnesses, however, the fact of presence of other alleged eye witnesses was not disclosed in his complaint Ex. PW3/A and no reason was assigned regarding the same neither the same was disclosed or informed in any manner to the police. It is further submitted that except the complainant no other eye witness of the alleged incident was associated or joined for investigation. It is further submitted that in the MLC of the complainant, it was specifically mentioned by the doctor that there was no fresh external injury or spine tenderness. It is further submitted that on the MLC, doctor also noted down that complainant was physically assaulted as informed by him during the protest, however, no explanation was offered on behalf of the Prosecution regarding not mentioning the name of accused Om Prakash Sharma as an attacker when he was already known to the complainant since the year 2013-2014 as disclosed by him during his cross examination. It is further submitted that averment about the nature of injuries allegedly received in the incident and medical record/MLC prepared by doctor are contradictory as during the examination of the complainant, doctor noted that there was no fresh external injury or spine tenderness and alleged medicines were prescribed to the complainant on the oral information given by the complainant to the doctor. It is further submitted that in view of the material improvement and contradiction in the statement of complainant recorded during his examination in the Court from the statement given to the police in his own handwriting regarding the identity of the accused Om Prakash Sharma, his role has mentioned in para 2 of the

complaint of the complainant and dispute regarding the identity of the accused Om Prakash Sharma and his presence during the alleged incident against the complainant, no case is made out or no charges proved against accused Om Prakash Sharma, hence, accused Om Prakash Sharma is entitled for Hon'ble acquittal from the charges as framed against him.

32. Heard the final arguments as advanced on behalf of the State by Ld. APP for the State and also heard the detailed arguments on behalf of the accused Tarvinder Singh Marwah and accused Om Prakash Sharma.

33. Perused the record of case file and case law as relied upon by both the parties.

34. As per case of prosecution, that on 15.02.2016 at about 3.30 pm in front of Gate No. 2, Patiala House Court Complex, New Delhi, the accused Om Prakash Sharma and the accused Tarvinder Singh Marwah alongwith their unknown associates caused simple hurt to the complainant Ameeque Jamai and while causing the simple hurt they wrongfully restrained the complainant. It is further case of prosecution that the accused Om Prakash Sharma criminally intimidated to the complainant while threatening to kill him.

35. In order to prove the charges for offence punishable U/s 341/323/34 IPC against the accused Tarvinder Singh Marwah, prosecution has relied upon the testimony of witness

PW3 complainant who was again examined on 03.02.2021 after summoning of accused U/s 319 Cr.PC. During his examination as PW3, complainant specifically denied about the presence of accused Tarvinder Singh Marwah at the place of incident and had not assigned any role against him in the commission of offence punishable U/s 341/323/34 IPC. No other incriminating evidence collected by the police during the investigation qua the accused Tarvinder Singh Marwah regarding his presence and role in the commission of offence and he was not chargesheeted initially in the Final Report/Chargesheet filed U/s 173 Cr.PC. The Court is of the considered view that accused Tarvinder Singh Marwah is liable to be acquitted from the present case for want of any incriminating evidence against him, hence accused Tarvinder Singh Marwah is acquitted from the present case and from the charges punishable U/s 341/323/34 IPC.

36. In order to prove allegation against the accused Om Prakash Sharma regarding the charges punishable U/s 341/323/506(II)/34 IPC, the prosecution has relied upon the testimony of complainant PW3 Ameeque Jamai apart from the other corroborative evidence. *The complainant in his complaint Ex. PW3/A dated 15.02.2016 in first para had narrated the incident that on 15.02.2016 when Kanhiya Kumar of JNU was to be produced in Patiala House Court, the complainant being active member of CPI was present in the Court and about 2.00 pm firstly in the Court Complex a group of lawyers while taking the name of JNU and Communist started beating and beaten up brutally to some journalists while raising slogan of Bharat Mata Ki Jai. When complainant came out then they informed to Delhi*

Police and media and when media started recording his statement then he identified the BJP MLA from Shahdara leader namely Tarvinder Singh Marwah who while chasing him to the Patiala House Court Gate No. 2 and attacked him and gave leg and fist blow upon him and one police constable rescued the complainant and put him police van and he was taken to the Tuglak Police Station from where he was taken for medical examination. Complainant further disclosed in the second para that BJP MLA Om Prakash in the presence of media threatened him to kill him. Complainant requested to the SHO to provide security to him and to register FIR against Om Prakash MLA.

