

DLNE01-001571-2021



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

Sessions Case No.	:	203/2021
Under Section	:	143/147/148/427/454/380/435/436 IPC read with Sec. 149 IPC
Police Station	:	Gokalpuri
FIR No.	:	42/2020
CNR No.	:	DLNE01-001571-2021

In the matter of: -

STATE

V E R S U S

SH. ROHIT

S/o. Shri Ram Pratap,
R/o. H.No. C-21, 2nd Floor,
Gokalpuri, Delhi.

.....Accused

Complainants :

1. SH. USMAN ALI

S/o. Sh. Muzzaffar Ali,
R/o. Village Sarafabad,
PS Chandi Nagar,
District Baghpat, U.P.

2. SMT. HASEEN BOBBY

W/o. Sh. Mohd. Karim,
R/o. A-46, 1st & 2nd Floor,
Gokalpuri, Delhi-94.

3. SH. MOHD. JAFFAR

S/o. Sh. Jaan Mohd,
R/o. A-456, Gokalpuri, Delhi-94.

Date of Institution : 01.09.2020
Date of reserving order : 06.07.2022
Date of pronouncement : 12.07.2022
Decision : Acquitted.

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

J U D G M E N T

THE CASE SET UP BY THE PROSECUTION :-

1. Briefly stated, the relevant facts of the case are that on 28.02.2020 complainant Usman Ali, S/o Shri Muzaffar Ali went to police station Gokalpuri and got his statement recorded to the effect that on the night of 24.02.2020, a riotous mob had come to vandalize his shop No.A-21 (chicken dhaba), Gokalpuri, Delhi-94, but police came and they went back. He further stated that on 25.02.2020, at about 01:00-01:30 PM, the said riotous mob consisting of about 150-200 persons after breaking open the shutter of his said chicken dhaba, looted various articles lying therein (which included one gas cylinder and cash amounting to Rs.7,000/-) and thereafter removed some of the articles lying outside the shop and set them on fire. Accordingly, present FIR was registered on 28.02.2020. Thereafter, during investigation in this FIR, on 20.03.2020 a written complaint was received from one Haseen Bobby, W/o Mohd. Khan, wherein she stated that on 25.02.2020, at about 11:30 AM, a riotous mob after breaking open the locks of her house bearing No.A-46 (first and second floors), Gokalpuri, committed vandalism and theft of various articles lying therein (which included 15 tolas gold jewellery items/ornaments, fridge, washing machine, TV, almirah etc.). Her

said complaint was clubbed with the instant case FIR. Furthermore, on the same day, i.e on 20.03.2020, another written complaint was received from one Mohd. Zafar, S/o Shri Jaan Mohammad, regarding putting his shop bearing No.A-456 (meat shop), Gokalpuri on fire by the riotous mob at about 3.00 PM on 25.02.2020. His said complaint was also clubbed with the instant case FIR.

2. After completion of investigation, on 01.09.2020 a chargesheet was filed before Id. CMM (North East), Karkardooma Courts, Delhi, against accused Rohit for offences punishable under Section 147/148/149/188/380/427/436 IPC. On 15.01.2021, cognizance of offences punishable under Section 147/148/149/380/427/436 IPC was taken and accused Rohit was summoned. Vide this order, Id. CMM (North East) declined to take cognizance of offence under Section 188 IPC, for want of complaint under Section 195 Cr.P.C. Thereafter, case was committed to the Sessions Court on 17.03.2021.

