



# MIRCHPUR CARNAGE

## CASTE VIOLENCE IN HARYANA

# MIRCHPUR CARNAGE CASTE VIOLENCE IN HARYANA

Compiled and edited by  
**Sarita Bhoi**

**HRLN**

Human Rights Law Network

December 2011

## Human Rights Law Network Vision

- To protect fundamental human rights, increase access to basic resources for the marginalised communities, and eliminate discrimination.
- To create a justice delivery system that is accessible, accountable, transparent, efficient and affordable, and works for the underprivileged. Raise the level of pro bono legal expertise for the poor to make the work uniformly competent as well as compassionate.
- Professionally train a new generation of public interest lawyers and paralegals who are comfortable in the world of law as well as in social movements, and who learn from social movements to refine legal concepts and strategies.

### MIRCHPUR CARNAGE: CASTE VIOLENCE IN HARYANA

December 2011

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ISBN: 81-89479-79-2

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**Design:** Birendra K Gupta

**Printed at:** Print Graphics, Ramesh Market, New Delhi 110065

#### **Published by:**

Human Rights Law Network (HRLN)

(A division of Socio Legal Information Centre)

576, Masjid Road, Jangpura, New Delhi – 110014, India

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#### **Supported by:**



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Karuna Trust

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# ACKNOWLEDGEMENTS

I wish to express my sincere thanks to Dr. Colin Gonsalves, Senior Advocate of the Supreme Court of India and Founder Director of the Human Rights Law Network for the guidance he had offered in this work.

Special thanks to Mr Harsh Dobhal, Director, Human Rights Law Network for his creative and intellectual contribution.

My sincere thanks to Mr. Satish Tamta, Senior Advocate and Special Public Prosecutor appointed in the Mirchpur Trial, under whose able leadership the trial in this case was successfully concluded.

I wish to recognise the valuable contribution and tireless efforts of the team of lawyers from HRLN namely advocate Anubha Rastogi, advocate Ritu Kumar, advocate Shreeji Bhavsar and advocate Rajat Kalsan to ensure justice for the victim community.

I would like to express my gratitude to social activists from NCDHR particularly Mr. Sirivela Prasad, Mr. Rajesh Kumar, Mr. Rahul and Ms. Avirami for their contribution during fact findings in this case.

I would also like to thank the Interns working with me during this tenure most notably, Suvir, Narain, Pratichi, Supriya, Neihal, Lopamudra, Erica and Bedpriya.

Special thanks to Mr. Kesang Negi for assistance in compilation and editing.

Last but not the least, sincere thanks to the team of Research & Publication Division of HRLN, headed by Mr. Suresh Nautiyal for his creative and intellectual contribution. Special thanks to Mr. Birendra K. Gupta for his valuable contribution in design and layout.

**Sarita Bhoi**  
HRLN, New Delhi



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## FOREWORD

On April 21, 2010, dominant caste persons collected in a mob and brutally attacked the Dalits (Balmikis) of Mirchpur village, Hisar district in the state of Haryana. They set fire to the houses after looting them. 70-year old Tarachand and his disabled daughter, 17-year old Suman were burnt alive in their home. More than 50 people sustained injuries. The entire Dalit community fled the village and have remained away to this day.

The assailants received the full support of the state of Haryana as the dominant community is politically powerful. This state has seen a series of caste atrocities over the years and in all cases even after committing the most brutal crimes, the dominant community has managed to pressure the victims to withdraw cases and not give evidence in Court against their assailants. It is this inability of the criminal justice system to prosecute offenders that has resulted in a sense of invincibility on the part of the dominant community.

In this case as well, it appeared as if history would repeat itself. The local police supported the assailants. They were reluctant to conduct any criminal investigation. When they did they proceeded in such a manner that the statements of the victims were recorded partially and incorrectly thus jeopardising the criminal trial. The names of the assailants were conveniently omitted. The weapons carried by them were not recorded. After the accused were identified, many of them were not arrested and those arrested were quickly released on bail. Those thus released, returned to the village to insult, intimidate and threaten the victims. Strenuous attempts were made by the dominant community to force the Dalits to withdraw all their complaints.

It was in such circumstances that lawyers and social activists of the Human Rights Law Network (HRLN) together with activists of the National Campaign for Dalits Human Rights (NCDHR) visited Mirchpur and found the victim community at the mercy of the assailants with the police passively looking on and, in some instances, actively supporting the criminal elements. HRLN recorded the statements of the victims, took photographs of their destroyed homes, made an inventory of the household articles looted or destroyed, visited the schools and recorded the tragic plight of the children out of education, visited the area and recorded instances of the social and economic boycott started by the assailants in order to force the victims to withdraw their cases, and studied the unemployment situation and the hunger prevailing.

In the meanwhile, the criminal cases started in the Magistrate's Court at Hisar. The dominant community began attending in large numbers intimidating the witnesses as well as their lawyers. It became increasingly clear that the trial would go the normal way with all the victim community witnesses "turning hostile." It was in such circumstances that the victim community filed a writ petition directly in the Supreme Court of India seeking the transfer of the case from Haryana to Delhi, rehabilitation and compensation as well as protection of the Central Reserve Police Force.

It was the immediate and direct intervention of the Supreme Court that saved the day. At the outset, the Supreme Court, on enquiry, found that many of the accused persons were roaming free. The state police was then compelled to arrest all of them and they thereafter remained in jail for over 18 months until the end of the trial. This detention of 103 accused persons had a sobering effect on the dominant community and gave the victims some semblance of hope.

The Supreme Court then directed the Hisar Magistrate to submit a report regarding the situation in the Court and as to whether it was possible for a fair trial to take place given the allegation made that the situation was most unsafe for the victims and their lawyers. The Magistrate's report was another turning point in the case. He reported that the situation was very tense and that a fair trial was not possible. On this, the Supreme Court transferred the criminal trial from Hisar to Delhi.

At the outset of the trial, the victim community petitioned the Delhi Government to appoint a Special Public Prosecutor of their choice. The Delhi Government then appointed Shri Satish Tamta. Under his able leadership one of the most remarkable cases in the history of caste atrocities was satisfactorily concluded. He was ably assisted by a team of Human Rights Law Network lawyers including Anubha Rastogi, Shreeji Bhavsar and Rajat Kalsan. They worked tirelessly and often under fear for their own safety. Anubha Rastogi played a leading role in the prosecution. Sarita Bhoi, the Director of the Dalit Rights Initiative of Human Rights Law Network, coordinated the legal effort which included the numerous visits to Mirchpur, the fact-findings and the drafting of affidavits.

In the meanwhile, Rajat Kalsan's father, a practicing lawyer at Hisar, was attacked by a group of dominant caste lawyers and received injuries on his skull. Rajat had his office ransacked and was evicted by the landlord. Sarita Bhoi's home was visited by certain unknown persons suspected to be from the dominant community from Hisar. Given the threat of violence, complaints were made to the Supreme Court and the Trial Court and arrangements were made for protection. This protection was largely ineffective and Rajat Kalsan's father was attacked in the presence of the security guard and Rajat's office was ransacked with the police looking the other way.

While the trial was going on, the dominant community conducted massive Khap Panchayats. These are huge gatherings of the dominant community where provocative speeches are made against the Dalits and threats are given urging them to withdraw their cases or face the consequences. The railway tracks were blocked on many occasions, sometimes for weeks. The Supreme Court

took *suo moto* notice of this and asked the Railways to file an affidavit regarding the loss caused to the exchequer on account of the agitation. The Railway computed the loss to be Rs. 33 crores. The hearing of the case in the Supreme Court is currently underway.

The case in the Trial Court fortunately came before a fair and proactive Additional Sessions Judge who conducted the trial in a no nonsense manner, recorded the testimonies of 150 witnesses and delivered judgement within 10 months. Fifteen persons were convicted, three persons were given life imprisonment, five were sentenced to five years rigorous imprisonment and the remaining were sentenced for the period already undergone. In the judgement, the trial court observed that the investigation was conducted by the Haryana Police in a shoddy manner. Both the assailants as well as the victims proposed to challenge the judgement in the Delhi High Court. The victim community proposes to impugn that part of the judgment relating to the acquittal of the accused persons.

The most important issue that now survives in the Supreme Court petition relates to rehabilitation of the victim community. Ever since they fled Mirchpur, they have been living at the Tanwar Farm House, Hisar, where Mr. Vedpal Tanwar graciously took them in, pitched tents for them, fed them and kept them secure. For over two years now, these families have been destitute without food, medical attention and employment. Their children have been out of school. Their lives are insecure and the dominant community may attack them at any time. Accordingly, they seek from the Supreme Court orders directing the State of Haryana to provide them adequate alternative land so that they may build a new village where the Balmikis may stay. They seek the provision of free food which the Supreme Court granted them during the hearing of the case; but now they seek the continuation of such an order in the future as well until their lives are settled. They seek the construction of their homes at the new site at government expense. They seek compensation and employment in government service. In short, they argue that rehabilitation is their constitutional right and it must be done by the state of Haryana in such a manner that the victim community finds itself in a far better position than they were prior to the atrocity.

The story is far from over. Recently, advocate Shreeji Bhavsar was attacked by unknown persons near his office and his leg was broken. Lawyers and social activists, who champion such causes and take up such cases, are reconciled to facing such threats and attacks. But it makes the journey for the emancipation and protection of Dalits all the more difficult and protracted.

**Colin Gonsalves**  
New Delhi  
December 2011



# Introduction

*‘That the Hindus most often succeed in pulling down Untouchables is largely due to many causes. The Hindu has the Police and the Magistracy on his side. In a quarrel between the Untouchables and the Hindus the Untouchables will never get protection from the Police or justice from the Magistrate. The Police and the Magistracy are Hindus, and they love their class more than their duty. But the chief weapon in the armoury of the Hindus is economic power they possess over the poor Untouchables living in the village.’*

—Dr. B.R. Ambedkar in 1943

Organised violence directed against members of identified groups/communities has been a distinct feature of the Indian society for quite sometime. Though violence does take place in the process of change in many societies, and particularly so when radical alterations take place in the existing social and power relations, it usually does not choose its victims on the basis of birth in a given social entity. In India, however, this is precisely what has defined the character of violence in relation to certain groups. The country has witnessed increase in both caste and communal violence since independence which the processes of modernization have not abated. Rather, in some respects, it has been intensified by them.

While communal violence is a relatively recent phenomenon rooted in the events leading to partition, caste violence has a much longer history and a firmer anchorage. It also has the distinctiveness of being embedded in the social structure of the dominant community itself which lays down the norms of conduct between its more privileged groups and the subdued and subordinated segment. It is this age old caste relationship in Hindu Society which is getting disturbed by pressure of forces both from above and below. The frequency and intensity of violence is an offshoot of desperate attempts by the upper caste groups to protect their entrenched status against the process of disengagement and upward mobility among lower castes resulting from affirmative action of State Policy. The violence takes brutal forms and turns into acts of atrocities against a whole group of people, such as massacre, rape, burning of houses and through more subtle methods like social boycott, which are intended to block their access to basic necessities and services. This phenomenon has to be positioned in the larger perspective of State-Society dynamics in order to understand why it happens and how it can be checked.<sup>1</sup>

---

1 Report on the Prevention and Atrocities against Scheduled Castes, K.B Saxena, NHRC

On 21<sup>st</sup> April 2010, when 17 year old Suman, a disable dalit girl and her 70 year old father Tarachand were burnt alive by the dominant caste mob in the village Mirchpur, in Hisar district in the state of Haryana. This incident depicts the horrific saga of atrocities against dalits by the caste chauvinists in India. Though this incident was, as per the popular notion, told to have started with a brawl over a dog barking but the real reason behind the incident not only unmasks the age old practice of the so called upper caste people harassing the individuals of lower caste, it also narrates the engagement of the dominant community in such barbarous activities against the oppressed community. This incident also throws light on a very greyer issue of upward mobility of the dalits in Haryana Vis-a-Vis the changing dynamics of socio-economic relation of the dalit community with that of the so called upper castes.

The self proclaimed Jatland of the country, Haryana, a state where the Jat community controls absolutely everything right from political power to communal power to suppress anything which goes against their will. Their orthodox and feudal mindsets are so deep rooted that they cannot even tolerate anyone moving ahead, be it being to move forward economically, socially or even in the field of education and all sorts of developmental things which may bring the community which is at the bottom of the caste hierarchy at somewhat better platform than that of there earlier condition and sometimes even bring them entirely on a higher platform than that of higher castes of the society. What we have closely observed during this horrific incident was that the Jats of Haryana not only poses orthodoxy in their being belonging to a higher caste but they also posses a kind of conservative view on the point that nobody especially the lower caste communities can flourish against their will.

This incident brought us to a completely dicey situation where we had to stop for a moment and ponder over this incident and see that was it another incident similar to the earlier ones in Jhajjar (2003), Gohana (2005) and Salwan (2007, Karnal district) or was it something different? It certainly seems that this incident actually has not much to do with the age old practice of dalits and there is, irrefutably, an economic component to this outpouring of ethnic hatred. The intolerance and jealousy of the dominant castes has now taken a different shape all together when the dalits who are in minority have started becoming economically sound and are now at a stage where they are less dependent on the people of higher castes to earn their livelihood. In addition, looking at the socio-economic status of dalits, particularly in case of the Balmiki community in Mirchpur, the Balmikis are on a higher platform in the state and which is the one of the main reason for the upward mobility of the society. This invariably challenged the orthodoxy of the higher castes fuelling a sense of despair and frustration to crush the assertion of the dalit community. The frustrations suddenly took a brutal turn resulting in this kind of incidence where homes of dalits were burnt down. What is more shocking is to see the administrative and political apathy shown by the government of Haryana while dealing with this case. During the course of trial, both in the Magistrate's Court at Hisar and in the Special Court for Scheduled Caste in Delhi, the government of Haryana showed

more sympathy towards the accused and its urge to appease the dominant community was much more visible and detrimental for the process of securing justice for the victim community.

The role of the caste Panchayat after the incident shows the strong notion of dominance and age old prejudice against the dalits. Within three days of the carnage, a *maha-khap* panchayat of Jats was organised in the village. Representatives of 43 *khaps* met in the village demanding the immediate release of the 29 Jats arrested and reinstatement of the suspended SHO. The superintendent of police and deputy collector said they were not aware of such a meeting, though it was attended by about 2,000 men within earshot. The Khap Panchayat initiated a peace committee in the village and in the name of restoring peace, the members of the Khap Panchayat tried to come out with a compromise. Ironically, the local media gave a boost to the khaps by publishing stories on their sides. The social and economic boycott of dalits in Mirchpur after the incident shows the helplessness of the community while fighting against the gory practices of untouchability and discrimination.

Caste antagonism in this part of the country is so strong that the dalits have always been seen as people on whom atrocities can be done and they will never raise their voice against the injustice. This exposed the real face of the society which proudly claims to have actually moved ahead of issues like discrimination on the basis of caste or caste related violence etc, but the real fact lies unveiled that in spite of false claims, caste related violence is still prevalent in the society but the basis of this might have changed as it is apparent from this particular case. The government has devised a few options to cover these issues with the help of instruments like compensation, government jobs being offered to the victims etc, which is just a tactical way to cover up the wrong doing and failure of the administration to protest the victims but the fundamental question lies with the denial of justice for the community.

Again, it is essential at this juncture to review the implementation of SC/ST (POA) Act, 1989 in this case. The experience of victims and witnesses, activists and organizations during the course of legal intervention clearly demonstrates that the implementation leaves much to be desired. Though the Act has made a small impact in curbing atrocities against SC/ST through deterrent punishment; remedial measures to be taken by the authorities and special provisions mandatory on the state government to ensure effective implementation has several deficiencies. Time and again, Institutions like National Commission for Scheduled Castes, NHRC, and Justice Punnaiah Commission have critically examined deficiencies of the Act and suggested various amendments to the Act. Human rights organizations also brought out various gaps in enforcement of the Act and Rules. Ministry of Social Justice and Empowerment and Ministry of Home affairs have also issued various advisories to states governments to fill the gaps in the enforcement. However looking at the different authorities and agencies at the district and state level responsible for the enforcement of the Act shows serious concern over the failure of the mandatory provisions in protecting the rights of scheduled castes and assessed ineffectiveness of the justice delivery mechanisms.



However, the most important concern in this case is the rehabilitation of the victim community. Even after more than two years of the incidents, the victims of Mirchpur are still living like destitute in the outskirts of Hisar. Women and children of the victim community still feel insecure and vulnerable. Lack of sustainable livelihood opportunities and social and economic boycott forced the victims to go far away places in Punjab to work in the cotton firms virtually as bonded laboures. The caste equation in Haryana and the dearth of powerful social movement makes it a difficult condition for the Mirchpur victims to hold the turf against age old caste based discrimination.

**WRIT PETITION FILED  
IN THE SUPREME COURT**



**IN THE SUPREME COURT OF INDIA**  
**CIVIL ORIGINAL JURISDICTION**  
**WRIT PETITION (CIVIL) NO. 211 OF 2010**  
**IN THE MATTER OF:**

Jaswant  
Vill. & P.O Mirchpur, Tehsil – Narnaund, District Hisar Haryana ...Petitioner No. 1

Chander Singh  
C/o Ajit Singh, S/o Telu Ram  
Vill. & P.O Godana, Tehsil – Narnaund, District Hisar, Haryana ... Petitioner No. 2

Satyavan  
C/o Pujya Sant Shri Krishna Vidyarthi,  
Balmiki Mandir, Panchkuian Marg, New Delhi. ... Petitioner No. 3

Versus

State of Haryana  
Through its Chief Secretary,  
New Civil Secretariat, Opposite Sector 17, Chandigarh. ... Respondent No. 1

Deputy Commissioner,  
District Administrative Complex, Mini Secretariat Hisar, Haryana ...Respondent No. 2

Superintendent of Police,  
Office of the Superintendent of Police, Hisar, Haryana .... Respondent No. 3

**PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA**

TO,  
THE HON'BLE CHIEF JUSTICE  
AND HIS LORDSHIPS COMPANION JUSTICES  
OF THE SUPREME COURT OF INDIA

THE PETITION OF THE PETITIONER  
ABOVENAMED

Most respectfully showeth that:

1. The petitioners submits that they have filed this Writ Petition under Article 32 of the Constitution of India by way of a public interest litigation for issuance of appropriate directions to the

Respondents to constitute a Special Investigation Team to investigate the atrocity against the scheduled caste community caused by the dominants on 21.04.10 in village Mirchpur, District Hisar. In the said incident one disabled girl and her father were burnt alive by the mob, more than 25 houses were burned down and looted. By way of this Petition, the Petitioner also seeks adequate compensation, relief, rehabilitation, immediate arrest of the accused, insertion of appropriate sections of the Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 into the FIR No.166 dated 21.04.10 and for directions to protect and to give a sense of security to the victims and not to be further discriminated.

2. Petitioners are the residents of Mirchpur. Petitioner No. 1, Jaswant is a primary teacher in MCD Primary School, Village Pali, Badarpur, Delhi. His mother, two sisters, wife and 2 children were living in Mirchpur Village. At the time of the incident, his family was in their house, which was looted and destroyed by the mob that attacked their village on 21.04.2010. The villagers helped in saving the family and his small children. Petitioner no. 2, Chander Singh, a resident of the Mirchpur village, is a daily wage earner who also sells and buys animals. The mob looted his house while he was in the house with his wife and 4 children. The children were very scared, as they could not find a way to run out being surrounded by all sides. The Petitioner somehow managed to save his wife and children. Petitioner No. 3, Satyavan, is a daily wage earner and sells animals. He is also a resident of Mirchpur village. At the time of the incident, his wife, two children and his brother's wife and their child were in the house when the mob looted and destroyed their belongings. The mob took Rs. 60-70,000/- cash, which he had saved from his earnings from buying and selling animals. All the three Petitioners are homeless and are presently residing in the Balmiki temple on Panchkuian Road in New Delhi, with their families.
3. The Respondent No. 4 is the Pradhan, Barah Khap Panchayat, which is the main aggressive force that has assaulted and is threatening the victim community. Similarly, the Mehem Chaubisi Khap Panchayat, Respondent No. 5 is playing the same role. They terrorize the community.
4. That the facts and circumstances in the present case which has lead to filing of this petition are as follows:
  - (a) On 19.04.2010 at around 8 p.m. in the night, 4-5 young men who were drunk from the dominant community were passing through the Mirchpur village lane when a dog barked at them. The boys hit him with a stone. The stone hit a Balmiki boy sleeping nearby. The Balmiki boy protested at which the dominant caste boys started abusing him. After some time 15-20 young boys from the dominant caste community who were following them also gathered and fought with the Balmiki boys who had gathered there. The same night the dominant caste boys went back and made a plan. After an hour a constable, Ajit Singh, from the dominant caste came on a motorcycle asking them to come for a Panchayat to reach a compromise on the fight that had occurred between the two communities. Two elders

from the Balmiki community, Vir Bhan, and Karan Singh went to attend the Panchayat. There the boys were gathered and beat both the Balmiki elders. Some Balmiki boys on hearing the fight went to save them. After which about 50-60 boys who were gathered there starting throwing stones at the Balmiki houses. The villagers informed the police. The police arrived after 30 minutes when the situation had calmed down. The injured persons were taken to the hospital. The Balmiki men spoke to the policemen for protection. The policemen assured the Balmiki people that they are in the village and told them to sleep. After sometime the policemen went back.

- a. The next day, on 20.04.2010 the situation was peaceful and the Balmikis were misled to believe that things had calmed down. However they were mistaken.
- c. On 21.04.2010, at around 7 am in the morning, the Balmiki chowkidar, Gulab Singh went to the dominant caste Mohalla and saw that all the dominant caste persons were gathering for a Panchayat. He was stopped by the dominant caste persons gathered there and beaten with lathis by 60-70 people. The chowkidar somehow managed to return back to his mohalla. The Balmiki persons gathered there called the SHO. The SHO sent 4 constables. When more dominant caste persons started gathering, then the Balmiki men again called the SHO. Then the SHO, and the Naib Tehsildar came with 4 more constables, at about 8 am. They went to the dominant caste groups and asked all the Balmikis to come to the Balmiki Chaupal for a compromise. The dominant caste persons who were standing in the lane nearby surrounded the Balmiki Chaupal. About 1000 dominant caste people, along with at least 30-40 women then beat the Balmikis and went to their houses, and looted and burnt them. More than 25 houses were looted and burnt. The women were carrying kerosene. In one of the houses which was burnt, a handicapped girl, Suman who was on a wheelchair, tried to escape. The dominant caste men pushed her inside and burnt her. When her father, Tara Chand went to save her, the men poured kerosene on him as well and burnt him.
- d. The looting and burning of houses carried on for more than 3 hours, from 9 am to 12:30 pm. At about 12:30 pm, the fire brigade arrived. The SP and DC also came with the fire brigade. The media people also came.
- e. Tara Chand was taken to the hospital, who died there after giving his statement. Suman had already died. About 30-35 people were injured.
- f. An FIR was lodged on the same day. SHO Vinod Kajal and Naib Tehsildar Jaagi Ram were named but their names were not registered in the FIR. A copy of the FIR dated 21.04.2010 is annexed and marked herewith as **Annexure P-1**.
- g. A second report was lodged again naming the SHO and Naib Tehsildar. The Special report filed on 22.04.2010 is annexed and marked herewith as **Annexure P-2**.

- h. In view of the FIR, protests, and the media coverage, 29 accused persons were arrested. Following the arrest a Maha Khap Panchayat was organized in Mirchpur village, demanding release of the arrested persons.
  - i. Fearing further atrocities by the dominant castes, the 150 Balmiki families left their village for Hisar. The 150 Balmiki families sat at the DC office in Hisar demanding rehabilitation, relocation at Talwadirana, a village in Haryana, compensation, and adequate punishment for all the culprits for destroying their livelihood, homes and looting their entire life's savings.
  - j. The villagers were called for a meeting with DC, where Suman's brother was given an appointment letter, and her mother given a cheque of 16 lakhs. The others were promised to be given compensation. On such false assurances, the Balmikis were taken back to their houses in Mirchpur
  - k. About 10 people, were asked to come to Delhi to meet the Chief Minister. The Chief Minister simply folded his hands, said that you will be given security and facilities, and went away. The villagers returned back to their village Mirchpur disillusioned.
  - l. The said brutal atrocity was covered extensively and the news items appeared in the National dailies. The true translated copies of the Newspaper articles in the Hindu, Dainik Bhaskar, Amar Ujala, Indian Express, dated 22.04.2010, The Hindu dated 24.04.2010, The Times of India dated 08.05.2010, and the Hindu dated 20.05.2010 are marked and attached as **Annexure P-3**. The photos of the burnt houses of the Mirchpur village dated 07.05.2010 are annexed and marked herewith as **Annexure P-4**.
  - m. In the meantime several Khap Panchayats were held, where the dominant castes demanded the Balmikis to take back their complaints and reach a compromise. Repeated threats were also given by persons from dominant caste to victims of Scheduled caste community of further dire consequences.
  - n. The administration has not taken any further action for providing rehabilitation, compensation to the victims. They are left to fend for their own selves.
  - o. The Dalit community of the Mirchpur village under fear and threats have lost faith in the administration. Most of them have left the village and have currently taken shelter in the Balmiki temple on Panchkuian Road, in New Delhi.
5. That being aggrieved against the inaction of the respondents the petitioner is filing the present petition inter alia on the following grounds:

**Grounds**

- a. That out of the 43 named and 300-400 unnamed persons inter alia only 29 persons have been arrested and the remaining are still at large. No attempt has been made by the authorities to arrest the remaining accused.

- b. That proper estimation of damages (physical and psychological) inflicted on the Dalits has not been done and the relief and rehabilitation package announced for the houses that have been burnt is only 1 lakh while the damage incurred is much more. There is social and economic boycott in the village against the victims i.e. Schedule Caste.
- c. That no inquiry has been undertaken against the 20-25 police officials present at the Narnaund Police station. Moreover, important evidence has been destroyed.
- d. That a perusal of the FIR will show that the SC and ST (Prevention of Atrocities) Act, 1989 was not included except for section 3 (1). Specific reference ought to have been made, inter alia, 3 (1) (v), (x), (xv) and 3(2) (iii), (iv), (v) and (vii) and 4.
- e. That strict action needs to be taken against all the police officials who were present in the Narnaund Police Station and at the Mirchpur Carnage site, for negligence and dereliction of duty and for abetment of the crime by the administrative authorities.
- f. That strict action needs to be taken against Vinod Kajal, the SHO and Naib Tehsildar, Jage Ram for clearly laying down a conspiracy with the dominant caste men to call the Scheduled caste men to the Chaupal and then to attack them from the back, surround the Scheduled caste houses and burn and destroy their property, while the police officials would stand and watch.
- g. That when the Balmiki men and women approached the SHO on 20.04.2010 fearing that some atrocity might take place, the police officials did not register any complaint and refused to provide them with police protection.
- h. That at least 10-12 police officials were present at the time and place of the incident alongwith the SHO and Naib Tehsiladar on 21.04.2010. That when the women approached the police officials asking them for protection, when the dominant caste men and women were looting and burning their houses, they were told that they cannot help them. Moreover, the SHO had told the dominant castes that they had one hour to do any damage they wanted to in which time the police officials would not interfere.
- i. That the fire brigade arrived only at 12:30 p.m. when most of the Scheduled caste houses were looted and burnt.
- j. That this is a clear connivance of the administration and the dominant caste persons to instill fear in the hearts of the minority communities residing in the village and to establish their supremacy over these minority groups.
- k. That posts the incident the 150 Balmiki families have become homeless, and have lost all their life's earnings, livelihood and homes. That these people have been left without any shelter over their heads and with no support from the administrative authorities. That no measures have been taken even after a month of the incident to provide these homeless people with adequate shelter, or compensation.



- l. That the government and the administration are not taking any steps to conduct a fair and proper investigation of the incident. Till date no committee has been formed for damage assessment, or for investigation into the incident. The investigation to the whole incident is tardy and improper.
  - m. That the children of these victim families are out of school and are not able to resume their education. They are not able to get admission in any schools as the admission date for the children is over.
  - n. That the victim families have not received any food, shelter, or health facilities from the administrative authorities since their houses were destroyed except a few empty promises. That the women and children are also left without any adequate support structure or health facilities.
  - o. That the Balmikis are left at the mercy of some few helpful citizens of the society and their community who have provided them with temporary shelter in a temple in Delhi.
  - p. That the caste based violence, which is being carried on with the connivance of the police and administrative authorities has not resulted in any action being taken against the dominant caste people.
  - q. That many of the dominant caste families in the village have licenced guns. That such incidents have not resulted in the revocation of the gun licences of the dominant castes by the police even though there are regular incidents of caste based atrocities that are occurring. Many such incidents go unreported or are given a wrong official version.
  - r. That the Dalits have lost faith in the administration and demand justice for the atrocities inflicted upon them, adequate compensation for the loss and damage suffered by them both mental and physical, and rehabilitation and resettlement in a new place, away from the dominants, where they can lead a peaceful life.
  - s. That the Constitution of India which provides for equal rights to all its citizens (Article 14), guarantees non-discrimination on the basis of caste (Article 15), equality of opportunity in matters of employment (Article 16), protection of life and liberty and the right to live with dignity (Article 21), guarantees the right to education (Article 21A), and guarantees protection of interests of minorities (Article 29), does not hold any meaning for the Dalits, whose lives and property can be destroyed in minutes. The State Government or the District Authorities have failed to provide any protection to the members of the Scheduled caste community.
6. That the Petitioner has not filed any other similar petition before this Hon'ble Court or any other High Courts seeking the same relief's.
7. That the Petitioner has no other equally efficacious alternative remedy than to approach this Hon'ble Court.

## Prayer

In view of the facts and circumstances referred above it is respectfully prayed that this Hon'ble Court may grant the following reliefs/directions to the respondents:

- a. For a writ of mandamus or any other appropriate writ, order or direction to the respondents to forthwith make arrangements for the accommodation at New Delhi of the approximately 150 victim families who are currently residing in the Balmiki temple at Panchkuian Road, New Delhi.
- b. For an order directing the Respondents to maintain the 150 victim families by paying each family Rs. 10, 000/- per month.
- c. For an order directing the Respondents to permanently rehabilitate the victim families by relocating them at Talwandirana in Haryana and to provide them all necessary facilities.
- d. e. For an order directing Respondents to pay compensation of Rs. 10,000,00/- per victim family forthwith.
- e. To frame and implement a scheme for continuous and adequate protection to be provided to all the Scheduled caste families so that they are not under any threat in future.
- f. To reconstruct all the destroyed / damaged of the victim families by making brick / stone masonry house at government cost in accordance with Rule 12(iv) read with Item 22 of Annexure 1 of the SC/ST Atrocities Act.
- g. To cancel the gun licences of all the dominant caste families in Village Mirchpur in accordance with Rule 3(iii) of the SC & ST (Prevention of Atrocities) Rules, 1995.
- h. Pass any such order/s or direction/s as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case.

And for this act of kindness the petitioner as in duty bound shall ever pray.

Drawn by: Ritu Kumar  
Drawn on: 20.05.2010  
Filed on: 21.05.2010

Filed by  
Jyoti Mendiratta  
Advocate for the Petitioner

**IN THE SUPREME COURT OF INDIA**  
**CIVIL ORIGINAL JURISDICTION**  
**WRIT PETITION (C) NO. \_\_\_\_\_ OF 2010**  
**IN THE MATTER OF:**  
**Jaswant & Ors. ... Petitioners**  
**Versus**  
**State of Haryana & Ors. ... Respondents**

AFFIDAVIT

I, Jaswant Son of Shri Jagbir Singh, aged about 28 years, resident of V& P.O Mirchpur, Tehsil – Narnaud, District Hisar, Haryana presently at Delhi, do hereby solemnly state and affirm as under: -

1. That I am the Petitioner in the above-mentioned matter and in such capacity I am well conversant with the facts and circumstances of this case as derived from official records and am competent to swear this affidavit.
2. That I have gone through the contents of the accompanying Synopsis and the list of dates from page B to page \_\_, Writ Petition from page 1 to page \_\_, Application seeking exemption from filing the official translation from page \_\_ to page \_\_, Application for interim directions from page \_\_ to page \_\_ state that the same are being filed under my instructions and the contents there of are true to the best of my belief and nothing material has been concealed.
3. That the annexures are true copies of their respective originals.

DEPONENT

VERIFICATION

Verified at New Delhi on this the 20 day of May 2010 that the contents of the affidavit are correct, no part of it is false and nothing material has been concealed therefrom.

DEPONENT

**TRUE TRANSLATED COPY OF THE FIR NO. 166 DATED 21.04.2010.****FIRST INFORMATION REPORT  
(Under Section 154 Cr. P.C.)**

S.R.No. 166

Book No.

CIPA – R1.11.00

**1. District:** HISAR      **PS:** NARNAUND    **Year:** 2010      **FIR No.:** 166      **Date:** 21.04.2010

**2. Act(s):**

**Section(s):**

(i) IPC 1860

302/307/395/397/435/436/449/450/452/427/323/148/149/120B

(ii) SCH. CASTES&THE SCH.TRIBES (PREV.OF ATRO.) ACT 1989 3(I)

**3. Occurrence of Offence:**

**(a) Day: Wednesday**

Date From: 21.04.2010

Date To: 21.04.2010

**Time Period:**

Time From: 10.00 hrs

Time To: 11.00 hrs

**(b) Information Received at P.S:**

**Date:** 21.04.2010

**Time:** 18.15 hrs

**(c) General Diary Reference:**

**Entry No.:** 37

**Time:** 18.15 hrs

**4. Type of Information:** WRITTEN

**5. Place of Occurrence:**

**(a) Direction and Distance from PS:** North/21.0 Km.

**Beat No.:** 38

**(b) Address:** VILL. MIRCHPUR, VILL. MIRCHPUR

**(c) In Case, outside the limit of the Police Station:****Name of PS:****District:****6. Complainant/ Informant:****(a) Name:** KARAN SINGH (S/O) TEK RAM BALMIKI**(b) Birth Year:** 1953      **Nationality:** INDIA**(c) Passport No.:**      **Date of Issue:**      **Place of Issue:****(d) Occupation:** CONTRACTOR**(e) Address:** MIRCHPUR**7. Details of known/ suspect/Unknown Accused with full particulars (Attach separate sheet if necessary): (0)**

(i)

(ii)

(iii)

**8. Reason for Delay in Reporting by the Complainant/ Informant:**      NO DELAY**9. Particulars of the Properties Stolen/ involved (Attach Separate Sheet if necessary):**

Sl. No.	Property Type (Description)	Est. Value (Rs.)	Status
(i)			
(ii)			
(iii)			

**10. Total Value of Property Stolen:****11. Inquest Report/ U.D Case no., if any:**

**Statement given by Sri Karan Singh (57) S/o Sri Tek Ram belonging to Balmiki Community (SC) from Mirchpur, PS Narnaund, District Hisar is as follows:**

I hereby state that I am the resident of the above mentioned address, work as a contractor of Fisheries and am presently the member of the *Block Samiti* Narnaund. That it was the eve at 8 to 8.30pm on 19.4.2010 and I was on the terrace of my house in front of *Chaubara*. My pet dog was sitting in front of my house at *Chabutara* (a common sitting place). Meantime from the side of the Water Tank Rajendra S/o Parli Ram, Sonu S/o Pappu, Monu S/o Suresh, Rishi S/o Satbeer Akwam Jat Wasian Deh along with 10/15 boys also there were all drunk, passing by my house. My dog started barking at them from far away. Then Rajendra S/o Pali picked up a brick and pelted at the dog. Looking at this act, Yogesh the son of my brother objected doing

so, then Rajendra and boys with him started slapping and punching Yogesh. I came down of the terrace and made them understand about the situation and sent them from there. After some a while the above boys stood at the house of Rajendra. While they were all standing at the house of Rajendra, Ajit Jat who is employed as a police and having his house towards our colony, came to me and told me that all the boys together are standing in the street at the house of Rajendra. You go and ask pardon from them otherwise you will face the severe consequence. That Birbhan S/o Man Singh Kaum belonging to Balmiki from our colony and I, as Ajit had told, went to ask pardon from Rajendra S/o Pali Ram and all the boys. When we reached to them and asked pardon from them no one paid attention to us in stead as if well planned, they all suddenly attacked us. Birbhan and I got hurt in the attack. Birbhan got severe hurt and I immediately took him first to the government hospital at Narnaund and later to the government hospital Hisar but due to grievous hurt Birbhan started continuous vomiting, I got him admitted in Jindal hospital at Hisar. Since was not seriously hurt I did not get examined from a doctor. That in the next evening, taking this very case I feared of having tension between our colony and village, got Birbhan discharged from the hospital and brought him back to the village. That while returning from the hospital, in the next evening itself, I myself had gone to Narnaund Police Station and informed the SHO there about the tension being created in the village. Along with me 5-7 policemen from Narnaund police station had come to my village. I was accompanied by policemen to the village who had talked to the opposition party in the very night. That on 21.4.2010 around 10-11am, I after getting to know the situation of Birbhan came to street. That with me there were two persons Ajmer S/o Balbir, Sajjna S/o Ramswaroop, Karmbir S/o Balbir and 5-7 persons from our colony after visiting Birbhan came to the street and witnessed that Rajendra S/o Pali Ram, Rishi S/o Satbir, Pradeep S/o Balwan, Kulbinder S/o Rammehar, Rupesh S/o Tek Ram, Monu and Vikash Sons of Dr. Suresh, Rajpal S/o Syochand, Ella S/o Mayi Chand, Sumit and Amit Sons of Satyavan, Ramesh S/o Karn Singh, Soni S/o Jayveer, Sonu S/o Pappu, Pawan S/o Rammehar, Vipin S/o Pratap, Jasveer S/o Ishwar, Mahesha S/o Dalip, Pali's daughter in law, wife of Dilbag a driver of Roadways, Kapura S/o Ram Singh's wife, Pappu S/o Hari Singh's wife, Rajendra S/o Sandhu, Bablu@ Langda S/o Teka, Jogender @ Jogad S/o Inder Singh, Ghaghad S/o Tarachand, Dharambir S/o Tarachand, Suresh S/o Balbir, Bhoti W/o Ghaghad, Bharpai W/o Kapura, Ramphal S/o Prathwi, Sunil S/o Dayanand, Baljeet S/o Indra, Nanha S/o Maichand, Karampal S/o Satbir, Mandeep S/o Prema, Hathi S/o sri Baru ram, Kuldeep and Jaybir sons of Balbir, Rajendra S/o Belu Ram, Dhupa S/o Manga , Daaya S/o Jeet Singh Akwam Jat and along with 300-400 men and women, Youths with a plan came to the colony challenging and shouting "*in Saale Chuhdon ke makano ko jala do, inke bal bachon ko makano ke andar hi jinda jala do tatha gharon ko tod phod karke gira do aur inka gaon se khatma kar do.*" They all were carrying spears, canes, sticks, jars and bottles of petrol and Kerosene oil. That no sooner they surrounded the Balmiki colony and torched the house, attacked deadly on our people and entered the houses, poured petrol and kerosene

oil and torched even the furniture, beddings inside and outside the houses. They did not even care that there would be men and children inside the houses. The above accused torched the houses of Tara chand S/o Swaroop Singh, Kamla W/o Tarachad, Dilbag S/o Sube Singh, Satyavan S/o Bhalleram, Manoj S/o Mahendra, Rajendra S/o Mahendra, Sanjay S/o Bani Singh, Aman S/o Surta, Gulaba Chaukidar, Sanjay S/o Pal, Chandra S/o Lakshman, Ramphal S/o Rajmal, Pala S/o Bir Singh, Dhupa s/o Ratnu and on many other houses and shops belonging to Balmikis poured petrol and torched them too. They even climbed on the roofs of the houses, damaged the roofs and walls of the houses. And the mentioned accused burnt Tarachand S/o Swaroop Singh and his daughter Suman alive inside their house. Suman died on the spot while the accused set her house on fire. Many others were severely injured due to deadly attack and the mentioned accused forcefully entered our houses, looted our trunks, cash inside almiras, jewellery and other valuable goods. That the mentioned accused surrounded our colony entered our house, poured oils and torched our houses in a preplanned manner and keeping the incidence of the dog (female) barking at the accused burnt alive Tarachand and his daughter Suman inside their house. Our Balmiki houses were mercilessly looted and damaged. Take stringent legal action against the accused. Now you have recorded a statement which is correct.

Sd-

Karan Singh

Attested – Abhay Singh, DSP HANSI,

Dt.21.4.2010

**Action taken by Police:** Today, I DSP after receiving the information along with my staff and government vehicle HR-39A/3649 is present at Balmiki colony in Mirchpur village that a witness Sri Karan Singh has given his statement in record and read out to him by words. And the witnessed has understood his statement and gave him consignment and signed under the statement in Hindi. I have attested the same. That the above statement draws the following crimes under sections 302, 307, 395, 397, 435, 436, 449, 450, 452, 427, 323, 148, 149, 120B IPC and Section 3 SC/ST Act. The injured and the dead body are taken to the hospital without any delay. The higher officials are already present on the spot and Scean of Crime Team, firebrigade, ambulance are already engaged with on the spot. The incident is being Video graphed. For the registration of the Complaint is being sent to the Narnaund police station through EHC Om Prakash 1285 and the crime shall be registered and crime number shall be informed accordingly. Special report of the crime shall be sent to Magistrate and Higher Officials. I am busy in investigation.

Sd- Abhay Singh

DSP (HANSI)

**Balmiki Colony Village Mirchpur**

21.04.10 At 5:30 PM

Case No. 166dt. 21.04.10 u/s 302, 307, 395, 397, 435, 436, 449, 450, 452, 427,323, 148, 149, 120B IPC and Section 3 SC/ST Act. PS Narnanud has been registered.

Sd-

PS NND

21-4-10

**Action taken by Police:** Today, I DSP after receiving the information along with my staff and government vehicle HR-39A/3649 is present at Balmiki colony in Mirchpur village that a witness Sri Karan Singh has given his statement in record and read out to him by words. And the witnessed has understood his statement and gave him consignment and signed under the statement in Hindi. I have attested the same. That the above statement draws the following crimes under sections 302, 307.395, 397, 435, 436, 449, 450, 452, 427, 323, 148, 149, 120B IPC and Section 3 SC/ST Act. The injured and the dead body are taken to the hospital without any delay. The higher officials are already present on the spot and Scean of Crime Team, firebrigade, ambulance are already engaged with on the spot. The incident is being Video graphed. For the registration of the Complaint is being sent to the Narnaund police station through EHC Om Prakash 1285 and the crime shall be registered and crime number shall be informed accordingly. Special report of the crime shall be sent to Magistrate and Higher Officials. I am busy in investigation, at Balmiki colony in Mirchpur Village; Sd- Abhay Singh DSP HANSI Dt 21.4.2010 at 5.30p.m.

SC police Station: Based on the mere complaint I registered the crime. And the copy is sent to DSP through EHC Om Prakash 1285 without delay. The Copy of the FIR and Special Report are being sent to concerned officials and Magistrate through special EASI Manohar Lal 454.