37. During his examination in the Court on 27.10.2020, complainant PW3 disclosed regarding the incident as “ *On 15.02.2016 at about 12.00 noon to 3.00 pm, he was present at Patiala House Court as JNU Students Union President Mr. Kanhiya Kumar was to be produced in the Court. He further deposed that he was a Member of Communist Party of India at that time and was holding the post of General Secretary Minority Cell Delhi. PW3 further deposed that he alongwith one Professor Asha Kidwai, Vishwajeet Kumar and Binay Biswam were present in District Court premises and outside Court Room. He further deposed that a group of lawyers wearing black and white clothes started manhandling Professor Asha Kidwai and other journalists and it lead to beating of persons and they were chanting slogans such as Bharat Mata Ki Jai and Bhartiya Janta Party Jindabad. He further deposed that he felt bad while watching the incident and he rushed to Gate No. 2 to meet senior police officers who were present there, however, police*

officials did not responded. PW3 further deposed that live media coverage was going on there and some of media persons came to the witness for news bytes, so he informed regarding the incident which took place inside the Court premises. PW3 deposed that accused Om Prakash Sharma alongwith Mr. Marwah of BJP accompanied by the mob attacked on him when he was giving news bytes to the media and when PW3 tried to escape from the spot, the mob followed him and someone from the mob pushed him down on the road. PW3 deposed that accused Om Prakash Sharma was leading the mob and he started giving fist blows and kicks on his head, back, face and chest. PW3 deposed that accused Om Prakash Sharma threatened the witness that he was standing with the “justice for Rohit Vamula campaign”. PW3 deposed that he escaped from the clutches of the accused by the cop and was put in the gypsy and was taken for medical examination. PW3 deposed that he lodged complaint Ex. PW3/A to the police in his own handwriting. In reply to the leading question put on behalf of the State, witness PW3 stated that he had mentioned the name of accused Tarvinder Singh Marwah in his complaint who was the then MLA from Shahdara and who was the person second in number and leading the mob and beaten him. Witness further replied and identified the accused O.P Sharma at point B and accused Tarvinder Singh Marwah at point C in the newspaper Ex. PW3/B and Ex. PW3/C”.

During examination the complainant/PW3 after summoning of the accused Tarvinder Singh Marwah U/s 319 Cr.PC, he deposed that “ On 15.02.2016 at about 12.00 noon to 2.00 pm, he was present at Patiala House Court as Kanhiya Kumar who was the then President of JNU Student Union was to

be produced by police in the Court. He further deposed that he was present there alongwith Professor Asha Kidwai, Bishwajeet Kumar and Binay Biswal. He deposed that a mob of few persons who were wearing black coats and who were chanting the slogans of Bharat Mata Ki Jai and Bhartiya Janta Party Jindabad and were abusing in filthy language to the Communist Ideology and JNU and were trying to provoke the witness and his associates. Witness deposed that there were some journalists from media specifically women who were being physically attacked by above said mob and security personnels who were present nearby the spot were not doing anything. He deposed that professor Aisha Kidwai was also being abused in filthy language by the mob. Witness further deposed that he moved towards Gate No. 2 of Patiala House Court Complex where various TV journalists were covering live telecast of the news regarding production of Kanhiya Kumar and met them and informed about the said incident. Witness deposed that in the meantime accused Om Prakash Sharma alongwith his 10 to 12 associates came towards him and after looking to the Om Prakash Sharma alongwith his associates, witness got frightened. Witness further deposed that due to unrest situation, he became hopeless and he tried to move from the spot to escape from the situation and he immediately ran towards the road outside Patiala House Court Complex. Witness deposed that associates of Om Prakash Sharma alongwith Om Prakash Sharma chased him on the road and accused Om Prakash Sharma alongwith his associates held him and throw him on the road. He deposed that the accused Om Prakash Sharma said “**Rohit Vaimula Ke Liye Ladai Lado Gye**”. Witness further