CHARGES :-

3. On 23.08.2021, charges were framed against accused Rohit for offences punishable under Section 143/147/148/427/454/380/435/436 IPC read with Sec. 149 IPC, in following terms: -

“That from the late evening of 24.02.2020 till the late afternoon of 25.02.2020, in the area of A-Block, Gokalpuri, Delhi-94, within the jurisdiction of PS Gokalpuri, you alongwith your other associates (unidentified) from a particular community formed an unlawful assembly, the object whereof was to commit theft, vandalism and arson in the houses, shops and other properties of the persons from other community

by the use of force or violence 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 24.02.2020 at about 8.00 PM at shop No.A-21 (chicken dhaba), Gokalpuri, you being member of said unlawful assembly in furtherance of your common object alongwith your other associates (unidentified) committed mischief by vandalizing the said dhaba with the help of lathis/dandas, belonging to complainant Usman Ali, S/o Shri Muzaffar Ali and thereby committed an offence punishable under section 427 IPC read with Section 149 IPC and within my cognizance.

Thirdly, on 25.02.2020 between 1.00 PM to 1.30 PM, you being member of said unlawful assembly in furtherance of your common object alongwith your other associates (unidentified) committed lurking house-trespass by breaking open the shutter of aforesaid chicken dhaba (shop No.A-21, Gokalpuri) to commit offences and committed theft of various articles lying therein (which included gas cylinder and cash of Rs.7,000/- taken from the galla/cash-box) and thereafter also committed mischief by fire or explosive substance by removing the remaining articles lying in the said shop in the open area and setting them on fire and thereby committed offences punishable under Section 454/380/435 IPC read with Section 149 IPC and within my cognizance.

Fourthly, on 25.02.2020 at about 3.00 PM, at house No.A-46 (first and second floors), Gokakpuri, Delhi-94, you being member of said unlawful assembly in furtherance of your common object alongwith your other associates (unidentified) committed lurking house-trespass by breaking open the locks of said house belonging to complainant Haseen Bobby, W/o Mohd. Karim Khan to commit offences and indulged in vandalism and also committed theft of various articles

lying therein (which included 15 tolas gold jewellery items/ornaments, fridge, washing machine, TV, almira etc.) and thereby committed offences punishable under Section 454//427/380 IPC read with Section 149 IPC and within my cognizance.

Fifthly, on 25.02.2020 at or around 3.00 PM at shop No.A-456 (meat shop), Gokalpuri, Delhi-94, you being member of the said unlawful assembly in furtherance of your common object alongwith your other associates (unidentified) committed mischief by fire or explosive substance with the intent to destroy the aforesaid shop, belonging to complainant Mohd. Zafar, S/o Shri Jaan Mohammad and thereby committed an offence punishable under Section 436 IPC read with Section 149 IPC and within my cognizance.”

DESCRIPTION OF PROSECUTION EVIDENCE :-

4. Prosecution examined 15 witnesses in support of its case, as per following descriptions: -

Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
PW1/ Ms. Haseen Bobby	<p>She is one of the three complainants in this case. PW1 narrated the incident dated 25.02.2020.</p> <p>PW1 identified her signature at point A on her complaint dated 11.03.2020, site plan dated 28.08.2020 prepared at her instance, notice under Section 91 Cr.P.C. dated 27.08.2020 given to her and reply to the same dated 28.08.2020.</p> <p>PW1 also identified 17 photographs of the spot.</p>	<p>Ex.PW1/A (complaint of PW1 dated 11.03.2020);</p> <p>Ex.PW1/B (site plan dated 28.08.2020);</p> <p>Ex.PW1/C (Colly. 17 photographs of the spot);</p> <p>Ex.PW1/D (notice under Section 91 Cr.P.C. dated</p>

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Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
	She also filed on the record another complaint which was proved as Ex.PW1/F.	27.08.2020 given to PW1); Ex.PW1/E (reply to Ex.PW1/D) & Ex/PW1/F (another complaint dated 29.02.2020)
PW2/ Mohd. Jaffar	<p>He is also one of the three complainants of the present case. He narrated the incident dated 25.02.2020.</p> <p>PW2 identified his signature at point A on his complaint dated 20.03.2020, site plan dated 27.08.2020 prepared at his instance, notice under Section 91 Cr.P.C. dated 27.08.2020 given to him and reply to the same dated 27.08.2020.</p> <p>PW2 also identified the photograph of the spot.</p>	<p>Ex.PW2/A (complaint of PW2);</p> <p>Ex.PW2/B (site plan dated 27.08.2020);</p> <p>Ex.PW2/C (photograph of the spot);</p> <p>Ex.PW2/D (notice under Section 91 Cr.P.C. dated 27.08.2020 given to PW2) &</p> <p>Ex.PW2/E (reply to Ex.PW2/D)</p>
PW3/Sh. Usman Ali	He is also one of the three complainants of the present case. He narrated the incident dated 24.02.2020, as well as	Ex.PW3/A (complaint of PW3 dated 28.02.2020);