12. **Action Taken** (Since the above information reveals commission of offence (S) u/s as mention at item no.:- 2

(i) Registered the case and took up the investigation

(ii) Directed (Name of the I.O):

Abhay Singh Rank: DSP

No. to take the investigation, OR

(III) Refused investigation due to OR

(IV) Transferred to PS (Name) District

On point of jurisdiction



## 13. R.O.A.C

Signature/ Thumb Impression  
of the complainant/ informant

Signature of office  
Name : Dev Raj  
Rank: ASI No.: 404

**Name of the Accused**

(1) Rajendra S/o Pali Ram, (2) Sonu S/o Pappu, (3) Monu and Vikash Sons of Dr. Suresh, (5) Rishi S/o Satbir, (6) Pradeep S/o Balwan, (7) Kulbinder S/o Rammehar, (8) Rupesh S/o Tek Ram, (9) Rajpal S/o Syochand, (10) Ella S/o Mayi Chand, (11) Sumit and Amit Sons of Satyavan, (13) Ramesh S/o Karn Singh, (14) Soni S/o Jayveer, (15) Pawan S/o Rammehar, (16) Vipin S/o Pratap, (17) Jasveer S/o Ishwar, (18) Mahesha S/o Dalip, (19) Pali's daughter in law, (20) Dilbag a driver of Roadways' wife, (21) Kapura S/o Ram Singh's wife, (22) Pappu S/o Hari Singh's wife, (23) Rajendra S/o Sandhu, (24) Bablu @ Langda S/o Teka, (25) Jogender @ Jogad S/o Inder Singh, (26) Ghaghad, Dharambir Sons of Tarachand, (28) Suresh S/o Balbir, (29) Bhoti W/o Ghaghad, (30) Bharpai W/o Kapura, (31) Ramphal S/o Prithvi, (32) Sunil S/o Dayanand, (33) Baljeet S/o Indra, (34) Nanha S/o Maichand, (35) Karampal S/o Satbir, (36) Mandeep S/o Prema, (37) Hathi S/o sri Baru ram, (38) Kuldeep and Jaybir sons of Balbir, (40) Rajendra S/o Belu Ram, (41) Dhupa S/o Manga, (42) Daaya S/o Jeet Singh (43) Ajeet Jat Akwam Jat belonging to Mirchpur and along with 300-400 men and women, Youths

**Complaint Statement given by Sri Karan Singh**

Statement given by Sri Karn Singh (57) S/o Sri Tek Ram belonging to Balmiki Community (SC) from Mirchpur, PS Narnaund, District Hisar is as follows:

I hereby state that I am the resident of the above mentioned address, work as a contractor of Fisheries and am presently the member of the *Block Samiti* Narnaund. That it was the eve at 8 to 8.30pm on 19.4.2010 and I was on the terrace of my house in front of *Chaubara*. My pet dog was sitting in front of my house at *Chabutara* (a common sitting place). Meantime from the side of the Water Tank Rajendra S/o Parli Ram, Sonu S/o Pappu, Monu S/o Suresh, Rishi S/o Satbeer Akwam Jat Wasian Deh along with 10/15 boys also there were all drunk, passing by my house. My dog started barking at them from far away. Then Rajendra S/o Pali picked up a brick and pelted at the dog. Looking at this act, Yogesh the son of my brother objected doing so, and then Rajendra and boys with him started slapping and punching Yogesh. I came down of the terrace and made them understand about the situation and sent them from there. After some a while the above boys stood at the house of Rajendra. While they were all standing at the house of Rajendra, Ajit Jat who is employed as a police and having his house towards our colony, came to me and told me that all the boys together are standing in the street at the house of Rajendra. You go and ask pardon from them otherwise you will face the severe consequence. That Birbhan S/o Man Singh Kaum belonging to Balmiki from our colony and I, as Ajit had told, went to ask pardon from Rajendra S/o Pali Ram and

all the boys. When we reached to them and asked pardon from them no one paid attention to us in stead as if well planned, they all suddenly attacked us. Birbhan and I got hurt in the attack. Birbhan got severe hurt and I immediately took him first to the government hospital at Narnaund and later to the government hospital Hisar but due to grievous hurt Birbhan started continous vomiting, I got him admitted in Jindal hospital at Hisar. Since was not seriously hurt I did not get examined from a doctor. That in the next evening, taking this very case I feared of having tensed between our colony and village, got Birbhan discharged from the hospital and brought him back to the village. That while returning from the hospital, in the next evening itself, I myself had gone to Narnaund Police Station and informed the SHO there about the tension being created in the village. Along with me 5-7 policemen from Narnaund police station had come to my village. I was accompanied by policemen to the village who had talked to the opposition party in the very night. That on 21.4.2010 around 10-11am, I after getting to know the situation of Birbhan came to street. That with me there were two persons Ajmer S/o Balbir, Sajjna S/o Ramswaroop, Karmbir S/o Balbir and 5-7 persons from our colony after visiting Birbhan came to the street and witnessed that Rajendra S/o Pali Ram, Rishi S/o Satbir, Pradeep S/o Balwan, Kulbinder S/o Rammehar, Rupesh S/o Tek Ram, Monu and Vikash Sons of Dr. Suresh, Rajpal S/o Syochand, Ella S/o Mayi Chand, Sumit and Amit Sons of Satyavan, Ramesh S/o Karn Singh, Soni S/o Jayveer, Sonu S/o Pappu, Pawan S/o Rammehar, Vipin S/o Pratap, Jasveer S/o Ishwar, Mahesha S/o Dalip, Pali's daughter in law, wife of Dilbag a driver of Roadways, Kapura S/o Ram Singh's wife, Pappu S/o Hari Singh's wife, Rajendra S/o Sandhu, Bablu@ Langda S/o Teka, Jogender @ Jogad S/o Inder Singh, Ghaghad S/o Tarachand, Dharambir S/o Tarachand, Suresh S/o Balbir, Bhoti W/o Ghaghad, Bharpai W/o Kapura, Ramphal S/o Prathwi, Sunil S/o Dayanand, Baljeet S/o Indra, Nanha S/o Maichand, Karampal S/o Satbir, Mandeep S/o Prema, Hathi S/o sri Baru ram, Kuldeep and Jaybir sons of Balbir, Rajendra S/o Belu Ram, Dhupa S/o Manga , Daaya S/o Jeet Singh Akwam Jat and along with 300-400 men and women, Youths with a plan came to the colony challenging and shouting "*in Saale Chuhton ke makano ko jala do, inke bal bachon ko makano ke andar hi jinda jala do tatha gharon ko tod phod karke gira do aur inka gaon se khatma kar do.*" They all were carrying spears, canes, sticks, jars and bottles of petrol and Kerosene oil. That no sooner they surrounded the Balmiki colony and torched the house, attacked deadly on our people and entered the houses, poured petrol and kerosene oil and torched even the furniture, beddings inside and outside the houses. They did not even care that there would be men and children inside the houses. The above accused torched the houses of Tara chand S/o Swaroop Singh, Kamla W/o Tarachad, Dilbag S/o Sube Singh, Satyavan S/o Bhalleram, Manoj S/o Mahendra, Rajendra S/o Mahendra, Sanjay S/o Bani Singh, Aman S/o Surta, Gulaba Chaukidar, Sanjay S/o Pal, Chandra S/o Lakshman, Ramphal S/o Rajmal, Pala S/o Bir Singh, Dhupa s/o Ratnu and on many other houses and shops belonging to Balmikis poured petrol and torched them too. They even climbed on the roofs of the houses, damaged the roofs and walls of the houses. And the mentioned accused burnt Tarachand S/o Swaroop Singh and his daughter Suman alive inside their house. Suman died on the spot while the accused set her house on fire. Many others were severely injured due to

deadly attack and the mentioned accused forcefully entered our houses, looted our trunks, cash inside almiras, jewellery and other valuable goods. That the mentioned accused surrounded our colony entered our house, poured oils and torched our houses in a preplanned manner and keeping the incidence of the dog (female) barking at the accused burnt alive Tarachand and his daughter Suman inside their house. Our Balmiki houses were mercilessly looted and damaged. Take stringent legal action against the accused. Now you have recorded a statement which is correct.

Sd- Karan Singh Attested –

Abhay Singh, DSP HANSI

Dt. 21.4.2010

**TRUE TRANSLATED COPY OF THE SPECIAL REPORT BY THE DSP, HANSI, DATED 22.04.2010****SPECIAL REPORT**

Complaint No. 166 dated 21.04.2010 section 302, 307, 395, 397, 435, 436, 449, 450, 452, 427, 323, 146, 149, 120(b) I.P.C., 3 / 4 S.C, S.T (P.O.A.) Act Police Station Narnaund.

With due respect it is requested that a letter has been received from the Balmiki Samaj through senior officials as on date 22.04.2010 from which the following points can be summarised:

1. By Hisar Police captain of village Mirchpur before the occurrence of communal violence in the village the designated police inspector and junior police officials were given the responsibility for the protection of Balmiki Samaj. That police party and administrative officials did not perform their duties responsibly. Instead they teamed up with the anti-social elements to give shape to such a dreadful incident. They not only committed robbery but also burnt two people alive.
2. As per the earlier registered F.I.R all such irresponsible police officials and other administrative officials should be charged as accomplices and should be charged with all respective sections.
3. Strict action should be taken against administrative officer Superintendent of Police Narnaund Vinod Kajal so that the entire Dalit society of the state feels secure and their rights are protected and such inhuman act doesn't reoccur again in future

The above letter finds the actions to be punishable under the section 4 of S.C. / S.T. (P.O.A.) Act. Under complaint No. 166 dated 21.04.2010 section 302, 307, 395, 397, 435, 436, 449, 450, 452, 427, 323, 146, 149, 120(b) IPC, and 3 / 4 of S.C. /S.T (P.O.A.) Act will be investigated by Narnaund Police Station. Under the complaint the three points that been summarised are conspiracy behind the offence, being involved and abetting the offence and the negligent behaviour of the administrative officials will be investigated. Offences under Section 4 of S.C/ S.T (P.O.A.) Act 1989 will be added with the special report presented with the help of Hisar Police.

Sd-

Abhay Singh  
DSP (HANSI)

Dated: 22.04.2010

## TRANSLATED NEWSPAPER ARTICLES

### THE HINDU

Dalit girl, father killed as mob sets houses afire

Special Correspondent

April 22, 2010

CHANDIGARH: A "physically challenged" Dalit girl, Suman, 18, and her 70-year-old father, Tara Chand, were killed as a mob set afire over 15 houses belonging to members of the Dalit community in Mirchpur village of Haryana's Hisar district on Wednesday.

The Inspector-General of Police (Hisar Range), the Deputy Commissioner and the Superintendent of Police (Hisar) were camping in the village. Tara Chand, who sustained 90 percent burns, died at the Civil Hospital in Hisar.

According to reports reaching the State headquarters here, there was a "dispute" between boys belonging to the Jat community and the Dalits two days ago over some "trivial" issue.

The community leaders assembled on Wednesday to resolve the issue. However, the "conflict" aggravated and members of the two communities hurled stones at each other.

### DAINIK BHASKAR

Father and Daughter burnt alive in Hisar

**Haryana village Mirchpur is Sacrificed to Anger, More than 2 dozen houses into ashes**

Thursday, 22<sup>nd</sup> April 2010

Adjoining the border of Jind district, in Mirchpur of Narnaund, humanity has shed a lot of tears. Following a minor matter a powerful group of the village burnt the Balmiki hamlet and burnt alive a physically challenged young girl, Suman and her father Tarachand by putting petrol on them. In this arson nearly two dozen houses became ashes and 150 people became home-less.

In the village an atmosphere of fear has crept in. Some people of the Balmiki community have already migrated from the village, whereas administration has made arrangement for some people to stay. Before the arson, in the presence of police, there had been pelting of stones by both the parties, in which some people were injured, but no one reached the hospital. After the incidence the D.C. and S.P. along-with a huge police team have been camping in the village. Police has done flag-march in the village and organized intense search operation to the houses of the dominant caste. Police have taken dozens of people in remand.

**Police remained in-house:** After this there had been heavy stone-pelting between two parties. By then police had also reached the spot, but the police-men remained in-house in order to save themselves from the stones. In the meantime, nearly 150 people armed with sticks, rods and pistols

put fire on houses by pouring petrol and diesel. Due to the fire, people of the Balmiki community came out of their houses to save their lives. During this time, the attackers, pour petrol and put fire on physically challenged, Suman Balmiki (18) and her father Tarachand. Suman died on the spot, whereas Tarachand breathed his last in the evening in a private hospital in Hisar.

## **2 Dozen Houses in Ashes**

Due to arson, 2 dozen houses became ashes and all the belongings are burnt. Immediately after getting new of the incidence, higher officials of the administration ran towards Mirchpur. Other than Narnaund, fire brigade from Hansi, Hisar and Barwala were brought in to douse fire. Other than from the police outpost and police station of the district, forces from the police line were also posted in the village. The I.G. Mr. Anant Kumar Dhul, the D.C. Mr. O. P. Sharon and the S.P. Mr. Subhashchandra Yadav have been staying put in the village.

## **Angered by Barking of a Dog**

The conflict between Balmiki community and a group started on 19<sup>th</sup> April. Rajendra, Soni and Ramesh were passing through the Balmiki hamlets by a bike when a dog followed them. When these youths kicked the dog the owner of the dog, Yogesh Balmiki protested. There was a huge tussle on this. The next day a group called the Balmiki panchayat leader, Vir Bhan and Karan Singh to 'Mochi-Bhouka Paana' and beaten them. The 2 of them were admitted in the hospital of Hisar for the whole day. After this the tension increased between the two parties. Milk supply to the Balmiki hamlet was stopped. On Wednesday, when the milk supplier, Rajendra Balmiki was passing through the hamlet, people complained about him. On this the matter worsened and people started pelting stones on Rajendra.

## **25 People Arrested**

The situation in the village is under control. 25 people were arrested. Assessment of real loss is being done. S.P. is stationed in the village and extra police forces have been sent. Trial will be done in the fast-track court and the convicted will be heavily punished.

(R. S. Dalal, D.G.P. Haryana)

## **AMAR UJALA**

In Hisar Dominants Fired Balmiki Hamlet

Father and Daughter were burnt alive

22<sup>nd</sup> April 2010

Narnaund (Hisar): In village Mirchpur, people from the Jat community have fired more than 2 dozen houses of Balmiki hamlet. In the arson one young lady and her father from Balmiki community were burnt alive. In the fight between two communities due to the pelting of stone to a dog, 6 people from the Balmiki community were also injured. Late night, police arrested 25 miscreants.

Director General of Police Rajneev Dalal said that trial will be conducted in fast-track court against the accused. The atmosphere of the village is tense but was said to be under control. S.P. of Hisar, Subhash Yadav has been camping in the village along-with heavy police force. Loss assessment due to fire is going on. The injured admitted in Hansi Civil Hospital said that the root-cause of the tussle is an incidence on 19<sup>th</sup> April. Some youth from the Jat community were passing through a lane of the village. During this time a dog started barking at them. The youths pelted stone at the dog. Due to this cause, fight broke out between the youths of Jat community and Balmiki community. At that point of time, the matter was somehow compromised. It was said that the angered people of the Jat community suddenly attacked the Balmiki community on Wednesday. In the attack, Sanjay, Sachin, Abhishek, Satyavan, Rajkumar, Dhoop Singh of Balmiki community were injured. During the incidence some people have fired on air also. After this some people put fire on more than 2 dozen houses of the Balmiki community. **(Bureau)**

Conflict:

- People from Jat and Balmiki community in Mirchpur village fought.
- In the arson, more than 2 dozen houses of Balmiki community were burnt.
- Young lady died in village, father breathed his last in the hospital

## INDIAN EXPRESS<sup>1</sup>

Dalit houses torched in Hisar, polio-stricken girl and father killed

Thursday, Apr 22, 2010 at 0127 hrs

Chandigarh:

A 17-year-old polio-stricken girl and her father were burnt to death and over a dozen persons injured today when ten houses of Dalits were set ablaze, allegedly by members of the Jat community, in Mirchpur village of Hisar district in Haryana.

The girl who died in the attack has been identified as Suman, a student of Class XII. Her father Tarachand, who suffered 90 per cent burns while trying to save her, later died at the Hisar Civil Hospital. Police have arrested 25 people.

As per preliminary reports, some 40 men, said to be members of the Jat community, came to the Dalit Basti around 11 am to protest the beating up of two Jat boys by Dalits on Tuesday.

Arguments between the two sides led to a scuffle and stones were hurled, leaving 12 persons injured. Later, the houses of Dalits were set ablaze. Suman, the polio-stricken girl, was trapped in one of the burning houses.

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1 <http://www.indianexpress.com/news/Dalit-houses-torched-in-hisar-poliostricken-girl-and-father-killed/609674/>

**THE HINDU**

Victims of Haryana violence cremated

Staff Reporter

dated 24 April 2010



Dalit protest: Members of the National Confederation of Dalit Organisations protesting outside Haryana Bhavan in New Delhi on Friday against the attack on Dalits in Hisar district of Haryana

**Chandigarh:** The two victims of violence at Mirchpur in Haryana's Hisar district which saw clashes between Jats and Dalits earlier this week were finally cremated on Friday after cases were registered against local police officers.

A disabled Dalit girl and her father were killed and six others injured in the tragic incident on Wednesday, after which the victims' relatives had refused to cremate the bodies protesting against police and government inaction.

Eighteen-year-old Suman, who suffered from polio, was trapped in her burning house and charred to death while her father Tara Chand (70) who suffered 90 per cent burns, died later when over a dozen houses belonging to the Dalits were set ablaze allegedly by Jats of the same village. Relatives of the family alleged that the incident was pre-planned and the local police, present during the incident, did not protect the Dalits. The police, who have been charged with not taking cognizance of complaints by Dalits of threats from Jats, registered a case on Friday and sent additional forces to Mirchpur. "We have taken 25 suspects into custody and are interrogating them," said Anant Kumar Dhull, I-G Hisar Range. Cases have also been registered against SHO Kajal, the local Tehsildar, and Deputy Superintendent of Police Abhay Singh.

The angry villagers demanded a CBI probe and registration of criminal cases against the SDM, Tehsildar and policemen present in the village at the time of the incident under the Scheduled



Castes and the Schedule Tribes (Prevention of Atrocities) Act, compensation to the victims' kin and removal of the D-C, the SP, SHO, Naib Tehsildar and all policemen posted at the Narnaund police station. Superintendent of Police Subhash Yadav said the immediate concern was to ensure a peaceful cremation. "We deployed a force around the village to keep the situation under control. Both communities are agitated," he said.

According to the police, it is yet to be ascertained whether the violence was pre-planned or instigated by the anti-social elements just to increase caste-related friction in the State. About 30 Jats from the village have been detained. An FIR has been lodged, charging 43 people under the SC/ST Act and Section 302 (murder). Dalits claim that the Jats carried out the attack with "cooperation" of the local police and the situation was brought under control only after a police party arrived from Hisar.

Police sources have said that over 40 men, said to be members of the Jat community, came to the Dalit Basti to protest the beating up of two Jat boys by Dalits on Tuesday. Arguments between the two sides led to a scuffle and stones were hurled, leaving 12 persons injured. Later, the houses of Dalits were set ablaze. Many panic-stricken Dalit families of the village have fled and several have shifted their women and children to their relatives' homes in nearby villages. The police said they have tried to calm the fears of villagers. "We are requesting the villagers not to leave. We are providing them with all the necessary security and also providing them with daily necessities," claimed Mr Yadav.

Since the incident, a steady stream of politicians has visited the village, each promising support and condemning the actions of the police and the local government.

## **THE TIMES OF INDIA**

2 weeks on, Dalits of Mirchpur fear going back home

Nandita Sengupta, TNN, May 8, 2010, 03.34 am IST

MIRCHPUR: Two weeks since the arson that killed two and destroyed 18 houses, fear stalks Dalits in this village in Haryana's Hisar district, chasing them out, abandoning their homes. The majority has fled.

Some are camping at the deputy commissioner's office at Hisar demanding a separate rehabilitation colony away from Jat supremacy, a handful of oldies stays put in their burnt-down quarters.

A truck loaded with household goods readies to move out of the village. Anywhere but here, says Krishna, in her 50s, her weather-beaten face set in despair. "I don't want to leave my home, we built it after so much hardship," she says. Her husband barks out to her to simply shut up and get going, refusing to divulge their destination.

The fear is palpable in the quiet around the Dalit sections, snorting pigs the only sound. "Kyun hamare sath hi aisa hota hai baar baar?" asks a young man, holding up the remains of a TV set. Immediately after the incident, every young woman and child was packed off. "It was the first thing ensured," says Sunil Pal Balmiki, of Bharatiya Dalit Jan Mahasabha. If there were further attacks, women would bear the brunt is the collective wisdom. In an incident three years ago, five Dalits were paraded naked.

No government representative has come to tell the attacked community how things can unfold. Even in Hisar's deputy commissioner's office, where a group of about 100 have staged a protest under limp banners, it's been silence from the authorities.

Interestingly, while the nation awaits some semblance of justice for the attacked and penalty for the attackers, the reality unfolds on somewhat different lines. Things apparently wouldn't have spiraled into a big hullabaloo had Rahul Gandhi not visited. He 'complicated' the matters. It 'spoil the case,' says Pal. "Ab tak thanda hojata. Ab aage nikal gaya." The general view is that caste atrocity is almost a ritual. Attack, compensate, make-peace only to ensure the arrested are freed.

Gandhi's visit 'worsened' meant some heads had to roll. "Had the khap sympathized with the Dalits the very day of the attack, the agitation wouldn't have taken place. Agitation karne mein to ye sabse aage hai," says Pal. "Peace," he says, is the only way ahead.

Currently, a list of 105 names of Jats who formed the mob has been sent to the authorities. The khap panchayat has extended an olive branch — "their focus now is to ensure freedom of the arrested and cancellation of the 105 names," says Pal. That seems to be the main issue.

The Dalits have several advisors, a layer of activists pulling at them. One lot tells Hisar's camping families to return, "They're dependent on Jats. If they go into a separate colony, they'll be sitting ducks," says Pal. But the activists want no compensation. "Jitna Dalit garibi se free ho rahe hain, utna gaali galoj maar peeth hota rehta hai," says Sudesh Kumari, of Jan Sangharsh Samiti.

The protesting Dalits have reached the point of 'Enough', they say. "Jat ke paas power hai. Paisa, population, rajniti. But we too have a power. The power of bhookh, garibi, aur vote dalne ka power," says Virendra Rana, 26, as he squats next to Kamla Devi.

But with each passing day, the voices are falling silent, belying the hectic negotiations going on between Jat panchayats, the administration and Dalits too: activists turned mediators.

The administration on its part is mute spectator. Ask deputy commissioner O P Sheoran, also a Jat, and he'll rattle off a list of 'compensation': money, jobs, quintals of wheat and other materials. What more can Dalits want? What about justice and rehabilitation? "That's a policy decision, what can I say?" smiles Sheoran.

## THE HINDU

Protest rally against atrocities on Dalits

New Delhi, May 20, 2010



The Hindu Lok Janshakti Party chief Ram Vilas Paswan addressing a Dalit rally in New Delhi on Thursday against the caste violence in Mirchpur, Hisar district of Haryana. Photo: V. V. Krishnan.

Workers of Lok Janshakti Party, Dalit Sena and Dalit Dasta Virodhi Andolan staged a demonstration at Jantar Mantar here on Thursday protesting against the rising cases of atrocities on Dalits in the country.

Addressing the rally, LJP president Ram Vilas Paswan said the policy of discrimination and disregard adopted by various State governments leads to such attacks on Dalits. "It is high time the Centre intervened to protect the rights of Dalits. A special court and a committee must be set up to look into such matters. The affected Dalits must be rehabilitated far away from the place where they were subjected to ill-treatment," he added.

Mr. Paswan also demanded that the *Khap Panchayat* in Haryana be banned.

In a memorandum to the Prime Minister, Mr. Paswan drew his attention to the attack on Dalit houses at Mirchpur in Haryana on April 21 in which two people were burnt alive.

“Even after that dreadful incident justice has been denied to the affected Dalit villagers. The Haryana Government has provided economic relief to the affected people and also offered jobs to three persons but such incidents are not new to the State.” Meanwhile, in another protest organised here on Thursday by Haryana Dalit Bachao Sangharsh Samiti, Dr. Udit Raj demanded that the Haryana Chief Minister be dismissed and a judicial probe ordered into the Mirchpur incident.

## PHOTOGRAPHS OF THE BURNT HOUSES OF MIRCHPUR VILLAGE





**IN THE SUPREME COURT OF INDIA**  
**CIVIL ORIGINAL JURISDICTION**  
**I.A. NO. \_\_\_\_\_ OF 2010**  
**IN**  
**WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2010**  
**IN THE MATTER OF:**  
**Jaswant & Ors. ... Petitioners**  
**Versus**  
**State of Haryana & Ors. ... Respondents**

**ADDITIONAL AFFIDAVIT FILED IN THE SUPREME COURT OF INDIA**

I, Jaswant, S/o Shri Jagbir Singh, aged about 28 years, resident of Vill & P.O Mirchpur, Tehsil – Narnaund, District Hisar, Haryana presently at Delhi, do hereby solemnly state and affirm as under:

1. That I am the Petitioner in the above-mentioned matter and in such capacity I am well conversant with the facts and circumstances of this case as derived from official records and am competent to swear this affidavit.
2. That I am filing this affidavit to put on record the fact-finding report prepared in respect of the developments that have occurred with regard to the attacks on the Dalits of Mirchpur village after the last date of hearing. This report dated 15.07.2010 is annexed and marked hereto as **Annexure –1**.
3. That a team of members of Human Rights Law Network and National Campaign on Dalit Human Rights visited village Mirchpur, village Adampur in District Hisar, and the city of Hisar from 09.07.2010 to 11.07.2010 and met the victim families of Mirchpur residing in these villages and city. That the team also met the Deputy Collector Hisar and the Superintendent of Police in Hisar. That the information collected during the visit is attached alongwith the fact-finding report.
4. That the contents of this affidavit are true to the best of my knowledge and belief.

DEPONENT

VERIFICATION

Verified at New Delhi on this the day of 2010 that the contents of the above affidavit are true to best my knowledge and belief and nothing material has been concealed therefrom.

DEPONENT

## MIRCHPUR ATROCITIES FACT-FINDING REPORT 9/7/10 – 11/7/10

### Team Members:

Human Rights Law Network:  
Sarita Bhoi, National Coordinator, Dalit Rights Initiative;  
Ritu Kumar, Advocate;  
Erica Selig, Intern.

National Dalit Movement for Justice:  
Rajesh Kumar, State Secretary.

### I. Atrocities and Government Promises

On 21 April, 2010, arsonists from the upper-caste community burnt and looted the houses of Balmikis of the village of Mirchpur, located in District Hisar, Haryana. Two villagers, 70-year old Tara Chand and his disabled daughter Suman, were burnt alive. 25 houses were burnt, additional houses were damaged and looted, villagers were assaulted, and household appliances and possessions destroyed. The victims are Dalits from the Balmiki community of Mirchpur, and all those accused of the atrocities are from the dominant Jat caste, on which most of these families are economically dependent.

Almost three months after the incident, on 9 July, 2010, our team visited the village of Mirchpur to assess the security situation, economic conditions, and status of reparations promised to the villagers by the state of Haryana. The team found that these families felt very unsafe, were trying to make ends meet with little food and meager belongings that had been left in the aftermath of the atrocities. Many people from the Mirchpur community informed us of additional instances of assault and harassment following the April attacks.



Sarita Bhoi, HRLN interacting with Villagers at Mirchpur



We found that out of the original 150 families located in Mirchpur, only about 100 families still resided there. (See Annexure A). Many families were forced to migrate, and in some cases, children have been separated from their parents. We found that 10 to 12 families were living on rent in an urban district in Hisar. About ten families, all with children, were living in Adampur village in rented accommodations with the help and support of their relatives (see Annexure B). Another 10 to 11 families are in Jind, 10 to 12 in Barwala, 5 in Fatehabad, and 2 to 3 in Delhi. These displaced families have found little economic opportunity in their new homes, and most are completely dependant on their relatives.

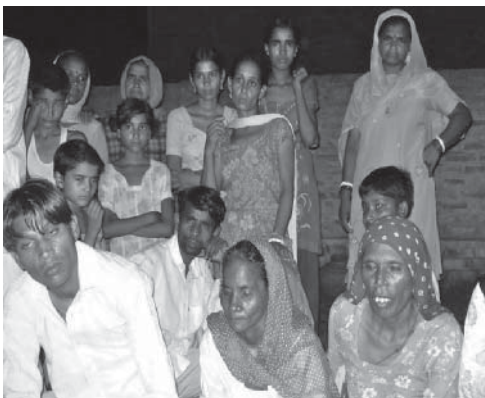


Discussing Working Conditions



A Woman and Child Look On

On 10 July, 2010, the team met with several displaced families in Adampur. The conditions of this village were qualitatively worse than those in Mirchpur. The houses were poorly constructed, the children were not attending school, the area was barren and inhospitable, and there was evidence that the many in the community worked as bonded labourers in the nearby brick kilns. But the villagers were happy to be there as they felt safe and were not willing to back fearing for their lives and future of their children.



About ten families gather



Discussing forced migration

Later in the day, the team met with displaced villagers in Tibba Basti Dhamli Road, Hisar. Conditions were improved for these families, as there was more economic opportunity and less caste-based discrimination in this urban centre.

## II. Compensation and Reparation Measures



Single Construction Worker



Trash Scattered around Site

Out of the 150 families affected by the Mirchpur atrocities, only 18 families had received compensation from the government so far. More than 100 houses had been damaged and looted and 25 houses burnt down. However, the government had only compensated the 18 houses that it had identified as being burnt for compensation. These 18 houses were being constructed in the village and employment of the family members of only these 18 houses had been given some kind of work for construction of these houses. The rest of the families had been completely ignored. Apart from that, the family of Tarachand who had been burnt alive alongwith his disabled daughter had been given compensation.



Poorly finished structure



Dirt floors and holes in walls

In all, 19 families had received monetary compensation for the loss of lives and destruction of their property and houses. Six of the nine families had received a little more than Rs 1, 00,000, while the rest had received Rs 1, 00,000 only. Sube Singh S/o Bhura was promised Rs 1, 00,000, but has not received it. (See Annexure C)



Unfinished interior

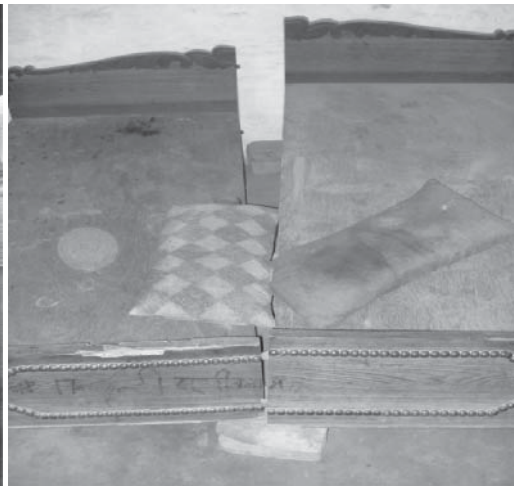


unfinished exteriors

Near about 101 families are yet to receive any compensation from the state government though their houses had been damaged and looted during the attack on the villagers. (See Annexure F)



Outside D5 Mirchpur



Bed Frame Broken in Half

The government has begun to reconstruct some 18 houses. However, none of these houses had been completed. These houses were of markedly lesser quality than those destroyed. They were being constructed of thin brick and wood and have mud walls rather than cement, which means

that these houses would not be able to survive the monsoons, and had a risk of coming down again during the monsoon. Furthermore, the villagers were not adequately consulted during the construction process; the location of these houses is arbitrary and has placed additional burdens on the already traumatized community.



Broken Television Set



A Safe Forced Open

No compensation has been allotted to those whose houses were ransacked, but not completely destroyed. The team surveyed D5 Mirchpur, a house that had been vandalized in the initial attack. Inside, there was a wooden bed split in two, a broken television set and a broken-into and ransacked safe. Additional houses showed signs of looting and contained broken appliances and furniture.



Woman Points to Destruction



Broken Appliances and Furniture

### III. Meeting with Administrative Authorities

The team met with Superintendent of Police (SP) Subash Yadav on the morning of 10 July, 2010. He relayed that there were initially 43 suspects named for the Mirchpur atrocities on 21 April, 2010. Consequently, the police department issued 71 warrants for arrest, and 48 people were arrested (see Annexure D). Ten have been released on bail due to lack of evidence. These include Naib Tehsildar, Jage Ram, who according to the SP cannot be booked under the SC/ST Act as he is a Dalit. When questioned about the applicability of Sections under IPC, the SP stated that he was not a co-conspirator or abettor in the crime and had no role in the incident. While probed more, the SP outrightly said that no administrative authority can be held guilty merely because he was present at the scene of the crime.

When questioned about why the 71 people against whom arrest warrants had been issued at least two months back have still not been arrested, the SP commented that they are not in the village and cannot be identified. Interestingly, some of the accused were seen at the Khap Panchayat meeting held on the next day, i.e. 11.07.10.

Further, no women have been arrested, though 11 women have been accused of complicity in FIR 166 dt. 21.04.2010 U/S 302, 307, 395, 397, 435, 436, 449, 450, 452, 427, 323, 148, 149, 120B.

The SP was reluctant to share the information with regard to the persons released on bail and the 107 people accused in the case.

SP alleged that the media was fabricating controversy in Mirchpur and that the villagers' demands for adequate compensation and security are mere local politics. He stated that the poor security situation is just "perception" on part of the villagers, and that the police have no duty to remove the caste system, one that was endorsed by Gandhi. He alleged that villagers were leaving Mirchpur due to underemployment and few agricultural opportunities, not caste atrocities. Finally, the SP stated emphatically that the children of Mirchpur village were attending school. Overall, the SP was not cooperative with the team.

Several Mirchpur villagers alleged on 9 July, 2010, that ten people had been released on bail. They also informed the team that one particular Jat aggressor, Zilu, son of Raja Darm, had not been arrested and many other accused were roaming free in the villages. Their families were giving threats to the villagers of further assault if they did not take back their complaint.

On 11 July, 2010, the team went to the Haryana police department to meet with the Deputy Commissioner (DC) for the Hisar District, Dr. Yudhbir Singh Khyaliya, and also to meet SP Subash Yadav again, at his request. In the first meeting, the DC refused to discuss Mirchpur, saying that whatever information required by the team should be communicated to the DC office in writing or email. Only then could the DC provide the information, which had to be through these "official communications."

Following that, the team met the SP again to get the information on the list of accused, but contrary to his earlier promises to share the information, he asked the team to put an application under RTI. When we submitted the application to seek information on the list of the accused, the number of persons arrested and the number of persons released, the SP office told us that the names will be provided after a few days. They did not give us the challan and the charge sheet, as requested in the application. The SP was largely uncooperative and questioned the legitimacy of the team. He further asserted that there was no law to prosecute an administrative officer under the Prevention of Atrocities Act, if atrocities against Dalits happen in the presence of the officer.

The villagers have alleged that the DC has not once come to the village. His relationship with the villagers is very poor; several of the villagers desired that the DC be changed.

#### **IV. Social Boycott**

The villagers in Mirchpur are totally dependent on the dominant castes for their livelihood, food items such as wheat, milk, vegetables, etc. After the incident, they have been socially boycotted by the dominant castes. They are not being allowed to work as before in their houses and fields. They are also not allowed to purchase from the shops owned by the dominant castes, and not given food supplies such as milk on which they are heavily dependant and vegetables. When a dairy owner of the village supplied milk to the Balmikis, the dominant castes stopped supplying that particular dairy with milk. The villagers are forced to drink black tea, without sugar and milk.

Since they have no jobs, they are also not able to buy even basic food items. The food rations supplied by the Government after the incident have finished and there are no further supplies being given by the Government. The villagers, without any job, any food ration, security, safety, educational facilities for their children, and other basic amenities are completely stigmatized and their only hope seems to be to leave their village and go elsewhere in search of job and security.

#### **V. Economic Impact**

There is currently no job security for the families remaining in Mirchpur. Prior to the 21<sup>st</sup> April, 2010, approximately 100 families were engaging in field work on Jat-owned property. They worked in the fields, did household work, as cut wood, carried bricks, constructed houses and picked rice in the fields. Currently, none of the men or women from the Balmiki community have any employment.

Though the State Government had promised employment under NREGA to atleast one member from each of the 150 families of the village in or outside the village, but only 2 members each of the families of the 18 burnt houses which the State Government had identified, have been given temporary employment in building the houses. Atleast 35 people from adjoining villages have been called to build the houses, but people from within the village have not been given any employment.

At least 22 families have already left the village with all their belongings, to village Adampur and Hisar city in search of better livelihood opportunities and safety. These families have relatives who

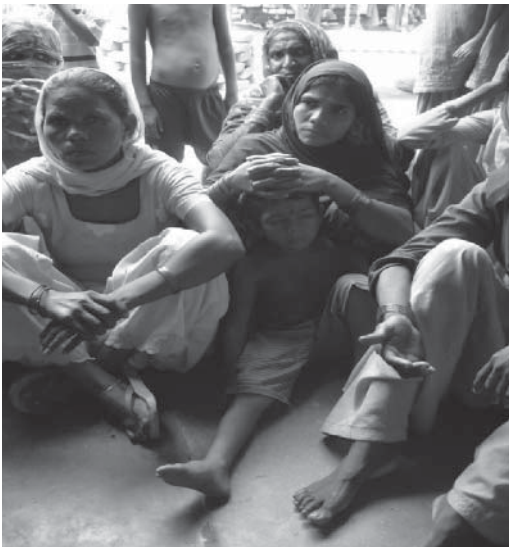
are helping them to resettle. The others also are planning to move to safer areas, but are yet to find any avenues.

When the team met with displaced villagers in Tibba Basti Dhamsli Road, Hisar, amongst them they met Jagdish, a peon working in Narnaund Tehsil Office. He has been employed as a government servant from last 35 years. After this incident, he has been asked by his office to work in the night shift as a watchman though he has been working as a peon from so many years. He is scared for his life and not willing to go back to work since last three months. The officer-in-charge of the Narnaund Tehsil, who is from the dominant caste community, directly threatened him and asked him to report to work only on the night shift. The poor man and his family is living in abject poverty and urged the administration for immediate transfer from that office to a safer location.

Unemployment has impacted health and nutrition. The initial grains provided by the State of Haryana have depleted. In fact, there is very little food, and there is no milk or any sort of government rations when the team visited Mirchpur on 9 July, 2010.

## VI. Impact on Women

Women have particularly suffered in the aftermath of the Mirchpur tragedy. They told the team that they must move in groups, even within their own village, due to apprehension of attack. We also were told that on April 21<sup>st</sup>, various women suffered assault in the form of thugs forcibly removing their trousers. One woman fainted, and all felt degraded and humiliated.



Woman comforting her child



Not safe for women

These women's freedom of movement has been suspended due to the atrocities. The Mirchpur villagers no longer send the young girls out to run errands and purchase goods. Young boys go in their place.

## VII. Impact on Children



Not in school for three months



Children of Mirchpur village in Adampur

Children have not been attending school for the last three months. The Mirchpur children faced discrimination prior to the April 21<sup>st</sup> incident, but this discrimination has intensified and now children fear for their safety. Further, the team learned that none of the schoolteachers at the Mirchpur School are Dalits; rather, many are from the upper-caste and at least one is from the Jat community. Let alone attending school, the children are no longer studying due to this stress.



Forced to live as destitute: young adults & children in



Mirchpur women living as destitute in Adampur

The team talked to seven children no longer attending school at Adampur: 12-year old Monita, class 8<sup>th</sup>, 16-year old Sharmita, class 9<sup>th</sup>, 16-year old Ravind, class 8<sup>th</sup>, 10-year old Reena, class 6<sup>th</sup>, Mohit, class 6<sup>th</sup>, Barit, class 6<sup>th</sup>, and Schir, class 4<sup>th</sup>. Another half a dozen school-aged children



were observed by the team to be not in school on 9 July, 2010. The fact that school children are not going to school is especially problematic in Mirchpur, as the illiteracy rate is very high within the village, and there is no alternative education available.

### **VIII. Safety and Security**

The villagers in Mirchpur are still threatened by the number of Khap Panchayats being held in the aftermath of this incident. These Panchayats have been held on 9 May, 4 June, 15 June and 11 July to pressurize the villagers to withdraw the cases from the District Court and the Supreme Court. A Peace Committee has been formed consisting of Master Chandra Prakash, Ex- Sarpanch Anup Singh, Amir Chand, Jaidev Singh and Mahavir Singh from the dominant caste. Though some members from the Balmiki community are also part of the Peace Committee, but the decisions are made mainly by the dominant caste. However, the members of the Peace Committee are also negotiating with the victims to withdraw their cases in the name of maintaining peace and harmony in the village. (See Annexure E).

The Khap Panchayat from the dominant communities held a meeting on 11<sup>th</sup> July where 300 people from the dominant community gathered and tried to garner support from the leaders of the Balmiki community to withdraw the cases against the accused. Interestingly, some of the accused against whom arrest warrants have been issued were also present in the meeting. These included Veera, Om Prakash Danda, Balbir Saab, Chandra Prakash, who are also the Khap Panchayat leaders and were pressurizing the villagers to withdraw the complaint.

Earlier, when the team had questioned the SP about the Khap Panchayat, he denied that no such Panchayat was being held. (See Annexure E).

### **IX. Visit of the SC/ST Parliamentary Committee**

On 2<sup>nd</sup> July, the Joint Parliamentary Committee visited the village comprising 13 MPs, Govind Chand Naskar, Chairman, M. Anandan, Harish Chander Chauhan, Bhudev Chaudhary, Paramjit Kaur Gulshan, Kamal Kishore, Virender Kumar, Bajubhan Riyasan, Tufhani Saroj, K. Suresh, D. Raja, Parveen Rashterpal, and Thamas Sangma. These members met the victim families and talked to them about the measures taken by the State Government to rehabilitate them. Many of the victims appealed to the Committee that they should be rehabilitated in another place as they were receiving constant threats from the dominant communities.

However, when the Parliamentary Committee members started to leave the village the people from the dominant caste agitated and blocked their way out of the village, even though accompanied by DGP and Special Secretary of the Haryana Government. (See Annexure E).

