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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.L.P. 75/2025&CRL.M.A. 3301/2025**

STATE

.....Petitioner

Through: Mr. Ritesh Kumar Bahri, APP with
Mr. Lalit Luthra & Ms. Divya Yadav,
Advs.
SI Anil, PS Seemapuri.

versus

RATTAN LAL & ORS.

.....Respondents

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE SAURABH BANERJEE

ORDER

% **25.02.2025**

1. This hearing has been done through hybrid mode.
2. The present leave petition has been filed by the Petitioner-State challenging the impugned judgment dated 22nd February, 1995, passed by ASJ Karkardooma Court Complex, Delhi in the ***FIR No.511/1984*** under Sections 147/148/149/302 IPC, by which the Respondents have been acquitted by the Trial Court, by giving them benefit of doubt.
3. The Id. Trial Judge came to the conclusion after perusing the evidence in the present case that the Respondents were not properly identified by the material witnesses. Relevant portions of the Trial Court judgment are set out below:

“7. In this case, material witnesses are PW1, PW 5, PW 6, PW 7, and PW 8. Out of which PW 1, 6 and 8 have not deposed anything incriminating against the accused persons and stated that they did not identify



any culprits out of the mob which was responsible for the incident on 1.11.1984. So testimony of other PW 5 and 7 remain to be scrutinised. P.W.5 deposed that on 1.11.1984 she concealed herself and she did not see or identify the rioters on 1.11.1984 and saw her husband Tara Singh and her son Joginder Singh in injured condition this day at about 6 p.m. According to her, accused persons gave beating to her husband Tara Singh with danda and saria. His son was stripped naked before they gave beating to him. This witness was cross-examined by the S.P.P. Suggestion put to the witness that her husband and her son were burnt on 1.11.1984 and not on 3.11.1984 as stated by her examination in chief, by the learned S.P.P. was specifically denied. In this case, according to the prosecution, there is no charge against the accused for killing Tara Singh and Joginder Singh on 3. 11.1984. She did not say anything about the killing of her husband and son on 1.11.1984. She deposed about the incident of killing of her husband Tara Singh and Joginder Singh her son on 3. 11.1984 by the mob consisting of the accused persons and has not whispered her lips to say anything about the incident of 1.11.1984. Therefore, her testimony cannot be taken notice of and deserves to be screened off from the consideration.

8. P.W.7 is the only material witness in this case. She too has not been relied upon by the prosecution and has been cross-examined by the ld. S.P.P. The perusal of that statement shows that he deposed that the incident has taken place on 1st, 2nd and 3rd November, 1984. In his examination-in-chief, he says that he did not identify themselves of the mob which indulged in looting the house situated in block A on 1.11.1984. He stated that on 2.11.1984 Jamna Devi and Dr. Verma pointed out the houses of Sikhs and Accused Kashmiri Lal and Kamal, Trilok Chand, Prabhu Dayal and Nand



Kishore were also present in the mob which indulged in beating the Sikhs and looting their houses on 3.11.1984. He does not say anything more about the incident as she was forced to leave the locality. During cross-examination by the ld. S.P.P. he admitted to be corrected to have stated in his affidavit about the incident of 1.11.1984 that Dr. Verma, Jamna Devi, her sons Rattan, Prabhu, Rajinder and Purshotam and her grand sonpappu were the members of the mob. He stated that Prabhu, Rajinder and Pappu were members of mob which indulged in burning and killing. He further stated that Than Singh and his son Pappu were also killed. He further in cross-examination by the ld. S.P.P. stated that the above said persons whom he identified above, had exhorted the members of the mob to kill Than Singh and his son Pappu. Similarly he further stated that Gurdial Singh, Jaswant Singh and Jeet Singh were killed in his presence, after they have been taken out of their house and dragged in Gali. The above said accused persons had also pointed out the houses of Gurdial Singh, Jaswant Singh and Jeet Singh to the mob. He admitted it to be correct that he has mentioned in his affidavit that on 3.11.1984 the mob killed 30 to 35 sons and kaushlya wife of Than Singh rebuked the assailans on which she was beaten and striped naked and was taken to community toilet where she was raped and killed by the members of the mob. He also stated that his father Tara Singh and brother Joginder Singh were overpowered and killed by the above said persons when they came out of the Sher-e-Punjab Hotel and he mentioned in his affidavit that Bhola, Surrender and Khera were also the members of the mob which killed his brother and father, and identified them correctly. He also stated that when he had come to his locality on 6.11.1984, Jamna Devi and Dr. Verma called and collected the rioteers , which consisted of accused Rajinder, Vinod, Sarup Singh and Fauzi who were present, were the



members of the mob and attacked him. He deposed that on 1.11.1984 upto 3 p.m. 30/35 persons were also killed. During cross-examination by the ld. defence counsel, he had admitted it to be correct that he had ran away from the spot out of fear and he did not witness the incident. In re-examination by the ld. S.P.P. he stated that he was greatly upset and he was unable to tell which of the two statements i.e., one dated 20.1.1995 that he had witnessed the incident and other statement dated 3.2.1995 that he had not witnessed the incident is correct. The testimony of this witness shows that he is upset and confused. He has blown hot and cold through the same breath. First in examination-in-chief he stated that he did not identify the members of the mob which came to the locality on 1.11.1984 and indulged in looting their blocks. Then during cross-examination by the ld. S.P.P. he named some of the accused persons as members of the mob which indulged in looting the houses and beating Sikhs. Again during cross-examination by the ld. defence counsel, he stated that his statement that he did not see the incident and that he ran away from the spot out of fear is correct. The testimony of this witness does not advanced the case of the prosecution in any where and no reliance can be placed on the testimony of this witness also.