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Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
	<p>dated 25.02.2020.</p> <p>PW3 identified his signature at point A on his complaint dated 28.02.2020, site plan dated 28.02.2020 prepared at his instance and notice under Section 91 Cr.P.C. dated 28.08.2020 given to him.</p> <p>PW3 also identified eight photograph of the spot.</p>	<p>Ex.PW3/B (site plan dated 28.02.2020);</p> <p>Ex.PW3/C (eight photographs of the spot);</p> <p>Ex.PW3/D (notice under Section 91 Cr.P.C. dated 28.08.2020 given to PW3)</p>
PW4/ ASI Yashpal	<p>He was Duty Officer in PS Gokalpuri on 28.02.2020 from 04:00 PM to 12:00 midnight.</p> <p>PW4 registered FIR No.42/20 on the basis of rukka received from SI Satyadev at about 06:40 PM. Thereafter, PW4 handed over original rukka, copy of FIR and certificate under Section 65-B of Indian Evidence Act to SI Satyadev.</p> <p>PW4 identified his signature at point A on copy of FIR No.42/20 and on aforesaid certificate.</p>	<p>Ex.PW4/A (copy of FIR No. 42/20) &</p> <p>Ex.PW4/B (Certificate under Section 65-B of Indian Evidence Act).</p>
PW5/ Smt. Chanderkala	<p>She was hostile witness and resiled from her earlier statement under Section 161 Cr.P.C.</p>	
PW6/ SI Surender	<p>He was posted as In-charge, Crime Team on 11.05.2020.</p>	<p>Ex.PW6/A (Inspection</p>

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Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
	<p>PW6 accompanied with Ct. Mohit (photographer) had inspected various crime spots in PS Gokalpuri area and gave his inspection reports.</p> <p>PW5 identified his signature at point A on the inspection report dated 11.05.2020 prepared by him in the present case.</p>	<p>report dated 11.05.2020 prepared by PW6)</p>
PW7/ ASI Satender Pal	<p>He was posted as HAX Branch in the office of DCP, North-East, Delhi, in the month of February, 2020.</p> <p>PW7 had circulated order dated 24.02.2020 issued by the DCP, North-East, Delhi, under Section 144 Cr.P.C.</p> <p>PW7 had supplied the copies of the said order to the police stations as well as to the offices of the ACPs and other authorities in the District for compliance and necessary action.</p>	
PW8/ W/HC Vinita Kumari	<p>She was Duty Officer in PS Gokalpuri on 31.08.2020 from 04:00 PM to 12:00 midnight.</p> <p>PW8 recorded GD No. 104A regarding arrest of accused Rohit in this case.</p> <p>PW8 identified her signature at point A on attested copy of GD No. 104A.</p>	Ex.PW8/A (attested copy of GD No.104-A recorded by PW8 in this case).
PW9/ HC Jahangir	<p>He was posted as Head Constable in PS Gokalpuri on 24.09.2020. On that day, on the</p>	