Immediately after the incident, both the electronic and print media reported about the incident. Some of the newspaper reports are annexed herewith the report. (See Annexure E)

## Annexure A

### List of Families in Mirchpur Village on 09.07.2010 (Absences Noted)

1. Satyavan S/o Roshanlal
2. Ramphal S/o Badlu
3. Ramesh S/o Manga
4. Suresh S/o Manga
5. Santu S/o Manga
6. Praveen S/o Surata
7. Bijendra S/o Surata
8. Manjeet S/o Surata
9. Desha S/o Chatra
10. Manoj S/o Baldeva
11. Ramprasad S/o Baldeva
12. Krishna S/o Jogiram
13. Manoj S/o Jogiram
14. Mahendra S/o Amar Singh
15. Raj S/o Amar Singh
16. Jai Singh S/o Sudhan
17. Bed S/o Jaisingh
18. Bedo w/o Jagbir
19. Dalbir S/o Sudhan
20. Mela w/o Om
21. Suraja S/o Om
22. Ramniwas S/o Indra
23. Rohtash S/o Indra
24. Subhash S/o Indra
25. Boti w/o Badlu
26. Ajmer S/o Pratapa
27. Chandra S/o Abheram
28. Rajendra S/o Abheram
29. Rajkumar S/o Kapoora
30. Sanjay S/o Raja (not present)
31. Raja S/o Mansa (not present)
32. Sanjeep S/o Rajkumar (not present)
33. Oma S/o Manasa (not present)
34. Sunder S/o Oma (not present)
35. Sata S/o Manasa (not present)
36. Dilbag S/o Ragbir (not present)
37. Ragbir S/o Ujala (not present)
38. Jogindra S/o Bhalleram (not present)
39. Jagdish S/o Rijala (not present)
40. Satyavan S/o Rijala (not present)
41. Ramniwas S/o Rijala (not present)
42. Ramdeva S/o Amar Singh
43. Rajkumar S/o Badna
44. Mahendra S/o Ramswaroop

45. Rajendra S/o Mahendra
46. Manoj S/o Mahendra
47. Ashok S/o Jagpal
48. Sajna S/o Ramswaroop
49. Shanti w/o Joonaram
50. Naresh S/o Joonaram
51. Medu S/o Amar Singh (not present)
52. Diwana S/o Muthra
53. Karmveer S/o Balveer
54. Dilbag S/o Subesingh
55. Tarachand S/o Sarupa
56. Soorajmal S/o Subesingh
57. Mahendra S/o Subesingh
58. Chandrabhan S/o Subesingh
59. Satyavan S/o Bhalleram
60. Prakasho D/o Sadhuram
61. Ramdeva S/o Sudhan
62. Susheel S/o Badlu
63. Rampal S/o Bhalleram
64. Mahasingh S/o Kundan
65. Vijay S/o Mahasingh
66. Satpal S/o Pratapa
67. Meena S/o Satpal
68. Rajbir S/o Pratapa
69. Birbhan S/o Mansingh
70. Ajay S/o Birbhan (not present)
71. Chandapal S/o Mansingh
72. Subhash S/o Roopa
73. Ramphal S/o Roopa
74. Raju S/o Ramphal
75. Mahavir S/o Roopa
76. Jagdish S/o Roopa
77. Krishan S/o Teluram
78. Harkesh S/o Dhanpat (not present)
79. Dilbag S/o Ranpat (not present)
80. Mahavir S/o Ranpat
81. Phoolkumar S/o Dhanpat
82. Krishan S/o Dhanpat (not present)
83. Jagatu S/o Nekiram
84. Rajmal S/o Ponkar
85. Ramphal S/o Rajmal
86. Prem S/o Ponkar (not present)
87. Satish S/o Prem (not present)
88. Sanjay S/o Satpal
89. Gulaba S/o Jailal
90. Dilbag S/o Gulaba
91. Sanjay S/o Gulaba
92. Satish S/o Badna
93. Prem S/o Pratapa
94. Ramesh S/o Shankar
95. Jogeendra S/o Shankar
96. Krishan S/o Pratapa

- |                                     |                             |
|-------------------------------------|-----------------------------|
| 97. Balvan S/o Jeetaram             | 116. Rajesh S/o Daleepa     |
| 98. Naresh S/o Ramkumar             | 117. Susheel S/o Abheram    |
| 99. Oma S/o Ratiya                  | 118. Bishna S/o Deyeechand  |
| 100. Chandra S/o Lichhman           | 119. Suresh S/o Chandra     |
| 101. Naresh S/o Chandra             | 120. Umesh S/o Chandra      |
| 102. Rajesh S/o Daliparam           | 121. Nawab S/o Lachchiman   |
| 103. Dalipa S/o Nihala              | 122. Dayanand S/o Nawab     |
| 104. Jugati S/o Nihala              | 123. Jayveer S/o Nawab      |
| 105. Krishan S/o Jugati Ram         | 124. Praveen S/o Tilakraj   |
| 106. Ajmer S/o Balveer              | 125. Sanjay S/o Banisingh   |
| 107. Satveer S/o Bhalleram          | 126. Raju S/o Banisingh     |
| 108. Sunita W/o Surataram           | 127. Sanjeev S/o Kaliram    |
| 109. Susheel S/o Surata             | 128. Chchoti W/o Kaliram    |
| 110. Randheer S/o Surata            | 129. Raju S/o Surata        |
| 111. Mahajan S/o Satpal             | 130. Tilakraj S/o Bhalleram |
| 112. Dhoopha S/o Ratnu              | 131. Naresh S/o Chandra     |
| 113. Raja S/o Pratapa (not present) | 132. Ramkesh S/o Fata       |
| 114. Jagpal S/o Beer Singh          | 133. Sunil S/o Gulaba       |
| 115. Naresh S/o Jagpal              |                             |

## Annexure B

### List of Families in Adampur Village on 10.07.2010

1. Dharmveer S/o Chatra
2. Dalipa S/o Nyahala
3. Rajesh S/o Dalipa S/o Nyahala
4. Rohtash S/o Indra
5. Subhash S/o Indra
6. Satyavan S/o Baleram
7. Ravi S/o Satyavan
8. Ashok S/o Dharmveer
9. Sanjay S/o Gulaba
10. Susheel S/o Surta

## Annexure C

### Compensation for Burnt Houses

Sl. No.	Name of Victims	Compensation
1.	Dhupa S/o Ratna	Rs. 1,00,000/-
2.	Jagpara S/o Veer Singh	Rs.1,00,000/- + 1,38,000/-
3.	Ramphal S/o Rajmal	Rs. 1,00,000/-
4.	Ramniwas S/o Rajmal	Rs. 1,00,000/-
5.	Chakra S/o Lakshman	Rs. 1,00,000/- + 1,89,000/-
6.	Sunita S/o Surata	Rs. 1,00,000/-
7.	Dilbagh S/o Gulab	Rs. 1,00,000/-
8.	Sanjay S/o Gulab	Rs. 1,00,000/-
9.	Gulab S/o Jailal	Rs. 1,00,000/-
10.	Sanjay S/o Banisingh	Rs. 1,00,000/-
11.	Manoj S/o Mahendra	Rs. 1,00,000/-
12.	Rajendra S/o Mahendra	Rs. 1,00,000/-
13.	Satyavan S/o Bhaleram	Rs. 1,00,000/- + Rs. 3,25,000/-
14.	Sube Singh S/o Bhura	Rs. 1,00,000/- (Not paid)
15.	Mahendra S/o Amar Singh	Rs. 1,00,000/-
16.	Kamla W/o Tarachand	Rs. 1,00,000/-
17.	Amar Lal S/o Tarachand	Rs. 5,00,000/-
18.	Sanjay S/o Gulab	Rs. 12,000/-
19.	Kuldeep S/o Raja	Rs. 1,47,000/-
20.	Kamla W/o Tarachand	Rs. 15,00,000/-

## Annexure D

### Names of Arrested Persons

**M. No. 166, dated.....u/s 302, 307, 395, 435, 436, 449, 450, 452, 427, 323, 148, 149, 120B of IPC and u/s 3, 4 of SC/SC Act, Police station: Narnaud**

#### Names of people arrested

1	Dharam vir s/o Tara chand	Jat	Mirchpur
2	Pawan s/o Rammehar	Jat	Mirchpur
3	Jogendra s/o Bhim Singh	Jat	Mirchpur
4	Karambir s/o Tarachand	Jat	Mirchpur
5	Kulwant s/o Chandra Singh	Jat	Mirchpur
6	Ravindra @ Mota s/o dhup Singh	Jat	Mirchpur
7	Balwan s/o Indra Singh	Jat	Mirchpur
8	Dalbir s/o Dalip singh	Jat	Mirchpur
9	Roshan s/o Ramswarup	Jat	Mirchpur
10	Sukhbir s/o Manphool	Jat	Mirchpur
11	Johri @ Pradeep s/o Ramphal	Jat	Mirchpur
12	Dinesh s/o Amar Lal	Jat	Mirchpur
13	Ajit s/o Sukhbir	Jat	Mirchpur
14	Rajesh s/o Om Prakash	Jat	Mirchpur
15	Surendra s/o Jagdev	Jat	Mirchpur
16	Rammehar s/o Gulab Singh	Jat	Mirchpur
17	Hoshiara s/o Mangal Ram	Jat	Mirchpur
18	Bijendra s/o Hishiara	Jat	Mirchpur
19	Balwan s/o Dharam Singh	Jat	Mirchpur
20	Ajit s/o Dalip Singh	Jat	Mirchpur
21	Satyavan s/o Tara Chand	Jat	Mirchpur
22	Jaibir s/o Manphool	Jat	Mirchpur
23	Dinesh s/o Prem	Jat	Mirchpur
24	Naresh s/o Prem	Jat	Mirchpur
25	Viren s/o Yashpal	Jat	Mirchpur
26	Vinod s/o Ram niwas	Jat	Nidhana
27	Jage Ram s/o MamRaj	Chamar (S.C.)	Pandu Pindara
28	Rajbir @ Nanha s/o Mai Chand	Jat	Mirchpur

29	Dharambir @ Lila s/o Mai Chand	Jat	Mirchpur
30	Deepak @ Sonu s/o Krishan @ Pappu	Jat	Mirchpur
31	Deepak s/o Ajmer	Jat	Mirchpur
32	Satish s/o Ajmer	Jat	Mirchpur
33	Ajay s/o Sukhbir	Jat	Mirchpur
34	Rajendra s/o Belu	Jat	Mirchpur
35	Jagdish @ Hathi s/o Beru Ram	Jat	Mirchpur
36	Kuldip s/o Balbir	Jat	Mirchpur
37	Ramphal s/o Pirthi	Jat	Mirchpur
38	Daya s/o Ajit	Jat	Mirchpur
39	Suresh s/o Balbir	Jat	Mirchpur
40	Vikas s/o Suresh Kumar	Jat	Mirchpur
41	Rajendra Kumar s/o Sudhram	Jat	Mirchpur
42	Pradeep s/o Balwan	Jat	Mirchpur
43	Jasbir s/o Ishwar Singh	Jat	Mirchpur
44	Rishi s/o Satbir	Jat	Mirchpur
45	Karampal s/o Satbir	Jat	Mirchpur
46	Sunil @ Soni s/o Jaibir	Jat	Mirchpur
47	Sumit s/o Satyavan @ Satta	Jat	Mirchpur
48	Rajendra s/o Pali Ram	Jat	Mirchpur



## Annexure E

# Newspaper Articles on the Aftermath of Mirchpur Atrocities

**Dainik Jagran**, Hisar, Friday, June 4, 2010

Public gathering in Mirchpur, tension develops again

Public gathering of armed people, administration threatened.

### **Narnaud:**

Mirchpur scandal has warmed up once again. After the Delhi incident on Wednesday, Morchabandi has started in the village too. Because of this the tension has increased. On Thursday, the people of the Jat community demonstrated their strength with Sticks and Gandasa and openly gave threats. The people present in the gathering asked for release of those arrested in the Mirchpur case and also asked for CBI enquiry. They threatened to the extent that if Police came to arrest the accused, they will not be allowed to enter the village and those policemen will be illegally confined. Alleging the politicians for worsening the situation, they declared that no politician will be allowed to enter the village. They even declared socially boycott government officials and workers.

On Thursday people gathered in the Veterinary hospital of the village. This was named as a assembly of 36 Castes. It was headed by the state Vice President of Farmer Union, Mr. Bijendra Billu. During this meeting, all the streets of the village were blocked by barriers.

**Dainik Jagran**, Hisar, Saturday, July 3, 2010

M.P.'s reached Mirchpur, surrounded by Jats

They were angry because they were not heard; females lay in front of Bus.

Anurag Aggarwal, Mirchpur (Hisar)

Here in Mirchpur, the group of M.P.'s who came to know about the problems of the Dalits had to face strong opposition from the Jats. Even after waiting for two hours in the hot afternoon when the M.P.'s did not hear the people from Jat community, then hundreds of men and women surrounded their air conditioned luxury bus. Females lay down on the road and did not let the M.P.'s vehicle move. Young and adults protested against the M.P.s and pressurised them to listen to them, but the M.P.s did not get down from the bus.

This incident shocked the police officials present there. The entire village was immediately converted into Police cantonment. Police officials took the M.P.'s Bus in security range. Some youngsters ran towards the village and started calling more people to collect there. Seeing the situation getting worse DGP R.S. Dalal, IG V.Kamaraj, DC, Hisar Yudhvir Khyaliya and Police SP Subhash Yadav took

charge. Officials intimated State's Chief Secretary, Urvashi Gulati, who was also present in Mirchpur, about the whole situation. Parliamentary committees have been made in Lok Sabha for different purposes. There are 30 members in the committee related to schedule caste and schedule tribe headed by M.P. Govind Chandra Naskar. In Haryana, Kumari Shelja and Ashok Tanwar are also members of this committee, but including these two M.Ps, 17 M.P.s have not reached Mirchpur to oversee the situation.

**Dainik Jagran**, Hisar, Monday, July 5, 2010

**Mirchpur people will start peace on their own**

In Mirchpur village of Hisar, after a watchover by Schedule Caste and Welfare committee of Lok Sabha, the Dalit and Golden community has on its own started taking steps to bring back peace. After the Panchayat Elections being held in eight districts are over, the people of Schedule caste and golden community in Mirchpur, will sit together to end the ill-feelings. For the peace talk to be held on 11th July, both the sides have formed different committees.

On the other hand, after the instructions from the Chief Secretary of the state, the work of construction houses for the Balmiki Community has gained momentum. There are 18 such affected families. After the M.P.s returned back, the people of Mirchpur agreed to end the ill-feelings between themselves. After forming a five member committee on behalf of Jat community, the Dalits were prepared for peace talk, and similar committee has been formed from Valmitki community's side as well. The people from Jat community who are members of Peace committee are Master Chandra Prakash, Ex- Sarpanch Anup Singh, Amir Chand, Jaidev Singh and Mahavir Singh whereas the peace committee members from the Balmiki community are Suresh Kumar, Virbhan, Karan Singh, Banarsi Das, Shaguna, Dilbag, Satyavan, Ram Nivas, Satbir, Mukesh and Binder. Both the committees are different from the earlier formed 30 member common committee. Although in this common committee there is representation from both these peace committees, the peace talk on the coming Sunday is happening because of an initiation from the 5 member and 11 member committee of both the communities.

## Annexure F

### Testimonials of Mirchpur Villagers Regarding Compensation

S.No.	Affected Families	Damages	Demands	Compensation Received
1	Ajay s/o Birbhan + 2	Bed, chairs-4, table, dressing table-1, cooler, gold necklace with earrings, cash 30,000. Total loss approx. 2 lac, sheep-25, female pigs-4, baby pigs-20	Safe relocation near Hisar and government job	Nil
2	Ajmer s/o Balbir + 1	<b>Total loss worth Rs. 60,000</b> Cots-4, cotton mattress-6, fans-2, utensils, gold ring-1, silver jewellery, cash worth Rs. 10,000-	Safe relocation near Hisar and job	Nil
3	Ajmer s/o Pratapa + 4	T.V., Cooler, Fridge, D.V.D. Player, Big Pedestal Fan, Sewing Machine, Water tank, Gold-50 gm, cash - Rs. 50,000 and buffallow -1	Safe relocation near Hisar and government job	Nil
4	Ashok s/o Jagpal +5	<b>Total loss Rs.1 lac approx.</b> utensils, clothes, gold-20gm, silver 60 gm, suitcase, trunk, gold 40 gm.	Safe relocation near Hisar and government job	Nil
5	Bani Singh w/o Bhale Ram + 2			Nil
6	Bijendra s/o Surta + 3	TV, fridge, cooler, tank t store food grain, pedestal fan, quilts-4, chairs-2, cash Rs. 20,000	Safe relocation near Hisar and government job	Nil
7	Birbhan s/o Man Singh + 3	Single Bed (Diwan), Motorcycle, Washing Machine, Chair, Table, Fan, Cooler, Gold Jewellery weighing 50gm, silver jewellery weighing 250 gm, cash Rs. 40,000, Pigs-3, Baby Pigs-35, Sheep-25, Baby sheeps-10	Safe relocation near Hisar and self employment	Nil

S.No.	Affected Families	Damages	Demands	Compensation Received
8	Bishna s/o Dei Ram + 4	Household items including color TV-1, Cooler, Fridge-2, Cots-2, Chairs-2, Gold-20gm, Silver 250 gm, Pigs-2, Sheep-10, Baby Sheep-10, Female Donkey-1	Safe relocation near Hisar and self employment	Nil
9	Chander s/o Abhay Ram + 4	Gold-20 gm, Anklets-2pairs, TV, Pedestal fan, cash Rs. 60,000 (which was taken on loan from someone for marriage of 2 daughters)	Safe relocation near Hisar and government job	Nil
10	Chanderbhan s/o Sube Singh + 6	TV, Fridge, Cooler, cupboard, etc	Safe relocation near Hisar and government job	Nil
11	Chandrabhan s/o Man Singh + 5	<b>Total loss Rs. 1 Lac approximately.</b> color TV-1, cooler, Chairs-2, Table, Bed, Jewellery bought for one daughter's marriage, cash Rs. 20,000..	Safe relocation near Hisar and self employment	Nil
12	Chhoti w/o Kaliram + 5	T.V., Cooler, Fridge, D.V.D. Player, Big Pedestal Fan, Sewing Machine, Water tank, Gold-20 gm, cash worth Rs. 50,000 and buffalos -2	Relocation near Hisar and government job	Nil
13	Dalip Singh s/o Nihal Singh +3	Household items, TV, cooler, fan, Jewellery worth Rs. 30,000, female pigs-3, baby pigs-20	Safe relocation near Hisar and government job	Nil
14	Daulat s/o Oma Ram + 1	gold- 40 gm, silver - 250 gm, cash-Rs 30,000, bull	Safe relocation near Hisar and government job	Nil
15	Deepak s/o Vedpal +3	house-1, TV, cooler, Fridge, Buffalo	Safe relocation near Hisar and self employment	Nil
16	Dharamvir S/O Chatar Singh	Single Bed (Diwan), Chair-4, Table, Fans, Cooler, Gcash Rs. 50,000, female Pigs-7, Baby Pigs-26,	Safe relocation near Hisar and government job	Nil

S.No.	Affected Families	Damages	Demands	Compensation Received
17	Dheera s/o Balbir + 2	<b>Total loss more than Rs. 1 lac.</b> cooler-1, Bicycle-1, cots-5, cotton mattress-6, gas burner-1, fridge-1, T.V.-1, Bed-1, Table, chair, Cash Rs. 15,000, earrings- 2 pairs, anklets- 2 pairs, ring-1, watch-1, manchali-2, female pigs-7 and baby pigs.	Safe relocation near Hisar and job	Nil
18	Dhup Singh s/o Ratan Singh + 2	<b>Total loss- 12 lacs</b> house, grocery shop, TV, Fans-2, Fridge,	Safe relocation near Hisar and government job	Nil
19	Dilbag Singh s/o Sh. Sube singh +4	bed, chair, cooler, TV, fridge, cash Rs 35,000, earringh- 2 pairs(8.5gm), manchali-1(15 gm), rings-2, anklets-2 pairs(400 gm), Gold tolbazan (500gm), clothes worth Rs. 7,000, cash 3,000, Pigs-2, baby pigs-17, cocks-26	Safe relocation near Hisar and government job	Nil
20	Dilbagh s/o Gulab +3	bed-1, color TV, Pedestal fan, umbrella, music system-1, fridge-1, chinese mobile-1, cots-3, cotton mattresses-10, swing machine, chairs-2, table-1, electric heater-1, dressing mirror-1, silver anklets-200gm, all utensils, Female pig-1, baby pigs-2, goats-2	Safe relocation near Hisar and self employment	Nil
21	Dilbagh Singh s/o Raghbir Singh + 3	<b>Total loss- 1.5 lac</b> waste material in house(Kabadi), Pedestal fan, color TV, Gold-15 gm, anklets-1 pair, cash-15,000, Female Pigs-6, Goats-2.	Safe relocation near Hisar and job	Nil
22	Diwana s/o Muthra + 7	Household items, TV, water tank, Jewellery worth 40,000, cooler, fridge, etc.	Safe relocation near Hisar and government job	Nil
23	Gulab Singh Chowkidar s/o Sh. Jailal +2	Cots-2, Chairs-2,Female pig-1, Hen-2, gold ring-5gm, gold ring4.5 gm, Tawiz-3(worth Rs. 5260), Cash-20,000, silver-500gm	Safe relocation near Hisar and job	Nil

S.No.	Affected Families	Damages	Demands	Compensation Received
24	Jagdish s/o Rupa +4	<b>Total loss amounting to Rs. 1.5 lac</b> chairs-4, dresses-15, Color TV, CD player-1, rings-2, Ornaments belonging to 2 daughter-in-laws, ornaments bought for one daughter's marriage, cash-15,000.	Relocation near Hisar and self employment	Nil
25	Jagpal s/o Bir singh + 5	<b>Total loss amounting to Rs. 12 Lacs</b> bed-4, Mattresses-2, chairs-4, table-2, fans-3, clothes worth Rs. 24,000, cash 20,000, TV-Rs. 1,000, dhol-1, machines-2, fans-2, items worth 50,000(bangle lipstick etc, used to sell these items), gold-40 gm, silver-40 gm, cotton mattresses worth Rs. 2,000,TV, sewing machine.	Safe relocation in Hisar and government job	Nil
26	Jai Singh s/o Sudhan + 4	TV, chair, double bed, cooler, cot, buffalo, female pigs-2	permanent residence outside village and self employment	Nil
27	Jogen s/o Bhale Ram + 3	Gold ring-1, anklets-2pair, gold manchali, gold earrings-1pair, cash-22,000, female pigs(pregnant)-5	Safe relocation near Hisar and job	Nil
28	Jogindra s/o Abhayram + 5	T.V., Cooler, Fridge, D.V.D. Player, Big Pedestal Fan, Sewing Machine, Water tank, 20gm gold, cash worth Rs.50,000 and buffallows -2	Relocation near Hisar and government job	Nil
29	Jogindra Singh s/o Sh. Shankar Lal + 3	color TV-1, CD player Cots-2, Bed-1, cooler-1, fan-1, chairs-2, table-1, gold manchali-1(15 gm), gold rings-2	Safe Relocation near Hisar and government job	Nil
30	Kamal s/o Ved Prakash + 3	Gold Kanthi(necklace), gold-25 gm, cash-15,000, anklets-1pair, gold rings-2, TV, Cooler, Fridge.	Safe relocation near Hisar and self employment	Nil

S.No.	Affected Families	Damages	Demands	Compensation Received
31	Karambir s/o Balbir + 4	TV, Fan, pedestal fan, cot, jewellery and other household items	Safe relocation near Hisar and government job	Nil
32	Kehti Devi w/o late Badlu Ram + 1	Bed, ccots-4, quilts-5, cooler, TV, pedestal fan, female pigs-2, goats-4	Safe Relocation near Hisar and self employment	Nil
33	Krishan s/o Pratapa + 1	<b>Total loss amounting to more than Rs. 1 lac.</b> Bed-1, gas cylinder-1, TV-1, Cots-5, Table-1, cooler-1, Pedestal fan-1, cash Rs. 25,00.	Safe Relocation near Hisar and government job	Nil
34	Krishan s/o Telu Ram + 4	TV, cupboard, bed, trunk, heater, tank, cooler, fan, machine, cash Rs-30,000, female pigs-4, goats-5	Safe relocation near Hisar and self employment	Nil
35	Krishna w/o Jogi- ram + 3	T.V., Cooler, Fridge, D.V.D. Player, Big Pedestal Fan, Sewing Machine, Water tank, Gold-50 gm, cash - Rs. 50,000 and buffallow -3	Safe relocation near Hisar and government job	Nil
36	Krishna w/o Raghibir + 6	<b>Total loss Rs. 1,40000 approx.</b> Items collected for one daughter's marriage, Jewellery, cash -30,000, Bed Mattresses, Female Pigs-2, Cocks-10.	Safe relocation near Hisar and job	Nil
37	Manjit s/o Surta + 4	T.V., Cooler, Fridge, Big Pedestal Fan, Water tank, Cots-3, Chairs-4 cash - Rs. 33,000.	Safe relocation near Hisar and government job	Nil
38	Manoj Kumar s/o Jogi Ram + 4	T.V., Cooler, Fridge, D.V.D. Player, Big Pedestal Fan, Sewing Machine, Water tank, 50gm gold, cash worth Rs.55,000 and buffalos -1	Relocation near Hisar and government job	Nil
39	Manoj s/o Baldeva +1	TV, Fridge, Cooler, gold-25 gm, cash Rs. 5,000, Pigs-2	Safe relocation near Hisar and government job	Nil

S.No.	Affected Families	Damages	Demands	Compensation Received
40	Manoj s/o Prakash + 4	Bed-1, Bicycle-1, colour T.V., C.D. Player, Cooler, Utensils, silver necklace-1, silver waist chain-1, anklets- 1 pair, Silver bangles, gold ring-1, gold tawiz-1, silver hand jewellery-1 pair, earrings- 1 pair and cash worth Rs. 15,000, female pigs-5	Safe relocation near Hisar and job	Nil
41	Meena Kumar w/o Satpal Singh + 4	T.V., Cooler, Fridge, Pedestal Fan, Sewing Machine, Water tank, grain storage tank, 30gm gold, cash worth Rs.20,000, chairs-4, cots-2, female pigs-2	Relocation near Hisar and government job	Nil
42	Meera Devi w/o Surajbhan +4	Single bed (Diwan), chairs-4, table-1, cooler, fans, cash Rs. 50,000	Safe Relocation near Hisar and government job	Nil
43	Mela Devi w/o Om Prakash + 4	cots-3, Color TV, fridge, fan , pedestal fan, cash, buffalo-2, female pigs-2, baby pigs-7	Safe relocation near Hisar and job	Nil
44	Naresh s/o Jagpal + 3	Utensils, clothes, bag, trunk, Machine, Ladies items, gold 40gms,	Safe relocation near Hisar and job	Nil
45	Naresh s/o Ram- kumar + 2	house, bed-1, gas cylinder-1, color TV-1, Pedestal fan-1, cooler, chairs-4, cots-3, gold and silver ornaments	Safe Relocation near Hisar and government job	Nil
46	Nawab s/o Lach- man + 6	House-1, Sheeps-15, Goats-10, female Pigs-5	Relocation and government job	Nil
47	Om Prakash s/o Rati Ram + 1	house, pedestal fan-1, chairs-4, table, TV, Single bed(Diwan), gas cylinder-1, Gold and Silver jewellery	Safe relocation near Hisar and government job	Nil
48	Pasa s/o Balbir + 1	<b>Total loss - Rs. 60,000</b> brass water pots-2, two metal thali, cots-3, cotton mattresses-4, tawiz-2(10gm), anklets, gold ring, cash Rs. 12,000, pigs-20. female pigs-2, hen-2	Safe relocation near Hisar and job	Nil



S.No.	Affected Families	Damages	Demands	Compensation Received
49	Pinki w/o Suresh + 3	<b>Total loss amounting to Rs. 80,000</b> dresses -15, Cash worth Rs. 10,000, Ceiling fan, all utensils, telephone-1, silver anklet - 1 pair, gold manchali -1, earrings, silver pendant-1, cots-3, chairs-2, Hen-5.	Safe relocation near Hisar and job	Nil
50	Praveen Kumar s/o Tilakraj +2	TV, Fridge, cooler, cash Rs 2,000, pigs-2 goats-5	Safe relocation near Hisar and government job	Nil
51	Praveen s/o Surta + 1	TV, fridge, cold drinks- 10 carats, fan-1, cash Rs. 20,000	Relocation near Hisar and government job	Nil
52	Prem s/o Pratapa + 4	<b>Total loss amounting to Rs. 2 lac</b> Bed-1, gas cylinder, TV, cooler-1, pedestal fan-1, chairs-4, table-1, cots-3, jewellery bought to give to would be daughter-in-law, gold 30 gm, silver-3gm, female Pigs -5, Baby Pigs-25,	Safe Relocation near Hisar and government jobs based on qualifications	Nil
53	Raj Kumar s/o Badan Singh + 5	house, items in bangle shop, gold chain-20gm, rings-2, TV, cooler, female Pigs -8, Baby Pigs-30	Relocation near Hisar and government job	Nil
54	Raj Kumar s/o Kapura + 4	<b>Total loss amounting to Rs. 2 lac. Approx.</b> Gold-20gm, silver-250 gm, cash-30,000, color TV-1, Fridge-1, sheep-50, pigs-5.	Safe Relocation near Hisar and government job	Nil
55	Raj Singh s/o Ramphal + 2	T.V., Cooler, Fridge, D.V.D. Player, Big Pedestal Fan, Sewing Machine, Water tank, 50gm gold, cash worth Rs. 60,000 and buffalos -2	Relocation near Hisar and government job	Nil
56	Rajendra s/o Mahendra Singh + 4	TV, Bed, Fridge, cooler, trunk, dresses-15, motorcycle-1, anklets-250 gm, silver necklace, gold tawiz-2, cotton mattresses-4, cots-4, chairs-4, cash-15,000, goats-2, female pigs-2	Safe relocation near Hisar and self employment	Nil

S.No.	Affected Families	Damages	Demands	Compensation Received
57	Rajendra Singh s/o Abhayram + 4	T.V., Cooler, Fridge, D.V.D. Player, Big Pedestal Fan, Sewing Machine, Water tank, Gold-20 gm, cash - Rs. 50,000 and buffalos -2	Safe relocation near Hisar and government job	Nil
58	Rajesh s/o Bani Singh	cooler, TV, Fridge, Double bed, gold-10 gm, Pigs-2	Safe relocation near Hisar and government job	Nil
59	Rajesh s/o Dalip Singh + 5	House, Household items, T.V., Cooler, Utensils etc., cash Rs. 50,000	Safe relocation near Hisar and government job	Nil
60	Rajesh s/o Dalipa + 2	fan, TV, cooler, quilts, gold-10gm, gas stove, goat, female pigs-5, kadi(long wooden block used to make roof of house)	safe relocation and job	Nil
61	Rajesh s/o Sh. Bisna + 3	house, gold- 5gm, gold chain, gold rings-2, silver-250 gm, fan-1, TV, cots-3, Cash-6,000, goats-6, baby goats-3	Safe relocation near Hisar and self employment	Nil
62	Raju s/o Surta + 5	TV, Sewing machine, pedestal fan, cooler, fridg, doubl bed, cupboard, bicycle, female pigs-5, cash Rs. 50,000	Safe relocation near Hisar and government job	Nil
63	Rajvir Singh s/o Shri Pratap singh + 5	TV, Cooler, Fridge, Cupboard, Cycle, Sewing Machin, Chairs-4, Quilts-4, Table, Suitcase, Gold- 50 gm, cash 50,000, Female Pigs-5, Baby Pigs-30, Cocks-4, Goats-3, Baby goats-3	Safe relocation near Hisar and government job	Nil
64	Ram Deva s/o Sh. Sudhan Singh + 4	TV, washing machine, cooler and other household items	Safe relocation near Hisar and job	Nil

S.No.	Affected Families	Damages	Demands	Compensation Received
65	Ram Niwas s/o Inder Singh + 4	Color, TV, CD and DVD player, Cots-5, chairs-4, table-1, suitcase-1, jewelry bought for daughtr's wedding, cash Rs. 50,000, rings-2, Tawiz-2, gold earrings-1pair, Manchali-2, anklets-1, nose ring-1, tika-1, sewing machine-1, fans, female pigs-5, baby pigs-20, cocks-10, female donkey-1	Safe relocation near Hisar and self employment	Nil
66	Ram Niwas s/o Rizala Ram + 4	T.V., cooler, Fridge, Female Pigs-5, Sheep & Goats-20	Safe relocation near Hisar and government job	Nil
67	Ram Prasad s/o Baldeva + 3	TV, pedestal fan, cash Rs. 2000, gold 10 gm, quilts-4, chairs-2, grain storage tank	Government job	Nil
68	Ramesh Kumar s/o Shankar Das + 4	<b>Total loss amounting to Rs. 1.8 lac.</b> house, bed-1, gas cylinder-1, color TV-1, Pedestal fan-1, cooler, chairs-2, table, cots-3, gold and silver ornaments bought for one daughter's marriage, Gold-30 gm, cash Rs.30,000, emale Pigs -4, Baby Pigs-28, goat-2.	Safe Relocation near Hisar and government job	Nil
69	Ramesh s/o Mange Ram + 3	TV, Fridge, cooler, DVD player, Cots-2, chairs-2, Table-1, bicycle-1, sewing machine, gold- 50 gm, cash Rs. 50,000	Relocation near Hisar and government job	Nil
70	Ramkesh s/o Fatta + 4	Kachha House, Cooler, TV, Fridge, Pigs-5, Goats & Sheeps-25, Gold 10 gm	Safe relocation near Hisar and government job	Nil
71	Ramniwas s/o Hari Singh + 4	<b>Total loss Rs. 1 lac approx.</b> bed-1, chairs-2, dressing table-1, furniture, coolr, fans, gold- 40gm, cash 30,000, silver-500 gm, female pigs-2, goat-1, sheep-10 etc. total loss approx. 1 lac	Safe relocation near Hisar and government job	Nil

S.No.	Affected Families	Damages	Demands	Compensation Received
72	Rampal s/o bhal- eram + 4	bed, table, chair, cooler, fridge, cash Rs 50,000, , TV, wheat grinding machine, trunks-2, etc., shep-15, female pigs-3, baby pigs-15	Safe relocation near Hisar and government job	Nil
73	Ramphal s/o ruparam + 3	T.V., Cooler, Fridge, D.V.D. Player, Big Pedestal Fan, Sewing Machine, Water tank, Gold- 50 gm, Cash Rs. 50,000, Sheep-30, Pig-5	Safe relocation near Hisar and government job	Nil
74	Ramphal s/o sh. Badlu Ram + 4	<b>Total loss Rs. 1 lac approx.</b> Color TV, Fridge, sewing machine, gold earrings- 1 pair, anklets- 1 pair, sheep-70, female pigs-2, baby pigs- 27.	Safe relocation near Hisar and job	Nil
75	Ramrati w/o Ved- pal +1	gold necklace-1, gold ring-1, gold chain, cash Rs. 5000, anklets and other ornaments	Safe relocation near Hisar and self employ- ment	Nil
76	Randhir s/o Surta +3	TV, fridge, cooler, wheat grinding machine, goats-5, baby goats-5, cash Rs. 5,000	Safe relocation near Hisar and government job	Nil
77	Rohtash s/o Inder Singh + 6	jewellery bought for marriage of 2 daughters, TV, sarees, CD player, DVD player, cots-5, chairs-4, ta- ble-1, suitcase, cash Rs. 50,000, rings-2, tawiz-2, gold earrings-1 pair, manchali-2, anklets, nose ring, fans	Safe Relocation near Hisar and self employ- ment	Nil
78	Roshni Devi w/o Sewa Ram + 3	house, fridge, TV, Cooler, Bed, machine, Sewing machine, fan, table fan, cattle, table, chair, cash, food grain.	Safe relocation near Hisar and government job	Nil
79	Sajna s/o Swarup Singh + 3	TV, fridge, cooler, pedestal fan, dou- ble bed, chairs-4, table-1, quilts-4, sewing machine, gold-20 gm, cash 10,000, female Pigs -5, Baby Pigs-50	Relocation near Hisar and gov- ernment job	Nil

S.No.	Affected Families	Damages	Demands	Compensation Received
80	Sanjay s/o Bani Singh + 2	House, Color T.V., Water Tamk, Cooler, Jewellery worth Rs. 70,000, D.V.D. Player, box(iron)-1, small box-1, utensils, clothes, wheat, Horse-1	Safe relocation near Hisar and government job	Nil
81	Sanjay s/o Sh. Gulaba + 4	<b>Total loss Rs. 60,000 approx.</b> Bed-1, chairs-2, cots-2, color TV-1, Fan-1, Cooler-1, Table-1, Quilts-4, Cotton mattresses-2, Gold tumtum-4, Silver tumtum-4, cash-10,000.	Safe relocation near Hisar and job	Nil
82	Sanjiv Kumar s/o Kali Ram + 2	T.V., Cooler, Fridge, D.V.D. Player, Big Pedestal Fan, Sewing Machine, Water tank, 50gm gold, cash worth Rs.60,000 and buffalos -2	Relocation near Hisar and government job	Nil
83	Satish s/o Prem Singh + 4	T.V., Cooler, Fridge, Heater, Cup-board, Cot-4, Chairs - 4, Fan, Water tank, Cash worth Rs. 50,000/- , Female pigs -4, Goats -5	Safe relocation near Hisar and job	Nil
84	Satish s/o Shri Badna + 4	<b>Total loss Rs. 1.3 Lac</b> Cots-2, Chairs-2, bed-1, cooler, TV, CD player, Pedastal fan, Cash 30,000.	Safe relocation near Hisar and job	Nil
85	Satu Ram s/o Manga Ram + 4	cooler, TV, Fridge, Pigs-10, goats-30	Safe relocation near Hisar and government job	Nil
86	Satvir s/o Bhale Ram + 5	House, single bed-1, bicycle-1, washing manchine-1, chairs-4, table-1, Fan, Cooler, Gold Jewellery weighing 20 grams, silver- 250 gm, cash Rs. 5000, Female Pigs-2, baby pigs-10, Goats-5, baby goat-3	Safe relocation near Hisar and job	Nil
87	Satyavan s/o Roshan Lal + 3	cooler, T.V., Fridge, chair, Gold- 20 gm, cash Rs. 75,000, Pigs-5	Safe relocation near Hisar and government job	Nil

S.No.	Affected Families	Damages	Demands	Compensation Received
88	Satyavan s/o Sh. Mansha Ram + 6	color TV, Fridge, cupboard, double bed, cash Rs. 30,000, gold -30gm, silver-300 gm, utensils-70, goat-5, sheep-20, female pigs-7, baby pigs-30, cocks-5	Safe relocation near Hisar and job	Nil
89	Satyavan s/o Bhale Ram + 4	double beds-3, 21" T.V.-2, Fridge, cooler, Washing Machine, Big fans-2, ceiling fans-2, Peti-2, Wheat grinding machine, sewing machine, table fan-1, cash Rs. 40,000, Gold and silver, Sheep-40, baby sheep-20, Female pigs-4, baby pigs- 10	Safe relocation near Hisar and job	Nil
90	Sona Devi w/o Sh. Raj Kumar + 4	Single bed(Diwan), bicycle, washing machine, chairs-4, table, fans, cooler, gold jewellery weighing- 40 gm, silver jewellery-500gm, cash Rs. 30,000, female Pigs -2, Baby Pigs-20, goat-4, baby goats-4	Safe relocation near Hisar and self employment	Nil
91	Subhash s/o Inder singh + 3	TV, fridge, cooler, bicycle, sewing machine, chairs-4, tabl-1, suitcase-1, gold- 30 gm, cash Rs. 10,000, female pigs-2	Safe Relocation near Hisar and government job	Nil
92	Sunil s/o Gulab Singh + 6	house-1, chain-10gm, rings-2, silver-750gm, color TV, cooler, bed, chairs-4, table-1, trunk -1, cots-5, utensils worth Rs. 10,000, mattresses worth 6,000, Female pig-2, she goats-2, he goat-1, cocks-4	Safe relocation near Hisar and government job	Nil
93	Sunita Devi w/o Surta +2	Fridge, cooler, fans-2, bed, TV 21", chair, table, sewing machine, daughter's jewellery(gold-20gm, silver 250 gm), female pigs-3, baby pigs-15, goats-5, sheep-15, baby sheeps-10	Safe relocation near Hisar and job	Nil
94	Surendra s/o Om Praakash + 1	T.V., Voltage, Fridge, cooler, Big Pedestal Fan, Sewing Machine, chairs -4, table - 1, Gold-50 gm, cash - Rs. 30,000, Pigs-2, Goats-2	Safe relocation near Hisar and government job	Nil

S.No.	Affected Families	Damages	Demands	Compensation Received
95	Suresh s/o Manga Ram	T.V., Cooler, Fridge, Heater, Cup-board, Cot, Chairs - 4, Fan, Water tank, Cash worth Rs. 50,000/- , Female pigs -4, Goats -5	Safe relocation near Hisar and job	Nil
96	Surja s/o Om Prakash +5	Cots-4, color TV, Fridge, Bed, water tank, anklets, gold- 10 gm, cash, female Pigs -5, Baby Pigs-10, goat-1	Safe relocation near Hisar and job	Nil
97	Sushil Kumar s/o Abhay Ram + 6	cooler, TV, fridge, Pigs-5, goats-22, gold 10gm etc	Safe relocation near Hisar and government job	Nil
98	Sushil Kumar s/o Sh Badlu Ram + 5	house, bed, bicycle, chairs-4, table, fans, TV, Cots-5, female pigs-3, baby pigs-11	Safe relocation near Hisar and self employment	Nil
99	Sushil s/o Surta ram + 4	TV, bed, cupboard, trunk, fan, heater, tank, cooler, fan, sewing machine, cash Rs. 50,000, mobile, female Pigs -2, Baby Pigs-14, goat-2, Baby goat-2	Safe Relocation near Hisar and government job	Nil
100	Ved s/o Jai Singh + 5	Cot, bed, TV, valuable items in house and cash Rs. 7,000, female Pigs -2, goat-4	Safe relocation near Hisar and self employment	Nil
101	Vikram s/o Prem Singh + 1	T.V., Bed, Box, Cots-5, Cooler, Fridge, Chairs-2, Cash- Rs. 30,000, Fan, Water Tank, Female Pigs-4, Baby pigs-14, Goats-4, sheep-11, cock-10	Safe relocation near Hisar and job	Nil

**IN THE SUPREME COURT OF INDIA****CIVIL ORIGINAL JURISDICTION****I. A. NO. \_\_\_\_\_ OF 2010****IN****WRIT PETITION (CIVIL) NO. 211 OF 2010****IN THE MATTER OF:****Jaswant & Ors. ... Petitioners****Versus****State of Haryana & Ors. ... Respondents****AND IN THE MATTER OF:****Kamla Devi****Aged 60 years****E-6, Mini Secretariat****Rajgarh Road, Hisar****State of Haryana ...Applicant/ Intervenor****Versus****State of Haryana & Ors. ... Respondents****APPLICATION FOR INTERVENTION**

TO,  
THE HON'BLE CHIEF JUSTICE  
AND HIS LORDSHIPS COMPANION JUSTICES  
OF THE SUPREME COURT OF INDIA

THE APPLICATION OF THE  
PETITIONER ABOVENAMED

Most respectfully showeth that:

1. That the abovementioned Writ Petition is pending consideration before this Hon'ble Court. That the contents of the same are not being repeated herein for the sake of brevity.
2. That the applicant is the wife of the deceased Tara Chand and mother of Suman who were burnt alive by the dominant castes while they destroyed their house. They are making this application for intervention in view of the threats given to them by the dominant caste to withdraw their cases.



3. That the applicant's son, Pradeep S/o late Shri Tarachand, aged 20 years is employed as a clerk in the Office of the Deputy Commissioner, Hisar. That he has received threats while performing his duty in the Office of the Deputy Commissioner, Hisar. In September, 2010, Suresh Balmiki S/o Ram Kumar, Karan Singh S/o Tek Ram, Binder S/o Ram Kumar, Sajna S/o Ram Swarup, Raj Kumar S/o Kapura, Dharambir S/o Chandgi Ram, from the Balmiki community and Balbir S/o Chhajju Ram, Deva Singh Retd. Teacher, Chander Prakash S/o Muasi Ram (Retd. Teacher), Mihira S/o Kashi Ram, Balbir Boka, Balraj S/o Chhattar Singh from the dominant community, accompanied with 30-40 others came outside the Deputy Commissioner office and called him outside in the park. All the 40-50 leaders of the Balmiki community and the dominant community surrounded him from all sides and pressurized him to enter into a compromise. When he refused, then the Balmiki leaders told him that "if you do not compromise then we will leave you alone in front of the dominant community". They were there for 1 hour. After 1 hour they went to his house where his mother Kamla Devi was alone. The 40-50 people started banging on her door. When she refused to open the door, they said that they will break the door and hit her and make her compromise. One of them Sajna S/o Ram Swarup a leader of the Balmiki community told her, that I have taken rupees 4 lakh for compromise, but we will force you to enter into a compromise by hitting you. In the meantime, her security guard called her son Pradeep who reached the house with police. Seeing the police coming, the people of the dominant community left. The 6 people of the Balmiki community stayed back who again forced her to enter into a compromise. She said "I do not want to enter into a compromise. These people should be punished." Then they left.
4. After 10 days, the Balmiki leaders again came to the Applicant's house. She again called her son to come to her rescue. He went home and the Balmiki leaders again pressurized them to enter into a compromise. After they refused to enter into a compromise the Balmiki leaders left.
5. That the applicant is being constantly threatened and terrorized by the dominant community with the aid of some members of the victim community. She fears for the safety and security of her life and that of her son's life.
6. The Applicant states that with the help of a few members of the victim community, the dominant community has now increased the pressure on the victim community to file affidavits and to make statements to resile from their case. The summons issued by the Court to 40 persons from the victim families is at the behest of the state government, which is trying to terrorize the victim families to make statements before the Court to the effect that they have no grievance.
7. That the Applicant is an old lady who has lost her husband and daughter and is not willing to enter into a compromise of any sort with the dominant community. She seeks justice and protection for her family and sons and in such capacity wishes to intervene as an applicant/intervenor in the above mentioned matter.
8. That this Application is bonafide and made in the interest of justice.

**Prayer**

In view of the facts and circumstances of the case, the Applicant/ Intervenor prays as follows:

- (a) To allow the applicant/ intervenor to be impleaded as party as Petitioner in the present Writ Petition (c) 211 of 2010.
- (b) Pass any such or further orders/ directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case and in the interest of justice.

AND FOR THIS ACT OF KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.

Filed by

Jyoti Mendiratta  
Advocate for the Petitioner

Drawn on: 25.10.2010

Filed on: 10.2010

**IN THE SUPREME COURT OF INDIA**  
**CIVIL ORIGINAL JURISDICTION**  
**I. A. NO. OF 2010**  
**IN**  
**WRIT PETITION (CIVIL) NO. 211 OF 2010**  
**IN THE MATTER OF:**  
**Jaswant & Ors. ... Petitioners**  
**Versus**  
**State of Haryana & Ors. ... Respondents**

**APPLICATION FOR DIRECTIONS FILED BY THE PETITIONERS**

TO,  
THE HON'BLE CHIEF JUSTICE  
AND HIS LORDSHIPS COMPANION JUSTICES  
OF THE SUPREME COURT OF INDIA

THE APPLICATION OF THE  
PETITIONER ABOVENAMED

Most respectfully showeth that:

1. The petitioners submit that they have filed this Writ Petition under Article 32 of the Constitution of India by way of public interest litigation for issuance of appropriate directions to the Respondents. That the petitioners are filing this Application for Directions because since the last order of this Hon'ble Court the condition has become graver. That the petitioners Nos. 2 and 3 and most of the victim families are being threatened on a regular basis by the dominant community who are the assailants in this case and they seek witness protection orders from this Hon'ble Court.
2. That the Petitioner no. 3, on 8<sup>th</sup> October was threatened by Chander Prakash, son of Muasi Ram, Wazir Bacchi, Mihira, son of Kashi Ram and Mahender Master son of Belu Ram, members of the dominant community to enter into a compromise as follows: "They said that if the compromise does not happen there will be more loss and the situation will be aggravated. Take the case back from Supreme Court. They came back again after 10 days and again on 23<sup>rd</sup> October. They said that there would be greater loss if we did not withdraw the case. Now I hardly go into the village as I am afraid for my life."

3. That similar to the case of the Petitioner no. 3 are the cases of most of the victim families. The persons are being threatened by the members of the dominant caste with the full knowledge of the police. On 12.10.10, 42 persons who had been threatened signed a letter to be given to the Asstt. Superintendent of Police, Hansi to be given to him and to be submitted in the District Court, Hisar on the next date of hearing which is 3.11.10. The relevant part of the letter is set out herein below:

*That the applicants are originally residents of Mirchpur but they "are living in different villages of Hisar and Fatehabad as they are very scared of the Jat community. As the hearing of Mirchpur case has come up to the stage of collecting evidence so relatives of assailants, leaders of Khap Panchayat, goons and overbearing people are forcing us applicants to disclaim from our original testimonies in the court in favour of their people, or else Mirchpur case was just a trailer. 20-25 people invade our houses in the night with weapons without any permission and they catch the witnesses and take signature or fingerprints on blank papers. Those of us applicants who went to our relatives place as we are very scared, but even there they are threatening us. Balbeer, Dharampal, Ratan, Rishal, Karan etc people of Jat community of Mirchpur kidnapped applicant Shanti wife of Jugti Ram 7-8 days back and took her to Narnaund Tehsil and before the tehsildar they forced her to sign on a stamp paper. People of Jat community are behaving like this with each prosecution witness. People of Jat community do not let us use public places like wells and hand pumps. People of Jat community have boycotted us and whenever any Government team comes to our village they just pretend and show brotherhood to us. Even police of our village is working under the force of people of Jat community. These people are Ranbeer s/o Zile Singh, Dr. Suresh, Pradeep s/o Suresh, Surendra s/o Omprakash, Rajpal master s/o Bhira and other 15-20 people of Jat community which consist people Khap Panchayat like Rajbeer Dhanda. These people are forcing us to disclaim our testimonies else they are threatening us to death. They are telling us that if we can file Section 302 against a Superintendent of Police and burn property of million rupees so you people are nothing before us. We will kill 5-6 more people of yours. No one can do anything. Government will give you compensation on our account. Then the whole matter will be forgotten.*

*Therefore we are submitting the application and requesting to ensure our security because we are in serious danger and our people have been forced to sign on affidavits so that should be recovered from other party and punish them strongly as they have affected witnesses and threatened them to death."*

Hereto annexed and marked as **Annexure A-1** is a copy of the letter dated 12.10.10 written to ASP, Hansi, District Hisar.

