

Victims of Nov '84 Denied Justice

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There is widespread disappointment at the acquittal of Sajjan Kumar 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, had led the mob and instigated it to kill the Sikhs, loot and burn their properties in his Parliamentary Constituency, more particularly in Sultanpuri and Mangolpuri. The entire Sikh community feels dejected and let down by the judgment that has exonerated Sajjan Kumar.

Of course, there may be a few exceptions, like 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 pontificated: 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 contention is not shared by the Hindus of this country - who constitute 80% of our population, against 2% of Sikhs. Otherwise, any number of Commissions of Inquiry or registration of any number of cases against powerful 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 he (Hindu) has performed his community's duty 'to teach Sikhs a lesson'. But after working with various NGOs, Human Right Organizations and others for last 18 years, I can say, with full confidence, that unlike what Vir Sanghvi wants us to believe, the Sikhs will not like to blacken the face of the entire Hindu community for Nov '84 carnage. Such social aberrations occur only when the Police and the Administrative machinery succumb to the evil designs of the politicians in power for ulterior motives.

But the guilty persons of Nov '84 carnage, whoever they be, must be punished. It may be remembered that the model of this type of mass murder of a particular community was framed and executed for the first time in India in Nov 84. Realising that no one is punished, rather political party in power achieved electoral sweep, this model has been repeated in other parts of the country. 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 election.

It may be recalled that this case was registered after long and concerted efforts, when the Misra Commission appointed in April 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 person 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 Ranganth Misra in his report has recorded:

"Proper FIRs 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 Sajjan Kumar on the basis of the complaint by Smt Anwar Kaur. It took five years to register the cases, 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 IOs as his Defence witnesses. Now look at the testimony of these two IOs -

First IO states: "till 28.11.84 no witness had named any accused of this case. Death of Navin Singh (husband of Smt Anwar Kaur) has not been brought to his notice." Second IO has recorded that "During entire investigation of FIR 250/84 name of Sajjan Kumar did not figure."

Surprisingly, this testimony has been accepted by the Hon'ble Judge. Obviously both IO'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 remarked about by Misra Commission in his report. If that could be investigated and proved, these two IOs should have been chargesheeted for their improper investigation.

As regard the remark that 'prosecution had failed to prove the case,' Cross examination of Smt Anwar Kaur was carried on for 5 days by well known lawyer, Mr. I U Khan. She - creditably - withstood the pressure and smartness of the defence council. Smt. Anwar Kaur has stated as under, on 22.3.1999, that 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 long cross examination she maintains her statement.

On 24.5.1999, she denied the defence suggestion that she has made statement "at the instigation of the organization 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 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."

In view of the above, one is outraged 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 government to critically examine and study the judgment of the Addl. Session Judge and file an appeal in High Court.