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Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
Khan	<p>directions of senior officers, he along with other staff members including ASI Manveer and HC Mahesh, went to main market Gokalpuri to control the rioters consisting of 400 to 500 persons gathered near A-21, SBI Bank, Jannti Masjid, Gokalpuri and who were raising slogans in support of CAA/NRC. He also heard the shouts in the name of Rahul and Manoj from the crowd.</p> <p>PW9 knew and identified accused Rohit having a cosmetic shop at Ganga Vihar Chowk and who was found present in the crowd on that date.</p> <p>PW9 identified accused Rohit during proceedings of this case.</p>	
PW10/ HC Mahesh	<p>He was declared hostile witness. He was on duty with PW9 on 24.02.2020.</p> <p>PW10 deposed on the same lines as deposed by PW9, except about knowing and seeing accused Rohit. He heard name of one Mohit from the crowd on the date of incident.</p>	
PW11/ Mohd. Irshad	<p>He was also declared hostile witness. He was working as tailor on 25.02.2020 in the area of Gokalpuri, who saw a mob at about 5 or 6 pm near raising religious slogans and went upstairs. He remained inside his house and did not see any rioter.</p>	
PW12/ Ct. Dimple Singh	<p>Ct. Dimple Singh was posted at PS Gokalpuri on 03.06.2020.</p> <p>Accused Rohit was arrested in FIR No. 148/20 by ASI</p>	Ex.PW12/A & Ex.PW12/B (arrest and personal search memos of accused Rohit

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Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
	<p>Sushil in the presence of PW12, who disclosed his involvement in the present case during his interrogation. Thereafter, IO/ASI Sushil arrested accused Rohit in FIR No. 42/20 and took his personal search. Arrest, personal search and pointing out memos of accused Rohit bears signature of PW12 at point A.</p>	<p>both dated 03.06.2020); Ex.PW12/D (pointing out memo dated 03.06.2020)</p>
<p>PW13/ Ct. Mohit</p>	<p>He was posted as member of Crime Team of North East District as Photographer on 11.05.2020.</p> <p>PW13 clicked 10 photographs of the spot i.e. H.No. A-21, A-46, A-456, Gokalpuri and identified them as Ex.PW3/C.</p> <p>PW13 identified his signature at point A on certificate under Section 65-B of Indian Evidence Act with regard to above photographs.</p>	<p>Ex.PW13/A (certificates under Section 65-B of Indian Evidence Act produced by PW13)</p>
<p>PW14/SI Satyadev</p>	<p>He was posted at PS Gokalpuri on 28.02.2020.</p> <p>PW14 recorded statement of complainant Sh. Usman Ali (PW3) and prepared rukka on the reverse of the said statement.</p> <p>PW14 identified his signature at point B on Ex.PW3/A and at point Y on the rukka i.e. back side of Ex.PW3/A. He also identified his signature at point B on Ex.PW3/B.</p>	

Sl. No. & Name of Witness	Role of witness & Description of documents	Proved documents/ case properties
	Thereafter, further investigation of this case was entrusted to ASI Sushil.	
PW15/ASI Sushil Kumar	<p>He was posted in PS Gokalpuri on 20.03.2020. On that day, investigation of this case was entrusted to him. He received two more complaints of Smt. Haseen Bobby and Jafar in the police station, after registration of the FIR. Both these complaints were clubbed with this FIR. He got inspected the spot of incident by the crime team on 11.05.2020. He prepared site plans of two incident spots mentioned in aforesaid two complaints.</p> <p>PW15 identified his signature at point X on Ex.PW1/B and Ex.PW2/B. He also identified Ex.PW1/C and Ex.PW3/C.</p> <p>On 03.06.2020, accused Rohit was arrested in case FIR No.148/2020 in PS Gokalpuri. PW15 also formally arrested accused in this case.</p> <p>PW15 identified his signature at point B on Ex.PW12/A, Ex.PW12/C and Ex.PW12/D.</p> <p>After completion of investigation, he prepared the chargesheet and submitted the same to the court of ld. CMM.</p>	

PLEA OF ACCUSED UNDER SECTION 313 CR.P.C.

5. Accused Rohit denied all the allegations and pleaded innocence taking plea that he was falsely implicated in this case. No defence evidence was laid by the accused.