4. Similarly, Shanti Devi has also prepared an affidavit regarding how she has been threatened and forced to sign an affidavit and the relevant parts are set out herein below:

*"I Shanti wife of Juna Ram resident Mirchpur Tehsil Narnaund District Hisar giving this statement on my own wish:-*

- 1. That I am witness in this case and during this case relatives of accused and some overbearing people of village threatened me to death and forced me to sign on affidavit*

*and to disclaim the hearing which was totally against my will. I somehow managed the situation but even now they are forcing me to sign on an empty affidavit and to disclaim from my statement in the court. I have sent a request to SDM Hansi regarding it but no action took place.*

2. *That I did not compromise with accused and there are 113 accused arrested by police. They have attacked our houses and set fire to our houses and burnt Tarachand and his daughter alive and tried to kill us because we are related to Balmiki community and the accused and their community and relatives and people of the Khap Panchayat those who committed the atrocious act because we are from the balmiki community still hate us. But before Government and court they are pretending to show brotherhood with us.*
3. *That the relatives of accused and the community, the so called leaders of Khap Panchayat want us to compromise on the basis of hooliganism and threatening us to disclaim us from our hearing with weapons. But we want to give correct evidence and testify against all 113 accused who are under judicial arrest.*
4. *That I am witness of Mirchpur case and this incident happened before my eyes and all those 113 accused who are under custody of police they have done all this.*
5. *That in this case the police have released some accused persons falsely stating them to be innocent but at the time of happening they all were present at that place and they were involved in making such attack possible.”*

Hereto annexed and marked as **Annexure A-2** is a copy of the affidavit dated 12.10.2010 filed by Shanti Devi w/o Juna Ram in the District Court, Hisar.

5. Similarly Kelo has filed an affidavit, the relevant part of which are as follows:

*“I Kelo wife of Jaisingh age 45 years resident Mirchpur Tehsil Narnaud District Hisar giving this statement on my own wish:-*

1. *That I am witness in this case and during this case relatives of accused and some overbearing people of village threatened me to death and forced me to sign on affidavit and to disclaim the hearing which was totally against my will. I somehow managed the situation but even now they are forcing me to sign on an empty affidavit and to disclaim from my statement in the court. I have sent a request to SDM Hansi regarding it but no action took place.*
2. *That I did not compromise with accused and there are 113 accused arrested by police. They have attacked our houses and set fire to our houses and burnt Tarachand and his daughter alive and tried to kill us because we are related to Balmiki community and the accused and their community and relatives and people of the Khap Panchayat those who committed the atrocious act because we are from the balmiki community still hate us. But before Government and court they are pretending to show brotherhood with us.*
3. *That the relatives of accused and the community, the so called leaders of Khap Panchayat want us to compromise on the basis of hooliganism and threatening us to disclaim us from our hearing with weapons. But we want to give correct evidence and*

*testify against all 113 accused who are under judicial arrest.*

4. *That I am witness of Mirchpur case and this incident happened before my eyes and all those 113 accused who are under custody of police they have done all this."*

Hereto annexed and marked as **Annexure A-3** is a copy of the affidavit dated 12.10.2010 filed by Kelo w/o JaiSingh in the District Court, Hisar.

6. I say that the threats given to us are often in front of the Haryana Police and with the full knowledge of the Haryana Police and this increase our insecurity since we cannot expect any protection from them. Hence I have requested for police protection from the CRPF who are stationed at Hisar.

7. I say that the District Court, Hisar, has issued summons to 40 persons to appear before the Court on 3.11.10 as under:

*"Whereas in the above noted case it appears to me that you are likely to give material evidence or to produce any document or other thing for the prosecution case/complainant.*

*You are hereby summoned to appear before this court on the above said date and time to produce such document or thing or to testify what you know concerning the matter of the said complaint, and not to depart hence without leave of the court, and you are hereby warned that, if you shall without just excuse neglect or refuse to appear on the said date, a warrant will be issued by compel your attendance."*

8. The said persons who have been summoned are very afraid that they will be threatened on the way to the Court and on their return.

### **Prayer**

In the facts and circumstances of the case, the Petitioners therefore humbly pray as follows:

- (a) That this Hon'ble Court order CRPF protection, in the first instance, to the 42 persons listed at **Annexure A-1** hereto and to such other victim families who request CRPF protection.
- (b) For an order directing the CRPF to establish a Chowki at Mirchpur forthwith.
- (c) For an order directing CRPF protection to be provided to the persons summoned by the District Court, Hisar on 3.11.10 on the way to the Court from their residences and returning to their residences.

And for this act of kindness the petitioner as in duty bound shall ever pray.

Filed by

Drawn On: 25.10.2010

Filed On: 26.10.10

Jyoti Mendiratta  
Advocate For The Petitioner

**IN THE SUPREME COURT OF INDIA**  
**CIVIL ORIGINAL JURISDICTION**  
**I. A. NO. \_\_\_\_\_ OF 2010**  
**IN**  
**WRIT PETITION (CIVIL) NO. 211 OF 2010**  
**IN THE MATTER OF:**  
**Jaswant & Ors. ... Petitioners**  
**Versus**  
**State of Haryana & Ors. ... Respondents**

AFFIDAVIT

I, Satyavan, S/o Shri Roshan Lal, aged about 30 years, resident of Vill & P.O Mirchpur, Tehsil – Narnaund, District Hisar, Haryana presently at Delhi, do hereby solemnly state and affirm as under: -

1. That I am the Petitioner no. 3 in the above-mentioned matter and in such capacity I am well conversant with the facts and circumstances of this case and am competent to swear this affidavit.
2. That the contents of the accompanying Application for Directions have been read out to me in Hindi and explained.
3. That I have gone through the accompanying Application for Directions at pages to 1 to 8 and Annexures and say that the same has been drafted under my instructions and the contents thereof are true and correct true to the best of my knowledge and belief.

DEPONENT

VERIFICATION

Verified at New Delhi on this the 25th day of October, 2010 that the contents of the above affidavit are true to best my knowledge and belief and nothing material has been concealed therefrom.

DEPONENT

**TRUE COPY OF THE LETTER DATED 12.10.2010 WRITTEN TO ASP, HANSI, DISTRICT HISAR FOR WITNESS PROTECTION**

To  
ASP  
Hansi, District, Hisar

**Subject:** Against threatening to death of witnesses of Mirchpur case and kidnapping of witnesses to force them to change their respective testimonies and to disclaim to give their testimonies before Honourable court by some overbearing people and leaders of Khap Panchayats and relatives of assailants.

Respected Sir,

It is submitted that some days before in Mirchpur village people of Jat community of this village attacked and lightened fire to the Balmiki Basti and burned two people alive to death. They have demolished the whole Balmiki Basti. On which a formal FIR No. 166 dated 21.04.2010 launched under Section 302/395/435/449/452/323/148/149 of IPC and SC and SC Act which is under Mr. Baljeet Singh Additional Session Judge Hisar and next hearing is going to held on 04.11.2010.

That the applicants are originally residents of Mirchpur but they are living in different villages of Hisar and Fatehabad as they are very scared of the Jat community. As the hearing of Mirchpur case has come up to the stage of collecting evidence so relatives of assailants, leaders of Khap Panchayat, goons and overbearing people are forcing us applicants to disclaim from our original testimonies in the court in favour of their people, or else Mirchpur case was just a trailer. 20-25 people invade our houses in the night with weapons without any permission and they catch the witnesses and take signature or fingerprints on blank papers. Those of us applicants who went to our relatives place as we are very scared, but even there they are threatening us. Balbeer, Dharampal, Ratan, Rishal, Karan etc people of Jat community of Mirchpur kidnapped applicant Shanti wife of Jugti Ram 7-8 days back and took her to Narnaund Tehsil and before the tehsildar they forced her to sign on a stamp paper. People of Jat community are behaving like this with each prosecution witness. People of Jat community do not let us use public places like wells and hand pumps. People of Jat community have boycotted us and whenever any Government team comes to our village they just pretend and show brotherhood to us. Even police of our village is working under the force of people of Jat community. These people are Ranbeer s/o Zile Singh, Dr. Suresh, Pradeep s/o Suresh, Surendra s/o Omprakash, Rajpal master s/o Bhira and other 15-20 people of Jat community which consist people Khap Panchayat like Rajbeer Dhanda. These people are forcing us to disclaim our testimonies else they are threatening us to death. They are telling us that if we can file Section 302 against a Superintendent of Police and burn property of million rupees so you people are nothing before us. We will kill 5-6 more people of yours. No one can do anything. Government will give you compensation on our account. Then the whole matter will be forgotten.



Therefore we are submitting the application and requesting to ensure our security because we are in serious danger and our people have been forced to sign on affidavits so that should be recovered from other party and punish them strongly as they have affected witnesses and threatened them to death.

Thanking you.

**Applicants:**

Sl. No.	NAME	Sl. No.	NAME
1.	Ramesh S/o Shankar	22.	Ravin S/o Surta
2.	Jogender S/o Bhalle Ram	23.	Manoj Kumar S/o Baldeva
3.	Sanjay S/o Satpal	24.	Satyavan S/o Mansa
4.	Meena S/o Satpal	25.	Raja S/o Mansa
5.	Sandeep S/o Satpal	26.	Bishna S/o Deichand
6.	Dilbagh S/o Gulaba	27.	Rajkumar S/o Badna
7.	Gulaba S/o Jailal	28.	Krishan S/o Pratapa
8.	Surja S/o Om	29.	Jagpal S/o BirSingh
9.	Dilbagh S/o Subesingh	30.	Ramdeva S/o Amar Singh
10.	Karambeer S/o Balbeer	31.	Suresh S/o Chandra
11.	Ramesh S/o Mange Ram	32.	Dhupa S/o Ratnu
12.	Manoj S/o Mahendra	33.	Kelo W/o JaiSingh
13.	Naresh S/o Mahendra	34.	Phoolkali W/o Chandra
14.	Naresh S/o Rajkumar	35.	Shanti W/o Jugti
15.	Subhash S/o Ruparam	36.	Sona Devi W/o ChandraBhan
16.	Ramphal S/o Ruparam	37.	Ompati W/o Omprakash
17.	Bikram S/o Jaisingh	38.	Shanti W/o Junaram
18.	Rajtilak S/o Bhalle Ram	39.	Jagseera S/o Ramphal
19.	Sushil S/o Surta	40.	Ramdeva S/o Sadhuram
20.	Bijender S/o Surta	41.	Rampal S/o BhalleRam
21.	Praveen S/o Surta	42.	Vedpal S/o Amar Singh

All are residents of Mirchpur Tesil Narnaund District Hisar

**AFFIDAVIT FILED BY SHANTI DEVI DENYING COMPROMISE WITH THE ACCUSED****IN THE COURT OF MR. BALJEET SINGH HONORARY  
ADDITIONAL SESSION JUDGE HISAR****State vs Dharambir**

FIR No. 166

P.S. Narnaud

Dated 21-04-2010

D.O.H. 04-11-2010

Under Section 147/148/302/307/447/448/452/435 etc of I.P.C. and Section 3, 4, 5 SC and ST Act.

**AFFIDAVIT**

I Shanti wife of Juna Ram resident Mirchpur Tehsil Narnaud District Hisar giving this statement on my own wish:-

1. That I am witness in this case and during this case relatives of accused and some overbearing people of village threatened me to death and forced me to sign on affidavit and to disclaim the hearing which was totally against my will. I somehow managed the situation but even now they are forcing me to sign on an empty affidavit and to disclaim from my statement in the court. I have sent a request to SDM Hansi regarding it but no action took place.
2. That I did not compromise with accused and there are 113 accused arrested by police. They have attacked our houses and set fire to our houses and burnt Tarachand and his daughter alive and tried to kill us because we are related to Balmiki community and the accused and their community and relatives and people of the Khap Panchayat those who committed the atrocious act because we are from the balmiki community still hate us. But before Government and court they are pretending to show brotherhood with us.
3. That the relatives of accused and the community, the so called leaders of Khap Panchayat want us to compromise on the basis of hooliganism and threatening us to disclaim us from our hearing with weapons. But we want to give correct evidence and testify against all 113 accused who are under judicial arrest.
4. That I am witness of Mirchpur case and this incident happened before my eyes and all those 113 accused who are under custody of police they have done all this.

Place: - Hisar

Date: -

I hereby say that the following statement is correct and true according to my knowledge and trust.

Place: - Hisar

Date: - 12.10.10

Sd/-

**AFFIDAVIT FILED BY KELO DEVI DENYING COMPROMISE WITH THE ACCUSED****IN THE COURT OF MR. BALJEET SINGH HONORARY  
ADDITIONAL SESSION JUDGE HISAR****State vs Dharambir**

FIR No. 166

P.S. Narnaud

Dated 21-04-2010

D.O.H. 04-11-2010

Under Section 147/148/302/307/447/448/452/435 etc of  
I.P.C. and Section 3, 4, 5 SC and ST Act.

**AFFIDAVIT**

I Kelo wife of Jaisingh age 45 years resident Mirchpur Tehsil Narnaud District Hisar giving this statement on my own wish:-

1. That I am witness in this case and during this case relatives of accused and some overbearing people of village threatened me to death and forced me to sign on affidavit and to disclaim the hearing which was totally against my will. I somehow managed the situation but even now they are forcing me to sign on an empty affidavit and to disclaim from my statement in the court. I have sent a request to SDM Hansi regarding it but no action took place.
2. That I did not compromise with accused and there are 113 accused arrested by police. They have attacked our houses and set fire to our houses and burnt Tarachand and his daughter alive and tried to kill us because we are related to Balmiki community and the accused and their community and relatives and people of the Khap Panchayat those who committed the atrocious act because we are from the balmiki community still hate us. But before Government and court they are pretending to show brotherhood with us.
3. That the relatives of accused and the community, the so called leaders of Khap Panchayat want us to compromise on the basis of hooliganism and threatening us to disclaim us from our hearing with weapons. But we want to give correct evidence and testify against all 113 accused who are under judicial arrest.
4. That I am witness of Mirchpur case and this incident happened before my eyes and all those 113 accused who are under custody of police they have done all this.
5. That in this case the police have released some accused persons falsely stating them to be innocent but at the time of happening they all were present at that place and they were involved in making such attack possible.

Place: - Hisar

Date:-

I hereby say that my following statement is correct and true according to my knowledge and trust.

Place: - Hisar

Sd/-

Date:-12.10.10

**IN THE SUPREME COURT OF INDIA**  
**CIVIL ORIGINAL JURISDICTION**  
**WRIT PETITION (CIVIL) NO. 211 OF 2010**  
**IN THE MATTER OF:**  
**Jaswant & Ors. ... Petitioners**  
**Versus**  
**State of Haryana & Ors. ... Respondents**

**ADDITIONAL AFFIDAVIT ON BEHALF OF THE PETITIONERS**

I, Satyavan, S/o Shri Roshan Lal, aged about 31 years, resident of Vill & P.O Mirchpur, Tehsil – Narnaund, District Hisar, Haryana presently at Delhi, do hereby solemnly state and affirm as under: -

1. That I am the Petitioner no. 2 in the above-mentioned matter and in such capacity I am well conversant with the facts and circumstances of this case as derived from official records and am competent to swear this affidavit.
2. That the present affidavit is being filed to put on record the fact-finding report prepared in respect of the developments that have occurred with regard to the attacks on the Dalits of Mirchpur village after the last date of hearing. This report dated 19.10.2010 is annexed and marked hereto as **Annexure –1**.
3. That through the present affidavit the Petitioners further wish to bring to the notice of this Hon’ble Court the irregularities in the report of the Additional Advocate Generals, Haryana dated 29.06.2010 and Affidavit of Deputy Commissioner, Hisar dated September 2010.

**Fact Finding Report dated 19.10.2010**

4. That the fact finding team visited the victims of Mirchpur from 9th-10th Oct 2010 to see the progress of the relief work as promised by the State Government and to assess the situation in the villages and the condition of people in the aftermath of the massacre. The team members visited the villages of Mirchpur and Adampur in District Hisar, and Biravadi and Nara in District Fatehabad, where some of these families have migrated in search of work.
5. The team members saw that only about 35-40 families were left in the village and most of these families were also finding it difficult to continue living in the village due to regular threats, pressure and fear. About 100 families had migrated to other villages in search of employment. The team went to the villages of Biravadi and Nara in District Fatehabad and village Adampur in District Hisar to meet these families and to understand the reason for their migration.

6. That the information collected during the visit is attached alongwith the fact-finding report.

### **Report of the two Additional Advocate Generals, Haryana**

7. It is entirely unfortunate that the state of Haryana chose to appoint two persons to conduct an enquiry whose point of view was slanted entirely in favour of the dominant community. The entire report is a diatribe against the victim community.

8. With respect to the claims of 118 families to the effect that they ought to be compensated for damages to household articles and looting thereof the report states:

*“However, the claims made by 118 persons mentioned above seem to be either inflated or far from truth and the claimants seem to be interested in extracting more and more money from the State exchequer...”*

9. That the grievances were genuine was recognized by the State of Haryana after it was made by the petitioners in these proceedings and the State of Haryana paid Rs. 15,000 to each family. Though this is inadequate it is recognition of the genuineness of the grievance. Further, the Petitioners have annexed at Annexure D of the Status report, the photographs taken of the damaged houses. That these pictures were taken soon after the incident and in the following months when the team visited the village. These pictures are self-explanatory.

10. The statements of 24 persons are recorded. Of these 8 statements of the victims are recorded. Of these 8, one person from the victim community (Passa Ram) has been won over by the government. 16 statements recorded are of the dominant community (assailants in this case).

11. Petitioners state that many persons from the victim community actually gave statements but these are not mentioned in the report and many other persons were turned away. Thus the comment in the report “when no other person came forward from the Balmikis, we started giving opportunity to the members of the Jat community” does not appear to be correct.

12. The role of the learned Additional Advocate Generals appears to be contrary to what this Hon’ble Court expected from them. For the first time, and this appears to be the very special contribution of the Learned Advocates who conducted the “enquiry” an entirely new case is now constructed from the point of view of the assailants.

13. The advocates recorded the statements of 11 persons from the dominant community (62-72) where allegations are made to the effect that the victim community used to sexually harass women of the dominant community. According to the advocates this was the reason that led to the big incident. (24 onwards, 36 onwards). They also concluded that the liquor shops operated by the victim community and the “encroachments” made by them was the cause of the attack. (37 onwards).

14. He then records the statement of the SHO against whom the victim community “alleged that when they were gathered in the Chaupal, the SHO told the Jats that there is one hour time, you do whatever you want to do” (18), as saying: “People of Balmiki community put their houses on fire by themselves with a view to claim compensation.” (31)
15. The NHRC report on the implementation of the SC and ST (Prevention of Atrocities) Act, 1989 points out those false counter cases against the victim community is the main way in which the victim communities forced to withdraw their complaints. Unfortunately those conducting the enquiry on behalf of the government pursuant to the orders of this Court, appeared to have prepared the ground for the filing of false counter cases so that ultimately the criminal cases could be “compromised”. This is the thrust of the report.
16. In view of the deliberate misrepresentation of facts being made out by the team of two Additional Advocate Generals appointed by the State of Haryana, the fact-finding team on behalf of the Petitioners in one of their visits collected testimonies of atleast 94 witnesses of the April 2010 incident. The testimonies narrate the circumstances and the incident and lists out the names of the assailants who perpetrated the crime. A table of the testimonies of the witnesses of the 21.04.2010 incident has been annexed as **Annexure 2**.
17. Further, a Joint Parliamentary Committee for Welfare of Scheduled Castes and Scheduled Tribes under the Chairmanship of Shri Gobinda Chadra Naskar, Member of Parliament visited the village Mirchpur on 2<sup>nd</sup> July 2010 to examine the situation prevailing on the ground level and rehabilitation measures that have been taken by the State Government in the aftermath of the incidence. The Committee recommended as follows:
  - “13. *The Committee while condemning the incident in unequivocal terms, are highly disappointed to note that even after the visit of the Parliamentary Committee on 2 July, 2010 all the accused responsible for committing atrocities have not yet been arrested by the State Police. All the people who are responsible for this heinous crime should be arrested immediately and appropriate action should be taken under the law against them within a time frame. The State administration should provide security cover to key witnesses and also lives of the affected people who are being threatened to withdraw FIR against the culprits are to be protected. The police needs to be strongly motivated to gain confidence of Balmiki community and Scheduled Caste people as a whole by bringing harmony in the village. The Committee also suggest that to dispel the notion of authority favouring the dominant Jat community and as confidence building measure, the State Government should ensure that officers posted in the police post set up at Village Mirchpur also include officers belonging to Scheduled Caste communities.*
  14. *The Committee expect that the Peace Committee comprising of members of all communities should continue to hold regular meetings for peaceful co-existence of all the people in the village*
  15. *While taking note of the fact that the State Government disbursed an additional compensation amounting to Rs. 15,000 per family to 171 Balmiki families residing in*

*Mirchpur, after the visit of the Committee, they would like the State Government to re-assess the exact damage of each individual household as claimed by the victims and extend compensation accordingly.*

16. *Having noted that more than fifteen years have elapsed since the rules for compensation were framed, the Committee recommend that the Ministry of Social Justice & Empowerment and the Minister of Home Affairs should take appropriate action to revise the compensation amount as provided under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995.*
17. *In spite of the fact that 65 persons of the village were given employment under MGNREGA, the Committee noted there were several Balmiki persons who were unemployed. Taking note of these facts, the Committee recommend that the State Administration should facilitate Balmiki people with jobs or create a livelihood for them under different State Government Schemes. The Committee further urge the State Government to instruct the Panchayat to take up developmental projects in the village at the earliest and engage the unemployed members of Balmiki community in such project.*
18. *The Committee also stress that the State Government should provide land in the vicinity of the village or some other regular source of income to the Balmiki community as one of the confidence building measures.*
19. *While observing that the State Government have decided to build houses for the 18 affected Balmiki families and that an additional amount of Rs. 13.68 lakh has been placed at the disposal of the District Administration, the Committee stress that the construction work should be completed at the earliest and the size of the rooms should be adequate and that there can be a provision of toilet/bathroom also.*
20. *The Committee recommend that necessary free medical help by specialist should be given to all persons including those who are going through mental agony and depression.*
21. *The Committee urge the State Government to ensure that all the SC children should not be deprived of their right to education. Punishments under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 should be given to persons who deny SC children admission to schools owing to their castes.*
22. *The findings of the Justice (Retd.) Iqbal Singh Commission set up to enquire into Mirchpur incident should be submitted for the information of the Committee. The Committee are of the view that a member belonging to Scheduled Caste community should also have been associated with the Inquiry Commission. In future such Inquiry Commissions should be of multi-member body and such commissions should have atleast one member belonging to SC/ST communities.*
23. *The Advisory that was circulated by the Union Home Ministry to the States/Union Territories, which the Committee feel are elaborate and touches almost all possible aspects of handling/preventing such atrocious acts on the Scheduled Castes people, should be followed by the Haryana Government in letter and spirit. The Committee recommend that the Home Ministry should obtain information/data on the implementation of the advisory from all States and UTs, periodically and submit the same to the Committee for their information.*



*24. The Committee urge the State Government to constitute the State Human Rights Commission expeditiously.”*

A copy of the Report of the Joint Parliamentary Committee for Welfare of Scheduled Castes and Scheduled Tribes under the Chairmanship of Shri Gobinda Chadra Naskar dated August 2010 is annexed herewith as **Annexure 3**.

### **State Government’s response to IA 3**

18. The affidavit states that 2 quintals of wheat have been given to each family. This is correct. However, the 2 quintals of wheat provided to the families is already over as the victims were forced to sell the wheat in exchange of essential food items.
19. The affidavit states that 18 houses are being constructed. Some are complete and others are under construction. However, since the last date of hearing the construction work has now completely stopped and the houses are still incomplete. This can be seen in the photographs taken by the fact-finding team in its recent visit. The affidavit states that compensation has been paid to these 18 houses. This is true. However, as per the information gathered by the fact-finding team the compensation of Rs. 1 lakh is inadequate for the loss that they have suffered. Further, even some of the houses that have been constructed are lying vacant as the families are unwilling to stay in the village due to the complete social and economic boycott existing in the village.
20. Page 141 onwards shows how mechanically the state rejected every application by the victim community for compensation for articles destroyed or looted from their houses.
21. Regarding the total destruction of 7 additional houses and non-payment of compensation to over 100 damaged houses on the ground that this allegation is untrue, the petitioners have annexed as Annexure C to the report photographs of the 7 additional houses that were burnt as well as the damaged houses. The extent of damage to these houses can be seen in the photographs annexed.
22. The NREGA amounts disbursed to Balmiki families are set out at pages 25-37. Assuming this data to be correct, this list shows that 76 families had got employment for an average of 32 days only instead of 100 days under NREGA. This work has now stopped. As per the fact-finding team, the NREGA work has been given on an adhoc basis for 2-3 days and maximum for 7-10 days, especially during the time of the visit of some government officials. It is now completely stopped.
23. At page 75 of the affidavit false data has been submitted regarding the attendance of children in school. Page 83 onwards are most important and shows that 20 families have requested for school leaving certificates as they are “shifting out of station” or “don’t want to study in this school”. The letters at page 88 onwards are most revealing of the continued tension and

the inability of the children to continue their education in the village schools. Petitioners have annexed the list of 52 children who have migrated outside the village and are not attending school as Annexure E. As per the interaction with the children in the village Mirchpur and in other villages where they have been migrated, the atmosphere in the schools is not in any way different from the atmosphere outside where the children and the other victim community members are constantly being harassed, tormented and traumatized. The children are not willing to live in the village and attend school as they are living in constant fear.

24. Page 269 onwards discloses that 60 persons were arrested out of which 10 persons were released from custody. Further, pursuant to this Hon'ble Court's order most of the accused persons have now been arrested.
25. However, following the arrests, the threats to the victim community have considerably increased and pressure has been increased to withdraw their complaint. Many people have been forcefully made to sign false affidavits to take back their complaint. Those who are not complying with the demands of the dominant community are being constantly harassed and victimized. The petitioners in the present case as well as the complainants are especially being targeted.
26. The affidavit annexes from pages 279 onwards the proceedings of the Khap Panchayats showing that they were called so that "no member of the village will be captured in regard of this incident, if the police forcibly try to capture any person it will not be tolerated" (286). The proceeding also disclosed that the victim community are being "stopped from going to their fields so that they could do their daily chores without any problem" (282).
27. The Status report of the petitioners further discloses that social diktat have been issued against the victim community from being given employment and from even collecting firewood from the fields and jungles.
28. That the status report establishes the complete social and economic boycott that is in place in the village of Mirchpur making it impossible for the Balmikis who have lost their home and livelihood to live in the village without giving in to the pressure and demands of the dominant community to enter into a compromise and follow their unquestioned authority.
29. That the contents of this affidavit are true to the best of my knowledge and belief.

DEPONENT

#### VERIFICATION

Verified at New Delhi on this the 20th day of October 2010 that the contents of the above affidavit are true to the best of my knowledge and belief and nothing material has been concealed therefrom.

DEPONENT

## STATUS REPORT ON MIRCHPUR AS ON 10TH OCTOBER 2010

On 9<sup>th</sup>-10<sup>th</sup> October a fact finding team visited the villages of Mirchpur as well as the villages of Adampur in District Hisar, and Biravadi and Nara in District Fatehabad, where some of these families have migrated in search of work.

The fact-finding team found that overall the situation was still tense. Work was still not available. Social and economic boycott existed. The people had given up hope of any improvement and about 100 families had migrated to other villages in search of employment. As on 9<sup>th</sup> October, only about 35-40 families were left in the village and most of these families were also finding it difficult to continue living in the village in the midst of regular threats, pressure and fear.

### Employment opportunity and Livelihood

**Mirchpur:** The people of Mirchpur migrated to the nearby districts of Adampur, Fatehabad, Jind, Kaithal and Hisar in search of livelihood opportunities due to the complete social and economic boycott still prevailing in Mirchpur.

More than 100 families have migrated so far. Only 40 families are left in the village. In most of these families only the elderly members and some children were left behind. The earning members of these families are going to Jind on daily basis as daily wageworkers. A list of the families that have migrated to the villages of Biravadi, Nara in Fatehabad district, and in Adampur in District Hisar is annexed as **Annexure A**.

**Villages Biravadi and Nara, District Fatehabad:** In Biravadi, more than 40 families have migrated in search of employment in the cotton farms of the farmers from the Sikh community. About 25-30 families have migrated to Nara. In both the villages, the families including the children are engaged in the contractual work where they work for more than 12 hours a day to earn a meager Rs.70-100 per day. The rate for plucking 5 kgs of raw cotton is only Rs. 10-15 and it is almost impossible for a family of five people to pluck more than 50 kgs of cotton per day. They start the day at 5 am in the morning and work till late evening. There is only one-hour lunch break. Food is not provided by the farm owners. They are living in cattle sheds of the farmers, in a bonded labour like situation. All the children are also working along with their parents and family members. None of the children are going to school.

*Sarla, a villager from Mirchpur who is working in the cotton farm along with her five children said we couldn't leave our children behind while we came here in search of work. The people from the dominant community are pressurizing us. Even the children are taunted in the school by their classmates. We are forced to employ our children as we do not have any other option.*

Migrating to another village or district outside Mirchpur in search of work is the only option available to the Balmikis since the people from the dominant community have issued a social diktat in the

adjoining villages and towns not to provide employment to the Balmiki community people from Mirchpur. The villagers informed that the farmers from various villages near Jind and Hisar district refuse to provide work to these people when they come to know that they are from Mirchpur. When one of the villagers from Mirchpur went to a construction site in Hisar in search of work, the local contractor from the dominant community refused him work after he came to know that he was from Mirchpur.

They are able to get employment in these farms only because the farmers are not from the dominant Jat community and are therefore providing them with employment. While talking to the team members, a farmer in village Biravadi informed that these people are safe here in our farms and we are providing them employment for three months.



Children working alongwith their parents in the cotton farms of Biravadi and Nara

The young educated youth from the Balmiki community are also facing the wrath of the dominant community. Since they also migrated to different villages in search of livelihood, they are being forced to work as agricultural labourers without any available income generating opportunity. They are demanding jobs in the government of Haryana as an immediate measure for social security for the victim community.

*Rukmini: I have two educated sons with B.Ed (Bachelor of Education) Degree but none of them are employed. They are not having any other option than to work as daily wage labourers in the cotton farms. We plead in front of the government to rehabilitate us in some other place. The dominant community are pressurizing us by coming in groups. They came here also. There is a chance that we are going to loose the job we have now if people from the dominant community come and threaten us to withdraw the cases. But after what happened, we are not going to compromise with the dominant community even if we are going to die in hunger. We request the Supreme Court to provide us some land outside Mirchpur to settle down.*

**NREGA:** While the Government is claiming that the members of Balmiki community are being provided with employment but in reality most of the villagers have been provided with work in bits and pieces for 2-3 days or at the most for a week to 10 days, especially when some government officials visit the site. In all they have not been given more than 25-30 days of work. One disabled person from the Balmiki community was being discriminated and not provided with any work under NREGA even when he approached the Block Development Officer (BDO) and the local panchayat leader for work.

*Rajesh, S/o Bali Singh: I earn Rs. 50 only per day working as a daily wage labourer in this cotton farm. We came here on 5<sup>th</sup> October after the NREGA work was stopped in the village. I had only 15 days of NREGA work in the last six months. I lost property worth Rs.60,000 in the incident but got compensation of Rs. 15,000 only. While in Mirchpur, the members of the dominant community always threatened us and forced us to file false affidavits saying the accused who were arrested after the Supreme Court order were not guilty. Some of the Balmikis people are also supporting them because of some vested interests.*

### **Social and economic boycott**

The people from the dominant community even went to the places where the Balmiki people are working now in Biravadi and Nara in Fatehabad district near Punjab and Haryana border. The dominant caste people delivered a social diktat in the Khap Panchayat meetings to not provide employment to the Balmiki community people even in the adjoining villages and towns where these people are going in search of work. The dominant caste people even tried to influence the local dominant caste dairy owners not to provide milk to the Balmikis.

The brick kiln owners of the dominant caste community in Mirchpur have been employing labourers from outside the village in their brick kilns but are refusing work to the Balmiki community people. The children and women from the Balmiki Community are also not allowed to go to the fields of the dominant caste community.

The implication of the economic boycott is so prominent that the Balmikis were forced to sell the wheat provided by the state government as interim relief in exchange for other essential food items. They were not even allowed to collect the cow dung from the streets to use it as fuel to cook their food, or firewood from the fields of the dominant community. A social diktat has been issued stating that if any person from the Balmiki is caught collecting firewood from the jungle, then he would be punished with a fine of Rs.1100.

Most of the dominant community members are pressurizing the people of the Balmiki community threatening them with dire consequences and permanent social and economic boycott if they are not going to succumb to the pressure of leaders from both the community. Some Balmiki leaders are colluding with the leaders of the dominant community for their vested interests completely ignoring the rights of the victim community.

*Jay Pal S/o- Bir Singh informed the fact-finding team that since there is social boycott, we are not getting any work in the village. None of us got much NREGA work as promised by the administration. The state government is in favour of the dominant community and that is the main reason, we feel more insecure in the village. The people from the dominant community are more powerful with their political clout and can attack us whenever they want. The government is trying to pacify us with meager amount of compensation. But we demand to be rehabilitated in some other place as none of us are safe in Mirchpur.*

*Raja S/o Mansa Ram, another member of the victim community informed that about 10-12 members of the Balmiki community had compromised with the dominant community. The people who have compromised receive chicken and liquor everyday in their houses. Those of us who have not compromised cannot buy even the basic items for food. Everyday, in the mornings and evenings the people from the dominant community come to our houses asking us to tke back our complaint and enter into a compromise. But we do not want to compromise.*

### **Construction of Houses**

The construction of the houses as per the earlier Supreme Court order dated 02.06.2010 in WP(C) 211 of 2010 has stopped or is very slow. The half done houses were in unlivable condition. There were no toilets in the newly constructed houses. The villagers informed the fact-finding team that the government officers cite the reason to stop the construction work because of lack of funds. The local BDO claimed that there is money for construction of toilets in the Balmiki Basti, but no public land is available for this purpose in the vicinity. The numbers of burnt houses were 25 but the state government has constructed only 18 houses and the remaining seven houses were not constructed. The quality of material used for the construction was of very low quality.



Inside view of a semi-constructed house



Poor quality building material

### **Compensation**

Some of the villagers who are working in the cotton farms in Biravadi and Nara village of Fatehabad district informed the team that though their household appliances worth Rs. 50,000 - 70,000 were being destroyed during the incident, they have been compensated with only Rs.15,000 for

damages. The owners of the seven houses, which were burnt and destroyed during the incident, have not been compensated at all.

*Parmila w/o Manoj: Our house was burnt in the incident. We got Rupees 1, 00, 000 as compensation. My relatives also were affected by this incident. My brother came to the village on 21<sup>st</sup> April and people from the dominant community had burnt down his bike. So far he has not been compensated by the state government.*

As per the Affidavit filed by the Deputy Commissioner, Hisar only 18 houses were burnt in the 21<sup>st</sup> April incident and there was no other damage. In view of the same, the fact-finding team collected the photographs that had been taken in the aftermath of the incident. The photographs of the remaining 7 burnt houses are attached as **Annexure B**. The photographs of 32 damaged houses which the team could identify are attached as **Annexure C**.

The food grains of 2 quintal wheat per family provided by the state government as interim relief has finished because the people from the Balmiki community, in the lack of any employment opportunities, were forced to sell the wheat in exchange of essential food items such as tea, milk, sugar and vegetables.

### **Education of the children of the victim families**

About 52 children from the Balmiki community who have migrated with their parents are not going to school. They are forced to work in the fields where their parents are working. While the fact-finding team interacted with some of the children working in the cotton farms, they informed the team that they are being threatened by the dominant caste students when they were going to school in the aftermath of the incident in April. Even younger children in the age group of 5 –7 informed the team that they were ridiculed and threatened by their classmates quite often. The children were even aware of the threats their parents are getting from the dominant caste community and were reluctant to go back to the village.

In Nara, some of the older girls in the age group of 15-17 years who were in 10<sup>th</sup> and 12<sup>th</sup> classes said their dream to study further was shattered by this incident. Some of them are so traumatized that they were getting dreams in the night while sleeping. A list of the children who are migrating with their parents and are not able to attend school is annexed at **Annexure D**.

### **Safety and security of the people**

The people of the victim community are constantly being threatened by the dominant community and also being pursued and manipulated through the local leaders of the Balmiki community to withdraw the cases against those who are being arrested immediately after the court order. According to village sources, so far more than 100 people have been arrested. But even after the court order none of the accused women have been arrested and it seems there is an administrative apathy not to comply with the court order in so far as women are concerned. The people of the

dominant community are using verbal attack, threats, and in some cases alluring them with money, either directly or through some influential members of the Balmiki community.

The number of police personnel that were initially deployed are now less in number. At present, 7 police personnel each are deployed at 6 sensitive points of the village. In all 42 police personnel are deployed in one shift, who are replaced by the second shift. One shift of 42 personnel is kept reserved in case of any unwarranted incident. In all there are about 120-130 police personnel in the vicinity of the village. In spite of the police presence the Balmiki people were living in constant fear. Some of the victims expressed that even after they have got police protection they still felt threatened and unsafe. The mothers expressed their worry for their children's safety and security, especially for young girls.

### **Regular threats and pressure for compromise**

Khap (caste) Panchayats are being held on regular basis. Besides the Panchayats people of the dominant community in small and large groups regularly approach the members of the victim community for taking back their complaints and cases and entering into a compromise. The Petitioners in the case before the Supreme Court and complainants and witnesses who filed their statements against the accused before the DSP are being particularly targeted. According to Satyavan, Petitioner No. 2 in the case before the Supreme Court, whenever he is in the village people from the dominant community surround him in large numbers and ask him to withdraw the case. Even after most of the complainants have left the village Mirchpur, and gone to other villages, people from the dominant community trace them there in villages like Adampur, Biravadi or Nara and come in big groups asking them to withdraw their complaint and reach a compromise.

*Om Prakash s/o Mansa Ram, the village Chowkidar stated that while he was doing the rounds of the village, a 13 year old boy from the dominant community ridiculed him in the presence of some elderly members of the dominant community and said that first we burnt your houses, now we are going to cut your heads if you are not going to oblige.*

At the village level meetings are being regularly organized where both the community members are present and the leaders from both the community pressurizing the victims to withdraw their complaints against the accused. In the month of September, the dominant community organized a protest demonstration in Hisar demanding backward caste reservation for their community. The then SP of Hisar, Mr. Subhash Yadav, who was instrumental in arresting the accused of the Mirchpur Carnage, was falsely implicated in the case of murder of a dominant community boy who died in police firing at the time of the above mentioned agitation. Some members of the fact-finding team also received anonymous calls from people questioning their objective to visit the village.

Some of the statements of the victim community on the pressure being faced by them are recorded here:



*Dhoop Singh, S/o- Ratan Singh stated that Sajna, Binder and Karan Singh of the Balmiki community and some prominent members of the dominant community are pressurizing us and threatening us with dire consequences if we are not going to withdraw the cases against the accused. They are also forcing us to file false affidavits to make the accused free.*

*Jay Pal S/o- Bir Singh informed the fact-finding team that People from the dominant community are pressurizing us to give false statement and file false affidavits to free the accused who has been arrested after the Supreme Court order. Some members of the Balmiki community namely Karan Singh, Sajna, and Binder came with the people from the dominant community and threaten us time and again to compromise. But we want all the accused to be punished.*

*On 7<sup>th</sup> October Karan Singh and Sajna, the leaders of the Balmiki community who have turned hostile, forcefully took one Shanti Devi w/o Jagati Ram aged 67 years, to Narnaund Tehsil. The people from the dominant community were present there and in the presence of the Tehsildar, Narnaund they took her thumb impression and photograph without informing her about the content of the affidavit.*

*On 10<sup>th</sup> October, people from the dominant community went to the house of Murti Devi w/o Bani Singh and forced her to put a thumb impression on an affidavit in favour of the accused who have been arrested after the Supreme Court's order.*

*As per the statement made by Dhoop Singh s/o Ratan Singh some of the prominent Balmiki leaders in the village are constantly in touch with the dominant community and pressurizing them to give statements in favour of the accused.*

*Raj Kumar, S/o- Badan Singh, aged 57 elaborated that we are facing the wrath of people from the dominant community on a daily basis in Mirchpur. Some of the members of the dominant community tried to pressurize us in the name of restoring peace and harmony in the village. But can we live with harmony who tried to attack the modesty of our daughters. They did a heinous crime by burning our people. Now they want us to bow down in front of the. We are ready to live in Pakistan but we cannot stay in Mirchpur. We are already facing the social and economic boycott. The present state government in Haryana is not willing to rehabilitate us outside Mirchpur. Even after the court order, none of the women who took part in the heinous crime along with the male members of the dominant community were arrested. The atrocities by the dominant community on Dalits are not new in Mirchpur. Earlier also, they harassed and exploited women from the Chamar community but they forced the Dalit community to compromise. Recently, in the agitation demanding reservation for the dominant community, the people burnt the public properties in Hisar in order to show their strength. If the Supreme Court orders the state government to rehabilitate us in some other place, then we can live our life with dignity.*

*Satbir S/o Rija Singh: The people from the dominant community tried to threaten us in many ways. There is a situation of social and economic boycott. The people of the dominant community tried to pressurize us by not providing us with any employment opportunities within the village. Now we are forced to work for a meager sum of Rs. 70-100 as daily wage for the entire family for 12 hours in the cotton farms. Our children are also working with us. I have four daughters and all of them are not going to school because we don't feel safe to*

*leave our children in Mirchpur while we came here to work in the cotton farm. We are not having any other option but to work hard to survive. We do not want to compromise with the dominant community at any cost and request the Supreme Court to rehabilitate us as soon as possible. We also want the accused in this case to be severely punished and our community should get justice in this matter.*

*Sushil, S/o- Surta informed the fact-finding team that while working in Mirchpur, some of the dominant community members and some prominent people from our community came to us trying to compel us to go for a compromise with them. They want us to withdraw the cases against all the accused and file false affidavits in the session court to release the accused on bail. After the Supreme Court order only 113 people were arrested where as there were more than 1800 people from the dominant community were present there and instigated and participated in burning the houses and harassing the Balmikis in Mirchpur. Our children and women are living in constant fear and traumatized. My house was also looted and burnt down but I was compensated only with Rs. 15,000 from the state government although household items worth Rupees 80,000 were looted and destroyed. We request the Supreme Court to rehabilitate us in a safe location and provide us with jobs.*

*Om Prakash S/o Mansa Ram: The people from the dominant community were threatening me because I help the police to identify the house of the accused. We have no jobs in the village. Therefore we can't manage to survive here without any work. Some people have already migrated to Punjab and nearby towns in search of work. They are going to work in the cotton farms. The left behind population are only older people from the community who cannot work as labourers.*

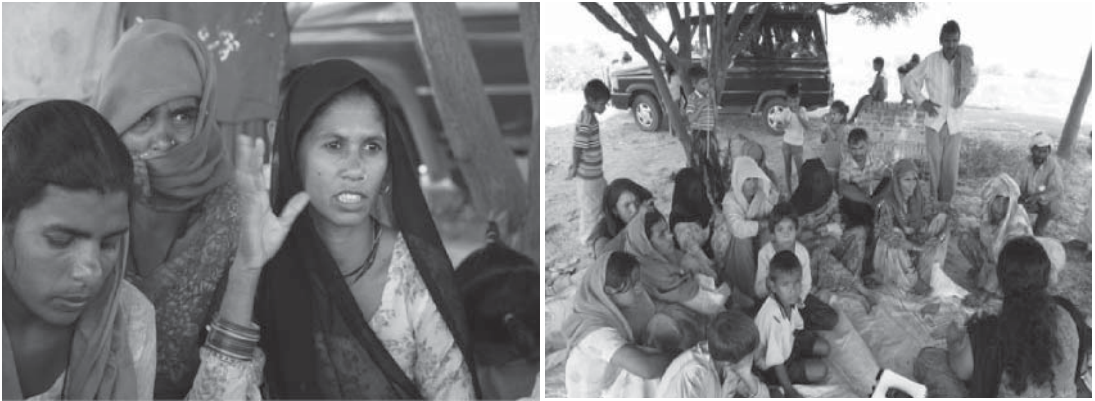
*Darshana W/o Satbir: We can't live in Mirchpur. We are getting threats from the dominant community. I feel disturbed whenever I recall the incident. Sometimes I cannot sleep at night.*

*Kamla: My brother in law was working for a dominant caste family in Mirchpur before the incident. After this incident, when he went to collect his wage, the members of the dominant community threatened him with dire consequences and ask him to leave. They also said that we can file case of sexual harassment against you.*

## **Mental Trauma**

Many villagers immediately after the incident were so traumatized that they had to be admitted in mental hospitals for treatment. Though they are now back with their families but they still seem to be living under trauma and constant fear. The children are still getting nightmares and often scream at night. As per the statement made by Sarla Devi, one of her child screams at night and also shivers at the sight of fire.

Young girls of the Balmiki community are living in fear and are reluctant to go out alone even during the daytime. One girl broke down while stating that the scene of young boys standing naked during the incident still haunts her in the night. The fear on the faces of the children was quite visible when the fact-finding team interacted with the children working in the cotton farms.



