

# 1984: Justice denied to victims of Massacre

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THERE IS A WIDESPREAD disappointment at the acquittal of Sajjan Kumar, key accused in Nov '84 Carnage. by Addl. Session Judge, Smt. Manju Goel, on 23.12.2002. He was the main accused who along with others led the mob and instigated it to kill the Sikhs, loot and burn their properties within his Parliamentary Constituency, more particularly, in Sultanpuri and Mangolpuri. The entire Sikh community feels dejected and let down by the judgment that exonerated Sajjan Kumar.

## **Bias:**

Of course, there may be a few diehard exceptions, like Shri Vir Sanghvi. In his article published under heading "*Two Kinds of Hindutva*" in *Hindustan Times* on 22 Dec 2002, a day prior to this judgment, he wrote: "***Delhi riots of 1984 were the result of "deep anger" of the Hindu community at the 'unprovoked aggression' from the Sikhs. These were the days, you will recall, when terrorists were stopping buses and shooting the Hindu passengers. That anger boiled over when Mrs. Gandhi was assassinated by her Sikh bodyguards.***"

I hope this perverse contention is not shared by all the Hindus of this country — who constitute 80% of India's population, against just 2% of Sikhs. Otherwise, any number of Commissions of Inquiry, or registration of any number of cases against powerful persons, like a Minister/M.P., or a small fry, like a butcher, will never be properly investigated by the police or CBI. It will be presumed that the Hindu accused has performed his community's duty to 'teach Sikhs a lesson'.

But after working with various NGOs, Human Right Organizations and others for the last 18 years, I can say with full confidence, that unlike what Shri Vir Sanghvi make us believe, the Sikhs will not like to tarnish the face of the entire Hindu community for Nov '84 carnage. Such tragic aberrations occur only when the Police and the Administrative machinery succumb to the evil designs of the politicians in power for ulterior motives.

## **Travesty of Justice:**

But the guilty persons of Nov 84 carnage, whoever they be must be, punished. It may be remembered that the pattern of this type of massacre of a particular community was hatched and executed for the first time in India in Nov 84. Not only no one was punished rather political party in power achieved an electoral sweep. To check the spread of this disease in future, it is absolutely essential that guilty persons of Nov 84 are suitably punished. This will deter others, from taking this course for achieving success in elections.

## **Reluctance to Register:**

It may be recalled that this case was registered after long and concerted effort. The Misra Commission, which was appointed in Apr '85 to investigate the incidence of organized violence during Oct-Nov 1984 in Delhi and other cities, found that in many areas where large number of killings and looting had taken place, FIRs had not been recorded. Further, no cases were registered against persons directly

responsible for killing - particularly those who were in powerful positions. Delhi police did not carry out proper investigation and failed to apprehend persons in authority.

Thus Justice Ranganath Misra in his report has recorded :

“Proper FIR’S have not been recorded “(p.63) and

“In many cases there has not been a proper investigation, (p.64)

Complete report of Misra Commission is available on Website “Carnage 84”

On the recommendations of the Misra Commission, the Govt. appointed a committee known as Jain-Banerjee Committee. On the recommendation of this committee, CBI registered a murder case against Mr. Sajjan Kumar on the basis of the complaint by Anwar Kaur. It took 5 years to register the case, 2 years to investigate it and, after many years only in 1994 the permission for prosecution was granted by Lt. Governor of Delhi.

In Police Station Sultanpuri a general FIR (250/84) was registered. for all killings of more than 100 Sikhs in Nov’84. This FIR was investigated by Insp. Sukhbir Singh till 28.11.84 and later by Insp.Raj Singh who completed the investigation. Interestingly, Sajjan Kumar has produced both these two IOs as his Defence witnesses. Now, look at the testimony of these two I.O.s— 1st IO states: “till 28.11.84 no witness had named any accused of this case. Death of Navin Singh (husband of Anwar Kaur) has not been brought to his notice”. The 2nd I.O. recorded that “During entire investigation of FIR 250/84 name of Sajjan Kumar did not figure”. These are brazen lies.

#### **Citizens committee verdict:**

Surprisingly, this testimony has been noted by the Hon’ble Judge. Obviously both I.O.s’ investigation is not reliable. It may be remembered that victims of Sultanpuri had named Sajjan Kumar, and other accused of this case, before the joint Inquiry of PUCL & PUDR which had brought out the well known report WHO ARE THE GUILTY in Nov 1984. The names of Sajjan Kumar and other accused figure prominently in that report. Improper investigations of this type were adversely commented upon by Misra Commission in his report. If such lies could be investigated and proved, these two IOs’ should have been charge sheeted for their dishonest investigation.

#### **Eyewitness Ignored:**

As regard the remark that prosecution had failed to prove the case, cross examination of Anwar Kaur was carried on for five days by well known lawyer Mr. I U Khan. She creditably withstood the pressure and tactics of the Defence Council. Anwar Kaur has testified as under:

*On 22.3 1999:* “All the persons were in the mob and were giving beating and accused Sajjan Kumar was standing and was instigating the mob.”

*On 23.3.1999:* In the long gruelling cross examination she maintains her statement.

*On 24.5.1999:* She denied the insinuation that she has made the statement ‘at the instigation of the organizations which are pursuing the case to harm Sajjan Kumar and others.’

On 14.9 1999: 'On report of SHO Sultanpuri of 17.12.1984, I did give the names of persons who were present in the mob as rioters, but SHO might not have recorded the same.' Further she states that I had myself seen the accused Sajjan Kumar in the mob. I had named Sajjan Kumar while reporting the matter to SHO P S Sultanpuri, but I do not know whether he had mentioned his name in the report or not."

Again, on 6.10.1999, "It is incorrect to suggest that I had named Sajjan Kumar as I had been told by the police that he was in the mob. I myself had not seen him in the mob on that date." (It is likely that while recording this cross examination "It is incorrect to suggest" has not been repeated in the beginning of every sentence. So, taking in isolation, it gives opposite meaning).

This contention is fully supported by the last sentence of the cross examination of this date, which reads - "It is incorrect to suggest that the present case against the accused is politically motivated or that I was used as a tool by the opponents of Sajjan Kumar and others".

**Miscarriage of Justice:**

**In view of the above one is shocked to observe the remarks in the judgment: "evidence has been carefully scrutinized and it fails miserably to prove that either Sajjan Kumar or any other accused person, was at all part of unlawful assembly.' And, "There is no circumstantial evidence in the case to connect the accused with offence."**

I appeal to the CBI as well as Central Govt. to critically examine and study the Judgment of the Addl. Session Judge and file an appeal in High Court.

