

Oct. 1984: The Judge as Assassin!

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During the Emergency, Indira Gandhi freely accused the Opposition of plotting to kill her and her colleagues; on 19 September 1975, for instance. On her death, her son Rajiv picked up the theme and pursued it during the election campaign before the Thakkar Commission was appointed, while it was at work, and even after it had submitted its report. Here is the record of what Rajiv said:

2 November 1984: "The assassination was part of a deep-rooted *conspiracy* to destabilise the country. This was not the handiwork of just two persons but was part of a conspiracy. As in the case of Kennedy murder in the US attempts were made in the present case to eliminate the assassins. However, one of them was alive."

7 November 1984: "Warned the people against the evil designs of *subversive* forces which eliminated Indira Gandhi, and subsequently engineered violence in the country. These forces after having failed in Punjab, made Delhi their target and engineered violence in which people belonging to various communities had suffered. "We have to be extra cautious about such elements and the Sikh community particularly will have to take a bold stand to crush such forces."- a cruel remark indeed, after the 3,000 Sikhs had been killed in Delhi.

19 November 1984: "The assassination was part of a deep rooted *international conspiracy* to destabilise and disintegrate the country. "When a giant tree falls, the mother earth underneath shakes." The Thakkar Commission was appointed on 20 November.

2 December 1984: "The assassination was *engineered* and financed by some "outside" forces. Her assassins were also armed and trained by these forces." At Chapra, Rajiv said that the Opposition's only slogan was the removal of Indira Gandhi. When they did not succeed in this, they decided to eliminate her physically."

2 December 1984: "The incidents in Assam, Punjab and other parts of the country which led to Indira Gandhi's assassination proved that there was a *sinister conspiracy* to divide the nation. The conspirators had hoped that the country would disintegrate with her death."

2 December 1984: At Khagaria he said that extremist elements had assassinated Indira Gandhi and then attempted widespread communal violence to create disorder and division in the country. Her assassination was part of a deep-rooted *conspiracy*. The conspirators had hoped that the country would disintegrate with her death.

2 December 1984: At Koderma; forces of destabilisation which had their roots outside India were behind the assassination and were financed by outside sources.

3 December 1984: At Pune; The assassination was a result of a *conspiracy* of external powers who would like to weaken the country.

17 December 1984: Leaders and men of other parties were also involved in the violence. The assassination obviously sparked off widespread resentment among people irrespective of their politics.

18 December 1984: The time had come to identify the forces responsible for her death and also the parties which encouraged such extremist and secessionist forces.

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Justice M P Thakkar, a sitting judge of the Supreme Court was appointed as Commission of Inquiry on 20 November 1984 to inquire into Indira Gandhi's assassination on 31st October. He submitted an Interim Report on 19 November 1985 and a Final Report on 27 February 1986. Both were tabled in Parliament on 27 March 1989 with an Action Taken Report. The Annexures have not been published. Some 214 of the 312 pages of the Final Report dealt with the late P M's Special Assistant, R K Dhawan, implicating him with a wealth of metaphors - "Needle of suspicion" *et. al.*

While the report was under wraps, Dhawan, who had been edged out on 2 January 1985, was brought back in the PM's office by Rajiv Gandhi on 18 February 1989. Even after the publication of the report, Rajiv had no qualms about alleging on 4 April 1989:

"All those who are now talking about her safety are those who had conspired in attempts at her life in earlier days", a lie which even the disgraceful Thakkar Report did not support.

Spread all over Thakkar J's Interim Report is his distrust of the Sikhs. Operation Blue Star had created resentment "in the Sikh community including elements which were considered "moderate" (p.11). The implications are laid bare as the Report continues: "If a Sikh guard of the Central Cabinet Minister could become disloyal and engage himself in terrorist and anti-national activities, so could a Sikh security guard at the PM House" (pp. 44 and 59). One of the hijackers of an Indian Airlines plane was a police constable who had been deputed for guard duty at Law Minister J N Kaushal's residence in Chandigarh.

Thakkar J ended by finding 21 officials remiss in the discharge of their duties reflecting "failure on the part of almost every one, at all levels, in the security set up, with perhaps no honourable exception".