Nowhere to go: Women and children from Mirchpur near the cotton farms in Biravadi, Fatehabad

### **Demands of the Victim Community**

The people of the victim community of the village Mirchpur while talking to the fact-finding team made the following demands:

1. Adequate livelihood opportunities outside the village as there is the prevalence of social and economic boycott which does not seem to be decreasing with the passage of time
2. Rehabilitation in some other safe area away from the village with adequate livelihood opportunities
3. Protection of the victim community specially the witnesses and the complainants
4. Regular government jobs for educated unemployed youth of the victim community
5. Residential schools for children of the victim families
6. Compensation for all the houses damaged and burnt at the time of the carnage
7. Severe punishment for the accused and conspirators of the heinous crime against the Dalit community.

### **Conclusion**

The overall situation in Mirchpur is still tense. Though the police personnel were there, the victim community is still living under constant pressure and getting regular threats from the dominant community. The administration has failed to provide adequate security and employment opportunities to people within the village. The children of the victim families are not provided with any measure to ensure free education as per the provisions in the SC/ST (POA) Act, 1989. Women and children of the victim community are traumatized during and in the aftermath of the

incident. Houses constructed as per the court order were incomplete. Lack of safety, no livelihood opportunities and constant threats forced most of the Balmiki community to leave the village. In the absence of any viable employment opportunities, the victim community is forced to take up whatever jobs available and even work as bonded labourers in the cotton farms. The future of the educated unemployed youth of the victim community were at stake as there is no scope for further education because of lack of resources and unavailability of any viable income generating opportunities for their family.

### Families that have migrated out of Mirchpur

Sl. No.	Name and Father's Name	Sl. No.	Name and Father's Name
1.	Dilbag S/o Sube Singh Lakhpati, Varsha, Payal, Shiv Kumar, Pankaj	2.	Sube Singh S/o Bura
3.	Naresh S/o Juna Shanti	4.	Jagdish S/o Rijala Kamla, Ashok, Dinesh
5.	Subhash S/o Indra Sheela, Akshay, Mukesh	6.	Rohtash S/o Indra Sunita, Pramila, Matita, Dhapa, Sachin
7.	Dalbir S/o Sudhan Bedpati, Vikram, Sombir, Sonu	8.	Bedo W/o Jagbir Bindu, Mamta
9.	Jaswant S/o Jagbir Annu, Aaryan, Vishwas	10.	Ishwar S/o Bheema Toni, Dinesh
11.	Ramprasad S/o Baldeva Reena, Sawan, Suraj	12.	Dharmveer S/o Chatarsingh Rani, Ashok, Sonu S/o Dharmveer, Sonu S/o Ashok, Ashwani
13.	Suresh S/o Mangeram Darshana, Yogesh, Anusar	14.	Satu S/o Mangeram
15.	Raj W/o Satbir Tamanna, Arman	16.	Basayu S/o Jeeta Krishna, Beeru
17.	Satyapakash S/o Balwan	18.	Gulaba S/o Jailal
19.	Sanjay S/o Gulaba Mamta, Poonam, Muskan, Abhishek	20.	Dilbag S/o Gulaba Rajesh, Aaryan, Anshul
21.	Raja S/o Mansa Rajo, Suresh, Shankar	22.	Naresh S/o Chandra Ragi

<b>Sl. No.</b>	<b>Name and Father's Name</b>	<b>Sl. No.</b>	<b>Name and Father's Name</b>
23.	Nabab S/o Lichhman Rajni, Jagbir	24.	Ramphal S/o Rajmal Dinesh
25.	Mahabir S/o Ranpat	26.	Baga S/o Dhanpat
27.	Krishan S/o Dhanpat	28.	Fulkuwar S/o Dhanpat
29.	Harkesh S/o Ranpat Mala	30.	Mahabir S/o Roopa Angoori, Rinku
31.	Krishan S/o Teluram Vidya, Sonu, Monu, Sonia	32.	Bala W/o Shersingh Praveen
33.	Fainu S/o Shersingh	34.	Nainu S/o Shersingh
35.	Susheel S/o Abheram Mitho, Wardan, Rampyari	36.	Jaybir S/o Baje Singh Khanna
37.	Praveen S/o Tilakraj Sundar, Sunil	38.	Mahajan S/o Satpal Somwati, Kajal, Deepak
39.	Krishan S/o Hawasingh	40.	Roshan S/o Hawasingh
41.	Pannu S/o Hawasingh	42.	Jagmandar S/o Devasingh
43.	Jaikishan S/o Devasingh	44.	Ved S/o Jaisingh Kanta
45.	Satyewan S/o Bhaleram Kalaso, Ravi, Dinesh	46.	Surajmal S/o Subesingh
49.	Satbir S/o Bhaleram Sunita, Shabnam, Jyoti	50.	Mahasingh S/o Kundan Goga, Ashok, Akshay
51.	Vijay S/o Mahasingh	52.	Ramnivas S/o Indra Geeta, Sonu, Mohit
53.	Ved S/o Jaisingh Kanta, Prabhjeet, Sunil, Sunny, Rachna	54.	Vicky S/o Jogiram Varsha
55.	Imna S/o Satpal Sarla, Shalu, Sheetal	56.	Manoj S/o Mahendra Pramila
57.	Raju S/o Baniya	58.	Rajkuvar S/o Badna Rukman
59.	Mohan S/o Rajkuwar	60.	Sata S/o Rijala

<b>Sl. No.</b>	<b>Name and Father's Name</b>	<b>Sl. No.</b>	<b>Name and Father's Name</b>
61.	Satyewan S/o Mansa Santra, Bittu	62.	Omprakash S/o Mansa Guddi, Sonu, Binoo
63.	Satish S/o Badna Surajmukhi, Gurmeet, Pramod	64.	Chandra S/o Lichhman Phoolwati, Dinesh
65.	Suresh S/o Chandra	66.	Umesh S/o Chandra
67.	Ramphal S/o Roopa Kelo, Bindra	68.	Subhash S/o Roopa Sibu, Toni, Poonam
69.	Jagdish S/o Roopa Pali, Kalu, Sandeep	70.	Satbir S/o Chandmi Vicky, Neetu
71.	Susheel S/o Surata Sunita, Rasinu, Bunty, Gori	72.	Satbir S/o Juglal Angoori
73.	Japal S/o Birsingh Giro		

**Burnt houses in addition to the 18 houses:**

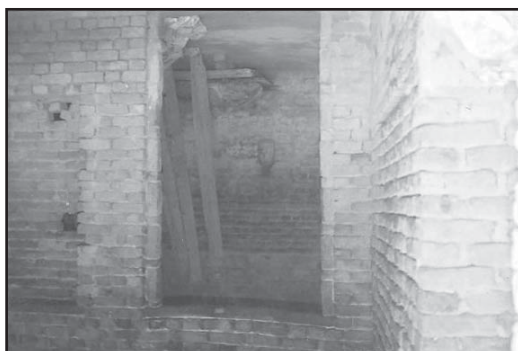
**1. Suresh s/o Chander Singh**



**2. Dilbagh S/o Dhupa**



**3. Sattu S/o Mange Ram**



4. Sanjay S/o Satpal



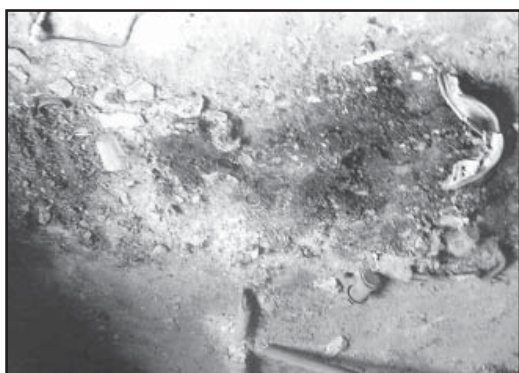
5. Dilbagh S/o Sube Singh



6. Sajna S/o Ramswarup



7. Karambir S/o Balbir





## DAMAGED HOUSES

1. Mahaveer S/o Rupa



2. Manoj S/o Baldeva



3. Sushil S/o Badloo



4. Diwana S/o Muthra



5. Maha Singh S/o Kundan



6. Raj Kumar S/o Kapura



7. Sushil S/o Prema



8. Ajmer S/o Pratapa



9. Imna S/o Satpal



10. Suresh S/o Mange Ram



11. Chander Singh S/o Abe Ram



12. Satpal S/o Pratapa



13. Jay Singh S/o Sudhan



14. Raja S/o Mansa



15. Ramesh S/o Shankar



16. Bijender S/o Surta



17. Ishwar S/o Bheema



18. Dalipa S/o Nyala



19. Ramesh S/o Mange Ram



20. Krishna S/o Jugti



21. Satyavan S/o Roshan Lal



22. Ramphal S/o Rupa



23. Mahajan S/o Satpal



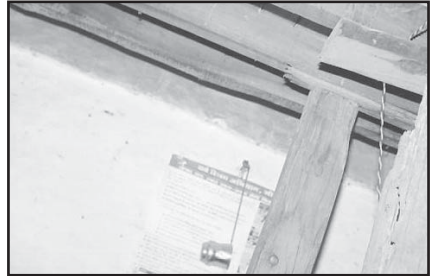
24. Rajbir S/o Pratapa



25. Manish S/o Vedpal



26. Jugti S/o Nihala



27. Krishna S/o Pratapa



28. Pawan S/o Pratapa



29. Ashok S/o Pale Ram



30. Raja S/o Mansa Ram



31. Rajbir S/o Pratapa



32. Ramesh S/o Shankar Lal



**Children not attending school – migrating with their parents**

<b>Sl. No.</b>	<b>Name and Father's Name</b>	<b>Class</b>
1.	Jyoti D/o Satbir	8 <sup>th</sup>
2.	Shabnam D/o Satbir	
3.	Akshay S/o Mahasingh	8 <sup>th</sup>
4.	Rahul S/o Karmbir	8 <sup>th</sup>
5.	Payal D/o Dilbag	10 <sup>th</sup>
6.	Varsha D/o Dilbag	
7.	Shiv Kumar S/o Dilbag	9 <sup>th</sup>
8.	Pankaj S/o Dilbag	1 <sup>st</sup>
9.	Shobha D/o Subhash	11 <sup>th</sup>
10.	Kajal D/o Subhash	8 <sup>th</sup>
11.	Sharmila S/o Ramnivas	9 <sup>th</sup>
12.	Rohit S/o Ramnivas	5 <sup>th</sup>
13.	Mohit S/o Ramnivas	6 <sup>th</sup>
14.	Manisha S/o Dalbir	7 <sup>th</sup>
15.	Aaryan S/o Jaswant	1 <sup>st</sup>
16.	Sishan S/o Jaysingh	10 <sup>th</sup>
17.	Sunil S/o Ved	3 <sup>rd</sup>
18.	Amit S/o Ramesh	10 <sup>th</sup>
19.	Pankaj S/o Satyavan	2 <sup>nd</sup>
20.	Uma D/o Rajkumar	12 <sup>th</sup>
21.	Harpreet S/o Rampal	5 <sup>th</sup>
22.	Muskan D/o Sanjay	3 <sup>rd</sup>
23.	Poonam S/o Sanjay	5 <sup>th</sup>
24.	Abhishek S/o Sanjay	3 <sup>rd</sup>
25.	Arjun S/o Rajesh	6 <sup>th</sup>
26.	Rinkoo S/o Rajesh	3 <sup>rd</sup>
27.	Deepak S/o Sata	3 <sup>rd</sup>
28.	Naseeb S/o Sata	10 <sup>th</sup>
29.	Pooja D/o Sata	6 <sup>th</sup>

<b>Sl. No.</b>	<b>Name and Father's Name</b>	<b>Class</b>
30.	Kajal D/o Mahajan	2 <sup>nd</sup>
31.	Kamal S/o Satyewan	6 <sup>th</sup>
32.	Prabhjeet S/o Satyewan	3 <sup>rd</sup>
33.	Sunita D/o Satyewan	9 <sup>th</sup>
34.	Suman D/o Rambir	10 <sup>th</sup>
35.	Manjeet S/o Rajkumar	12 <sup>th</sup>
36.	Sheetal D/o Imana	1 <sup>st</sup>
37.	Shaloo D/o Imana	3 <sup>rd</sup>
38.	Naseeb S/o Subhash	5 <sup>th</sup>
39.	Naveen S/o Rajsingh	2 <sup>nd</sup>
40.	Moniya D/o Krishan	8 <sup>th</sup>
41.	Aman S/o Krishan	6 <sup>th</sup>
42.	Neetu S/o Satbir	8 <sup>th</sup>
43.	Deepak S/o Dilbag	6 <sup>th</sup>
44.	Nanha S/o Harkesh	10 <sup>th</sup>
45.	Aman S/o Foolkuwar	8 <sup>th</sup>
46.	Manisha D/o Harkesh	8 <sup>th</sup>
47.	Bunty S/o Susheel	6 <sup>th</sup>
48.	Sheenu S/o Susheel	7 <sup>th</sup>
49.	Gauri D/o Susheel	1 <sup>st</sup>
50.	Verdan S/o Susheel	10 <sup>th</sup>
51.	Simran D/o Susheel	5 <sup>th</sup>
52.	Vijeta D/o Susheel	6 <sup>th</sup>

**Testimonies of witnesses and victims of the incident of 21.04.2010 at village Mirchpur, District Hisar**

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
1	Ajay s/o Rajkumar	Ajay	Vikas s/o Sunhara Monu s/o Dr. Suresh Vikas s/o Dr. Suresh Sumit s/o Satyavan	On 21 <sup>st</sup> April 2010, when people of Jat community attacked Balmiki bast, I was standing on the roof of my house. I have seen these mentioned assailants putting fire to Mahendra s/o Amar's house with tins of kerosene. There were some other Jat people along with these assailants. Then they started throwing stones and bricks. At that time Family of Mahendra s/o Amar Singh was inside the house. When people of Jat community put fire to that house they ran away and saved their lives.	
2	Ajmer s/o Pratapa	Ajmer	Illa s/o Mychand Nanha s/o Mychand	I have seen Illa and Nanha lightening fire and they have destructed things throughout the streets and threw bricks. There were around thousands of people of Jat community along with these two guys. They were carrying tins of kerosene, sickle and zeli in hands. People of Jat community were dancing naked. Throughout this incident I was standing on the roof of my house.	



Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
3	Ajay s/o Birbhan	Ajay	Vikas s/o Sunhara Pradeep s/o Satveer Rajpal s/o Shyochand Sumit s/o Satyavan	People of Jat community attacked Balmiki basti on 21 <sup>st</sup> April 201 around 11:30. There were thousands of jaats in number. They attacked me with Zeli, Sickle and weapons and wounded me. I went unconscious. My colleagues took me away. When they attacked I was inside my shop. Then they looted my shop.	
4	Ajmer s/o Balbeer	Ajmer	1.SHO Vinod Kajal 2.Rajesh s/o Dhupa 3.Dhupa s/o Manga 4.Ramesh s/o Karna	When I approached SHO Vinod Kajal he abused me and told me "Dhed, Chude jakar lado main nahi aata".  Rajesh and Dhupa were pouring kerosene and Ramesh s/o Karna was lighting fire.	
5	Amar s/o Tarachand	Amar	1.Rajendra s/o Pali 2.Kulvinder 3.Ramphal Petla s/o Prithvi 4.Vipin s/o Ishwar 5.Vikas s/o Sunhara 6.Sonu s/o Pappu 7.Rinku s/o Rammehar 8.Rishi s/o Karampal	It was around 09:00AM of 21 <sup>st</sup> April 2010; approx 400-500 hundred people ofJat community attacked our Basti. After sometimes SHO Narnod collected all of us at chaupal. And on the other side Jats were lighting fire to our place. In this incident they burned my father and sister alive. It was around 11:00 AM or 12:00AM. Kulvinder s/o Rammehar, Rajendra s/o Pali, Ramphal Petla s/o Prithvi, Vikas s/o Sunhara, Sonu, Monu s/o Suresh, Rinku s/o Rammehar, Rishi, Karampal	

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
				s/o Satveer and other attackers put fire to my house before my own eyes. They poured kerosene on my sister and father and burned them alive. They were beating them with sticks and stones. And before going they danced naked.	
6	Baga s/o Gulaba	Baga	1.Karampal s/o Satveer 2.Rajendra s/o Pali 3.Illa s/o Mychand	On 21 <sup>st</sup> April 2010 when people of Jat community attacked us it was around 11:30AM. My house is situated outside the Basti at the roadside. People of Jat community attacked our Basti from all sides. Karampal, Rajendra, Illa invaded my house and lighted fire to my house with kerosene. Then they destroyed and looted our house with stones and bricks. Gulaba s/o Jailal has beaten my father so badly and left him in the condition of unconsciousness.	
7	Bani Singh s/o Bhalle Ram	Bani Singh	Satywan s/o Rajendra Samsher s/o Rajendra	I was my house when people of Jat community attacked us. They were beating and looting me at first place. And then these mentioned assailants invaded in my house with tins of kerosene in their hands and put fire to my house. Then they put fire to Sanjay s/o Baniya's house and there were 400-500 people of Jat Community. They were throwing bricks and stones on our households. And they have danced naked in the main street of Basti.	

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
8	Barpal w/o Itwari	Barpal	Bhrahm w/o Pali	On 21 <sup>st</sup> April 2010, the day of incident, I was standing in the street. I have seen mentioned women. These women were carrying tin of kerosene and sickle in their hands. They were along with the people who put fire to the Chandra s/o Lighman's house. There were some other women also along with these mentioned women. People of Jat community were thousand in number. They were throwing bricks and stones. I was so afraid when I saw this much of Jat community people and women attacking us. So, I went up to the roof of my house. I have seen Bhramh w/o Pali only.	
9	Beer Bhan	1. Beer Bhan 2. Sand-eep	1. Rajendra s/o Pali Ram 2. Sonu s/o Pappu Vakil 3. Ajit s/o Sukhbeer 4. Kulvinder s/o Rammehar 5. Vikas s/o Sunhara 6. Monu s/o Dr. Suresh 7. Pradeep s/o Dr. Suresh 8. Jagla s/o Lehna	All assailants came to our Balmiki Basti with the motive of blowing up our Basti. They were having tins of kerosene, sickles and swords in their hands. They were saying names to us like <i>CHUDE BHANGI</i> etc. They were threatening to expel us out of our village.	

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
10	Bhed s/o Jai Singh	Bhed	Rajendra s/o Pali Leelu s/o Raja	People of Jat community attacked Balmiki Basti around 11:30AM. At that time I was standing on the roof of my house. I have seen Rajendra s/o Pali and Leelu s/o Raja were carrying tin of kerosene with them. There were thousands of Jat attackers along with them. I have seen the mentioned assailants putting fire to Tara s/o Swaroop's house. These assailants were throwing stones and dancing naked throughout the Basti.	
11	Bijendra s/o Surta	Bijendra	Bobel Langda s/o Teka	When people of Jat Community attacked the Basti they were carrying Stick and tin of kerosene. They destroyed and looted many houses along with other assailants. They attacked many people with stones and bricks.	
12	Late Jagbir Singh	Bindu d/o Late Jagbir Singh	1.Vikas s/o Sunhara 2.Manbir s/o Zile Singh 3.Rupesh s/o Teka 4.Rishi s/o Satbir	On 21 <sup>st</sup> of April 2010 when this attack took place at Balmiki Basti that time Vikas, Rupesh and Rishi were carrying tins of kerosene with them and they were pouring kerosene on	

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
				Surta's s/o Santu home. Manbir s/o Zile Sing was keeping a light (baton) with him and he was lighting fire and following the other assailants. Meanwhile they were calling us names regarding to cast. They were threatening to burn everyone alive. They were shamelessly dancing naked in front of women. They were around 800-900 attackers.	
13	Bitu s/o Satyavan	Bitu	Rajendra s/o Pali Dhufa s/o Manga Rajpal s/o Shoker	People of Balmiki Basti have seen Rajendra and Rajpal putting fire to many houses. At that time I was standing on my neighbor's roof. People of Jat community were carrying tins of kerosene, sickles and weapons in their hands. There were thousands of attackers along with them. I have seen them dancing naked.	

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
14	Dhupha s/o Ratnu	1.Dhupha 2.Vicky	1.Ramphal s/o Prithvi 2.Sanjay s/o Dayachand 3.Pradeep s/o Jaiveer 4.Bobel s/o Tekram 5.Ila s/o Mychand 6.Nanha s/o Mychand 7.Satyavan s/o Rajendra 8.Sonu s/o Vakil 9.Beer s/o Sisu 10.Rajendra s/o Pali 11.Rajpal s/o Shyokand 12.Tiku 13.Manjeet s/o Mahendra 14.Sandeep s/o Dharampal 15.Pradeep s/o Suresh 16.Joginder (Jogad) s/o Indra 17.Kala Ummed 18.Sunil s/o Dayachand 19 Sumit s/o Satyavan 20.Rishi s/o Satveer 21. Satish s/o Ajmer 22.Manveer s/o Zile Singh 23.Sandeep s/o Chandra Fouji 24.Rinku s/o Rammehar 25.Deepak s/o Ajmer	On 21 <sup>st</sup> April 2010's incident some people of Jat community invaded the house of Dhupha s/o Ratnu's house. They were holding tins of kerosene in their hands and at that moment only two family members of that house were inside the house. Satyavan s/o Rajendra, Bobel Langda and Sonu s/o Vakil destroyed the house and the shop. Pradeep s/o Jaiveer, Ila , Nanha, Ramphal s/o Prithvi and sandeep s/o Dharampal blew up the house. Sanjay s/o Dayachand has beaten Dhupha Singh with stick and as a result of the beating Dhupha got fractured his arm.	

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
15	Dilbagh s/o Sube Singh	Dilbagh	1.Rajendra s/o Pali 2.Vikas s/o Dr. Suresh 3.Dr. Suresh s/o Balbeer 4.Pawan s/o Rammehar 5.Kulvinder s/o Rammehar 6. Sonu s/o Suresh 7.Bimla w/o Suresh 8.Gagad 9.Wife of Mothu 10.Dharamvee s/o Tara 11.Dhalad s/o Daleepa 12.Rupesh s/o Tekram 13.Anguri w/o Satyavan 14.Bramah w/o Pali 15.Sunhari w/o Dilbagh 16.Barpai w/o Kapoora	Jat community attacked us around 09:30AM. Rajendra s/o Pali, Vikas s/o suresh, Suresh s/o Balveer, Pawaan s/o rammeher, Kulvinder s/o Rammehar were throwing stones and bricks. Other attackers were carrying zely and weapons in their hands.They were beating us with sticks. Rajendra, Vikas and Kulvinder had tins of kerosene in their hands. At first they poured kerosene and then they lighted fire to houses.	
16	Dinesh s/o Satyavan	Dinesh	Kulwinder s/o Rammehar Dharambir s/o Tara Gagad s/o Tara Monu s/o Dr. Suresh Rajendra s/o Pali Vikas s/o Suresh Suresh s/o Balveer	People of Jat community attacked Balmiki Basti on 21 <sup>st</sup> April 2010 around 10:30AM. These above mentioned assailants were carrying tins of kerosene in their hands and they were putting fire to Satyavan s/o Bhalleram's house. There were thousands of jaats along with them. They were throwing stones and bricks.People of Jat community were drunk and dancing naked. Then I ran away and saved my life.	

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
17	Gulab Singh s/o Jailal	Gulaab Singh	1.Rajendra s/o Pali 2.Karampal s/o Satbeer	On 21 <sup>st</sup> April 2010 Rajendra s/o Pali poured kerosene to 3 houses around 11:30AM and Karampal blew up all the houses with matchstick. Apart from these two there were hundreds of people were accompanying them but I do not remember all the names.	
18	Jagdish s/o Rupa	Jagdish	Kala s/o Umaid Kuldeep s/o Oma	I have seen these mentioned assailants putting fire and doing destruction. They were carrying sickle, Zeli and weapons in their hands. That time I was standing on the roof of my house. People of Jat community were thousands in number. I have seen these assailants putting fire to Ramlal s/o Lasad and Chandra s/o Ligman's houses. I have seen these people were dancing naked and throwing bricks and stones throughout the Basti.	
19	Jaswant	Jaswant	1. Kulwinder s/o Ram-meher 2.Rajendra s/o Pali	This incident happened on 19 <sup>th</sup> april 2010 at 9PM. Throughout this incident assailants were throwing stones.	



Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
20	Jogendra s/o Balram	Jogendra	1.Jagdish s/o Lahna 2.Satta s/o Karna	On the day of attack all the Jat attackers were carrying Zely, Weapons and tins of kerosene along with them. When people of Jat community were lighting fire to the houses, Jagdish and Satta poured kerosene and lighted fire to the Sanjay s/o Bani Singh's house. Then they were beating sanjay s/o Bani Singh with stones and bricks. Despite that they also destroyed other households.	
21	Joginder s/o Shankar		Kala s/o Satyavan Biren s/o Yashpal Jogel s/o Mahachand Kuldeep s/o Oma Manbeer s/o Zile Singh	On 21 <sup>st</sup> April 2010, when people of Jat community attacked on our Basti at that time I have seen these mentioned assailants carrying tin of kerosene and these assailants put fire to Gulaba s/o Jailal, Dilbagh s/o Gulab, Sanjay s/o Gulab's house. At that time all the family member of this household were inside only. Anyhow these victims ran away and saved their life. People of Jat community were carrying Zelis, sickles and weapons in their hands. They were throwing bricks and stones.	

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
22	Kala(Rajesh) s/o Bambu	Kala	1.Rupesh s/o Tekram 2.Bobel Langda s/o Teka	On the day of the incidence people of Jat communities attacked us around 11:30AM. I was only there when Rupesh s/o Tekram attacked and wounded Sanjay s/o Satpal. I took Sanjay away when he got unconscious. Bobel s/o Teka was carrying tin of kerosene in his hands. Other assailants were throwing stones and bricks.	
23	Karamveer s/o Balbeer	Karam- veer	1.Kulvendra s/o Ram- meher 2.Dharambir s/o Tara 3.Karambir s/o Tara 4.Anoop s/o Dharma 5.Rajendra s/o Pali 6.Amir s/o Tara	On 21 <sup>st</sup> April 2010 I was standing on the roof of my neighbor's house. Around 12:30 in the afternoon people of Jat communities attacked the Dalit Basti with stones and other weapons. These following assailants attacked my house and stole things.	
24	Lichmani w/o Daliya	Lichmani	Illa s/o Mychand	It was around 12:30 when we were attacked on 21 <sup>st</sup> April 2010. I have seen Illa etc screaming aloud. I did not recognize anyone else. There were around thousands of people of Jat community in number. They were throwing bricks and stones throughout the street. They were Carrying Zelis, sticks, and tins of kerosene in their hands. At that time I was standing in the main street.	

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
25	Mahajan s/o Satpal	Mahajan	People of Jat Community Who came from Outside.	When this incident happened I was standing on the mainstreet. People from Jat community attacked us. At first those people destroyed and looted my house. Then they were beating me till I got unconscious. They were thousand in numbers. So I could not recognize each and every face. Around 50-60 people were outsiders. They were throwing stones and bricks.	
26	Late Jagbir Singh	Mamta d/o Jagbir Singh	1.Pradeep s/o Jaibeer 2.Deovrat Grand sin of Tara Gajji 3.Vikas s/o Dr. Suresh	Pradeep s/o Jaibeer was lighting fire with kerosene in the Balmiki Basti while the attack happened. First he blew all the cakes of dung which usually happens to be a source of fuel for domestic purposes it was a horrible scene and people out there were very scared of that fire. Deovrat was keeping a sickle with him and he was attacking people by throwing bricks. Even I was struck by one brick that wounded me. Even I have Medico Legal Report. Vikas s/o Dr. Suresh was threatening to kill people while he was attacking people with stones and bricks.	

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
27	Manjeet s/o Surta	Manjeet	Ramphal s/o Prithvi Bobel Langda Amit s/o Satyavan	When people of Jat Community were coming to one of the street after lightening fire that time have seen them looting and destructing Praveen s/o Surta's house. They were carrying Zeli Etc....sickle and weapons. They were screaming and dancing naked as well. They were many in numbers. Throughout this incident I was standing on roof of my neighbor's house.	
28	Manoj s/o Mahendra	Manoj	Sunil s/o Dayanand Amit s/o Satyavan	On 21 <sup>st</sup> April 2010 it was around 10:30AM I was inside my home with my family. Sunil and Amit were carrying tin of kerosene in their hands. They poured kerosene and put fire to my house. They have beaten me with bricks and sticks. Anyhow I went out with my family and saved our life. Then people of Jat community destructed and looted the whole Basti. There were around thousands Jat people along with them. Some of them were outsiders.	
29	Omprakash s/o Mansa	Om-prakash	Baljeet s/o Indra	On 21 <sup>st</sup> April 2010 we were standing on the street around 11:30AM. At that time Jats attacked us so badly with weapons. I saw Baljeet s/o Indra attacking us.	

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
30	Pali w/o Jagdish	Pali	Wife of Mothu Sunita w/o Dharambir	On the day of Incident wife of Mothu and Sunita also invaded in our basti. I was standing on the roof of my house. These women were screaming and saying, "Burn the whole Balmiki Basti". They were accompanied by other women other people of Jat community. They were carrying Zeli, sickle and weapons with them.	
31	Praveen s/o Jagpal	Praveen	<ol style="list-style-type: none"> <li>1. Bobel s/o Teka</li> <li>2. Sanjay s/o Amarlal</li> <li>3. Sanjay s/o Dayachand</li> <li>4. Ila s/o Mychand</li> <li>5. Nanha s/o Mychand</li> <li>6. Kala s/o Sajjan</li> <li>7. Deovrat Musi</li> <li>8. Pradeep s/o Dr. Suresh</li> <li>9. Pradeep s/o Jagbeer</li> <li>10. Ajit s/o Sukhbeer</li> <li>11. Vicky s/o Amarlal</li> <li>12. Sattu s/o Randhir</li> <li>13. Tina s/o Rajveer</li> <li>14. Naresh s/o Mothu</li> <li>15. Sandeep s/o Dharampal</li> <li>16. Jogind s/o Surajmal</li> <li>17. Vipin s/o Ishwar</li> <li>18. Beer s/o Shishuram</li> </ol>	<p>On 21th April 2010 all these people blew up the house of Praveen s/o Jagpal with kerosene and petrol at around 11:30AM. They threw stones and bricks all over the street.</p> <p>The people of Jat community were holding <b>Zely</b> and sticks in their hands. They burned the daughter of Kamla w/o Tara-chand alive. Even after putting fire to houses they stole things out of them.</p>	

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
32	Rajesh s/o Daliya	Rajesh	Zora s/o Balwan Rajpal s/o Shyochand	Around 12:00AM I was standing in the street. I have seen people of Jat community destroying and looting Kuldeep s/o Raja's house. Zora and Rajpal were carrying tin of kerosene, Zeli, sickle and weapons in their hands. These assailants were destroying the whole basti. There were around thousands of Jat attackers along with them. And I have seen them dancing naked.	
33	Rajkumar s/o Badna	Rajkumar	1. Kulvindra s/o Rammeher 2. Pawan s/o Rammeher 3. Balwan s/o Jaila	On 21 <sup>st</sup> April 2010's incident some people of Jat community attacked our house. My grandsons and me were hiding in our house. They threw stones at our house. These mentioned Jats along with some other Jats attacked our house.	

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
34	Raju s/o Ramphal	Raju	Amit s/o Satyavan Sunil s/o Dayanand	On 21 <sup>st</sup> April 2010, I was there only when incident happened. These mentioned assailants looted and destructed our basti. They were throwing bricks, stones. People of Jat community were carrying Zelis, sickles and weapons with them. I have seen these mentioned assailants putting fire to the Chandra s/o Lichman's house. People of Jat community were thousands in number. When I was standing in the street these people were dancing naked. I was so afraid and running here and there.	
35	Ramphal s/o Badlu	Ramphal	1.Ila s/o Mychand 2.Sonu s/o Pappu	On the 21 <sup>st</sup> April 2010's incident Ila s/o Mychand was holding stick and <b>zely</b> (checked) in his hand. At first they attacked with bricks and stones and then they lighted fire and at that time Sonu s/o Pappu poured kerosene and blew up all the wood owned by Sanjay s/o Satpal. Then these both started lighting fire to houses and started beating people with sticks, stones and bricks.	

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
36	Raju s/o Baniya	Raju	1. Dharambir s/o Tara 2. Amir s/o Tara	On 21 <sup>st</sup> April 2010's incident people of Jat community lightened fire to Sanjay s/o Baniya's house. Then they were throwing stones and bricks. Then they attacked with sticks. And then these same assailants lightened fire to Manij s/o Mahendra's and Rajendra s/o Mahendra. There were around 700-800 Jats along with these assailants and they were dancing naked. Dharambir s/o Tara was carrying tin of kerosene and he went to Satyavan s/o Bhalle Ram's house to put fire.	
37	Ramphal s/o Rupa	Ramphal	Dharambir s/o Tara Kulvinder s/o Rammehar	At the time of incidence around 11:30AM Dharambir s/o Tara and Kulvinder s/o Rammehar were throwing stones and Rammehar bricks. They were carrying tins of kerosene, Weapons, sticks and <i>zelis</i> . Dharambir poured kerosene on houses owned by Manoj s/o Mahendra and Rajendra s/o Mahendra. Kulvinder had light and he lighted fire to those houses. There were around 500 people along with them. Then they started beating people with sticks.	



Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
38	Sajna s/o Chandrapati	Chan-drapati	Bhramh w/o Pali Anita w/o Pawan	When this incident happened people of Jat community covered our basti from all directions. Mentioned assailants invaded inside my house and at that time we were inside the house only them my family went up to my Neighbor's roof. These people were destroying, Looting and throwing stones at my house. There were around thousands of people of Jat community along with these assailants. And they were carrying sickles, Zelis and weapons with them.	
39	Sanjay s/o Rajaram		Baljeet s/o Indra Rajendra s/o Pali Leelu s/o Raju	On 21 <sup>st</sup> April 2010 I was standing on the roof of my house. When people of Jat community attacked on Balmiki Basti I have seen these mentioned assailants invading in Basti with weapons in their hands. There were around hundreds of other Jat attackers along with them.	
40	Satbeer s/o Bhatle Ram	Satbeer	1.Nanha s/o Mychand 2.Itla s/o Mychand 3.Bubbal Langda s/o Teka 4.SHO Vinod Kajal 5.Rupesh s/o Teka	On 21 <sup>st</sup> April 2010 Nanha and Itla both were carrying canes of kerosene and they were pouring it while Bubbal s/o Teka and Rupesh s/o Teka were lightning fire.  When I approached SHO Vinod Kajal to saving me he started abusing me like " <i>Dhed Chude Bhag ja Aab apni karni ka phal bhugto</i> ".	

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
41	Sanjay s/o Bane Singh	Sanjay	<ol style="list-style-type: none"> <li>1. Daya s/o Zile Singh</li> <li>2. Monu s/o Suresh</li> <li>3. Vikas</li> <li>4. Jagdish</li> </ol>	<p>On 21<sup>st</sup> April 2010's incident people were so scared that they were hiding themselves inside the houses. Some victims were standing on their house's roof. At first assailants destroyed our house and then these mentioned assailants lighted fire to our house with kerosene. These people even threw stones at our house and destroyed some costly goods.</p>	
42	Satyavan s/o Roshan Lal	Satyavan	<ol style="list-style-type: none"> <li>1. Rajendra s/o Pali</li> <li>2. SHO Vinod Kajal</li> <li>3. Nayab Tehsildar Jage Ram</li> </ol>	<p>On 21<sup>st</sup> April's incident Rajendra s/o Plai invaded the house of Tara s/o Swaroop and blew up that house. He also threw bricks and stones. At that time he caught Tara s/o Swaroop and burned him alive. SHO Vinod Kajal and Tehsildar Jageram collected us at Balmiki chaupaal. SHO told Jats that they had only one hour so they should do whatever they had time to do. They were lighting fire to the houses under the instructions of SHO and Tehsildar which both mingled with the Jat community. I pitifully went to SHO and Tehsildar but they denied the situation and all the possibilities of saving us. They were threatening us and at that time we were helpless.</p>	

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
43	Sanjay s/o Gulaba	Sanjay	1.Karampal s/o Satveer 2.Illa s/o Mychand 3.Rajendra s/o Pali	On 21 <sup>st</sup> April 2010 Jats attacked our Basti around 11:30AM. I live on the roadside. At first Karampal s/o Satveer, Illa and Rajendra were throwing stones and bricks. They had sticks and Zely. Illa screamed. Rajendra s/o Pali was abusing and meanwhile he was pouring kerosene on the house owned by Sanjay s/o Gulaba while Karampal s/o satveer lighted fire to the house. At that time only sanjay's children were inside the house. There were around 700-800 attackers. Then they were beating with sticks and zely. They were dancing naked and lighting fire to other houses as well.	
44	Satish s/o Badna	Satish	Jitendra s/o Satbeer Jora s/o Balwaan Mahaveer s/o Zile Singh	Balmiki Basti has been attacked on 21 <sup>st</sup> April 2010 around 12:00AM. I have seen mentioned assailants destructing Prem s/o Pratap's house. I have seen them carrying Zeli, sickle and weapons in their hands. I live in roadside. I was standing on the roof of my house. There were thousands of Jat people. They have done naked dance in the street.	

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
45	Sanjay s/o Satpal	Sanjay	<ol style="list-style-type: none"> <li>1. Sumit s/o Satta</li> <li>2. Sanjay s/o Dayanand</li> <li>3. Sandeep(Kala) s/o Sajjan</li> </ol>	<p>On 21<sup>st</sup> April 2010 around 10:30AM, Sanjay s/o Dayanand, Sandeep(Kala) and Sumit s/o Satta were carrying tin of kerosene in their hands. Sanjay poured kerosene and Sandeep lighted fire by match-stick. Sumit s/o satta had a stick and zely in his hands. These people looted houses and were throwing stones and bricks.</p>	
46	Sube Singh	Sube Singh	<ol style="list-style-type: none"> <li>1. Rajendra s/o Pali</li> <li>2. Vikas s/o Dr. Suresh</li> <li>3. Dr. Suresh s/o Balbeer</li> <li>4. Pawan s/o Rammehar</li> <li>5. Kulvinder s/o Rammehar</li> <li>6. Sonu s/o Suresh</li> <li>7. Bimla w/o Suresh</li> <li>8. Gagad</li> <li>9. Wife of Mothu</li> <li>10. Dharamvee s/o Tara</li> <li>11. Dhalad s/o Daleepa</li> <li>12. Rupesh s/o Tekram</li> <li>13. Anguri w/o Satyavan</li> <li>14. Bramah w/o Pali</li> <li>15. Sunhari w/o Dilbagh</li> <li>16. Barpai w/o Kapoora</li> <li>17. amber w/o Pappu</li> </ol>	<p>They poured kerosene on Dilbagh's father. They were about to burn him alive but neighbors saved him and took him away from the attackers. Then attackers lighted fire to Sube Singh's house. Even attackers burned Tarachand and his daughter alive. Bramah w/o Pali were along with other ladies attackers carrying tins of kerosene. All these women were lighting fire to the houses. These women were fighting and looting the whole Balmiki Basti. They were accompanied by thousands of Jat community people. All Jats were dancing naked.</p>	

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
47	Subhash s/o Rupa	Subhash	Joginder s/o Indra Mahesh s/o Daleepa	I have seen Joginder and Mahesh carrying tin of kerosene, sickle and Zeli in their hand on 21 <sup>st</sup> April 2010's incident. They were screaming while they were invading in the streets. They have done destruction and looted. There were many Jat people along with them. Then they were throwing bricks and stones. I have seen them dancing naked.	
48	Sunder s/o Omprakash Balmiki	Sunder	Raja s/o Leelu Illa s/o Mychand Jugal s/o Hawa singh	On 21 <sup>ST</sup> April 2010, when people of Jat community attacked on Balmiki basti I was standing in the street. I have these mentioned assailants destroying many houses. There were thousands of attackers with them. They were throwing bricks and stones. I have seen these people looting and destroying Ajmer s/o Pratapa's house. There were some outsiders with these assailants.	