ARGUMENTS

6. Sh. D.K. Bhatia, ld. Special PP for State argued that PW1/Ms. Haseen Bobby, PW2/Mohd. Jaffar and PW3/Sh. Usman Ali are

the relevant witnesses, to depose about damage to property. He further argued that PW9/HC Jahangir Khan is the witness for identification of accused Rohit, who correctly identified accused Rohit during the proceeding of this case.

7. Per contra, Sh. Vimal Kumar Singh, ld. counsel for accused Rohit argued that PW9/HC Jahangir Khan did not make any entry in PS Gokalpuri on same day, to record name of accused as member of the mob. He further argued that PW9 wrongly identified accused Rohit and falsely implicated him in the present case.

APPRECIATION OF FACTS AND EVIDENCE

THE THREE INCIDENTS

8. The description of three incidents have already been mentioned in the facts of this case. PW1, PW2 and PW3 are the relevant witnesses, who testified about these incidents. PW1/Ms. Haseen Bobby deposed that she was resident of 1st and 2nd Floor in property no.A-46, Gokalpuri. On 25.02.2020, a mob of about 20-25 Hindu persons aggressively proceeded towards her house. She was scared and she ran away from her house, though at that time she saw that mob entering her house. On 28.02.2020, she came back and found that her house was vandalized and looted. She identified photographs of her house exhibited as Ex.PW1/C. However, prosecution did not prove any certificate under Section 65-B of Indian Evidence Act, in support of the print outs of the photographs, though the photographs were stated to be taken by police.

9. PW2/ Mohd. Jaffar deposed that he was residing at A-456, Gokalpuri and on the ground floor of the same, he was running a meat shop. On 25.02.2020, he found a mob of around 20-25 persons entering into his shop and that mob put his shop on fire. He was scared and he with family ran away from his shop. On 20.03.2020, he went back to his shop and found that it was completely burnt. He also proved one photograph of his shop as Ex.PW2/C, but once again this photograph was proved without any certificate under Section 65-B of Indian Evidence Act. In concluding part of his testimony, this witness again deposed that he was not present at his shop at the time of incident and he did not see any rioter.
10. PW3/ Sh. Usman Ali deposed that he was having a chicken dhaba at A-21, Gokalpuri, which was taken on rent. On 24.02.2020, he was present in his dhaba and at about 3 PM, four Gujjar boys came to his dhaba and told him that persons from Hindu Community would rob his dhaba. They advised him to close the dhaba. Accordingly, he closed his dhaba and remained nearby. On same day, at about 8 PM, a large crowd of persons from Hindu Community came at his dhaba, broke it open and vandalized the same. He made a call at 100 number. The police came there and the rioters ran away. On 28.02.2020, he came to know that his shop as well as houses of other Muslim persons were vandalized, looted and put on fire. He also identified eight photographs of his shop, which were exhibited as Ex.PW-3/C. PW13/ Ct. Mohit was the photographer and he said that he had clicked 10 photographs of three properties i.e. A-21, A-46 and A-

456. He identified those photographs to be Ex.PW3/C. He also proved a certificate under Section 65-B of Indian Evidence Act in respect of these photographs as Ex.PW13/A. However, all these photographs relate to the property of PW3, rather than other two properties. PW3 subsequently deposed that he was not present at his shop at the time of incident and hence, he did not see any rioter.

11. From the testimony of above mentioned three witnesses, though it appears that except for PW1, other two witnesses did not see the incident of vandalism personally, but their testimony that their properties were subsequently found vandalized or burnt, is not disputed. The photographs of the shop of PW3 also corroborate damage to the shop of PW3. The photographs identified by PW1 and PW2 remained inadmissible in evidence for want of certificate under Section 65-B of Indian Evidence Act. However, for such situation, these two witnesses cannot be blamed, as it was duty of the IO to obtain the same. Even without these photographs, on the basis of testimony of PW1 and PW2, it can be said that their respective properties were also vandalized. Testimony of two IOs i.e. PW14 and PW15 are silent in respect of their observations at the time of inspection of these properties, though ideally such questions should have been put to them. In any circumstance, it can be presumed that above mentioned three incidents actually took place.