The Thakkar Report indicates its target at the very outset. It is R K Dhawan. After recording that it would proceed on the basis that Beant Singh and Satwant Singh were the ones who fired the fatal shots at the late PM, it says, in the very next para, that "there are reasonable grounds to suspect the involvement of Shri R K Dhawan". His profile is sketched. Newspapers and magazine articles are quoted on his clout.

As the Report wends its way, the "reasonable grounds" (p. 27) are elaborated into as many as 25 "suspicion indicators" (p. 36). They firm up to "an unwavering finger of guilt at the complicity or involvement of Dhawan in the crime" (p. 49). If one circumstance "emits a signal of suspicion" (p. 72), another forms "a spoke in the wheel of suspicion" (p. 76). There is "an accusing finger"

at one place (p. 86) and "the cloud of suspicion" (p. 92) at another. The CIA is not neglected. "The suspicion arises whether Dhawan was close to some one having close clandestine connection with the American Intelligence Agency CIA" (p. 111). Finally, there is no escape from the conclusion that there are weighty reasons to suspect the complicity or involvement of Shri Dhawan in the crime" (p. 126).

These findings were submitted to Rajiv Gandhi on 27 February 1986. On 18 February 1989, he reinducted Dhawan into his office, ending his four years' exile. It was this which led some one to leak the secret Report and expose Rajiv's duplicity. A judicial verdict had been procured to damn Dhawan, only to be discarded later. The ATR explained that the Special Investigation Team had concluded that Dhawan "had no hand in the conspiracy for the assassination" of Indira Gandhi. But until Rajiv's hands were forced, the censures of Thakkar J as well as the "exoneration" by SIT were kept secret.

R K Dhawan has acquired deserved notoriety as a singularly revolting operator. But he was faithful to Indira Gandhi like a dog; albeit not without a keen eye for the bones he could pick up. Not even a fool could suspect him of complicity in the crime. Justice Thakkar was no fool, either. **Surely if he was right in his censure on Dhawan, as the brain behind the crime, Kehar Singh's execution was a monstrous wrong. (It is another matter that his conviction was wrong on other grounds also as the late H M Seervai ably demonstrated).** If the Judge could be so wildly wrong while serving on a Commission of Inquiry, what must have been the quality of justice he dispensed from the Bench?

Ritu Saran's book *The Assassination of Indira Gandhi*, based on hundreds of interviews and official documents, explains why Thakkar believed as he did. "It was not as if Justice Thakkar was working in isolation. The Commission was born out of political necessity and the judge heading it was never short of advice. He was in regular contact with Arun Singh and Arun Nehru, the two closest confidants of Rajiv Gandhi even when Indira Gandhi was alive".

Thakkar J held consultations with Arun Singh "almost every other day". He also "frequently met Arun Nehru as well as two men who had been close to Indira Gandhi, her principal Secretary, P C Alexander, and a senior member of her Secretariat, V S Tripathi. In course of time, the Thakkar Commission became something of a political exercise, susceptible to palace intrigues and internecine manoeuvring"

The shoddy product reflected the perverted process. The aftermath was as bizarre. The SIT was asked to wind up by March 1989. Publication of the Thakkar Report led to its revival and the filing of a second chargesheet, on 7 April, implicating, among others, Simranjit Singh Mann. On 28 November 1989 as electoral debacle stared him in the face, Rajiv Gandhi ordered its withdrawal.

Mann became an MP. Dhawan became a Union Minister and is now a member of the Congress Working Committee. So much for the sanctity of Reports of Commissions of Inquiry. The Thakkar episode reveals the depths to which proximity claims to power can drag a judge. He readily becomes *assassin of character*. All rules of evidence are flouted. Thakkar's claims were not overlooked on his retirement. He was made chairman of the Law Commission.

Ritu Saran writes: "A myth exploded by the Indira Gandhi assassination was about the independence of the India Judiciary... The contents of the report showed that from its very inception the entire investigation was compromised by the coterie of politicians surrounding the Prime Minister Rajiv Gandhi... The Thakkar Commission episode will remain a permanent pointer towards the pliability of even the higher echelons of judiciary in the hands of the party in power."

[Courtesy: *The Statesman*, Dec. 3, 1997] (Emphasis added)