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
49	Suresh kumar s/o Chandra Singh	Suresh Kumar	<ol style="list-style-type: none"> <li>1. Monu s/o Master Dayanand</li> <li>2. Deepak</li> <li>3. Monu s/o Dr. Suresh</li> <li>5. Kala s/o Ummed</li> <li>6. Sumit s/o Satpal</li> <li>7. Rishi s/o Satbeer</li> <li>8. Leelu s/o Raja</li> <li>9. Virendra s/o Susu Master</li> <li>10. Manjeet s/o Mahendra Master</li> <li>11. Pradeep s/o Dr. Suresh</li> <li>12. Kulvindra s/o Rammeher</li> <li>13. Sandeep (Constable) s/o Prema</li> <li>14. Kuldeep s/o Oma</li> <li>15. Jaibeer s/o Balbeer</li> <li>16. Surendra s/o Dharampal</li> <li>17. Ajeet (Policeman) s/o Sukhbeer</li> <li>18. Ramesh s/o Karan Singh</li> <li>19. Ajeet s/o Balwaan</li> <li>20. Ummed s/o Jagmal</li> </ol>	<p>On 21<sup>st</sup> April 2010's incident our Basti was attacked by approx 1500 Jats. Around 11:45AM These following assailants attacked us. We were so scared so we (all 11 members) hide our self inside a house. We saw Sandeep s/o Dharampal and Kulvindra carrying tins of kerosene. They opened the main gate of our house and the mentioned assailants blew up our house and shop. We were sitting upstairs when they lighted fire to the place. Fortunately we came safe and alive out of there.</p>	

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
50	Anguri w/o Ramdiya	Anguri		On 21 <sup>st</sup> April 2010 people of Jat community attacked balmiki Basti. They looted, destructed, Lightened fire the whole Basti. They were carrying Zelis, sickles and weapons in their hands. We do not want to live in Mirchpur village.	Sd/-
51	Asin s/o Jaiprakash	Asin	Pradeep s/o Jaiveer Pradeep s/o Suresh Sandeep s/o Mahendra Etc....	On 21 <sup>st</sup> April 2010 people of Jat community looted the house of Sanjay s/o Kaliram around 11:30AM. Then they started throwing stones and bricks. There were around thousands of Jat people along with them. At that time I was standing on the roof of my house. Out of these mentioned assailants Pradeep s/o Suresh was dancing naked.	Sd/-
52	Bhoti w/o Badlu	Bhoti		On 24 <sup>st</sup> April 2010 when people of Jat community attacked Balmiki Basti I have seen these people carrying tins of kerosene, Zelis and sickles in their hands. They looted and destroyed the whole Basti. These women assailants lightened fire to Sanjay s/o Zile singh's house. At that time I was standing on the roof of my neighbor's house.	Sd/-
53	Bimla w/o Rajkumar	Bimla	Barpai w/o Kapoorchand Bohri w/o Karamveer Etc...	People of Jat community attacked our Balmiki Basti. They beaten my husband and son so badly.	Sd/-

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
54	Chote w/o Manjeet	Chote	Anguri w/o satyawan Anita w/o Pawan	On 21 <sup>st</sup> april 2010 people of Jat community attacked our Balmiki Basti. These mentioned assailants invaded in, looted , destructed and lightened fire to our houses. They were danc- ing naked and abusing in the streets.	Sd/-
55	Deepak s/o Prem	Deepak	Sandeep s/o Karan Singh Pradeep s/o Jaibeer Pradeep s/o Jagveer Vikas s/o Sunhara Vikas s/o Dr. Suresh	People of Jat community invaded in Balmiki Basti and de- structed and looted the whole Basti.They attacked us with Zelis and sickles. They were carry- ing dangerous weapons. I have seen these mentioned assail- ants lightening fire to the house of Gulaba s/o Jaila.	Sd/-
56	Dhupha s/o Ratnu	Dhupha	Veer s/o Sisu Sandeep s/o Dharampal Jogendra s/o Surajmal	On 21 <sup>st</sup> April2010, the day of incidence, the people of Jat community looted the house of Dhupha s/o Ratnu at first place. Then these mentioned assail- ants put fire to my house. There were around thousands of Jat attackers along with them. They were dancing naked. They were carrying zelis, sickles and weapons with them. At the time of attack I was inside my shop. And they wounded me with sticks.	Sd/-
57	Gurmeet s/o Satish	Gurmeet	Monu s/o Suresh Rajen- dra s/o Pali Etc...	On 21 <sup>st</sup> April 2010 these men- tioned assailants of Jat commu- nity attacked Balmiki Basti. They destructed and lightened fire to our houses.	Sd/-



Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
58	Ishro w/o Omprakash	Ishro		On 21 <sup>st</sup> April 2010 people of Jat community attacked our balmiki Basti. They were carrying Zeli, sickles and weapons in their hands. They destructed and looted the whole Balmiki Basti. They were abusing and dancing naked throughout the Basti. They were being naked before our daughters.	Sd/-
59	Jai Bhagwan s/o Rajveer	Jai Bhagwan	Dalveer s/o Tara Jitendra s/o Satveer Etc...	When this incidence happened people of Jat community covered us from all directions. These mentioned assailants looted and destructed our Basti. I have these people carrying zeli and sickle in their hands. At that time I was standing on the roof of my house. These people lightened fire to the house of Sanjay s/o Satpal.	Sd/-
60	Sushil s/o Surta	Sushil	Bobel Langda s/o Teka Jugal s/o Hawa Singh	Jats attacked around 12:30PM on the day of the incident. They covered our Basti from all sides. Bobel Langda and Jugal destroyed and looted the House of Sushil s/o Surta. Attackers were carrying Zely. Weapons and tins of kerosene. They destroyed houses by throwing stones and bricks. They were around thousand jaats in numbers.	Sd/-

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
61	Tejbhan s/o Rajveer	Tejbhan	Sandeep s/o Karan Singh Pradeep s/o Jaibeer Pradeep s/o Jagveer Vikas s/o Sunhara Sumit s/o Satyavan Zora s/o Ramphal Etc....	People of Jat community invaded in Balmiki Basti. They looted and destructed the whole basti. looted and destructed the whole basti. mentioned assailants were carrying Zelis, sickles and dangerous weapons in their hands. Then people of Jat community put fire to Chandra s/o Lichman's house. They were also throwing stones and bricks.	Sd/-
62	Kalaso w/o Satyavan	Kalaso		On 21 <sup>st</sup> April 2010 the day of attack on Balmiki basti I have seen these mentioned assailants. Women of attackers Jat community invaded in my house and poured kerosene and lightened fire to my house. We ran away and saved our life. They destroyed all my living-hood.	Sd/-
63	Kamlesh w/o Raju	Kamlesh	Rajesh s/o Dhupha sandeep s/o Prema Etc....	On 21 <sup>st</sup> APRIL 2010 people of Jat community attacked Balmiki Basti around 12:30PM. Rajesh and sandeep were screaming and invaded in houses. They were carrying tin of kerosene and Zeli in their hands. They were throwing stones and bricks. There were 700-800 Jat attackers along with them.	Sd/-
64	Kasturi w/o Gulaba	Kasturi	Jagveer s/o Balveer Rajveer s/o Dhupha Etc...	On 21 <sup>st</sup> April 2010 people of Jat community attacked Balmiki Basti around 12:00PM. Rajesh and Sandeep were screaming and invaded in our houses. They lightened fire to all the households and destroyed them.	Sd/-

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
65	Kiran w/o Naresh	Kiran	Wife of Dharampal fauji Wife of Mothu Etc....	When people of Jat community were lightening fire to houses at that time standing on the roof of my house and crying. Jat attackers were abusing me.	Sd/-
66	Kitabo w/o Ramkumar	Kitabo	Sunita w/o Dharambir Sunil s/o Dayanand Etc...	I have seen Sunita and Sunil were throwing stones and bricks throughout the streets. People of Jat community were carrying tins of kerosene along with them. They looted meny households.	Sd/-
67	Krishn s/o Pratapa	Krishn	Rajesh s/o Dhupha Nas- eeb s/o Prem	Around 10:30AM when people of Jat community attacked Balmiki Basti I was in the main street. I have seen these mentioned assailants putting fire to the house of Ramniwas s/o Rajmal.	Sd/-
68	Krishna w/o Ragbir	Krishna		On 21 <sup>st</sup> April 2010 people of Jat community attacked our Balmiki Basti. They beaten our spouses with Zeli and sickles. They wounded more than 42 members of our family. We do not want to live in Mirchpur vil- lage anymore.	Sd/-

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
69	Murti w/o Bani Singh	Murti	Wife of Mothu Barpai w/o Kapoora	Wife of Mothu was accompanied by many Jat attackers. They invaded in our houses and beaten us with sticks. Barpai w/o Kapoora were throwing stones and bricks. At that time I was standing on the roof of my house. There were thousands of Jat attackers along with these assailants.	Sd/-
70	Nanki w/o Raju	Nanki		On 21 <sup>st</sup> April 2010 the day of attack people of Jat community invaded in my house, poured kerosene and lightened fire to my house. they destructed my house also.	Sd/-
71	Phoolbati w/o Mahendra	Phoolbati		On 21 <sup>st</sup> April 2010 when people of Jat community lightened fire to my son Manoj s/o Mahendra I have seen mentioned women with some other Jat attackers. At that time I was standing on the roof of my house. they were throwing bricks and stones. There were ground 500-700 Jat attackers along with these mentioned assailants.	Sd/-

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
72	Pradeep s/o Rajveer	Pradeep	Vikas s/o Sunhara Rupesh s/o Teka Sita s/o Bira Etc.....	I have seen Vikas, Rupesh and Sita going towards Ramphal's house. They were carrying tin of kerosene and zeli in their hand. People of Jat community were along with them in thousands in number. They destructed the basti at first place and then they looted the whole Basti. At that time I was at my neighbor's place.	Sd/-
73	Rajesh s/o Bani Singh	Rajesh	Sunita w/o Dharaveer Anita w/o Pawan Etc....	I have seen these women as-sailants carrying tin of kerosene and other weapons. They were lightening fire to houses and these women assailants were along with other Jat attackers. They were throwing stones and bricks.	Sd/-
74	Rajesh Devi w/o Dilbagh	Rajesh Devi	Bili w/o Karambeer Jag-beer s/o Balbeer	When people of Jat community attacked our Balmiki Basti they were carrying Zelis, sickles and tins of kerosene in their hands. They were abusing and lightening fire.	Sd/-

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
75	Ramniwas s/o Indra	Ramniwas	Rishi s/o Satveer Suresh s/o Balveer Etc.....	I was standing on the roof of my house when people of Jat community attacked Balmiki Basti. Rishi and suresh were carrying tin of kerosene and they going towards Sata s/o Bhalleram's house. They looted and destructed the house of Subhash s/o Indra. They were carrying Zeli and sickles in their hands and they destructed the whole Balmiki Basti. There were thousands of Jat people along with these assailants. And they were dancing naked.	Sd/-
76	Randhir s/o Surta	Randhir	Bobel s/o Teka Rupesh s/o Teka Veer s/o Shishu Etc....	On 21 <sup>st</sup> April 2010 I have seen these mentioned assailants destroying Sushil s/o Surta's house around 12:00AM. These metioned assailants lightened fire to many houses and beaten people of Balmiki basti with Zeli and other weapons. They wounded Sushil s/o Surta. There were thousands of Jat people along with these assailants and they were dancing naked.	Sd/-
77	Reena w/o Surja	Reena		On 21 <sup>st</sup> April2010, the day of attack, I have seen people of Jat community attacked Balmiki Basti and lightened fire to households. There were many women attackers along with them. Women attackers were lightening fire to the houses and they burned 18 households.	Sd/-

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
78	Rekha w/o joginder	Rekha	Pradeep s/o Jagbeer Bar-pai w/o Kapoora Suresh s/o Balveer	On 21 <sup>st</sup> April 2010 people of Jat community attacked Balmiki Basti around 11:30AM. They started screaming and beating victims with sticks.. At that time I was standing on the roof of neighbor's house.	Sd/-
79	Sachin s/o Jogiram	Sachin	Pradeep s/o Jaiveer Sandeep s/o Mahendra Rupesh s/o Teka	On 21 <sup>st</sup> April 2010 when incident happened I was standing in the street. Pradeep s/o Jaiveer beaten me with brick. Rupesh s/o Tekram beaten me with sticks. Then they were throwing bricks and stones. They were many Jat people along with them But I recognize these assailants only.	Sd/-
80	Sajna s/o Ramswaroop	Sajna	Illa s/p Mychand Suresh s/o Balveer Etc.....	On 21 <sup>st</sup> April Illa s/o Mychand lightened fire to the houses of Balmiki Basti. They beaten us with stones and sticks. Suresh was carrying tin of kerosene in his hands. At that time I was standing in the street. People of Jat community were beating us with Zeli, sickles and weapons.	Sd/-
81	Santosh w/o Vijendra	Santosh		When People of Jat community attacked the Balmiki Basti around 11:30AM I have seen Ramphal s/o Rajamal carrying tin of kerosene and sickle in his hands and lightening fire to houses. There were around 700-800 Jat attackers. At that time I was standing in the main street.	Sd/-

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
82	Saroj w/o Ramphal	Saroj		On 21 <sup>st</sup> April 2010 I was standing on the roof of my house. I have seen People of Jat community were carrying tins of kerosene, Zeli and sickles in their hands. They were throwing bricks and stones. And there were thousands of Jat attackers.	Sd/-
83	Saroj s/o Rajendra	Saroj		When people of Jat community attacked Balmiki Basti at that time I was standing in the street. I have seen these people putting fire to Ramphal s/o Rajpal's house around 11:30AM.	Sd/-
84	Seela w/o Subhash	Seela		When people of Jat community attacked Balmiki Basti I have seen mentioned women assailants. They were destroying Sushil s/o Surta's house. They were carrying Zeli and weapons in their hands. They were throwing stones and bricks.	Sd/-
85	Shanti w/o Jugtiram	Shanti		On 21 <sup>st</sup> April 2010, the day of attack, I have seen these mentioned women assailants. Attackers of Jat community, both men and women attackers, put fire to my house and they burned everything.	Sd/-



Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
86	Sheela Devi w/o Ramesh	Sheela Devi	Vimla w/o Suresh Daughter-in-Law of Dharampal	On 21 <sup>st</sup> April 2010 people of Jat community attacked balmiki Basti. They destructed and looted the whole Basti. These mentioned assailants lightened fire tour houses. We do not want to live in Mirchpur village anymore. There were many women attackers along with these assailants. We ran away and saved our lives.	Sd/-
87	Subhash s/o Indra	Subhash		I have seen Rajendra and Rajpal along with other Jat attackers lightening fire to many houses of Balmiki Basti. At that time I was standing on the roof of my house. They were thousands in number.	Sd/-
88	Sona w/o Chandrabhan	Sona		When people of Jat community lightened fire to our Basti they were carrying tin of kerosene, Zeli and sickles in their hands. I have seen these mentioned women assailants lightening fire to Tarachand s/o Swaroop's house. They destructed our house as well. At that time I ran away and saved my life.	Sd/-
89	Sona w/o Rajkumar	Sona		On 21 <sup>st</sup> April 2010 people of Jat community attacked us, invaded in my houses, lightened fire to houses and destroyed them. We have not got compensation yet. We do not want to live in this village anymore.	Sd/-

Sl. No.	Head of the family	Witness	Assailants	Details of Assault	Sign.
90	Sonu s/o Omprakash	Sonu	Rajesh s/o Dhupha Baljeet s/o Indra	On 21 <sup>st</sup> April 2010 at the time of incident I have seen Rajesh s/o Dhupha And Baljeet s/o Indra destructing and looting Balmiki Basti. People of Jat community were carrying Zelis, sickles and weapons in their hands. I have seen Rajesh s/o Dhupha carrying tin of kerosene and going towards Manoj s/o Mahendra's house. There were 700-800 people of Jat community. They were dancing naked as well. At that time I was standing on the roof of my house.	Sd/-
91	Suman w/o Randhir	Suman	Kuldeep s/o Oma Kala s/o Umaid	I have seen these mentioned assailants destructing Sushil s/o Surtas' house. They beaten up Sushil s/o Surta's son and even beaten up Sushil s/o Surta so he felt unconscious. There were around thounds of people along with them. They were throwing stones and bricks.	Sd/-
92	Suman w/o Soni	Suman		On 21 <sup>st</sup> April 2010 when people of Jat community attacked Balmiki Basti and putting fire to households I have seen these women assailants carrying tins of kerosene and zeli in their hands along with them. There were thousands of Jat attackers along with them. They were throwing stones and bricks.	Sd/-

<b>Sl. No.</b>	<b>Head of the family</b>	<b>Witness</b>	<b>Assailants</b>	<b>Details of Assault</b>	<b>Sign.</b>
93	Sunita w/o Karamveer	Sunita	Wife of Mothu Monu s/o Suresh Etc....	On 21 <sup>st</sup> April 2010, the day of attack, I have seen wife of mothu and Monu were carrying tin of kerosene and Zeli in their hands. They invaded in Balm-iki basti. They were throwing stones and bricks. There were thousands of Jat attackers along with them.	Sd/-

**SCTC NO. 734**  
**REPORTS OF THE JOINT PARLIAMENTARY COMMITTEE FOR THE**  
**WELFARE OF SCHEDULED CASTE AND SCHEDULED TRIBE (2010-11)**  
**(FIFTEENTH LOK SABHA)**

**Ministry of Social Justice and Empowerment / Home Ministry**  
**Report of the fact finding visit of the Committee on**  
**2<sup>nd</sup> July 2010 to Mirchpur, Hisar, Haryana**

**Lok Sabha Secretariat**  
**New Delhi**  
**August, 2010**

## Background

1. During their sitting held on 17<sup>th</sup> May, 2010, the Committee inter alia expressed their concern over the burning of houses of Balmiki community by dominant Jat community when an old father and his disabled daughter belonging to Balmiki community succumbed to burn injury at village Mirchpur, Haryana. The Committee, therefore, decided to visit the village and work out the likely date of visit in their next sitting scheduled to be held on 8<sup>th</sup> June, 2010.
2. During their sitting held on 8<sup>th</sup> June, 2010, the Committee finally decided to undertake an on-the-spot study visit to Mirchpur on 2<sup>nd</sup> July, 2010 to examine the situation prevailing on the ground level and rehabilitation measures that have been taken by the State Government in the aftermath of the incidence.
3. The Committee obtained background notes on the incident from the Ministry of Home Affairs, Ministry of Social Justice & Empowerment and the Government of Haryana. The consequential action initiated by the State Government of Haryana was also received.
4. A copy of on-the-spot study visit programme and the composition of the Committee that visited Mirchpur village on 2<sup>nd</sup> July, 2010 are at **Appendices I & II**. It was planned to be a single day visit. As per the programme, the Committee left Delhi for Mirchpur village on the morning of 2<sup>nd</sup> July, 2010 by bus and visited the village in the afternoon and interacted with the affected people. The Committee also held discussions with the officials of the State Government of Haryana in the late afternoon at Hisar where officials of the Ministry of Social Justice and Empowerment and Ministry of Home Affairs were also present. The Committee returned to Delhi at night on the same day.

## CHAPTER I

### A. Background Note Received from State Government of Haryana

#### Mirchpur Village

1. Village Mirchpur is located on Barwala – Jind State Highway in Narnaund Taluk, District Hisar, Haryana. As per 2001 census, total population of the village is 8793, out of which Scheduled Castes (SC) population is 1385. There are various castes groups residing in the village, such as the Jat, Brahmin, Balmiki, Chamar, Dom, etc. The Jat community constitutes more than 50% of the population in the village and has the largest land holding. The Tehsil and police station for the village is in Narnaund which is about 9 kilometers away from this village. The police chauki for the village is in Kheri, which is about 4 kilometers away from the village.

#### Cause of the incident

2. The Incident reportedly resulted out of a minor event when some young persons of Jat community were passing through the Balmiki Basti in village Mirchpur on 19<sup>th</sup> April, 2010 and

threw brick bats on a barking dog. That incident led to a tussle between the young persons of the two communities.

3. This small controversy took an unexpectedly serious turn on the morning of 21<sup>st</sup> April, 2010 when a number of persons of the Jat community reportedly attacked the houses of the Balmiki community. 18 houses of Dalits were set on fire resulting in damage to the property and the household goods. Household goods in another 14 houses are also claimed to have been damaged. The situation was controlled with the arrival of S.P. Hisar and S.D.M. Hansi. Relief operations were also put in place with the arrival of fire tenders and ambulances. One Shri Tara Chand suffered serious burn injuries and subsequently expired. His daughter Suman, who was handicapped, also expired as a result of fire to their house. Both of them were cremated on 23<sup>rd</sup> April, 2010 after their post-mortem on 22<sup>nd</sup> April, 2010.

## **B. Action taken report**

### **I. Action taken by Police:**

- (i) An FIR No.166 dated 21.04.2010 was immediately lodged with Police Station, Narnaund, Distt. Hisar under Sections 302/307/395/397/435/436/ 449/450/452/427/123/148/149/120-B of Indian Penal Code (IPC) read with Sections 3 and 4 of the SC/ST Act, on the complaint of Shri Karan Singh, son of Shri Tek Ram, caste Balmiki, resident of Village Mirchpur, District Hisar against 42 persons. During investigation, number of accused increased to 130 based on statements recorded under Section 161 of Cr. P.C.
- (ii) Civil and Police administration had swung into action immediately. All out efforts were made to contain the situation with necessary police bandobast and local Magistrates. With the intervention of Government machinery it was ensured that there was no further damage to life and property of any person and the incident was not allowed to turn into a full-fledged caste divide between the two castes/communities.
- (iii) Names of Shri Vinod Kajal, SHO, incharge Police Station, Narnaund and the Duty Magistrate present at the spot of incident i.e. Shri Jage Ram, Naib Tehsildar-cum-Executive Magistrate (a Scheduled Caste himself) have also been included in the FIR mentioned at (i) above as an accused after *prima facie* finding of dereliction of duty and lack of care and caution on their part. Both of them have been arrested in the aforementioned FIR. Both Shri Vinod Kajal, SHO, Police Station, Narnaund and Shri Jage Ram, Naib Tehsildar, Narnaund have been placed under suspension on account of this serious lapse on their part. Department disciplinary proceedings are being separately initiated against them.
- (iv) As many as 48 accused person have been arrested, out of which charge sheet has already been filed against 28 persons in the Court of law. Remaining charge sheets are also being filed. Besides, warrant of arrest has been got issued from the court against 71 other accused.

Investigations in respect of 11 remaining accused are under progress.

- (v) A police post has been set up in village Mirchpur in order to ensure continued protection of life and property of families and for ensuring communal harmony in the village. A non-Gazetted Officer and 15 persons have been posted in the said Police Post. One police gypsy and a motor cycle have been provided in this Police Post for the protection of life and property of the families and for maintaining communal harmony in the village.
- 4. In addition to strengthening of Police Post, two DSPs, two Inspectors and three companies of Armed Police along with a teargas squad have also been deployed for round the clock duty for security of Balmiki colony in village Mirchpur.
- 5. A special cell at District Hisar, Range level and Police Head Quarter level stand constituted to monitor the complaints of weaker section and to take immediate action in these complaints.

## **II. Relief and Rehabilitation Measures**

- (i) State Government has taken a number of rehabilitation and relief measures to mitigate the miseries of adversely affected families. Necessary arrangements for food, shelter, medical help and security of all the affected families were made by the district administration. Further, a number of relief and rehabilitation measures were undertaken in accordance with the provisions of the Protection of Civil Right Act and Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Rules, 1995.
- (ii) Under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Rules, 1995 on death a non-earning member of a family, compensation of atleast Rs. 1.00 Lakh is to be paid to the family. In the unfortunate incident at Mirchpur, two members of the family namely Shri Tara Chand and his daughter Ms. Suman, who was handicapped, expired. Keeping in view the trauma suffered by the family, the State Government gave a liberal compensation of Rs. 10.00 lakh each to the next of kin of the deceased i.e. total of twenty lakh rupees were given to the family members Rs. 15.00 lakh to the wife and Rs. 5.00 lakh to one of the sons of Shri Tara Chand. In addition, Rs. 1.00 lakh was given as compensation for the damage caused to their house.
- (iii) In addition to the aforementioned compensation, all the three sons of the deceased Shri Tara Chand have been given Government jobs. They are:-
  - (a) Shri Amar Lal, son of late Shri Tara Chand has been appointed as clerk in office of Deputy Commissioner, Hisar;
  - (b) Shri Pardeep, son of late Shri Tara Chand has also been appointed as Clerk in the office of Deputy Commissioner, Hisar; and

(c) Shri Ravinder Kumar, son of late Shri Tara Chand has also been appointed as Peon in the office of Deputy Commissioner, Hisar.

Under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Rules, 1995, either employment is to be given to either one member of the victim's family or pension or land. The State Government has given employment to three members of the family instead of one member.

(iv) In this incident, property of 18 families including their house hold goods was damaged on account of fire. A Committee was set-up under SDM Hansi to assess the damaged properties. On the recommendation of the Committee Rs. 25.11 lakh was given to 18 families on account of household goods burnt and for repair of their damaged houses. The amount of compensation varied from Rs. 1.00 lakh to Rs. 4.25 lakhs. Details of the relief provided are given in **Annexure-I**.

Under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Rules, 1995, on complete destruction of the house the Government has to provide relief of constructing the house at Government expense. Under the State Government contingency plan a compensation of Rupees Fifty Thousand is to be given. Although the houses were only partially damaged (except one), yet keeping in mind the hardship caused to the 18 families State Government has already undertaken construction of houses for them under Indira Awas Yojana and Housing scheme of SC/BC Department in addition to compensation paid as mentioned in the para above.

(v) In this incident some persons were also injured. Therefore, the State Government has also given compensation of Rs. 25,000/- each to 52 persons said to have been injured for their medical treatment etc. (Details of compensation given are from Sl.No.19 to Sl.No.70 at **Annexure-I**). This compensation has been given as per provision of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Rules, 1995.

(vi) It is pertinent to mention here that the State Government immediately responded to the incident by making arrangement for food, shelter, medical aid etc. All the 200 families of Balmiki community in the village were given 200 kg. of wheat (worth Rs. 2000/- each). Milk and other items like folding beds were provided to the affected families.

(vii) In order to provide additional source of employment priority will be given to the members of the affected members of SC community under MGNAREGA, which will further help in economic rehabilitation of the victims.

(viii) The State Government has also decided to construct a primary school in the vicinity of the Basti, in order to facilitate education of the SC children. This is in addition to the existing schools, in the village. Moreover, existing Balmiki Chaupal is also being renovated and upgraded with addition of new rooms.



- (ix) Further, a Peace Committee of 31 respected members of the village community has been constituted to provide an effective platform for mutual dialogue. This measure will certainly go a long way in paving way for amicable solution to local problems and removal of any misunderstandings.
- (x) A tabulated statement of relief and other administrative measures as provided in Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and rules there under alongwith the relief and rehabilitation undertaken by the State Government is placed at **Annexure-II**.
- (xi) The above facts amply demonstrate that the State Government has taken adequate steps for providing relief to the victims and has tried its level best to assuage the feelings of the community and restore peace in the village.

### **III. Constitution of Judicial Inquiry Commission**

- (i) State Government has constituted a 'Judicial Inquiry Commission' headed by a senior Punjab & Haryana High Court Judge, Mr. Justice Iqbal Singh (Retd.) to inquire into the circumstances leading to the incident resulting into death of two persons belonging to Balmiki community in village Mirchpur, District Hisar on 21<sup>st</sup> April, 2010 as also into the circumstances leading to arson, fire and rioting resulting into injuries to the person and damage to the houses of Balmiki community in the consequent firing.
- (ii) A few people filed a CWP No. 211 of 2010 in the Supreme Court on this matter. The Supreme Court was apprised about the relief and rehabilitation measures undertaken by the State Government to improve the confidence level of the Balmiki families of village Mirchpur. Some of these families who had temporarily shifted to Balmiki temple on Panchkuyan Road, Delhi have now come back to the village. The process of providing relief and rehabilitation measures to these families is still on.
- (iii) The situation is well under control and there are no ramifications of this isolated incident in any part of the State. However, strict vigil is being kept to prevent any other untoward incident. Institutional arrangements have been made to restore harmony in the area.

### **C. Background Note Received from Ministry of Home Affairs**

- 6. In addition to background note received from the State Government of Haryana, the Ministry of Home Affairs provided copies of letters sent by the Home Minister to Hon'ble Speaker, Lok Sabha and Chief Minister in regard to Mirchpur incident (**Annexures-III & IV**).

### **D. Visit to Mirchpur Village (02.07.2010)**

#### **Inspection of Houses and interaction with the affected people**

- 7. The Parliamentary Committee comprising 13 Members of Parliament visited Mirchpur village, Hisar District, Haryana in the afternoon of the 2<sup>nd</sup> July, 2010. At Mirchpur village, the Committee

visited the houses that were burnt down and destroyed by the mobs during the arson. The Committee inspected these houses so as to have a proper assessment of the extent of damage and destruction caused to properties and human lives. The Committee also interacted with inmates of the houses visited. Apart from the houses that were affected by the incident, the members of the Committee also visited other houses belonging to SC people and heard their grievances/demands.

8. Thereafter, the Committee invited the victims/affected people of the village to depose before them in a nearby makeshift pandal/camp set up by the local administration. In an orderly manner, they were given an opportunity to brief the Committee on their various grievances, complaints and demands. The Committee gave a patient hearing to each and every person who was present to air his/her grievance. The briefs of deposition made by the victims are as under:-
  - i) Shri Chander Singh S/o Shri Laxman who has 4 sons and 1 daughter said that his house was burnt down but he did not receive enough facilities and compensation. That he has been threatened by the dominant Jat community to come forward for a compromise. He said that he is very unhappy with whatever had happened and wanted to leave the village for good.
  - ii) Shri Vicky Chauhan, son of Shri Roop Singh admitted that he received only Rs. 2.15 lakh as compensation. He mentioned that he has suffered a loss of material worth more than Rs. 5 lakh. He has been threatened by the dominant community to make compromise. He does not want to live in the village because of fear and insecurity. He has 5 members in the family to support. He had 4 shops which were all destroyed and he has been unemployed for the last 3 months. He has requested that he may be given employment. (However, there is no such name in the official list except that the amount mentioned at Sl. No. 9 as Rs. 2.15 lakh).
  - iii) Shri Satyavan, son of Shri Bhalley Ram said that he received Rs. 4 lakh as compensation for loss of material. In addition to this his house is being reconstructed. He however has estimated his loss of material more than Rs. 8 lakhs. He further mentioned there is no employment opportunity in the village after the incident because nobody has hired him to work in the field/farms. He has also stated that there is no security in the village.
  - iv) Shri Amar Lal son of late Shri Tara Chand said that all three male members of the family have got employment but he demanded that all the culprits be arrested and punished according to law.
  - v) Shri Roop Singh, father of Shri Vicky Chauhan said that his house has been destroyed. He has demanded that he be given medical treatment for injury inflicted on his hand during the attack. He is also being pressurized by the dominant community to come forward for a compromise.

- vi) Shri Manoj, son of Shri Mahender and a daily wager said that he received Rs. 1 lakh as compensation. He along with his wife and daughter were not there at the time of the incident but his other family members were affected.
- vii) Shri Jagmal S/o Shri Bir Singh said that his house was destroyed and burnt alongwith jewellery and other belongings. He said that even though he suffered a loss of Rs. 10-12 lakh, he received only Rs. 2.38 lakh as compensation. He used to sell bangles and is now without work. He is being asked to compromise and also pressurized by the dominant Jat community to withdraw the FIR.
- viii) Shri Mohinder S/o Shri Amar Singh said that his house was destroyed but the Government gave him only Rs. 1 lakh as compensation. His house is being rebuilt but he has no employment. He said that there is no fear and pressure on him.
- ix) Shri Rajender, son of Shri Mahender who was a ferriwala (hawker) said that his house was burnt down and belongings were taken away. He received Rs. 1 lakh as compensation but said that he has suffered a loss of Rs. 2 lakh. He is unemployed and said that if any job is given, he would gladly accept it.
- x) Smt. Sunita W/o Shri Surta and mother of a child said that Rs. 1 lakh has been given to her as compensation. Her house is being re-built but said that apart from it, no other assistance is given.
- xi) Shri Kuldeep, son of Shri Raja received Rs. 1.47 lakh compensation but wanted more compensation. His house is being rebuilt. He wanted peace in the village and people to live in harmony. He had a ration shop which was burnt down and now desired an alternative employment.
- xii) Shri Gulab Singh, S/o Jai Lal chowkidar of the village informed the Committee that he was hit with lathis which could have been fatal had his wife not pulled him out in time. He said that he no longer desires to live in the village due to fear. He complained that after the incident he found it hard to sell lassi (drink produced by churning curd) as well as finding it difficult to garner fire wood for cooking.
- xiii) Shri Sanjay, son of Shri Bani Singh, said that he received Rs. 1.31 lakh only as compensation for the loss of his items worth more than Rs. 5 lakh. He does not want to live in the village any longer. His daughter-in-law and nephew were inside the house when it was burnt.
- xiv) Shri Pradip, son of late Shri Tara Chand demanded that the culprits who are still moving freely in Hisar be arrested and given fitting punishment as per law.
- xv) Shri Sanjay son of Shri Gulab Singh and father of 3 sons and 2 daughters received Rs. 1.12 lakh as compensation for loss of property and burnt house. His handicapped wife was inside when the house was burnt. Previously he had bangle shops but now he is unemployed.

- xvi) Shri Sube Singh, son of Shri Bhoora whose house was destroyed stated that he received Rs. 1 lakh as compensation but he was very sad that his son Shri Darabar Singh did not get any compensation. Even though his house is being rebuilt, he is still fearful of another reprisal from the dominant Jat community.
- xvii) Smt. Krishna with deep anguish on her face apprised the Committee that her daughter Jyoti (Babli) died on 21<sup>st</sup> May, 2010 i.e. just one month after the incident due to shock of the incident. She also felt very pained as her daughter when she was alive could not get admission in school because of her caste.
- xviii) Shri Suresh Balmiki, President and representative of the Balmiki Committee came forward to tell about the Peace Committee meetings held in connection with the incident. However, he could not reply to queries of the Committee regarding particulars of members of the Peace Committee, number of meetings held, dates on which held, keeping of records of the meetings etc. The Committee wanted to meet other members of the Peace Committee but no one came forward before the Committee.
9. After deposition by individuals, a group of women from the village was also given an opportunity to air their grievances, complaints and requests before the Committee. The Committee also listened to the grievances/complaints and demands made by them. The major complaints of the women were lack of their safety in the village, inadequate compensation for the loss of property and slow pace of construction of the houses and requested for early redressal of their grievances.
10. After hearing the grievances/complaints and demands made by the affected people, the Committee assured them that these matters will be raised during the meeting to be held later in the day with the officials of the State Government of Haryana.
11. Before the Committee embarked on their journey from Mirchpur village to Hisar for a meeting with the officials of the State Government, the dominant Jat community of the village surrounded the bus in which the Committee had been travelling and desired that their views should also be heard. The Chairman and the Members of the Committee had a brief talk with them and asked them to come over to Hisar for further discussion. However, they did not come to Hisar.

## **E. Discussion at Hisar (02.07.2010)**

### **Meeting with the representatives of State Government of Haryana**

12. The Committee held the meeting with the Chief Secretary and officials of the State Government of Haryana from 1645 hrs. to 1900 hrs. at Hisar when the officials from the Union Ministry of Social Justice & Empowerment and Union Ministry of Home Affairs were also present.

13. At the outset, the Chairman explained the purpose for which the Committee had come to Mirchpur and sought to know the full facts in regard to the circumstances leading to the incident of atrocities perpetrated against the Scheduled Caste people of Mirchpur village on 21<sup>st</sup> April, 2010 and the rehabilitation measures that have been taken by the administration in the aftermath of the incident.
14. The Committee were informed through power point presentation the special schemes and welfare measures that are being implemented for Scheduled Castes in the State. In this connection, the socio economic profile, the Government's policy for welfare of Scheduled Castes in regard to housing, employment, education, Scheduled Castes Sub Plan (SCSP), State Plan allocation etc. were explained,
15. Thereafter, the Committee drew the attention of the officials of the State Government on the following points:
  - (i) That the police have arrested only 48 accused so far and the majority of the accused are still at large, because of which the villagers fear another backlash of the type that they had gone through a few months ago. A sense of insecurity prevails amongst the villagers, as a result of which they wanted to migrate to some other places. They have been put under immense pressure and threatened to come forward for compromise;
  - (ii) That there is still a wide feeling amongst the victims that compensation given was not adequate and commensurate with material loss and mental agony that they have gone through;
  - (iii) That the sizes of the houses being rebuilt are not spacious enough to accommodate the number of family members and that there is no provision of basic facilities of toilet/bathroom in the structure being built;
  - (iv) That whether jobs under MGNREGA have been provided to all scheduled caste families of the village.
16. In reply, the Chief Secretary informed the Committee that the big problem with the Balmiki community is that they are landless people who eke out their livelihood through manual jobs and working as agricultural labourers in the lands of the dominant Jat community. Both communities cannot survive without each other. As such, mutual trust between the two communities is essential for peaceful co-existence. The pressure is, therefore, on the Balmiki community of the Mirchpur village to withdraw cases against Jat community so as to get back their employment.
17. The Committee also pointed out that besides Mirchpur, there were other incidents that have been happening in Haryana that shook the minds of the members of the Committee. The Committee quoted Rules 15, 16 and 17 of the Scheduled Castes and Scheduled Tribes

(Prevention of Atrocities) Act, 1989 and wanted to know whether these provisions are strictly enforced in Haryana. The senior police officers were not in a position to reply satisfactorily. It was also stated that courts have been approached for speedy trials of the culprits arrested in connection with the incident. After the incident, the Intelligence department of the State is always on round the clock job to prevent a repeat of such incidents.

18. The Committee strongly asserted that the incident could have been prevented, had sufficient preventive measures been taken on time by the local administration and the police on the basis of the situation prevailing after the previous day incident, when the youths of the two communities had a clash on a minor issue over a barking dog. The fact that the Balmiki community was attacked on the third day of the incident in full day light implies that the incident was pre-planned with the objective of tackling any form of resistance against the dominant caste by the Scheduled Castes. The Committee expressed their utmost displeasure at the long delay the police took in arresting some of the culprits/perpetrators even though FIR was lodged on 21<sup>st</sup> April, 2010. By not arresting the culprits, the Committee apprehended that the police force are shielding the culprits who belong to the dominant Jat community. In this connection, the Committee pointed that the then SHO of the Taluk i.e. Narnaund when the incident happened, was the same officer who was the in charge when another similar incident happened in the State in 2005, where Dom scheduled caste people were made to strip and walk naked.
19. The Committee also made it a point that in the simmering tension, the police should not have allowed the dominant Jat community leaders to call a Maha-khap Panchayat at Mirchpur village.
20. In regard to constitution of a single man Judicial Inquiry Commission, the Committee expressed their view that the Commission should have included SC member to the Commission to investigate the case so as to bring out a report free of bias, omissions and commissions. The Committee felt that a multi-member commission would have been in better position to do justice to the victims and throw better light on the whole issue.
21. Having noted that many affected people desired to leave the village for fear of another reprisal on them, the Committee made it known to the officials that the foremost step to be taken, as of now, is to instill sense of security amongst the affected people and to take immediate steps for confidence building measures amongst various communities of the village.
22. The Committee further emphasized that the best way to instill sense of security and belongingness, is to provide land to these landless Scheduled Caste people. Without ownership rights of land, the tendency to migrate to another village would always arise in such a situation or whenever they are beaten or attacked by the dominant caste. The Committee also mentioned

that employment should be given to the affected people to work in the construction of houses under various central sponsored schemes such as Indira Awas Yojana (IAY) etc. The Committee also stressed on the necessity of giving jobs under MGNREGA to these affected people who are basically in the BPL category.

23. The Chief Secretary went on to say that BPL is not the criteria in MGNREGA, but all affected people of the incident were given employment under MGNREGA. Even the 3 sons of Late Shri Tara Chand have been given employment by the State Government. Agreeing with the view of the Committee, the Chief Secretary said that more than compensation and employment, the need of the hour and foremost task ahead is how to instill sense of security amongst the villagers. The Chief Secretary further commented that the attack on Scheduled Caste people of Mirchpur village was an unfortunate incident because Mirchpur village, though, is one of the most educated village with a school established as early as in 1911 and having the largest number of teachers in the State. The Committee felt that broad daylight attack on hapless villagers could have been averted, had the police force remained alert and vigilant.
24. The Chief Secretary stated that the dominant Jat community has invited the affected people for work but at the same time asked them to withdraw the cases because they still preferred to have the occupational relationship they used to share with each other.
25. The Chief Secretary was not convinced with the idea of separate village for the Scheduled Castes people as suggested by some members of the Committee. She made it clear that creation of separate village for the Scheduled Castes would not be a healthy option for both the communities because analysis of different communities residing together is found to be more beneficial and progressive than a particular community residing in a separate village. The creation of separate village for the Scheduled Caste people would further increase the existing wedge between different communities. In regard to confidence building measures and restoring sense of security amongst the affected persons, the Principal Secretary (Home) mentioned that armed police have been deployed at Balmiki colony of Mirchpur village and would continue to stay on as long as the security of the villagers is back to normal.
26. The Committee expressed their displeasure at the slow pace of progress in reconstruction of houses going on in the village. They were worried by the fact that rainy season was on and how those affected people will manage without a roof over their heads. The Chief Secretary said that the rule books have been side stepped to give more benefits to the people. In addition to Rs. 45,000/- contributed by the Central Government for construction of houses for scheduled castes people under various Central Government housing schemes, a grant of Rs. 50,000/- has been given by the State Government.
27. While agreeing that compensation has been given to the victims, the Committee were of the view that the quantum of such compensation was not adequate. The Committee pointed that

the rule books hold good in normal situation but in an unwarranted situation like this, the authority should not go only by the rule books as this will not help the victims who require immediate rehabilitation. The Committee took note of the contribution made by the State Government in addition to the share of the contribution made by the Central Government, towards construction of houses for these weaker sections of the society. The Committee are of the view that these sections of the society who have been marginalized and downtrodden for centuries by the dominant castes need to be uplifted by the Government in one way or the other.

28. The Committee also mentioned that the incident left many people mentally depressed and scared. The loss of life is irreparable, but the life of mentally depressed people will be more miserable. It required a great deal of medical care and hence a liability for the families. The Committee explained that no amount of compensation and other rehabilitation measures taken by the administration can compensate the loss of lives, properties, unemployment, mental agony and depression, inflicted on the hapless victims. Therefore, the Committee felt that the Government should take utmost care towards medical treatment of people affected by the incident and bear the expenses incurred on their treatment.
29. The Committee also enquired about the reasons for the suspension of Naib Tehsildar and some safai karamcharis in connection with the incident. The Chief Secretary clarified that the Tehsildar post was vacant at that time and that the SHO and Naib-Tehsildar were the highest authorities in the village and therefore action has been taken against them.
30. The Committee took serious note of the news items published in a newspaper on 1<sup>st</sup> July, 2010, reporting that “the Committee visit will be taken care of by the State Government who will provide them good food and render all courtesies and hospitality and send them away happily”.
31. The Committee expressed their concern over these disturbing incidents taking place in the State and informed the Government to genuinely take concrete steps to foster peace in the area by arresting all accused under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and to strictly enforce the provisions of the Act in the State. In this regard, the representative of the Ministry of Home Affairs had referred to an advisory to all the State Governments and UT Administrations on measures needed to curb the crime against Scheduled Castes/Scheduled Tribes, on 1<sup>st</sup> April, 2010 (*Annexure-V*).
32. Lastly, the Committee expressed their surprise on the absence of Human Rights Commission in Haryana and asked for the reasons as to why it was not set up. The Home Secretary, Haryana explained that since the State is close to the national capital, Delhi, the National Human Rights Commission covered all cases related to human rights violations. The Committee prevailed



upon the officials of the State Government to take initiatives for setting up the Commission in view of rampant atrocities against Scheduled Castes people in the State. It was assured that since the need is felt now, initiatives would be taken by the State.

33. The discussion was concluded after thanking the officers of the State Government for cooperation and hospitality extended to the Committee.

#### **F. Post Study Visit Replies - I**

34. After the study visit of the Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes to Mirchpur village, Hisar District, Haryana, the Government of Haryana were requested to furnish replies to some of the points raised by the Committee for which the reply was not readily available. The Government of Haryana vide their letters No. 8/51/2010-8HG II dated the 19<sup>th</sup> July 2010 and the 23<sup>rd</sup> July, 2010 has furnished the status report on the village Mirchpur.

35. It has been stated that the State Government has all along been taking remedial, relief, rehabilitation and confidence building measures in the right earnest since the occurrence of Mirchpur incident on 21.04.2010. Additional steps have been taken in the light of suggestions made by the Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes and there has been no let up or laxity in the drive to instill the feeling of security and belongingness in the Balmikis of village Mirchpur. The post study visit replies furnished are as under:

- i) 48 persons have been arrested so far and sincere efforts are being made to arrest the remaining culprits. District Police has constituted 3 teams for this purpose.
- ii) The State Government and district administration have taken a number of steps to instill sense of security among the weaker sections. A police post with strength of one Sub-Inspector and 15 other ranks has been permanently established in village Mirchpur. Two companies of armed police with two DSPs and two Inspectors with anti riots equipments have been posted in village Mirchpur. A PCR and one Motor Cycle Rider have been deployed on round the clock vigil in the village. Key witnesses of FIR No. 166 dated 21.4.2010 have been provided security cover. After the incident, one Sub-Inspector, one ASI and 4 EASIs who were residents of the adjoining areas and had a long stay in Police Station, Narnaund (the police station having jurisdiction over village Mirchpur) have been shifted out of police station, Narnaund.
- iii) Senior civil and police officers are visiting the village at regular intervals and holding meetings with village respectable of all communities in order to restore social harmony in the village. Peace Committee consisting of representatives of all village communities has been constituted at village level and its meetings are being held regularly. In the Peace

Committee meeting dated 11.07.2010 a resolution was passed mourning the death of two persons in the incident dated 21.4.2010 and an assurance was given to the affected families that such like incidents would not be allowed to recur in future. In this meeting, more than one hundred members participated including 45 peoples belonging to Balmiki community.

- iv) Social dialogue has been facilitated by various functionaries of the district administration in the village Mirchpur by interacting with the representatives of various communities, especially those belonging to Balmiki community. The families of various communities are visiting each others houses for social functions and peace and harmony has been restored at the social level to a large extent. As is the practice in the village in Haryana, the members of Balmiki community have started procuring milk and lassi from the houses of other communities which had stopped earlier due to the incident of 21<sup>st</sup> April, 2010.
- v) These steps have been fruitful as persons belonging to Balmiki community participated in Panchayat elections which were held subsequent to the visit of the Parliamentary Committee. The elections to the local panchayat in the village Mirchpur were held on 06.07.2010 as part of the General Elections to Panchayati Raj Institutions. The elections in Mirchpur were peaceful. The polling percentage was as high as 78.43. The villagers belonging to all castes and communities enthusiastically took part in these elections for the posts of Panches, Sarpanch, Members Panchayat Samiti and Zila Parishad. 78 candidates filed nomination papers for the post of Panches, 15 for Sarpanch which included one candidate belonging to the Scheduled Caste community. During the election, all the candidates visited the houses of all communities for canvassing and it was observed that there was enthusiasm for the elections amongst electorates as well as candidates irrespective of their caste. All the castes participated in the election process.
- vi) The State Government has given a liberal compensation to the next of kin of the deceased and the three dependents of the deceased have been given ex-gratia employment. Besides, the Government has been very liberal in giving compensation to the affected families for loss of property and injuries sustained during the incident. The details of relief and rehabilitation measures undertaken by the Government prior to the visit of the Parliamentary Committee are enclosed at **Annexures-I & II**. After the visit of the Committee an additional compensation amounting to Rs. 15,000 has been disbursed to each Balmiki family residing in Mirchpur (Details of additional compensation given after visit of the Committee are at **Annexure-VI**). An additional amount of Rs. 13.68 lakhs is being provided for the construction of houses in addition to the expenditure already incurred in the light of observations of the Parliamentary Committee on the Welfare of the Scheduled Castes and Scheduled Tribes.

- vii) In addition to the compensation paid as mentioned in para above, the State Government has undertaken construction of 18 house for the affected families (even though some of the houses were partially damaged) under the Indira Awas Yojana and Housing Scheme of SC/BC department. The work of construction which was in progress at the time of Committee's visit has been further expedited and as per DC's report, construction work is likely to be completed within the next fortnight.
- viii) A proposal to set up the State Human Rights commission is under consideration of the State Government.
- ix) The State Government would like the terms of reference of the commission of Enquiry and the aforesaid affidavit to be placed before the Committee (affidavit by DC Hisar and terms of reference of Commission of Enquiry are at **Annexures-VII & VIII**).
- x) Adequate police force has been deployed in village Mirchpur to instill confidence and for safety of the weaker sections. Efforts to arrest the remaining accused figuring in the FIR are being made by the local police. No untoward incidents have been reported and Mirchpur is gradually returning to normalcy.

### G. Post study visit replies – ii

36. In continuation of a detailed status report sent vide office memo number 8/51/2010-8HG-II, dated 19<sup>th</sup> July, 2010 and memo of even number dated 23<sup>rd</sup> July, 2010, the State Government of Haryana vide their letter no. Nil, dated 16<sup>th</sup> August, 2010 have forwarded latest status report on village Mirchpur as under.
37. As already stated the State Government has all along been taking remedial relief rehabilitation and confidence building measures, ever since the occurrence of Mirchpur incident on 21.04.2010. The progress in this regard is being monitored at the Government level on 'day to day' basis. The latest position with respect to relief, rehabilitation and remedial measures in village Mirchpur is as follows:-
  - (i) As earlier intimated 48 person who were accused in FIR No. 166 dated 21.4.2010 had already been arrested at the time of visit of Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes. Now police has arrested 7 more accused after the visit of the Committee (Details are given at **Annexure-IX**). Inspector Vinod Kumar, SHO Police Station Narnaund at the time of this unfortunate incident, has been arrayed as an accused in the case under sections 302/307/395/397/435/436/449/450/452/323/324/427/148/149/ 120-B IPC & 3(1), (x, xv), 3(2), (iii, iv & v) and 4 of SC/ST Act, 1989 and sanction of prosecution issued by the office of Home Secretary vide letter no. 27/12/2010-6HGI, dated 28.7.2010. As per the report received challan in respect of Shri Vinod Kumar has been submitted to the Court on 29.7.2010 (Copy of the prosecution sanction given **(Annexure-X)**). Efforts are on to round up the remaining accused in the case.