deposed that accused Om Prakash Sharma alongwith his associates had given him beatings with fist blows, leg blows and with the shoes on the various body parts of the witness including chest, stomach, face, leg, however, witness was conscious but he suffered severe body pain. Witness deposed that accused Om Prakash Sharma had held him with his arm on his neck and one Sardar Ji who was in Saffron Turban alongwith the mob keep him beating mercilessly with the help of legs, fists, slaps and shoes on his body parts. Witness deposed that accused Om Prakash Sharma said that “**Agar Bandook Hoti Toh Goli Maar Deta**”.

38. Accused Om Prakash Sharma took the defence that complainant gave false statement in the Court during his examination in the Court regarding identity of the accused, role in the commission of offence, presence of public persons at the spot, injuries received on his body, presence of media persons during the incident and recording of the incident. On perusal of the statement of the complainant given to the police vide complaint Ex. PW3/A, on perusal of statement of the complainant recorded on 27.10.2020 as PW3 and statement recorded on 03.02.2021, it is found that in complaint Ex. PW3/A the complainant had mentioned the name of Tarvinder Singh Marwah as BJP MLA from Shahdara who was leading the mob and beaten up to the complainant and this fact was also admitted by him during the leading question on behalf of the State when his statement was recorded on 27.10.2020. It is further found that when complainant was again examined on 03.02.2021, he failed to identify the accused Tarvinder Singh Marwah in the

Court as the person who was leading the mob and who beaten him. It is further found that in his statement recorded on 03.02.2021, it is stated that accused Om Prakash Sharma said during the incident that “ ***Agar Bandook Hoti Toh Goli Maar Deta***”. However, in his previous statement dated 27.10.2020 complainant had not made any such disclosure when he was examined in the Court as PW3 neither there is any such averment in the complaint Ex. PW3/A. In his statement dated 27.10.2020, complainant averred that accused Om Prakash Sharma was leading the mob and give fist blows and kick him on his various body parts and threatened that he was standing for “ ***Justice for Rohit Vaimula Campaign***” however no such disclosure was made when he gave his complaint Ex. PW3/A to the police in his own handwriting. In his statement dated 27.10.2020, complainant averred that on the date of incident, he was holding the post of General Secretary Minority Cell of Communist Party of India and he was present alongwith Professor Aisha Kidwai, one Biswajeet Kumar and Binay Bishwam in the District Court premises Patiala House Court Complex and a group of lawyers started manhandling Professor Aisha Kidwai and also to some journalists and they also beaten them. However, no such disclosure was made by the complainant when he gave his complaint Ex. PW3/A in his own handwriting on 15.02.2016. During investigation also, he did not inform to the police regarding the presence of Professor Aisha Kidwai, Biswajeet Kumar and Binay Bishwam at the spot. The police had not associated these three persons or any person from media houses/journalists in order to establish that Professor Aisha Kidwai or Biswajeet Kumar and Binay Bishwam were