PLACES OF INCIDENTS AND SITE PLANS

12. Three complaints which were clubbed into this FIR and charge sheet, related to alleged incidents at property no. A-21,

Gokulpuri; A-46, Gokulpuri; and A-456, Gokulpuri. On the record three site plans were proved by the prosecution, which are Ex. PW1/B, Ex. PW2/B and Ex. PW3/B. On perusal of these site plans, one can find that they are inconsistent with each other. Though, main Wazirabad road and main market Gokulpuri road have been depicted in all these three site plans, but, except for these two roads, there is no consistency in other area shown in them. It is worth to mention here that as per prosecution, three instances of incidents taken up for prosecution in this case, took place in same vicinity and the places of these incidents were near to each other. Accused Rohit was alleged to be part of the unlawful assembly, which was allegedly behind all these three incidents. In such situation, it was incumbent upon the prosecution to show the locations of all the above mentioned three places with clarity and consistency in the site plan. However, as observed herein before, it was not so done by the IOs. Two of these site plans were prepared by ASI Sushil and one was prepared by SI Satyadev, but they did not coordinate with each other, so as to present a site plan with clarity. In fact, ASI Sushil prepared two site plans giving two different pictures of that locality. This situation does not help the prosecution to establish its contention regarding all three incidents taking place in the same vicinity by the same mob.

TIME OF INCIDENTS

13. As per complaint Ex.PW3/A made by PW3/Usman Ali, his shop at A-21, Gokulpuri was vandalized on 25-02-2020 at about 1-1.30PM. However, in his testimony before the court, PW3

deposed that he was not present at his shop at the time of vandalism, robbery and burning of his shop, therefore, he did not see any rioter. He came to know on 28-02-2020 about vandalism in his shop as well as other properties. Thus, it appears that time of incident at his shop was mentioned in the complaint on the basis of such information given to PW3 by others. But, no such person was examined and produced, who had given such information to PW3.

14. PW11/Mohd. Irshad was though examined for different purpose by the prosecution i.e. to depose about incident at the shop of one Jaffar, but his address is also shown as A-21, Gokulpuri. Interestingly, this witness did not say anything about incident at the shop of PW3. He rather, deposed about incident at his own house on the first floor of A-21 at about 5 to 6 PM on 25-02-2020. He also deposed about incident of vandalism at the shop of Jaffar, stating that his meat shop was situated near his house. But he did not mention time of the same. He only mentioned date of incident as 25-02-2020. At the most it can be presumed that according to him, this incident would also have taken place at about 5 to 6 PM. But, Jaffar/PW2 deposed that on 25-02-2020, he was present at his house no. A-456, Gokulpuri and at about 3 PM a mob of around 20-25 persons entered into his shop and set the same on fire. In his complaint Ex.PW2/A also he mentioned the same time.
15. The third incident related to the property of PW1/Haseen Bobby. As per complaint Ex.PW1/A, she was present at her residence at A-46, Gokulpuri on 25-02-2020. At about 11.30 AM, a mob of

about 15-20 persons attacked on her house. In her testimony also, she mentioned the same time.

16. Thus, as per evidence on the record, all these incidents of vandalism took place on 25-02-2020. Vandalism took place on the ground floor of A-21 at about 1.30 PM and on the first floor of A-21, it took place at about 5-6 PM; at property no. A-456 vandalism took place at about 3 PM and at the property no. A-46, it took place at around 11.30 AM.