- (ii) The police deployment in the village Mirchpur has been continued and the transfer of officials having long stay have been shifted out of the Police Station Narnaund (Police Station having jurisdiction over village Mirchpur). These steps have sent a positive signal to the persons belonging to weaker sections in the village.
- (iii) As reported earlier senior district functionaries have been visiting the village and holding meetings with the village respectable from all communities in order to facilitate the bridge-building between various communities in the village. That this exercise has borne positive results is evident from the fact that the Panchayat polls including elections to Zila Parishad, Block Samiti and village Panchayat have been free fair and peaceful with a turnout as high as 78.43%. As already reported a peace committee meeting was held in the village on 11.7.2010 in which about 100 people (including 45 persons belonging to Balmiki community) participated. In this meeting, a resolution was passed mourning the death of two persons in this incidents and an assurance was extended to the affected families that such like incidents would not be allowed to recur. Subsequent to this another peace committed meeting was held on 18.7.2010. SP Hisar visited the village on 20.7.2010 and IGP Hisar Range visited the village on 25.7.2010.
- (iv) The construction of the 18 houses is nearing completion. For the reconstruction of these damaged houses, an additional amount of Rs. 13.68 lakhs was placed at the disposal of the District Administration and the additional amount is likely to be expended by the next 10 days as per the report received from DC Hisar. This is over and above the expenditure to be incurred on the repair/reconstruction of the damaged houses at the time of visit of the Parliamentary Committee for the Welfare of Scheduled Castes and Scheduled Tribes.

## CHAPTER II

### A. Observations

1. The Background Note mentions that on 19<sup>th</sup> April, 2010, while passing through the Balmiki Basti in village Mirchpur some young persons of Jat Community threw brickbats on a barking dog which led to tussle between the young persons of two communities. It further states that this small controversy took an unexpectedly serious turn in the morning of 21<sup>st</sup> April 2010 when a number of persons of Jat community reportedly attacked the houses of Balmiki community. The Committee are perplexed to note that the local police and Administration did not expect the incident of 19<sup>th</sup> April 2010 turning into a serious violence between two communities on 21<sup>st</sup> April 2010. The undercurrent of hatred and revenge ran deep and it was clearly manifested when the controversy over barking dog turned into a pre-planned attack by Jat community over Balmiki community in village Mirchpur. The dominant caste indulged in violence to prove their dominance over the hapless Balmiki community, who are traditionally inferior in social strata. Had the police been vigilant and taken some preventive measures as

soon as the tussle between young persons of two communities was known, the ugly incident of systematic torching of houses owned by Balmiki community and resultant death and destruction of properties could have been avoided. The Committee lament that inaction on the part of police to take preventive measures in anticipation of fallout between two communities led to atrocity on Balmiki community. Inaction by the police under the circumstance, is, therefore, cannot be overlooked.

2. According to pre-visit submissions made by the State Administration, an FIR No. 166 dated 21.4.2010 was immediately lodged with Police Station, Narnaund District Hisar under Sections 302/307/395/397/435/436/449/450/ 452/427/123/148/149/120-B of Indian Penal Code (IPC) read with Sections 3 and 4 of the SC/ST Act, on the complaint of Shri Karan Singh son of Sri Tek Ram, caste Balmiki, resident of Village Mirchpur, District Hisar against 42 persons. It was also stated that during investigation, number of accused increased to 130 based on statements recorded under Section 161 of Cr.P.C. It was further stated that as many as 48 accused persons had been arrested out of which 28 persons were charge sheeted and the remaining charge sheets were also being filed in the Court of Law. It was also reported that warrant of arrest has been got issued from the court against 71 other accused and investigations in respect of 11 remaining accused are under progress. In the post-visit note received from the State Government on 26<sup>th</sup> July, 2010, the Committee note that special teams have been formed to nab the absconding accused. However, there was no change in the status of arrested persons. In their Status Report dated 16<sup>th</sup> August, 2010, the State Government have now stated that police have arrested 7 more accused after the visit of the Committee. Inspector Vinod Kumar, SHO Police Station, Narnaund at the time of this unfortunate incident, has been arrayed as an accused in the case under sections 302/307/395/397/435/436/449/450/452/ 323/324/427/148/149/120-B IPC & 3(1), (x, xv), 3(2), (iii, iv & v) and 4 of SC/ST Act, 1989 and sanction of prosecution issued by the office of Home Secretary vide letter no. 27/12/2010-6HGI dated 28.7.2010. As per the report received challan in respect of Shri Vinod Kumar has been submitted to the court on 29.7.2010. Efforts are on to round up the remaining accused in the case. However, there is no mention about charge sheeting of the remaining arrested culprits. The negligence and lackadaisical attitude of the State police in apprehending and taking proper action against all the accused in time justify the fear psychosis that has engulfed the affected people of the village with whom the Committee had interacted that they are not safe in the village and that such incident might occur in future. The negligence of the State police in a way was substantiated by the letter written by the Union Home Minister to the Chief Minister of Haryana. During interaction with the affected people, the Committee were informed that they are being asked by the dominant Jat community to withdraw FIR filed against the culprits. In the post-visit note received from the State Government it is mentioned that the State Government and district administration have taken a number of steps to instill sense of security among the

weaker sections. The Committee, however note that most of the actions were reported to have been taken before their visit except that key witnesses of FIR No. 166 dated 21<sup>st</sup> April, 2010 have been provided security cover and that after the incident one Sub Inspector, one ASI and 4 EASIs who were residents of the adjoining areas and had a long stay in police station, Narnaund were shifted.

3. The Committee take note of the fact that monetary relief distributed to affected Balmiki community including the kith and kin of the deceased was much beyond the mandated amount under the provision of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995. Instead of Rs One lakh to be paid to the family on death of a non-earning member of a family under the Rules *ibid*, the Government of Haryana have paid Rs. 10 lakh each to the next of kin of the deceased. The Committee also note that the State Government had also disbursed amount of compensation to 18 families whose property including their household goods was damaged on account of fire during the incident. However, during interaction with the Committee, many of the affected people complained that the monetary compensation given to them was much less than the actual loss they suffered.
4. The Committee note that the amount of compensation was fixed when the Rules were framed in 1995, and felt that the amount of compensation at the current stage is very low and therefore needs to be revised.
5. The Committee note that all the three sons of the deceased Shri Tara Chand have been provided with Government jobs whereas under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995, there is a provision of giving either employment to either one member of the victim's family or pension or land. The Committee, however, noted during the interaction with the affected people in the village that the livelihood of many of them had been affected and they were without any work and are ready to undertake any job. The Committee were informed during the meeting with the State Officers that the Balmiki community in the village are landless people who eke out their livelihood through manual jobs and working as farm labourers of the Jat community. In the affidavit filed before the Supreme Court of India *vide* Writ Petition (Civil) No 211 of 2010, it has been mentioned that employment has been offered under the MGNREGA Scheme to all who offered themselves for the same; that 65 persons of the village community have availed employment under the scheme and that from 21.4.2010 to 12.7.2010, a total amount of Rs 1,85,000 was paid as wages.
6. According to the list of people who were given house and household goods compensation, the total amount disbursed is Rs. 25,57,500 to families of 17 persons whereas in the note it is mentioned as Rs. 25.11 lakh to 18 families on account of household goods burnt and for repair of their damaged houses. It has been reported that in the incident property of 18 families including their household goods was damaged on account of fire. Further that the houses

were only partially damaged (except one), yet keeping in mind the hardship caused to the 18 families, the State Government have undertaken construction of houses for them under Indira Awas Yojna and Housing scheme of SC/BC Department in addition to compensation paid. The Committee take note that the State Government have undertaken construction of 18 houses even though under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 it was provided that only on complete destruction of the house the Government have to provide relief of constructing the house at Government expense. The Committee however were disappointed when they visited the village and observed that the houses being constructed for the affected people were still at different stages of construction. According the post visit note dated 26<sup>th</sup> July, 2010 it was assured that the houses would be completed within a fortnight. The Committee, however note that the construction of houses is not complete but is nearing completion as per the latest report received on 17<sup>th</sup> August, 2010. The Committee were informed by the inmates of the houses visited that there is no provisions of basic facilities like toilet/bathroom in the new construction. Provision of such facilities in the house would definitely reduce the vulnerability of women who were complaining about their insecurity. The Committee also observed that the rooms being built up are small in size.

7. The Committee note that 52 persons were reported to have been injured during the incident and they had been given compensation amount of Rs. 25,000 each as per the provision under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995. The Committee were informed during the interaction with the affected people that the incident has made many people depressed and they need to be given medical help.
8. The Committee had been informed in the pre-visit note that the State Government have decided to construct a primary school in the vicinity of the Basti in order to facilitate education of the SC children. In this connection, the Committee had expressed that exclusive school for SC children is not a good idea but these children should be allowed to study along with other general children. A woman had complained to the Committee during the interaction that her daughter was not given admission in the school owing to her caste. It was alleged that the girl was distressed by this fact and died later.
9. The Committee were informed that the State Government have constituted a Judicial Inquiry Commission headed by a senior Punjab & Haryana Court Judge, Mr. Justice Iqbal Singh (Retd) to inquire into the circumstances leading to the incident resulting into death of two persons belonging to Balmiki community as also into the circumstances leading to arson, fire and rioting resulting into injuries to the person and damage to the houses of Balmiki community in the consequent firing. During the meeting the Committee expressed their apprehension over the one member Judicial Inquiry Commission.

10. The Committee had noted that in Haryana, there is no Human Rights Commission. The reason for not having such a Commission was that since the State is close to the national capital, the National Human Rights Commission covered all cases related to human rights violation. The Committee have now been informed through post-visit note that a proposal to set up the State Human Rights Commission is under consideration of the State Government.
11. The Committee were informed in the pre-visit note that a Peace Committee comprising 31 respected members of the village community had been formed to provide an effective platform for mutual dialogue. Except one person who claimed to be the representative of the Balmiki community no other member of the Peace Committee appeared before the Committee. However, he could not reply to queries regarding particulars of members of the Peace Committee, number of Meetings held etc. In the post visit note, it has been stated that Peace Committee held its meeting on 11<sup>th</sup> July 2010 in which more than 100 members including 45 persons belonging to Balmiki community participated. It has also been stated that the member of the Jat families passed a condolence message mourning the death of two persons of Balmiki community who died in the incident on 21<sup>st</sup> April 2010. It has also been stated that other communities including the Jat community assured the members of the Balmiki community that such incidents would not be allowed to recur in future. Another meeting was held on 18<sup>th</sup> July 2010 when it was discussed regarding creating better working relationship between two communities. It appears that actual meeting of the Peace Committee was held only after the visit of the Parliamentary Committee.
12. The decision of the Committee to visit the village Mirchpur was not only to know the facts in regard to the incident and prevailing ground situation in the aftermath of the incident but to give moral support to the affected Balmiki community. The purpose of the Committee to visit the Village Mirchpur is also to send across the nation a strong message that the Parliament takes serious view of every atrocity perpetrated against the Scheduled Castes and the Scheduled Tribes and ensure that perpetrators of crime against them will not go unpunished.

## **B. Recommendations**

13. The Committee while condemning the incident in unequivocal terms, are highly disappointed to note that even after the visit of the Parliamentary Committee on 2 July, 2010 all the accused responsible for committing atrocities have not yet been arrested by the State Police. All the people who are responsible for this heinous crime should be arrested immediately and appropriate action should be taken under the law against them within a time frame. The State administration should provide security cover to key witnesses and also lives of the affected people who are being threatened to withdraw FIR against the culprits are to be protected. The police needs to be strongly motivated to gain confidence of Balmiki community and Scheduled



Caste people as a whole by bringing harmony in the village. The Committee also suggest that to dispel the notion of authority favouring the dominant Jat community and as confidence building measure, the State Government should ensure that officers posted in the police post set up at Village Mirchpur also include officers belonging to Scheduled Caste communities.

14. The Committee expect that the Peace Committee comprising of members of all communities should continue to hold regular meetings for peaceful co-existence of all the people in the village.
15. While taking note of the fact that the State Government disbursed an additional compensation amounting to Rs. 15,000 per family to 171 Balmiki families residing in Mirchpur, after the visit of the Committee, they would like the State Government to re-assess the exact damage of each individual household as claimed by the victims and extend compensation accordingly.
16. Having noted that more than fifteen years have elapsed since the rules for compensation were framed, the Committee recommend that the Ministry of Social Justice & Empowerment and the Minister of Home Affairs should take appropriate action to revise the compensation amount as provided under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995.
17. In spite of the fact that 65 persons of the village were given employment under MGNREGA, the Committee noted there were several Balmiki persons who were unemployed. Taking note of these facts, the Committee recommend that the State Administration should facilitate Balmiki people with jobs or create a livelihood for them under different State Government Schemes. The Committee further urge the State Government to instruct the Panchayat to take up developmental projects in the village at the earliest and engage the unemployed members of Balmiki community in such project.
18. The Committee also stress that the State Government should provide land in the vicinity of the village or some other regular source of income to the Balmiki community as one of the confidence building measures.
19. While observing that the State Government have decided to build houses for the 18 affected Balmiki families and that an additional amount of Rs. 13.68 lakh has been placed at the disposal of the District Administration, the Committee stress that the construction work should be completed at the earliest and the size of the rooms should be adequate and that there can be a provision of toilet/bathroom also.
20. The Committee recommend that necessary free medical help by specialist should be given to all persons including those who are going through mental agony and depression.

21. The Committee urge the State Government to ensure that all the SC children should not be deprived of their right to education. Punishments under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 should be given to persons who deny SC children admission to schools owing to their castes.
22. The findings of the Justice (Retd.) Iqbal Singh Commission set up to enquire into Mirchpur incident should be submitted for the information of the Committee. The Committee are of the view that a member belonging to Scheduled Caste community should also have been associated with the Inquiry Commission. In future such Inquiry Commissions should be of multi-member body and such commissions should have atleast one member belonging to SC/ST communities.
23. The Advisory that was circulated by the Union Home Ministry to the States/Union Territories, which the Committee feel are elaborate and touches almost all possible aspects of handling/preventing such atrocious acts on the Scheduled Castes people, should be followed by the Haryana Government in letter and spirit. The Committee recommend that the Home Ministry should obtain information/data on the implementation of the advisory from all States and UTs, periodically and submit the same to the Committee for their information.
24. The Committee urge the State Government to constitute the State Human Rights Commission expeditiously.

Gobinda Chandra Naskar

Chairman

Committee on the Welfare of  
Scheduled Castes and Scheduled Tribes

New Delhi;

August, 2010

Bhadrapada, 1932 (Saka)

**IN THE SUPREME COURT OF INDIA**  
**CIVIL ORIGINAL JURISDICTION**  
**WRIT PETITION (CIVIL) NO. 211 OF 2010**  
**IN THE MATTER OF:**  
**Jaswant & Ors. ... Petitioners**  
**Versus**  
**State of Haryana & Ors. ... Respondents**

**SUPPLEMENTARY AFFIDAVIT OF PETITIONER NO. 3**

I, Satyavan, S/o Shri Roshan Lal, aged about 31 years, resident of Vill. & P.O. Mirchpur, Tehsil – Narnaund, District Hisar, Haryana presently at Delhi, do hereby solemnly state and affirm as under:

1. That I am the Petitioner no. 3 in the above-mentioned matter and in such capacity I am well conversant with the facts and circumstances of this case and am competent to swear this affidavit.
2. I say, on instructions from Advocate Rajat Kalsan, advocate for the victims in the Court of the Special Judge (under SC/ST Act) cum Additional Sessions Judge, Hisar, that the application dated 4.11.10 was filed before Hon'ble Shri Baljeet Singh, the Special Judge (under SC/ST Act) cum Additional Sessions Judge, Hisar on 4.11.2010. Together with the application was the letter signed by 42 victims addressed to the SDM, the SP, and ASP Police, Gulaba, Gulaba S/o. Jialal, Dilbagh S/o Subesingh, Satyavan S/o. Mansa, Jagpal S/o. Bir Singh and Dhupa S/o Ratnu to the effect that they are being threatened. Hereto annexed as Annexure 1 is the copy of the application dated 4.11.10.
3. That I am further filing the affidavits dated 11.11.10 of Advocate Rajat Kalsan and Advocate Veen Sharma describing what took place in the Court on 3<sup>rd</sup> and 4<sup>th</sup> November 2010. The affidavit dated 11.11.10 of Advocate Rajat Kalsan is annexed at Annexure A2. The affidavit dated 11.11.10 of Advocate Veena Sharma is annexed and marked hereto as Annexure A3.
4. I say that the Hon'ble Court of Shri Baljeet Singh, Additional Sessions Judge, Hisar made an order dated 4.11.2010 which is annexed hereto and marked as Annexure A4.
5. I say that on my request, since most of us are illiterate, Ms. Sarita Bhoi, Post-Graduate and M. Phil from Jawaharlal Nehru University, accompanied us in order to record the statements of the victim community and to help us prepare a report for submission in this Hon'ble Court. I have been informed by her that she subsequently received threatening calls from unknown persons. Without her assistance it would be very difficult for us to document the latest data

regarding education, NREGA employment, forced migration, destruction of property and the like to present it in this Hon'ble Court.

6. That the contents of this affidavit and the annexures along side are true and correct to my knowledge and belief.

DEPONENT

#### VERIFICATION

Verified at New Delhi on this the 18<sup>th</sup> day of November 2010 that the contents of the above affidavit are correct, no part of it is false and nothing material has been concealed therefrom.

DEPONENT

**CERTIFIED COPY OF APPLICATION FOR DISPENSE WITH THE ATTENDANCE OF SUMMONED  
WITNESS AND SEEKING ADJOURNMENT DT. 4-11-10**

**IN THE COURT OF SHRI BALJEET SINGH, ADDL. SESSIONS JUDGE, HISAR**

**CASE NO. 3-SC/ST (302)**

**DATE OF INSTT. 10.8.2010**

**DATE OF HEARING: 14.3.2011**

**State Versus**

1. Dharambir son of Tara Chand R/o Mirchpur
2. Pawan son of Ram Mehar R/o Mirchpur
3. Karambir son of Tara Chand R/o Mirchpur
4. Joginder son of Bhim Singh R/o Mirchpur
5. Dalbir son of Dalip Singh R/o Mirchpur
6. Balwan son of Inder Singh R/o Mirchpur
7. Satywan son of Tara Chand R/o Mirchpur
8. Jaibir son of Manphool R/o Mirchpur
9. Ajit son of Sukhbir R/o Mirchpur
10. Balwan son of Dharmabir R/o Mirchpur
11. Rajbir son of Mai Chand R/o Mirchpur
12. Viren son of Yashpal R/o Mirchpur
13. Dharambir son of Mai Chand R/o Mirchpur
14. Deepak son of Krishan R/o Mirchpur
15. Kuldeep son of Balbir R/o Mirchpur
16. Rajinder son of Belu R/o Mirchpur
17. Jagdish son of Baru Ram R/o Mirchpur
18. Suresh Kumar son of Balbir R/o Mirchpur
19. Rajinder son of Sadhu Ram R/o Mirchpur

20. Ram Phal son of Pirthvi R/o Mirchpur
21. Daya Singh son of Ajit R/o Mirchpur
22. Pardeep son of Balwan R/o Mirchpur
23. Rishi son of Satbir R/o Mirchpur
24. Jaibir son of Ishwar R/o Mirchpur
25. Karampal son of Satbir R/o Mirchpur
26. Sunil son of Jaibir R/o Mirchpur
27. Sumit son of Satyavan R/o Mirchpur
28. Pardeep son of Ram Phal R/o Mirchpur
29. Roshan Lal son of Ram Sarup R/o Mirchpur
30. Surender son of Jagda R/o Mirchpur
31. Hosiya Singh son of Mangal Singh R/o Mirchpur
32. Ajit son of Dalip R/o Mirchpur
33. Rajinder son of Dhup Singh R/o Mirchpur
34. Rajinder son of Pali R/o Mirchpur
35. Vijender son of Hosiya Singh R/o Mirchpur
36. Dinesh son of Prem R/o Mirchpur
37. Vinod son of Ram Niwas R/o Mirchpur

FIR No. 166 dt. 21.4.2010

U/S S: 302, 307, 395, 397, 435, 436, 449, 450, 452, 427, 323, 148,  
149, 120B, 324, 325 IPC & 3.1(10.15), 3.2(3,4,5), 4 SC ST Act.

Police Station: Narnaund

**IN THE HON'BLE COURT OF SH BALJIT SINGH ADDL. SESSIONS JUDGE, HISAR  
DISTT., HISAR**

**State Vs. Dharambir etc.**

FIR No. 166 dated 21.07.2010

P.S. Narnaund

U/s 302/307/395/435/436/449/450/452  
427/323/148/149/120-B IPC & Section 3  
Of SC/ST Act 1989

**Application for dispense with the attendance of summoned witnesses and seeking adjournment**

Hon'ble Sir,

The applicants / witnesses respectfully submits as under:

1. That the applicants /witnesses have been mentioned in final report U/s 173 Cr. PC produced by investigating agency in this case and the applicants / witnesses has received summon from this Hon'ble Court for appearing in court as prosecution witnesses. That date is fixed in this case for applicants/witnesses evidence 3<sup>rd</sup> and 4<sup>th</sup> November 2010.
2. That this case high profile case and the applicants/witnesses belongs to Balmiki castes and they are very poor person while accused persons belong to very powerful community and from the very beginning the relatives of accused and members of so called Khap panchayats of this community are making illegal and criminal /undue pressure over applicants /witnesses for not telling truth and real facts regarding this case.
3. That the relatives of accused and members of Khap Panchayats are forcibly compelling to applicants/ witnesses to sign or making their thumb impression on blank paper and blank stamp paper which may be used as fake statement and affidavit regarding compromise between both parties which in fact has never taken place.
4. That relatives of accused person and members of Khap Panchayat are intending to kidnapping the applicants/witnesses for making unlawful and undue criminal pressure for making compromise statement during the evidence of this case.
5. That 42 peoples of the Balmiki community including applicants/witnesses of this case have appeared before S.D.M. Hansi with an application for taking action against relatives of accused and members of Khap Panchayat as they have been threatening the prosecution witnesses and compelling them to sign or making thump impression on blank paper and blank stamp paper with malafide intention and police was also silent over this matter. The S.D.M. Hansi had

assured to applicants to strictly proceed on their application but still no action has been taken on that application.

6. That relatives of accused and members of Khap Panchayat of this community are openly and intentionally threatening the applicants/witnesses if they would enter the court premises with the intention of adducing the true statements in evidence in this case then they would be killed with family.
7. That applicants/witnesses have filed a petition No. 211/2010 in the Hon'ble Supreme Court for providing them protection and Hon'ble Apex Court has fixed a date for reply of State of Haryana regarding this issue. The applicants/witnesses have requested the Hon'ble Apex Court of make arrangement of their security and they have also requested that the responsibility of their protection may kindly transferred to para-military force as the petitioners have no trust on the Haryana State Police.
8. That applicants/witnesses are under apprehension that if they would not proceed according to relatives of accused and member of Khap Panchayat then they would be killed with family. These people are compelling to the applicants/witnesses to become hostile witnesses during the evidence of this case.
9. That seeking adjournment and dispensing the attendant of applicants/witnesses is not intent to delay the proceeding but actually with apprehension of death of applicants /witnesses.
10. That counsel have already requested to this Hon'ble Court that evidence may kindly be adjourned as apprehension of death to witness prior of examination of witnesses. In the circumstances mentioned above it is, therefore, prayed that this application may kindly be allowed till the direction of Hon'ble Appex Court.

Place Hisar

Submitted by

Dated: 4.11.2010

Through counsel

1. Dilbagh S/o. Gulab – Sh. Rikhi Ram
2. Gulab S/o. Jia Lal – Sh. Rajat Kalsan
3. Sanjay S/o Bani Singh – Sh. Rohit Kalsan
4. Dhoop Singh S/o Ratnu – Ms. Veena Kumari
5. Satyavan S/o Roshan – Sh. Jeetender Kumar Kamboj
6. Satyavan S/o Mansa – Sh. Surender Yadav



7. Baniya @ Randhi S/o Surta – Shri Surnder Yadav, Adv.
8. Dilbagh S/o Sube Singh
9. Sanjay S/o Satpal
10. Jai Singh s/o Sudhan
11. Bainya S/o Bhalle Ram
12. Amar Lal S/o Tara Chand
13. Pardeep S/o Tara Chand
14. Kamala w/o Tara Chand
15. Vijender S/o Surta
16. Rajmal S/o Pokar
17. Chander Singh S/o Lachman
18. Jag Pal S/o Bir Singh
19. Ravin S/o Surta
20. Praveen S/o Surta
21. Sushil S/o Surta
22. Ramlal S/o Bhalle Ram
23. Bisna S/o Deichand

All residents of Mirchpur the Narnaud Distt. Hisar

To

Shri SDM

Sub Division Hansi, District Hisar

**Subject:** Against threatening to death of witnesses of Mirchpur case and kidnapping of witnesses to force them to change their respective testimonies and to disclaim to give their testimonies before Honourable court by some overbearing people and leaders of Khap Panchayats and relatives of assailants.

Respected Sir,

It is submitted that some days before in Mirchpur village people of Jat community of this village attacked and lightened fire to the Balmiki Basti and burned two people alive to death. They have demolished the whole Balmiki Basti. On which a formal FIR No. 166 dated 21.04.2010 launched under Section 302/395/435/449/452/323/148/149 of IPC and SC and SC Act which is under Mr. Baljeet Singh Additional Session Judge Hisar and next hearing is going to held on 04.11.2010.

That the applicants are originally residents of Mirchpur but they are living in different villages of Hisar and Fatehabad as they are very scared of the Jat community. As the hearing of Mirchpur case has come up to the stage of collecting evidence so relatives of assailants, leaders of Khap Panchayat, goons and overbearing people are forcing us applicants to disclaim from our original testimonies in the court in favour of their people, or else Mirchpur case was just a trailer. 20-25 people invade our houses in the night with weapons without any permission and they catch the witnesses and take signature or fingerprints on blank papers. Those of us applicants who went to our relatives place as we are very scared, but even there they are threatening us. Balbeer, Dharampal, Ratan, Rishal, Karan etc people of Jat community of Mirchpur kidnapped applicant Shanti wife of Jugti Ram 7-8 days back and took her to Narnaund Tehsil and before the tehsildar they forced her to sign on a stamp paper. People of Jat community are behaving like this with each prosecution witness. People of Jat community do not let us use public places like wells and hand pumps. People of Jat community have boycotted us and whenever any Government team comes to our village they just pretend and show brotherhood to us. Even police of our village is working under the force of people of Jat community. These people are Ranbeer s/o Zile Singh, Dr. Suresh, Pradeep s/o Suresh, Surendra s/o Omprakash, Rajpal master s/o Bhira and other 15-20 people of Jat community which consist people Khap Panchayat like Rajbeer Dhanda. These people are forcing us to disclaim our testimonies else they are threatening us to death. They are telling us that if we can file Section 302 against a Superintendent of Police and burn property of million rupees so you people are nothing before us. We will kill 5-6 more people of yours. No one can do anything. Government will give you compensation on our account. Then the whole matter will be forgotten.

Therefore we are submitting the application and requesting to ensure our security because we are in serious danger and our people have been forced to sign on affidavits so that should be recovered from other party and punish them strongly as they have affected witnesses and threatened them to death.

Thanking you.

**Applicants:-**

Sl. No.	NAMES	Sl. No.	NAMES
1.	Ramesh S/o Shankar	22.	Ravin S/o Surta
2.	Jogender S/o Bhalle Ram	23.	Manoj Kumar S/o Baldeva
3.	Sanjay S/o Satpal	24.	Satyavan S/o Mansa
4.	Meena S/o Satpal	25.	Raja S/o Mansa
5.	Sandeep S/o Satpal	26.	Bishna S/o Deichand
6.	Dilbagh S/o Gulaba	27.	Rajkumar S/o Badna
7.	Gulaba S/o Jailal	28.	Krishan S/o Pratapa
8.	Surja S/o Om	29.	Jagpal S/o BirSingh
9.	Dilbagh S/o Subesingh	30.	Ramdeva S/o Amar Singh
10.	Karambeer S/o Balbeer	31.	Suresh S/o Chandra
11.	Ramesh S/o Mange Ram	32.	Dhupa S/o Ratnu
12.	Manoj S/o Mahendra	33.	Kelo W/o JaiSingh
13.	Naresh S/o Mahendra	34.	Phoorkali W/o Chandra
14.	Naresh S/o Rajkumar	35.	Shanti W/o Jugti
15.	Subhash S/o Ruparam	36.	Sona Devi W/o ChandraBhan
16.	Ramphal S/o Ruparam	37.	Ompati W/o Omprakash
17.	Bikram S/o Jaisingh	38.	Shanti W/o Junaram
18.	Rajtilak S/o Bhalle Ram	39.	Jagseera S/o Ramphal
19.	Sushil S/o Surta	40.	Ramdeva S/o Sadhuram
20.	Bijender S/o Surta	41.	Rampal S/o BhalleRam
21.	Praveen S/o Surta	42.	Vedpal S/o Amar Singh

All are residents of Mirchpur Tesil Narnaund District Hisar

To

Shri SP, Hisar

**Subject:** The witnesses of State V/s Dharambir etc Criminal Case in the Hon'ble Court of Shri Baljeet Singh A.S.J. Hisar (Mirchpur case) are being threatened and offered money to change their respective testimonies and to disclaim to give their testimonies before Honourable court by some overbearing people and leaders of Khap Panchayats and relatives of assailants.

Respected Sir,

It is submitted by the applicants that in the Mirchpur case State V/s Dharambir etc. which is before the Hon'ble Court of Shri Baljeet Singh A.S.J. Hisar all the applicants are the witnesses and that from the beginning of the case the assailants and their relatives and the leaders of Khap Panchayat are putting pressure on us to compromise. Now recently after the assailants were arrested these people have made it impossible for us to live peacefully and are constantly pressurizing us to give them false affidavits against our testimonies given to the police so as to free the accused persons who have been arrested. With regard to this the relatives of accused and the so called leaders of Khap Panchayat get together and first they offer us money etc and when we refuse they give us threats of killing us and forcing us to leave the village. We are living in constant fear that if we do not listen to them then they can inflict grave injury to us. These people are openly threatening us that if we can frame the S.P. Hisar in a false case under S. 302 then you can think what we can do to you because everywhere our people are sitting. These people have made it impossible for us to go anywhere and the police and administration seem to be helpless before them. These people during the evidence can stop us from giving evidence or to save themselves can cause injury or damage to us witnesses.

Therefore through this application it is requested that strict action be taken against the relatives of the accused, people of the Khap Panchayat against threatening us witnesses and alluring us and they should be stopped from coming to us witnesses, and that all witnesses should be provided with protection.

Thanking you.

**Applicants:-**

Sl. No.	NAMES	Sl. No.	NAMES
1.	Ramesh S/o Shankar	22.	Ravin S/o Surta
2.	Jogender S/o Bhalle Ram	23.	Manoj Kumar S/o Baldeva
3.	Sanjay S/o Satpal	24.	Satyavan S/o Mansa
4.	Meena S/o Satpal	25.	Raja S/o Mansa
5.	Sandeep S/o Satpal	26.	Bishna S/o Deichand

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9.	Dilbagh S/o Subesingh	30.	Ramdeva S/o Amar Singh
10.	Karambeer S/o Balbeer	31.	Suresh S/o Chandra
11.	Ramesh S/o Mange Ram	32.	Dhupa S/o Ratnu
12.	Manoj S/o Mahendra	33.	Kelo W/o JaiSingh
13.	Naresh S/o Mahendra	34.	Phoolkali W/o Chandra
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17.	Bikram S/o Jaisingh	38.	Shanti W/o Junaram
18.	Rajtilak S/o Bhalle Ram	39.	Jagseera S/o Ramphal
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20.	Bijender S/o Surta	41.	Rampal S/o BhalleRam
21.	Praveen S/o Surta	42.	Vedpal S/o Amar Singh

All are residents of Mirchpur Tesil Narnaund District Hisar

To

ASP/SDM

Sub Division Hansi, District Hisar

**Subject:** Against threatening to death of witnesses of Mirchpur case and kidnapping of witnesses to force them to change their respective testimonies and to disclaim to give their testimonies before Honourable court by some overbearing people and leaders of Khap Panchayats and relatives of assailants.

Respected Sir,

It is submitted that some days before in Mirchpur village people of Jat community of this village attacked and lightened fire to the Balmiki Basti and burned two people alive to death. They have demolished the whole Balmiki Basti. On which a formal FIR No. 166 dated 21.04.2010 launched under Section 302/395/435/449/452/323/148/149 of IPC and SC and SC Act which is under Mr. Baljeet Singh Additional Session Judge Hisar and next hearing is going to held on 04.11.2010.

That the applicants are originally residents of Mirchpur but they are living in different villages of Hisar and Fatehabad as they are very scared of the Jat community. As the hearing of Mirchpur case has come up to the stage of collecting evidence so relatives of assailants, leaders of Khap Panchayat, goons and overbearing people are forcing us applicants to disclaim from our original testimonies in the court in favour of their people, or else Mirchpur case was just a trailer. 20-25 people invade our houses in the night with weapons without any permission and they catch the witnesses and take signature or fingerprints on blank papers. Those of us applicants who went to our relatives place as we are very scared, but even there they are threatening us. Balbeer, Dharampal, Ratan, Rishal, Karan etc people of Jat community of Mirchpur kidnapped applicant Shanti wife of Jugti Ram 7-8 days back and took her to Narnaund Tehsil and before the tehsildar they forced her to sign on a stamp paper. People of Jat community are behaving like this with each prosecution witness. People of Jat community do not let us use public places like wells and hand pumps. People of Jat community have boycotted us and whenever any Government team comes to our village they just pretend and show brotherhood to us. Even police of our village is working under the force of people of Jat community. These people are Ranbeer s/o Zile Singh, Dr. Suresh, Pradeep s/o Suresh, Surendra s/o Omprakash, Rajpal master s/o Bhira and other 15-20 people of Jat community which consist people Khap Panchayat like Rajbeer Dhanda. These people are forcing us to disclaim our testimonies else they are threatening us to death. They are telling us that if we can file Section 302 against a Superintendent of Police and burn property of million rupees so you people are nothing before us. We will kill 5-6 more people of yours. No one can do anything. Government will give you compensation on our account. Then the whole matter will be forgotten.

Therefore we are submitting the application and requesting to ensure our security because we are in serious danger and our people have been forced to sign on affidavits so that should be recovered from other party and punish them strongly as they have affected witnesses and threatened them to death.

Thanking you.

**Applicants:-**

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11.	Ramesh S/o Mange Ram	32.	Dhupa S/o Ratnu
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20.	Bijender S/o Surta	41.	Rampal S/o BhalleRam
21.	Praveen S/o Surta	42.	Vedpal S/o Amar Singh

All are residents of Mirchpur Tesil Narnaund District Hisar

**IN THE COURT OF MR. BALJEET SINGH HONORARY ADDITIONAL SESSION  
JUDGE HISAR**

**State vs Dharambir**

FIR No. 166

P.S. Narnaund

Dated 21-04-2010

D.O.H. 4-11-2010

Under Section 147/148/302/307/447/448/452/435  
etc of I.P.C. and Section 3, 4, 5 SC and ST Act.

**AFFIDAVIT**

I Gulaba son of Jailal resident Mirchpur Tehsil Narnaund District Hisar giving this statement on my own wish:-

1. That I am witness in this case and during this case relatives of accused and some overbearing people of village threatened me to death and forced me to sign on affidavit and to disclaim the hearing which was totally against my will. I somehow managed the situation but even now they are forcing me to sign on an empty affidavit and to disclaim from my statement in the court. I have sent a request to SDM Hansi regarding it but no action took place.
2. That I did not compromise with accused and there are 113 accused arrested by police. They have attacked our houses and set fire to our houses and burnt Tarachand and his daughter alive and tried to kill us because we are related to Balmiki community and the accused and their community and relatives and people of the Khap Panchayat those who committed the atrocious act because we are from the balmiki community still hate us. But before Government and court they are pretending to show brotherhood with us.
3. That the relatives of accused and the community, the so called leaders of Khap Panchayat want us to compromise on the basis of hooliganism and threatening us to disclaim us from our hearing with weapons. But we want to give correct evidence and testify against all 113 accused who are under judicial arrest.
4. That I am witness of Mirchpur case and this incident happened before my eyes and all those 113 accused who are under custody of police they have done all this.
5. That in this case the police have released some accused persons falsely stating them to be innocent but at the time of happening they all were present at that place and they were involved in making such attack possible as other accused. In regard to this the Police has collaborated



with the relatives, community and people of Khap Panchayat and by misguiding the witnesses of this case have taken out some of the accused from this case.

Place: Hisar

Date:

I here by say that the following statement is correct and true according to my knowledge and trust.

Place: - Hisar

Sd/-

Date: - 12.10.10

**IN THE COURT OF MR. BALJEET SINGH HONORARY ADDITIONAL SESSION  
JUDGE HISAR**

**State vs Dharambir**

FIR No. 166

P.S. Narnaund

Dated 21-04-2010

D.O.H. 4-11-2010

Under Section 147/148/302/307/447/448/452/435 etc  
of I.P.C. and Section 3, 4, 5 SC and ST Act.

**AFFIDAVIT**

I Dilbagh son of Sube Singh resident Mirchpur Tehsil Narnaund District Hisar giving this statement on my own wish:-

1. That I am witness in this case and during this case relatives of accused and some overbearing people of village threatened me to death and forced me to sign on affidavit and to disclaim the hearing which was totally against my will. I somehow managed the situation but even now they are forcing me to sign on an empty affidavit and to disclaim from my statement in the court. I have sent a request to SDM Hansi regarding it but no action took place.
2. That I did not compromise with accused and there are 113 accused arrested by police. They have attacked our houses and set fire to our houses and burnt Tarachand and his daughter alive and tried to kill us because we are related to Balmiki community and the accused and their community and relatives and people of the Khap Panchayat those who committed the atrocious act because we are from the balmiki community still hate us. But before Government and court they are pretending to show brotherhood with us.
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5. That in this case the police has released some accused persons falsely stating them to be innocent but at the time of happening they all were present at that place and they were involved in making such attack possible as other accused. In regard to this the Police has collaborated

with the relatives, community and people of Khap Panchayat and by misguiding the witnesses of this case have taken out some of the accused from this case.

Place: - Hisar

Date:-

I here by say that the following statement is correct and true according to my knowledge and trust.

Place: - Hisar

Sd/-

Date:- 12.10.10

**IN THE COURT OF MR. BALJEET SINGH HONORARY ADDITIONAL SESSION  
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FIR No. 166

P.S. Narnaund

Dated 21-04-2010

D.O.H. 4-11-2010

Under Section 147/148/302/307/447/448/452/435 etc  
of I.P.C. and Section 3, 4, 5 SC and ST Act.

**AFFIDAVIT**

I Jagpal son of Bir Singh resident Mirchpur Tehsil Narnaund District Hisar giving this statement on my own wish:-

1. That I am witness in this case and during this case relatives of accused and some overbearing people of village threatened me to death and forced me to sign on affidavit and to disclaim the hearing which was totally against my will. I somehow managed the situation but even now they are forcing me to sign on an empty affidavit and to disclaim from my statement in the court. I have sent a request to SDM Hansi regarding it but no action took place.
2. That I did not compromise with accused and there are 113 accused arrested by police. They have attacked our houses and set fire to our houses and burnt Tarachand and his daughter alive and tried to kill us because we are related to Balmiki community and the accused and their community and relatives and people of the Khap Panchayat those who committed the atrocious act because we are from the balmiki community still hate us. But before Government and court they are pretending to show brotherhood with us.
3. That the relatives of accused and the community, the so called leaders of Khap Panchayat want us to compromise on the basis of hooliganism and threatening us to disclaim us from our hearing with weapons. But we want to give correct evidence and testify against all 113 accused who are under judicial arrest.
4. That I am witness of Mirchpur case and this incident happened before my eyes and all those 113 accused who are under custody of police they have done all this.
5. That in this case the police have released some accused persons falsely stating them to be innocent but at the time of happening they all were present at that place and they were involved in making such attack possible as other accused. In regard to this the Police has collaborated

with the relatives, community and people of Khap Panchayat and by misguiding the witnesses of this case have taken out some of the accused from this case.

Place: - Hisar

Date: - 12.10.10

I here by say that the following statement is correct and true according to my knowledge and trust.

Place: - Hisar

Sd/-

Date:-

**IN THE COURT OF MR. BALJEET SINGH HONORARY ADDITIONAL SESSION  
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D.O.H. 4-11-2010

Under Section 147/148/302/307/447/448/452/435  
etc of I.P.C. and Section 3, 4, 5, of SC and ST Act.

**AFFIDAVIT**

I Dhupa son of Ratnu resident of Mirchpur Tehsil Narnaund District Hisar giving this statement on my own wish:-

1. That I am witness in this case and during this case relatives of accused and some overbearing people of village threatened me to death and forced me to sign on affidavit and to disclaim the hearing which was totally against my will. I somehow managed the situation but even now they are forcing me to sign on an empty affidavit and to disclaim from my statement in the court. I have sent a request to SDM Hansi regarding it but no action took place.
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3. That the relatives of accused and the community, the so called leaders of Khap Panchayat want us to compromise on the basis of hooliganism and threatening us to disclaim us from our hearing with weapons. But we want to give correct evidence and testify against all 113 accused who are under judicial arrest.
4. That I am witness of Mirchpur case and this incident happened before my eyes and all those 113 accused who are under custody of police they have done all this.
5. That in this case the police has released some accused persons falsely stating them to be innocent but at the time of happening they all were present at that place and they were involved in making such attack possible as other accused. In regard to this the Police has collaborated

with the relatives, community and people of Khap Panchayat and by misguiding the witnesses of this case have taken out some of the accused from this case.

Place: - Hisar

Date: - 12.10.10

I here by say that the following statement is correct and true according to my knowledge and trust.

Place: - Hisar

Sd/-

Date:-

**IN THE COURT OF MR. BALJEET SINGH HONORARY ADDITIONAL SESSION  
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D.O.H. 4-11-2010

Under Section 147/148/302/307/447/448/452/435 etc  
of I.P.C. and Section 3, 4, 5, of SC and ST Act.

**AFFIDAVIT**

I Sanjay son of Satpal resident of Mirchpur Tehsil Narnaund District Hisar giving this statement on my own wish:-

1. That I am witness in this case and during this case relatives of accused and some overbearing people of village threatened me to death and forced me to sign on affidavit and to disclaim the hearing which was totally against my will. I somehow managed the situation but even now they are forcing me to sign on an empty affidavit and to disclaim from my statement in the court. I have sent a request to SDM Hansi regarding it but no action took place.
2. That I did not compromise with accused and there are 113 accused arrested by police. They have attacked our houses and set fire to our houses and burnt Tarachand and his daughter alive and tried to kill us because we are related to Balmiki community and the accused and their community and relatives and people of the Khap Panchayat those who committed the atrocious act because we are from the balmiki community still hate us. But before Government and court they are pretending to show brotherhood with us.
3. That the relatives of accused and the community, the so called leaders of Khap Panchayat want us to compromise on the basis of hooliganism and threatening us to disclaim us from our hearing with weapons. But we want to give correct evidence and testify against all 113 accused who are under judicial arrest.
4. That I am witness of Mirchpur case and this incident happened before my eyes and all those 113 accused who are under custody of police they have done all this.
5. That in this case the police has released some accused persons falsely stating them to be innocent but at the time of happening they all were present at that place and they were involved in making such attack possible as other accused. In regard to this the Police has collaborated



with the relatives, community and people of Khap Panchayat and by misguiding the witnesses of this case have taken out some of the accused from this case.

Place: - Hisar

Date: - 12.10.10

I here by say that the following statement is correct and true according to my knowledge and trust.

Place: - Hisar

Sd/-

Date:-

**IN THE COURT OF MR. BALJEET SINGH HONORARY ADDITIONAL SESSION  
JUDGE HISAR**

**State vs Dharambir**

FIR No. 166

P.S. Narnaund

Dated 21-04-2010

D.O.H. 4-11-2010

Under Section 147/148/302/307/447/448/452/435 etc  
of I.P.C. and Section 3, 4, 5, of SC and ST Act.

**AFFIDAVIT**

I Dilbagh son of Gulaba resident of Mirchpur Tehsil Narnaund District Hisar giving this statement on my own wish:-

1. That I am witness in this case and during this case relatives of accused and some overbearing people of village threatened me to death and forced me to sign on affidavit and to disclaim the hearing which was totally against my will. I somehow managed the situation but even now they are forcing me to sign on an empty affidavit and to disclaim from my statement in the court. I have sent a request to SDM Hansi regarding it but no action took place.
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with the relatives, community and people of Khap Panchayat and by misguiding the witnesses of this case have taken out some of the accused from this case.

Place: - Hisar

Date: - 12.10.10

I here by say that the following statement is correct and true according to my knowledge and trust.

Place: - Hisar.

Sd/-

Date:-

**IN THE COURT OF MR. BALJEET SINGH HONORARY ADDITIONAL SESSION  
JUDGE HISAR**

**State vs Dharambir**

FIR No. 166

P.S. Narnaund

Dated 21-04-2010

D.O.H. 4-11-2010

Under Section 147/148/302/307/447/448/452/435 etc  
of I.P.C. and Section 3, 4, 5, of SC and ST Act.