manhandled or beaten up. It is further noted that no complaint from these peoples or any media personnel lodged with the police regarding any beating given to them or any manhandling done to them. During cross examination of complainant PW3 on behalf of the accused Om Prakash Sharma, complainant/PW3 admitted that he read the complaint before signing the same to it. He also stated that he was alone when he filed the complaint. He also admitted that he had not mention the name of person alongwith whom he visited to Patiala House Court in his complaint Ex. PW3/A. He also admitted that he had not stated anything about the alleged beating of Professor Aisha Kidwai in his complaint to the police. He also admitted that he had not mentioned the raising of slogans by the crowd in his complaint. He also admitted that he had not mentioned the fact of beating before the live media coverage in his complaint. Witness also admitted that he had not specifically mentioned the fact of leading the mob by the accused Om Prakash Sharma in his complaint Ex. PW3/A or any beating given by him. Witness admitted that Tarvinder Singh Marwah had no concern with Bhartiya Janta Party and he is a Member of National Congress. Witness also admitted that he had not mentioned in his complaint Ex. PW3/A given to the police about the fact of giving fist blows, kicks beating by the accused Om Prakash Sharma neither he had stated the fact that accused Om Prakash Sharma gave the threat by seeking weapon from the crowd and killing him on the spot. Witness also admitted that he knew the accused Om Prakash Sharma since the year 2013-2014. Witness admitted that at the time of incident, he was Member of CPI Political Party. During his examination in the Court on 03.02.2021, complainant stated

that he named the accused Tarvinder Singh Marwah in the complaint on the basis that he heard the word Marwah in the mob when the mob was beating him. The accused Om Prakash Sharma was known to the complainant since the year 2013-2014 as admitted by him during his cross examination on 27.10.2020, however, he made contradictory statement, vague statement and made material improvement in all three statements recorded during the investigation and during the trial. During the trial certain footages of the alleged incident were produced, however, admittedly those footages were not the footages of the date of incident or of the incident to establish the presence of the accused Om Prakash Sharma at the time of commission of offence against the complainant. It came on record during the examination of prosecution witnesses that certain CDs/DVDs were seized allegedly pertaining to the evidence regarding the date of incident from the various media houses, however, these seized CDs/DVDs were not duly proved as per law as the person who recorded and covered the material in the CDs/DVDs were not examined as witness or associated in the investigation and no reasonable explanation was offered on behalf of the prosecution. Similarly, the newspapers Ex. PW3/B and Ex. PW3/C were also not proved as the person who photographed the news item qua newspapers Ex. PW3/B and Ex. PW3/C was not examined as witness nor he was associated in the investigation of the case and no reasonable explanation was offered on behalf of the prosecution. No other eye witness of the incident was associated in the investigation or produced in the trial and no valid explanation was offered by the prosecution or by the investigating agency. The complainant is the sole eye witness of

the incident himself made material improvement and contradictory statement from his complaint Ex. PW3/A to the statement recorded as PW3 on 27.10.2020 and statement recorded on 03.02.2021. The accused Om Prakash Sharma and complainant Ameeque Jamai were belonging to different political parties and different ideologies and complainant knew the accused Om Prakash Sharma since the year 2013-2014 much prior to the date of incident, however, complainant did not disclose his name in his initial complaint Ex PW3/A para 1 and role in the commission of offence and when he was called as a witness and was examined on 27.10.2020 and on 03.02.2021, he made material improvement from his initial statement given by him as Ex. PW3/A and also improved his version from the statement recorded on 27.10.2020 to the statement recorded on 03.02.2021. All the other prosecution witnesses were formal in nature and were not the witness to the alleged incident. The Court is of the considered view that it is not proved that accused Om Prakash Sharma was present alongwith the mob which allegedly beaten up the complainant Ameeque Jamai. It is also not proved that accused Om Prakash Sharma had caused any injury of any nature to the complainant Ameeque Jamai. It is also not proved that accused Om Prakash Sharma threatened to kill the complainant. It is also not proved that accused Om Prakash Sharma was the part of the mob which allegedly wrongfully restrained the complainant. In view of the above discussion, accused Om Prakash Sharma S/o Sh. Shiv Lal Sharma is acquitted from the present case and from the charges punishable U/s 323/341/506(II)/34 IPC.

39. Accused Tarvinder Singh Marwah and accused Om

Prakash Sharma are directed to furnish bail bonds/surety bonds for sum of Rs. 10,000/- each in terms of Section 437-A Cr.PC. Bail bonds/surety bonds are furnished, same are accepted.

File be consigned to Record Room after due compliance.

**Announced in the Open Court,
On 26th, October, 2021.**

**(Ravindra Kumar Pandey)
ACMM-01,RADC/New Delhi**