9. In view of the above discussion, I am of the opinion, that the prosecution has not succeeded to prove its case against the accused persons beyond all reasonable doubt. They, therefore, are entitled to the benefit of doubt. Hence, they are acquitted giving benefit of doubt. They are on bail. Their bail bonds are cancelled, and sureties are discharged. File be consigned to the record room."

4. On merits, ld. APP submits that the ld. Trial Court has given the benefit of doubt to the accused primarily on the following grounds:



- (i) Delay in lodging of the FIR;
- (ii) Identification of the accused and;
- (iii) That there were contradictions and improvements in the testimony of the witnesses;
- (iv) No Test Identification Parade was conducted;
- (v) No Public Witnesses;
- (vi) No site plan was prepared in presence of the eye witnesses;
- (vii) No recovery of any incriminating articles.

5. The Court has perused the matter. This case arises out of the 1984 riots. As per the prosecution-State, filing of this petition has been delayed primarily due to the Justice S.N. Dhingra's Committee which was constituted on 14th December, 2018 and submitted the report on 15th April, 2019. It is after the above stated report was submitted that the internal reviews were conducted and the matter was processed for filing of this leave petition. In effect, condonation of delay is sought for 10873 days in filing the present leave petition.

6. In **CRL.L.P.134/2023** titled **State v. Hari Lal & Ors.**, on 10th July, 2023, a Coordinate Bench of this Court had observed as under:

“4.The Two Member Commission submitted its Report dated 15.04.2019 in which a recommendation was made that the appeal may be filed against the Order of acquittal dated 28.03.1995 in FIR No.457/1991. Due to Covid-19 Pandemic the appeal could not be finalized as the file had to pass various channels, which resulted in further delay. Hence, the present Leave to Appeal has been filed along with the application for Condonation of Delay of 27 years and 335 days.

5.It is not in dispute that the accused were acquitted as



the witnesses produced during the evidence by the prosecution were not found believable. If the prosecution or the complainant were aggrieved by the judgment of acquittal, there was nothing which prevented them from filing the appeal. The reason now been given for filing the appeal is the opinion given by SIT in its Report, that the Trial Court could not have taken a view of weakness of the case merely due to delay in recording of FIR or delay in recording the statements of the witnesses. The delay in recording of FIR was obvious as the State was not interested in recording the FIRs. During the riots more than 3000 Sikhs were killed and only few cases were registered in respect of these gruesome murders, large scale burning and looting. The witnesses had deposed that their complaints were not being recorded by the police. Hence, an appeal may be preferred against acquittal in FIR No.457/1991.

6. It was not disputed on behalf of the State that no further investigations have been carried out by the Investigating Agencies and no fresh material in respect of the alleged offences has been placed on record. There is no explanation as to why the State or the complainant did not file the appeal on the grounds that were available even at the time of acquittal. The reason now been given is the findings by the SIT, but the SIT has also observed that the reason for disbelieving the witnesses on account of the delay of FIR was not correct. It is evident that the grounds of appeal which are now being agitated are purely on the merits of the case which existed even at the time of trial and consequent acquittal.

7. No reason whatsoever has been given for explaining the delay of about 28 years. Pertinently, the Report was given by SIT on 15.04.2019 but even thereafter there is a delay of about four years for which no cogent explanation has been given. This Court has recently



dismissed three Criminal Leave Appeals bearing Nos. Crl.L.P.322/2023, Crl.L.P.323/2023 and Crl.L.P.325/2023, where the delay was less than 1000 days.

8. *In the present case, the delay is 27 years and 335 days and there is no explanation for this inordinate delay. Moreover, the grounds taken by the State are not justifiable. Therefore, we find no merit in the present application, and the same is hereby dismissed.”*

7. In the present case, the delay would be more than 29 years. The Coordinate Bench of this Court in the above case vide order dated 10th July, 2023, had dealt with similar issues such as 28 years of delay in ***FIR No.251/1990*** and the contradictions in the witnesses’ testimony, while dismissing the petition.

8. The said order was challenged before the Hon’ble Supreme Court under Article 136 and vide order dated 6th May, 2024, the ***SLP(Crl.) No. 6549/2024*** was dismissed.

9. Following the above orders, this Court has already dismissed the following leave petitions/ appeals:

i. ***CRL. L.P. 242/2024 titled The State (GNCT of Delhi) v. Purushotam&Ors.***

ii. ***CRL. L.P. 245/2024 titled The State (GNCT of Delhi) v. Purushotam&Ors.***

iii. ***CRL.L.P. 246/2024 titled The State (GNCT of Delhi) v. Purushotam&Ors.***

iv. ***CRL. L.P. 275/2024 titled State v. Om Prakash& Ors.***

10. While this Court is conscious of the large-scale loss of human lives



and property during the 1984 riots, after having seen the quantum of delay and the discussion in the impugned judgment, following the similar orders already passed the delay is not liable to be condoned and leave is not liable to be granted.

11. Accordingly, the petition is disposed of. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

SAURABH BANERJEE, J.

FEBRUARY 25, 2025

dj/ks