IDENTIFICATION OF ACCUSED ROHIT

17. All the three victims/complainants did not identify the accused Rohit as part of that mob, which vandalized their properties. PW2 and PW3 deposed that they were not present at their shops at the time of vandalism therefore, they did not know which persons did so. PW1 though, deposed that she had identified 4-5 persons from the mob, which vandalized her property, but she said that accused Rohit was not seen by her in that mob. Apart from evidence of these three witnesses, prosecution also relied upon evidence of PW5/Ms. Chanderkala, PW9/HC Jahangir Khan, PW10/HC Mahesh and PW11/Mohd. Irshad, to establish presence of Rohit during incidents mentioned herein above. Out of these witnesses, only PW11 was shown as having stated before IO in his statement under Section 161 Cr.P.C that accused Rohit was part of the mob which indulged into vandalism at the property of Jaffar i.e. A-456, Gokulpuri. But, before the court this witness denied having stated so. He denied the suggestion of prosecution that he had seen Rohit on 25-02-2020 as part of the mob which indulged into riotous acts in his locality.

- 18.** PW5 and PW10 also denied having seen Rohit in the mob indulging into riot. But, the disappointing part of prosecution story is that allegedly PW5, PW9 and PW10 had stated before IO that they had seen Rohit in the mob which indulged into riot on 24-02-2020. Still, prosecution relied upon these witnesses to establish that accused Rohit was part of the mob, which vandalized the properties of three complainants in this case on 25-02-2020. Prosecution also referred to a video of riot collected in other case for identification of accused in this case, which also related to 24-02-2020 rather than 25-02-2020. That video was otherwise also not proved in this case.
- 19.** PW9/HC Jahangir Khan though identified Rohit before this case, but as per his testimony, he talked of the incident of 24-09-2020 (should be 24-02-2020) at about 8 PM. He deposed that a crowd of around 400-500 persons had gathered at the spot. Spot would have been somewhere near A 21, Jannati Masjid, Gokulpuri. He also deposed that the said crowd was raising slogans in support of CAA/NRC. He further deposed that the said crowd broke open the locks of house no. A-21 near State Bank of India and set it ablaze. He had identified Rohit among that crowd and thus, he identified him in the court as well.
- 20.** The above-mentioned evidence of PW9 instead of establishing involvement of accused Rohit in the three incidents of 25-02-2020, goes on to contradict the evidence related to time of vandalism in property no. A-21, Gokulpuri. I have already referred to evidence related to time of incidents, covered up in this case by prosecution, herein above. As per those evidences

property no. A-21 was vandalized on 25-02-2020 either around 1.30 PM or around 5 to 6 PM. Thus, evidence of PW9 adds to the contradictory time of incidents at property no. A-21. Since, it is not the case of prosecution that there were more than one property bearing no. A-21 in Gokulpuri, therefore, I cannot even assume that PW3, PW9 and PW11 talked about different properties having same number of A-21.

21. Thus, there is no evidence at all, be it ocular or other evidence, to establish that accused Rohit was member of the mob/unlawful assembly, which vandalized the properties of PW1, PW2 and PW3 on 25-02-2020.

CONCLUSION

22. My foregoing discussion and observations make it amply clear that police did not find the culprits behind three specific instances of rioting etc. as covered in this case. The complaints received by the police from three complainants of this case, specifically mentioned the time of alleged incidents as 1.30 PM, 11.30 AM and 3 PM. Still, investigation was not done to check if these timings were correctly given in the complaint and whether rioting was committed and continued at these particular properties for given time period i.e. from 11.30 AM to 3 PM; or whether these incidents were committed by the same mob; or from which direction that mob came and what route was taken by that mob to commit rioting? Apart from this, police was to find out the identity of members of the mob, which indulged into rioting on 25-02-2020, but, police relied upon the evidence of incidents of 24-02-2020 in this regard. Thus, in my opinion the

incidents reported and taken up for investigation in this case, were not actually solved. Police charge sheeted accused Rohit in this case in a casual manner. It is a formality only to declare that prosecution has miserably failed to prove its case herein.

DECISION

23. In view of my foregoing discussions, observations and findings, accused Rohit is hereby acquitted of all the charges leveled against him in this case.

Announced in the open court **(PULASTYA PRAMACHALA)**
today on 12.07.2022 **ASJ-03 (North- East)**
(This order contains 20 pages) **Karkardooma Courts/Delhi**