**AFFIDAVIT**

I Satyavan son of Mansa resident of Mirchpur Tehsil Narnaund District Hisar giving this statement on my own wish:-

1. That I am witness in this case and during this case relatives of accused and some overbearing people of village threatened me to death and forced me to sign on affidavit and to disclaim the hearing which was totally against my will. I somehow managed the situation but even now they are forcing me to sign on an empty affidavit and to disclaim from my statement in the court. I have sent a request to SDM Hansi regarding it but no action took place.
2. That I did not compromise with accused and there are 113 accused arrested by police. They have attacked our houses and set fire to our houses and burnt Tarachand and his daughter alive and tried to kill us because we are related to Balmiki community and the accused and their community and relatives and people of the Khap Panchayat those who committed the atrocious act because we are from the balmiki community still hate us. But before Government and court they are pretending to show brotherhood with us.
3. That the relatives of accused and the community, the so called leaders of Khap Panchayat want us to compromise on the basis of hooliganism and threatening us to disclaim us from our hearing with weapons. But we want to give correct evidence and testify against all 113 accused who are under judicial arrest.
4. That I am witness of Mirchpur case and this incident happened before my eyes and all those 113 accused who are under custody of police they have done all this.
5. That in this case the police has released some accused persons falsely stating them to be innocent but at the time of happening they all were present at that place and they were involved in making such attack possible as other accused. In regard to this the Police has collaborated

with the relatives, community and people of Khap Panchayat and by misguiding the witnesses of this case have taken out some of the accused from this case.

Place: - Hisar

Date: - 12.10.10

I here by say that the following statement is correct and true according to my knowledge and trust.

Place:- Hisar

Sd/-

Date:-

**COPY OF THE AFFIDAVIT DATED 11.11.10 OF ADVOCATE RAJAT KALSAN**

**IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION  
WRIT PETITION (CIVIL) NO. 211 OF 2010  
IN THE MATTER OF:  
Jaswant & Ors. ... Petitioners  
Versus  
State of Haryana & Ors. ... Respondents**

**AFFIDAVIT**

I, Rajat Kalsan, aged 31 years, resident of H.No. 31, Extension Model Town, behind Kisan Cotton Mill, Hansi District Hisar, Haryana, do hereby solemnly state and affirm as under:

1. I say that I am advocate practicing before the Distt. & Session Courts Hisar (Haryana) and I am making this affidavit for the purpose of putting on record what transpired in the Court of Additional Sessions Judge, Hisar in State Vs. Dharamvir (FIR No. 166 of 2010) which relates to the assault that took place on the Balmiki community at village Mirchpur on 21.4.10.
2. I am the advocate appearing for the victims. On behalf of the victims we moved two applications dated 3.11.2010 before the Learned Judge. The first was to exempt the appearance of the some of the prosecution witnesses as they apprehended danger to their lives from the relatives and supporters of accused persons and the second application was to allow us to assist the Public Prosecutor. Both the applications were allowed.
3. On the first day i.e. 3.11.10, the Public Prosecutor began with the evidence of the members of the victim community who had been won over by the dominant community and were hostile to the prosecution case. This is a very unusual way for the prosecution to begin a trial. Both I as well as Advocate Veena was surrounded by the members of the dominant community who appeared very aggressive when they came to know that we are the advocates for the victims and we saved ourselves by entering the court room. This commotion could be heard inside the court. When it was pointed out to the court that the witnesses from the victim community are being won over through coercion, the Hon'ble Judge remarked that perhaps if their statements are not recorded by the Court they might be killed by the same group on the ground that the statements were not recorded as the witnesses had been pressurized. So it was better to let their statements be recorded and later on find some other way out. Similarly on 4.11.10, 5

hostile witnesses' statements were recorded. One of these was a woman named Sunita from the victim community who was apparently assaulted by the dominant community on 2.11.10.

4. On dated 4.11.2010 when PW Jaswant appeared in the Court room as a hostile witness and when I being the advocate for the victims side and assisting counsel of Public Prosecutor tried to cross examine the same witness, Mr. Mahender Partap, P.P. did not allow me to cross examine, but after all the undue and illegal obstacles of Mr. Mahender Partap, P.P. I started cross examining the witnesses Jaswant, Mr. Mahender Partap, P.P. again tried to interrupt me illegally and when I objected, Mr. Mahender Partap, P.P. called the District Attorney at once there in the court room and both of them along with the counsels of accused person tried to pressurize me not to examine the witnesses any more. And the irony was this that the Hon'ble Court was watching all this like a spectator and that too helplessly.
5. In the circumstances, it is very unsafe not only for myself but also for Advocate Veena Sharma and our assistant advocates to protect the rights of the victim community. The spectre of all the witnesses turning hostile after being threatened is a real possibility. As a member of the Bar with over seven years of experience I can say with all sincerity that there is no possibility at all of a fair trial being conducted at Hisar, or for that matter in the state of Haryana as long as the dominant community continues with its pressure tactics.

DEPONENT

#### VERIFICATION

It is verified that para nos. 1 to 5 are true and correct to the best of my knowledge and belief and material has been concealed therefrom.

DEPONENT

**COPY OF AFFIDAVIT DATED 11.11.10 OF ADVOCATE VEENA SHARMA.**

**IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION  
WRIT PETITION (CIVIL) NO. 211 OF 2010  
IN THE MATTER OF:  
Jaswant & Ors. ... Petitioners  
Versus  
State of Haryana & Ors. ... Respondents**

**AFFIDAVIT**

I, Veena Sharma, w/o. Manmohan Sharma aged 56 residing at House No. 37, Sarav Mangal Society, Lohgarh Road, Zirakpur do hereby state and solemnly affirm as under:

1. I say that I am advocate practicing mainly before the Punjab & Haryana High Court at Chandigarh and I am making this affidavit for the purpose of putting on record what transpired in the Court of Additional Sessions Judge, Hisar in State Vs. Dharamvir (FIR No. 166 of 2010) which relates to the assault that took place on the Balmiki community at village Mirchpur on 21.4.10.
2. I had gone to the court to assist advocate Mr. Rajat Kalsan, advocate appearing for the victims. On behalf of the victims we moved two applications before the Learned Judge. The first was to exempt the appearance of the some of the prosecution witnesses as they apprehended danger to their lives from the relatives and supporters of accused persons and the second application was to allow us to assist the Public Prosecutor. Both the applications were allowed.
3. On the first day i.e. 3.11.10, the Public Prosecutor began with the evidence of the members of the victim community who had been won over by the dominant community and were hostile to the prosecution case. This is a very unusual way for the prosecution to begin a trial. Both I as well as Advocate Rajat Kalsan were surrounded by the members of the dominant community who appeared very aggressive. This commotion could be heard inside the court. When it was pointed out to the court that the witnesses from the victim community are being won over through coercion, the Hon'ble Judge remarked that perhaps if their statements are not recorded by the Court they might be killed by the same group on the ground that the statements were not recorded by them as they had promised, so it was better to let their statements be recorded and later on find some other way out. Similarly on 4.11.10, 5 hostile witnesses' statements were recorded. One of these was a woman named Sunita from the victim community who was apparently assaulted by the dominant community on 2.11.10.



4. In the circumstances it is very unsafe both for Mr. Rajat Kalsan and myself to protect the rights of the victim community. The specter of all the witnesses turning hostile after being threatened is a real possibility. As a member of the Bar with about fifteen years of experience deponent can say that there is no possibility at all of a fair trial being conducted at Hisar, in the state of Haryana as long as the dominant community continues with its pressure tactics.

DEPONENT

#### VERIFICATION

Verified at Chandigarh on this the 11<sup>th</sup> day of November 2010 and it is verified that Para no. 1 to 4 are true and correct to the best of my knowledge and belief and nothing material has been concealed therein.

DEPONENT

**CERTIFIED COPY OF ORDER DATED 4.11.2010  
IN THE COURT OF SHRI BALJEET SINGH, ADDL. SESSIONS JUDGE, HISAR**

**CASE NO. 3-SC/ST (302)  
DATE OF INSTT. 10.8.2010  
DATE OF HEARING: 14.3.2011**

**State  
Versus**

1. Dharambir son of Tara Chand R/o Mirchpur
2. Pawan son of Ram Mehar R/o Mirchpur
3. Karambir son of Tara Chand R/o Mirchpur
4. Joginder son of Bhim Singh R/o Mirchpur
5. Dalbir son of Dalip Singh R/o Mirchpur
6. Balwan son of Inder Singh R/o Mirchpur
7. Satywan son of Tara Chand R/o Mirchpur
8. Jaibir son of Manphool R/o Mirchpur
9. Ajit son of Sukhbir R/o Mirchpur
10. Balwan son of Dharmabir R/o Mirchpur
11. Rajbir son of Mai Chand R/o Mirchpur
12. Viren son of Yashpal R/o Mirchpur
13. Dharambir son of Mai Chand R/o Mirchpur
14. Deepak son of Krishan R/o Mirchpur
15. Kuldeep son of Balbir R/o Mirchpur
16. Rajinder son of Belu R/o Mirchpur
17. Jagdish son of Baru Ram R/o Mirchpur
18. Suresh Kumar son of Balbir R/o Mirchpur
19. Rajinder son of Sadhu Ram R/o Mirchpur

20. Ram Phal son of Pirthvi R/o Mirchpur
21. Daya Singh son of Ajit R/o Mirchpur
22. Pardeep son of Balwan R/o Mirchpur
23. Rishi son of Satbir R/o Mirchpur
24. Jaibir son of Ishwar R/o Mirchpur
25. Karampal son of Satbir R/o Mirchpur
26. Sunil son of Jaibir R/o Mirchpur
27. Sumit son of Satyavan R/o Mirchpur
28. Pardeep son of Ram Phal R/o Mirchpur
29. Roshan Lal son of Ram Sarup R/o Mirchpur
30. Surender son of Jagda R/o Mirchpur
31. Hosiya Singh son of Mangal Singh R/o Mirchpur
32. Ajit son of Dalip R/o Mirchpur
33. Rajinder son of Dhup Singh R/o Mirchpur
34. Rajinder son of Pali R/o Mirchpur
35. Vijender son of Hosiya Singh R/o Mirchpur
36. Dinesh son of Prem R/o Mirchpur
37. Vinod son of Ram Niwas R/o Mirchpur

FIR No. 166 dt. 21.4.2010

U/S S: 302, 307, 395, 397, 435, 436, 449, 450, 452, 427, 323, 148,  
149, 120B, 324, 325 IPC & 3.1(10.15), 3.2(3,4,5), 4 SC ST Act.

Police Station: Narnaund

Stat Vs. Dharambir and others.

Present: Sh. Mahenderpal, PP and Sh. Ajay Solanki, APP for the State, assisted by  
Sh. Rajat Kalsan Advocate for some of the victims

Accused Vikas declared juvenile (vide order dt. 25.8.2010)

Rwmaining accused are in custody.

Sh. P.K. Sandhir and Sh. Manjeet Singh Advocate for all the accused and  
Sh. M.S. Nain, Advocate for accused Vinod Kajal.

Five PWs namely Jaswant, Binder, Bani, Sunita, and Rajmal are present. PWs Dharambir, Satyavan, Biniya, Vijender, Raja, Mahajan, Dilbag, Sanjay, Jai Singh and Nawab not present despite service. Sh. Rajat Kalsan Advocate who is representing some of the victims has moved an application to dispense with the attendance of the summoned witnesses and adjournment of the case. Heard. It is stated in the application that the witness who have come present in the court are under pressure and they would not reveal the truth before this court. I have personally acquired from witnesses namely Jaswant, Binder, Bani, Sunita and Rajmal to satisfy myself whether they are under pressure from any quarter and put some questions. I am satisfied that aforesaid witnesses intend to make statements of their own free will. Let their statements be recorded. The personal appearance of the remaining witnesses who have been summoned for today and have not come present despite service is dispensed with. The application is disposed of accordingly.

Additional Session Judge-cum-Special Judge  
(under S.C. & S.T. Act),  
Hisar, 4.11.2010.

Present: Sh. Mahenderpal, PP and Sh. Ajay Solanki, APP for the State, assisted by  
Sh. Rajat Kalsan Advocate for the some of victims  
Accused Vikas declared juvenile (vide order dt. 25.8.2010)  
Remaining accused are in custody.  
Sh. P.K. Sandhir and Sh. Manjeet Singh Advocate for all the accused and  
Sh. M.S. Nain, Advocate for accused Vinod Kajal

At this stage, PWs Jaswant, Binder, Bani, Sunita and Rajmal are present and examined. Now to come up on 14.3.2011, 15.3.2011, 16.3.2011, 17.3.2011, 18.3.2011 and 19.3.2011 for remaining prosecution evidence. Criminal Ahlmad is directed to summon all the remaining eye witnesses of the incident/injured persons in the case for the date fixed. Criminal Ahlmad will summon atleast 14 witnesses for each date during which this case will remain fixed for evidence.

Additional Session Judge-cum-Special Judge  
(under S.C. & S.T. Act),  
Hisar, 4.11.2010

**IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION  
WRIT PETITION (CIVIL) NO. 211 OF 2010  
IN THE MATTER OF:  
Jaswant & Ors. ... Petitioners  
Versus  
State of Haryana & Ors. ... Respondents**

**2ND SUPPLEMENTARY AFFIDAVIT OF PETITIONER NO. 3**

I, Satyavan, S/o Shri Roshan Lal, aged about 31 years, resident of Vill. & P.O. Mirchpur, Tehsil – Narnaund, District Hisar, Haryana presently at Delhi, do hereby solemnly state and affirm as under:

1. That I am the Petitioner no. 3 in the above-mentioned matter and in such capacity I am well conversant with the facts and circumstances of this case and am competent to swear this affidavit.
2. I have already filed a comprehensive affidavit dated 21.10.10 titled 'Additional Affidavit on behalf of the Petitioners' and I am filing this affidavit to cover the events upto today.

**Victims have deserted the village**

3. I have set out in paragraph 5 of the additional affidavit abovementioned that on account of the Khap Panchayats, only 40 families remain in the village and that too mainly old persons, women and children. A fact finding was done and a report prepared dated 19.10.10 and this has been annexed to the additional affidavit. The pleadings regarding the victims fleeing from Mirchpur are at page 2 and pages 12-15 of the Additional Affidavit abovementioned.
4. I have also stated therein that the dominant community from Mirchpur went to villages near Jind and Hisar to which the victim community had fled to persuade the landlords there not to provide work to us.
5. In the said additional affidavit from page 21 onwards I have recorded the statements of the victim community regarding threats given to cut our heads off and burn our houses if we do not compromise and withdraw our cases. At page 22, is the statement of Om Prakash and at page 23 are the statements of Dhoop Singh and Jagpal, at page 24 the statements of Raj Kumar and Satbir, at page 25 the statements of Sushil and Om Prakash, and at page 26 the statements of Darshana and Kamla.

6. In reply the State has filed an affidavit dated 29.11.10 in which from pages 22-58 photographs are annexed to show the victim families posing in front of their homes as evidence to demonstrate that they are currently living in their homes at Mirchpur. The truth is that information was given to us that election cards would be distributed and that is why many persons returned to collect these documents and we were told that photographs were required to be taken for election purposes to prove that we were residents of those houses. After taking the election cards we left the village because it was unsafe to stay there. Some of the photos are duplicates, some are not of the residents of the houses shown, however I am not dealing with that issue in detail as the xerox copies given to me are sometimes not clear.

#### **Children taken out of schools**

7. In the additional affidavit abovementioned at page 20 and 54, I have stated that the situation is too dangerous for children to attend school and, by way of an example only; I have given the list of 52 children who were compelled to leave school. This is an incomplete list.
8. In the reply of the State Govt. dated 29.11.10 an attempt is made to show the attendance record as proving that the Balmiki children are attending school. Putting a 'present' mark on the attendance sheet does not necessarily mean that the child is in school. Even if one is to go by this affidavit, one will notice at page 20 and 21 that there are 23 children who applied for and obtained school leaving certificates in October 2010. The sudden desire of parents to take their children out of school "to study in another school" or because "family shifting out of station" is linked to the high level of tension in the village. Petitioner stands by his statement that most of the children are now out of school and are working as child labourers together with their families in Adampur, Jind, Hisar, Barwala and Fatehabad. Some of the children are working in the cotton fields starting work at 5 am and working till the night. They live in the cattle sheds like bonded labour.

#### **Employment under NREGA**

9. I specifically state that employment under NREGA has now completely stopped.
10. In my additional affidavit abovementioned I stated at page 15 that most persons from our community got work for 2-3 days upto a maximum of 10 days.
11. In response the State filed a reply dated 29.11.10 wherein it was stated that 187 workers received a total of Rs. 5,85,152 for a period of 5 months upto October 2010. I contest this statement because it appears that the names of persons from other communities have also been mixed up with the list of the Balmiki community. Even so, if one takes these figures at face value, the workers are employed for about 6 days in a month. In this regard I have in my additional affidavit at page 15 recorded, by way of a sample only, the statement of Rajesh who got only 15 days work under NREGA during the last six months.

12. From the beginning of January, NREGA has come to a complete standstill as the Khap Panchayats are meeting on a regular basis.

#### **Economic & Social Boycott**

13. In my additional affidavit at page 16, I have pointed out how in the Khap Panchayats a social diktat has been issued not to provide employment to the Balmiki community people. This is prevalent even in the adjoining villages and towns where these people are going in search of work. The brick kiln owners in Mirchpur and adjoining villages have been employing labourers from outside the village in their brick kilns but are refusing work to the Balmikis. The implication of the economic boycott is so prominent that the Balmikis are being forced to sell the wheat provided by the State Government as interim relief in exchange for essential food items. They are not allowed to buy food items from the dominant caste shops, or milk from the dominant caste dairy owners. They are not even allowed to collect the cow dung from the streets and firewood from the fields to use it as fuel to cook their food.
14. This situation has not changed and the victim community do not have any consistent source of getting their food rations and livelihood. 2 quintals of wheat was supplied on 29.08.10, as per this Hon'ble Court's order dated 26.08.2010. However, since then, no further supplies have been provided by the State Govt.

#### **Compensation**

15. That on page 19 of my additional affidavit dated 21.10.10, I had pointed out that only 18 houses that were burnt have been given compensation of Rs. 1 lakh till date, which is also inadequate. That the 7 more houses that were totally burnt, details of which have been provided from pages 32-37 of the additional affidavit, have not received any compensation. That further I have also provided details of the damaged houses from pages 38-53 of my additional affidavit dated 21.10.10, and a list of the damaged houses in my earlier affidavit dated 16.7.2010 at page 101. That a sum of Rs. 15,000 was paid for damages by the state government without reference to the actual damage caused and no further amount has been paid to the victim families.
16. That with no compensation, lack of employment opportunities due to the social and economic boycott and the apathy of the state government, as well as the continued threats and suppression, it has become impossible for the families to survive.

#### **Safety and Security of the Victim Community**

17. In my additional affidavit at page 20, I have pointed out that the people of the victim community are constantly being threatened by the dominant community and also being pursued to withdraw the cases against those who have been arrested.

18. That on 15.12.2010 warrant of arrest was issued on me for non-appearance before the Commission of Inquiry at Hisar. That due to immense pressure and threats I have not been able to be present before the Commission. That I have to run from one place to another as I am constantly being threatened. The order dated 15.12.10 of the Commission of Inquiry is annexed at **Annexure – 1** hereto.
19. That pursuant to this Hon'ble Court's order dated 8.12.2010 as per which case no. 3-SC/ST titled "State versus Dharambir and others" pending in the Court of Additional Sessions Judge, Hisar was transferred to the Court of Additional Sessions Judge, Rohini Courts, Delhi, the Khap Panchayats have been regularly sitting in the village Mirchpur and the victims being harassed and pressurised. That I have annexed at **Annexure - 2 (Colly)** hereto the translations of the newspaper reports dated 6.1.11, 9.1.11, 10.1.11 of Dainik Bhaskar, 7.1.11 of Times of India and 16.1.11 of IANS.
20. That on 12.1.11 and 14.1.11, the Khap Panchayat resolved to give the government 48 hours to withdraw cases filed against the accused. On the night of 14<sup>th</sup> January information was received that the dominant community was arming itself. That fearing for the safety of the victim families that were still in the village, I arranged for moving the women and children out of the village. I also informed the DSP, SP, SHO to ensure that no untoward incident happened in the village. Hereto annexed and marked as **Annexure -3** is the letter dated 14.01.2011 that I sent to the Director General of Police regarding the arming of the dominant community. That the next day I was informed that the dominant caste people blocked the railway track in Jind.
21. That I fear for the life and security of all the Balmiki families still residing in the village. That because of loss of livelihood, the families are living at the verge of poverty and are not able to sustain themselves. That the women, children and elderly are especially vulnerable and have no place to go or the means to fend for themselves.
22. Hence, I have filed I.A. 3 and 4 for reliefs so that we may survive and subsist and be protected by the CRPF. I say that it is also urgent and necessary that a relief camp be set up at Delhi since the families are homeless and have no food to eat.
23. That the contents of this affidavit are true to the best of my knowledge and belief.

DEPONENT

#### VERIFICATION

Verified at New Delhi on this the day of January 2011 that the contents of the above affidavit are true to the best of my knowledge and belief and nothing material has been concealed therefrom.

DEPONENT



**COMMISSION OF ENQUIRY  
NO.17  
WARRANT OF ARREST OF WITNESS  
(O, XVI, R.10)  
(TITLE)**

To

Superintendent of Police,

Hisar.

Whereas *Satyavan son of Roshan, Balmiki, resident of Mirchpur* has been duly served with a summons but has failed to attend (absconds and keeps out of the way for the purpose of avoiding service of summons); You are hereby ordered to arrest and bring the said Satyavan before the Commission on *6<sup>th</sup> January, 2011* at PWD (B&R) Rest House, Hansi.

If the said Satyavan shall give bail himself on the sum of Rs. 500/- with one surety in the sum of Rs.500/- to attend before me on the day *6<sup>th</sup> January, 2011* and to continue so to attend until otherwise directed by me he may be released.

It has further been ordered by the commission to return this warrant on or before the day of *6<sup>th</sup> January, 2011* with an endorsement certifying the day on and the manner in which it has been executed, or the reason why it has not been executed.

Given under my hand and seal of the Commission this day of *15<sup>th</sup> December, 2010*.

Sd/-

Registrar-cum-Secretary

**TRUE TRANSLATED COPIES OF NEWSPAPER REPORTS****Dainik Bhaskar**6<sup>th</sup> jan 2010 pg 13

Bhaskar News Naraund

**Jats have opened a front against the Government**

Dharna in Mirchpur from today

Jats have expressed outrage over the decision sending the accused in the Mirchpur case to Tihar jail. Jat leaders of the twelve-Khap Panchayat, blamed the government for it. In the same panchayat, it was announced that there would be an indefinite dharna in Mirchpur starting from Thursday.

In Mirchpur's Choupal, Maojij Balbir Singh chaired the twelve-Khap panchayat and the Balmiki community people took part as well. Balbir Singh alleged that both sides of the dispute have been politically coloured by the government. It is because of this that case has intensified to this extent. He said that the government's failure to account for this can be gauged from the fact that first the case was transferred outside the state, and now they are preparing to send the accused to Tihar Jail. Khap members will protest(dharna) this decision at the village bus stand. Panchayat heads of the twelve Khaps, Rajbir Danda, Ma. Chandrprakash, Samaaj Sevi Prem Danda, Amir Singh, Jogindra, Subosingh, Karan Singh, Ved Prakash, Ramfal, Anil, Balwindra and Subhash etc. were present.

Justice Iqbal has not come (Hansi): Chairman of the commission investigating the Mirchpur case, Justice Iqbal Singh did not arrive at the Public Works rest house on Wednesday, according to the earlier decided programme. Previously, the administration issued a statement to record the statements of people in the Mirchpur incident. The ADM said that witnesses were notified that Justice Iqbal Singh would not be coming.

**Times of India**

07/01/2011

**Jats begin dharn at Mirchpur, ask for release of "innocent"**

Hisar, Jan 6 (PTI) Jats today began an indefinite dharna at Mirchpur demanding release of "innocent" persons arrested in connection with last year's incident in which a 70-year old Dalit man and his daughter were burnt alive in the Haryana village. They also demanded that a CBI probe be ordered into the incident. The indefinite dharna was started following a decision taken by 12 Khaps Panchayats at a meeting held in village Mirchpur under the presidentship of Master Rajbir Singh Dhana, president of the Mahapanchayat. A large number of women also took part in the dharna which began near the village bus stand.

The protesters demanded that "innocent persons" arrested by the Haryana Police in connection with the incident be released immediately and a CBI probe ordered into it.

On April 21 last year, a 70 year old Dalit man and his physically challenged teenaged daughter were burnt alive when some miscreants torched their house in Mirchpur village in this district. They went on a rampage after that torching several other Dalit households in the village.

The incident had sparked angry reactions throughout the nation and had been widely condemned.

## **DAINIK BHASKAR**

09 January 2011

### **Hunger Strike in Jail, Dharna in the village**

Bhaskar News, Hisar

The accused in jail in the Mirchpur episode were on hunger strike for the second consecutive day. Their demand is to keep them in the local jail instead of Rohini Jail, Delhi. But till date they have not informed anything in black and white to the jail officials regarding this hunger strike. Because of that reason, the jail administration is regularly supplying them food.

As per the Supreme Court's direction, the hearing of the Mirchpur case was held on 4<sup>th</sup> January in Special Court, Rohini. During this period, the accused persons in this case were transferred by five buses from Hisar Central Jail to Delhi amidst tight security. During the proceeding, it was ordered by the court that all the accused should be transferred to Rohini Jail instead of Hisar. However, during the trial period, it was informed by the accused persons that they did not bring their luggage and clothes from Hisar. On this, the court has ordered that all the accused persons to be transferred to Rohini jail before the next date of hearing, which is before 14 January 2011.

On receiving this information, villagers of Mirchpur called for an indefinite strike on Thursday. After getting this information, the 98 accused persons in jail also sat on a hunger strike since Friday evening. However, they had not informed anything to the jail authority regarding the same. The strike was continued till on Saturday. On receiving this information, the DSP Jagbir Singh met the accused persons to convince them, but they did not agree.

Jail Superintendent Jaidev Bishnoi said that he does not have any written information on this matter. If any accused would provide any information, the same would be given to higher authorities. Hence, the jail administration is providing food to all accused. He acknowledged that some accused are having food and some are not. The Jail Superintendent said that in this case the jail administration can not do anything except to provide food.

## **DAINIK BHASKAR**

Hisar, Monday, 10 Jan 2011

### **Mirchpur Carnage/Mahapanchayat of villagers on 12<sup>th</sup> January**

Declaration of fight by hook or by crook

Bhaskar News, Narnaund

In the Mirchpur matter, demanding hearing of the case in the state and to prevent transfer of the accused, the indefinite protest (dharna) by the Twelve Khap (caste panchayat of 12 villages) has now entered its fourth day at Mirchpur Bus stand on Sunday. Prior to the fourth day, MP Surender Barwala and two District Council members also joined in.

District Councillor Rajesh Nada and Councillor Randhir Kauth promised to support the protest. Head of Twelve-Khap Rajbir Danda accused the state government and district administration alleging that at the time the Mirchpur incident made headlines, everyone, from the leaders of political parties to civil servants, lined up to restore of peace in the village.

"The government jammed ballasts/placed obstacles'

They again alleged that when now the people of both sides of the village community came together, forgetting their differences to restore peace, the state government and administration attempted to place obstacles to hold them back. They said the village's sitting on dharna during the fourth day had passed, in spite of fierce cold. They said that No higher official of the state or any leader of the parties that control the reins of the state came to support them, or to listen to them. Khap leaders warned the government that if anyone involved in this episode sitting on Dharnassthal, or on hunger strike in jail came to any harm, the government would face dire consequences. Khap leaders warned the administration in this matter that in the Khap Mahapanchayat to be held on 12<sup>th</sup> January in support of demands made, a fierce battle will be announced.

"Justice be done to the accused"

Addressing the dharna, Speakers said that regarding those caught in the guise of Mirchpur incident, steps must be taken soon by the government to do justice to those people. NLO leader Surendra Barwala who came to the dharnasthal (place of protest) asked villagers about their well being, lending his support. Barwala said the state government and the administration should come and take cognizance of the problems and demands.

In the protest, Chandraprakash, Anil sarpanch Kauth Kalan, Chandrabhan Baniwal sarpanch Nada and Shamsher Nada, members of the Balmiki community, Mukesh, Pasaram, Ramphal, Sanjay, Birbhan and Karan Singh etc. Women and men participated.

#### **Other articles**

- Mirchpur violence: Jat conclave wants fresh CBI probe
- Mirchpur Violence: Man blames cops for being mute spectator
- SC to hear Mirchpur case on 23rd
- 1 Killed, 15 Injured in community clash

Jind: Tension prevailed in Jind district on Sunday as hundreds of Jat community members continued to block railway tracks near here for the second day, disrupting trains over their demand for a fresh CBI probe into the Mirchpur caste violence of last year in which two Dalits were killed.

Members of the Jat Mahapanchayat, including many women, have been sitting on the railway track in Julani village near the Jind railway station since Saturday, refusing to budge until their demands are met.

The Jat Mahapanchayat - a mega conclave of community leaders - had issued an ultimatum to the state government to accept their demands before Jan 15.

Trains running on the New Delhi-Ferozepur line have been diverted from Narwana to Kurukshetra.

"We have diverted the trains to alternate routes. Due to this blockade, most of the long distance trains are running late," a railway official said here.

Besides, tension prevailed in the Jind entire district as protesters have threatened to intensify their campaign if their demands are not met by the administration.

The district administration has moved in 45 companies of the reserve police to maintain law and order. Heavy police presence was also deployed at all sensitive locations.

"So far, their protest is peaceful. We are keeping a watch on them from a safe distance. Police have made elaborate arrangements to tackle any kind of emergency situation," Ram Singh Bishnoi, Jind's police superintendent, said.

Apart from a Central Bureau of Investigation (CBI) probe, the protesters are also demanding that the trial in the case be shifted from New Delhi to Hisar and the arrested Jat youths be released.

The trial was shifted to New Delhi last month on the directions of the Supreme Court. A total of 98 Jat youths were arrested in the case and they are currently lodged in a jail in New Delhi.

Rajbir Dhanda, a khap leader here, said: "We will continue our protest in a peaceful manner. We would not move from here till our demands are met."

Mirchpur village in Hisar district hit the headlines last year when it was rocked by an arson attack by the dominant upper caste Jat members on a row of houses of the Dalit (Balmiki) families.

As many as 150 lower caste Dalit families were driven out of the village, about 300 km from Chandigarh, and their homes were torched April 21 last year. A 70-year-old man and his 18-year-old physically challenged daughter were killed in the fire in their home and at least 18 houses were destroyed in the attack.

In the wake of Jats' agitation, heavy police force has also been deployed in Mirchpur village to avoid any untoward incident.

**TRUE COPY OF THE LETTER DATED 14.01.2011 SENT TO DIRECTOR GENERAL OF POLICE**

To,

The Director General of Police  
Police Headquarter Haryana  
Sector 6, Panchkula  
Haryana

**Subject:** Apprehension of violence against the Balmiki Community residing in Village Mirchpur,  
District Hisar, Haryana

Respected Sir/Madam,

I am a resident of village Mirchpur and belong to one of the 150 Balmiki community families residing in the said village.

I was also a witness to the atrocities committed against my community by the upper caste dominant persons of the village on 21.04.2010. In this regard a writ petition (WP (civil) 211 of 2010) was filed in the Hon'able Supreme Court and the same is currently pending. The criminal case was transferred to Delhi from Hisar by the direction of the Supreme Court on 8.12.2010, after which the situation has become more tense.

The dominant community has been pressurizing the victims/complainants from the Balmiki community to withdraw the criminal case or face dire consequences. A declaration was made on 12.01.2011 by the Maha Khap Panchayat of the dominant community warning us to face the consequences within 48 hours of such declaration.

I have information that the dominant community is preparing to carry out its threat and already a vehicle full of arms and ammunitions has reached village Mirchpur.

I request you to please take urgent action and stop this violence from taking place and provide protection to the members of the Balmiki community.

Please take urgent action

Satyavan

Village Mirchpur

CC.

1. Inspector General of Police, Hisar Range, Phoowara Chowk, Hisar
2. Superintendent of Police, 2<sup>nd</sup> Floor, Mini Secretariat, Distt. Hisar, Haryana.
3. Additional Superintendent of Police, PWD Resthouse, Hansi, Distt. Hisar, Haryana
4. Station House Officer, P.S. Narnaund, Tesil Narnaund, Distt. Hisar

**IN THE SUPREME COURT OF INDIA**  
**CIVIL ORIGINAL JURISDICTION**  
**I.A. NO. \_\_\_\_\_ OF 2011**  
**IN**  
**WRIT PETITION (CIVIL) NO. 211 OF 2010**  
**IN THE MATTER OF:**  
**Jaswant & Ors. ... Petitioners**  
**Versus**  
**State of Haryana & Ors. ... Respondents**

**APPLICATION FOR DIRECTIONS DATED 16.4.11 ON BEHALF OF  
PETITIONER NO. 3**

1. The petitioners have filed this Writ Petition under Article 32 of the Constitution of India by way of a public interest litigation for issuance of appropriate directions to the Respondents for seeking adequate compensation, relief, rehabilitation, and security, as per Articles 14, 15, 16, 21, 21A, and 29 of the Constitution of India for the victims of the Dalit atrocity in village Mirchpur.
2. This application is being made for certain directions in view of the repeated assault on the advocates representing the victim community during the Mirchpur riots.
3. The first incident took place on and from 30.3.11 when Shri Rajat Kalsan and other advocates on behalf of the victim community were inside the court of Dr. Kamini Lau, Additional Sessions Judge (Special Judge) Rohini Court, Delhi. The evidence of the victim was being recorded. One of the accused Vedpal son of Dayanand, resident of Village Mirchpur, Haryana, who was on bail stated to the Security Guard of Shri Rajat Kalsan. "TUMHARE VAKIL KA AKHARI SAMAY AA GAYA HAI". The applicant immediately brought this fact to the notice of the Id. Special Public Prosecutor.
4. That again on 03.04.2011, at 10.00 a.m., when the applicant was in Hansi but not at his residence, one VICKY, from whom the applicant has taken on rent premises for his office since last two months, forcefully entered inside the applicant's house and threatened his aged parents saying that "either pay me Rs. 4000/- per month as rent or else I will throw out all your office articles." He also said that "the local minister VINOD BHAYANA is from my community and you cannot do anything against me." It is pertinent to mention here that the office premises have been taken on rent for Rs. 1100/- per month only two months back.

5. That the next day, i.e. on 04.04.11 at 9:30 am, when the applicant went to his office, he found 50-60 persons standing outside his office. As soon as they saw the applicant who was accompanied with his gunman, brother and clerk, they started hurling caste abuses, threatened and attacked the applicant. The applicant alongwith his brother, clerk and gunman ran to save their lives and called the police. That after ten minutes one SI, Ranbeer Singh alongwith 3-4 constables arrived at the spot. While the police officers were present, the assailant again started abusing by caste name and threatened to kill the applicant. The police officers even after hearing the threats made to the applicant did not intervene and remained mute spectators. More than 500-600 files, sofa set and a table and chair were missing from the office. The police officers ignored the complaint made by applicant in that regard and instead they started speaking loudly and rudely and accusing the applicant for illegally taking possession of the office premises. Thereafter, Shri Rajat Kalsan, his brother, gunman and the clerk left the spot and filed a written complaint to the SHO, PS City Hansi, Distt. Hisar. The SHO then called Shri Rajat Kalsan and the landlord of the office premises agreed that the missing articles of Shri Rajat Kalsan were in his possession. That inspite of this the police officers registered an FIR against Shri Rajat Kalsan and his brother and the gunman stating that the applicant was wrongfully occupying the office premises.
6. The role of the Haryana police in this regard needs to be mentioned. When the first assault took place on 4.4.11 and the office of the advocate Rajat Kalsan was ransacked and all his case files were taken away, Shri Rajat Kalsan and others went to the SHO, Shri Balbir Singh, PS City Hansi, to complain, his complaint was not taken and no FIR was registered. This is the situation even today.
7. The landlord and his relatives who were present when the office was ransacked were Rakesh @ Vicky, Raju Tyrewala, Balli and Rocky s/o Subhash, Chimman, and others alongwith persons from the dominant community.
8. On the contrary, the SHO promptly registered an FIR by the landlord of the premises against Shri Rajat Kalsan and others including the gunman Shri Veerpal to the effect that Shri Rajat Kalsan and others had tried to forcibly take possession of his premises. The truth is that two months prior to this incident Shri Rajat Kalsan had taken the room on rent for his office on an oral agreement for payment of Rs. 1,100 per month and had shifted his belongings there which included 500-600 court files and a sofa set and other furniture. All this has been taken away by the landlord together with other persons from the dominant community. The shocking situation is that this ransacking of the premises took place in the presence of the Sub Inspector Ranbir Singh of PS City Hansi together with about 7 constables and in the presence of Advocate Rajat Kalsan, Advocate Rohit Kalsan, Clerk Blaraj Singh and Shri Pradeep Singh and also the gunman Shri Veerpal who had been provided to Shri Rajat Kalsan by the Haryana Police.



9. Shri Veerpal, gunman at the time tried to stop the group from advancing towards Shri Rajat Kalsan but since the police were on the side of the dominant community he was forced to step aside. The police scolded Advocate Rajat Kalsan repeatedly as if he was the wrong doer.
10. Advocate Shri Kalsan therefore filed an application before the said ASJ praying as under:
 

*“It is, therefore, prayed that necessary directions be issued to the Administrative Authorities including the Haryana Police and Delhi Police to take precautionary steps to ensure that safety of the counsels for the victims in the court premises and outside.”*
11. On the above application the Learned Trial Court Judge made, inter alia, the following order:
 

*“Applications are filed by the counsels for the victims seeking appropriate directions for their safety and for the protection of the victim / witnesses and their families. Copies are supplied to the DSP Amrik Singh who is directed to file his report on the same. Also issue notice on the application to State (GNCT of Delhi) for reply and arguments.*

...

*I may clarify that this order shall not come in the way of victims to move the Hon'ble Supreme Court for appropriate orders in this regard as prayed by them before this court.”*
12. Despite notice being issued by the Trial Court an even more serious assault took place on 16.4.11. On that day at 11 a.m. while advocate Rikhi Ram (advocate for the victims in the Hisar District Court and father of Advocate Shri Rajat Kalsan) was reading the newspapers in the Bar room, Advocate Surajmal Jakhar came upto him and abused him, his mother, his sister and gave caste abuses. At that time Surender Yadav, Advocate and Bhagat Singh Ranga, Advocate who were present. Of these two, Surender Yadav was an advocate for the victim community when the trial was going on before the Hisar Trial Court. In front of them Surajmal Jakhar, advocate, from the dominant community, slapped advocate Rikhi Ram and tore his clothes and stated that he would teach him a lesson for being an advocate against the dominant community and that he would kill advocate Rikhi Ram on that day itself. Advocate Rikhi Ram was saved by the presence of the other two advocates who prevented any further beating. However, Surajmal Jakhar continued to say that if advocate Rajat Kalsan, son of Advocate Rikhi Ram, does not remove himself from the trial his entire family would be killed. Advocate Rikhi Ram therefore made a complaint dated 16.4.11 before the SHO, PS City Hansi. Hereto annexed and marked as *Annexure A-1* is a copy of the said letter dated 16.4.11 to the SHO, PS City Hansi.
13. In the process of the assault Advocate Rikhi Ram was hit on the head where he had a brain operation for a brain hemorrhage two years ago and he was undergoing treatment even to this date.
14. Immediately after the assault Advocate Rajat Kalsan also came to the Court complex and he together with the other two advocates' abovementioned brought Advocate Rikhi Ram to the ground floor and was trying to take him to the hospital and to safety. At this stage also Advocate

Surajmal Jakhar, Advocate Daljit Siwach, Barusingh Singhmar, Sudhir Berwal and Wazir Singh Poonia, all advocates abused Advocate Rikhi Ram on his caste and attempted to take hold of Advocate Rikhi Ram and pushed him around. Advocate Rajat Kalsan and the two advocates abovementioned resisted and managed to take Advocate Rikhi Ram to hospital by car.

15. As they were proceeding to Hansi Civil hospital, a group of dominant caste persons gathered at the entrance of the hospital and it was not possible to take Advocate Rikhi Ram there. The car therefore turned and went towards Civil Hospital, Hisar where Advocate Rikhi Ram was examined by doctors and was admitted on 16.4.11 at about 12.45 p.m. He is in hospital even today i.e. 17.4.11. X- rays were taken of his head. The opinion of the neurosurgeon has been requested by the doctors but the neurosurgeon was not available.
16. Shri Rikhi Ram, Advocate, Shri Rajat Kalsan, Advocate, Shri Rohit Kalsan, Advocate, Shri Bhagat Singh Ranga, Advocate, Shri Surendra Yadav, Advocate, Shri Vishal Vimal, Advocate, Shri Bhrama Swaroop and Raj Kumar Vimal, brothers-in-law of Advocate Rikhi Ram, all apprehend assaults and even threats to their lives as the assailants have repeatedly said that they will finish off these persons.
17. Regarding the incident of 16.4.11, gunman Shri Veerpal was again present with Advocate Rajat Kalsan. A most unusual development took place with the police registering an FIR against alternative gunman Shri Jitender who was not present at all. He has been suspended.
18. Thus, as can be seen from the above, the dominant community on behalf of the accused persons are engaging in acts of utter lawlessness. As a result the abovementioned persons cannot, for the time being, practice safely in the Hansi/Hisar Courts and have been forced to come to Delhi and have temporarily stopped their practice and are currently residing in some makeshift accommodation in Delhi.

## **Prayer**

In the facts and circumstances of the case, the Petitioner therefore humbly prays as follows:

- (a) For an order directing the Chief Minister of the State of Haryana and the Director General of Police to give a clear undertaking to this Court that Shri Rikhi Ram, Shri Rajat Kalsan, Shri Rohit Kalsan, Shri Surender Yadav, Shri Bhagat Singh Ranga, and Shri Vishal Vimal, Advocates and their families will not be harmed in any manner and that effective police protection will be provided.
- (b) In addition to the above for an order directing the Union of India to provide full and effective CRPF protection to all the persons abovementioned and their families so that no harm whatsoever comes to them.

- (c) For an order directing the Government of NCT of Delhi to provide temporary accommodation to Shri Rajat Kalsan, Shri Rohit Kalsan, Shri Surender Yadav, Shri Bhagat Singh Ranga, and Shri Vishal Vimal, Advocates at Delhi at the cost of the Government of Haryana till such time as the threats to their safety continue.
- (d) For an order directing the Director General of Police, Haryana to ensure that all the files and other properties of Advocate Rajat Kalsan are recovered and returned to him immediately.
- (e) For an order directing the SHO, PS City Hansi to treat the contents of this application as an FIR(s) on behalf of Advocate Rajat Kalsan and to register the same immediately and to take action in accordance with law.
- (f) For any other orders /directions as this Hon'ble Court may deem fit and proper.

And for this act of kindness the petitioner as in duty bound shall ever pray.

Filed by

Jyoti Mendiratta

Advocate for the Petitioner

Drawn on: 17.04.11

Filed on: 18.04.11

**IN THE SUPREME COURT OF INDIA**  
**CIVIL ORIGINAL JURISDICTION**  
**I.A. NO. \_\_\_\_\_ OF 2011**  
**IN**  
**WRIT PETITION (CIVIL) NO. 211 OF 2010**  
**IN THE MATTER OF:**  
**Jaswant & Ors. ... Petitioners**  
**Versus**  
**State of Haryana & Ors. ... Respondents**

AFFIDAVIT

I, Satyavan, S/o Shri Roshan Lal, aged about 30 years, resident of Vill & P.O Mirchpur, Tehsil – Narnaund, District Hisar, Haryana presently at Delhi, do hereby solemnly state and affirm as under: -

1. That I am the Petitioner no. 3 in the above-mentioned matter and in such capacity I am well conversant with the facts and circumstances of this case and am competent to swear this affidavit.
2. That the contents of the accompanying Application for Directions have been read out to me in Hindi and explained.
3. That I have gone through the accompanying Application for Directions at pages to 1 to 8, and Annexures and say that the same has been drafted under my instructions and the contents thereof are true and correct true to the best of my knowledge and belief.

DEPONENT

VERIFICATION

Verified at New Delhi on this the day of 2010 that the contents of the above affidavit are true to best my knowledge and belief and nothing material has been concealed therefrom.

DEPONENT

**TRUE TRANSLATED COPY OF THE LETTER DATED 16.4.11 TO THE SHO, PS CITY HANSI**

To,

SHO,

PS City Hansi,

District Hisar.

Sub: Regarding taking action against accused person as stated below

Sir,

I submit most respectfully that i am a lawyer by profession, practicing in Hansi Court since past 40 years. My son Rajat Kalsan is advocate for the victims of Mirchpur incident. Because of this reason, Pradhan Surajmal Jakhar who is also a member in Hansi Bar Association keeps hostility towards him.

Today on 16.04.11, in the morning around 11 AM, while i was reading newspaper in Bar Room, Surajmal suddenly came in and started giving abuses of mother, sister and caste. Surendra Yadav Advocate and Bhagat Singh Ranga Advocate also reached on the spot. In front of them, he slapped me and teard off my clothes and stated that he would teach a lesson for being an advocate against jats and that he would kill me today itself.

I would have been killed, had Surender Yadav and Bhagat Singh Ranga not intervened at the spot. He alongwith other members of Bar belonging to Jat community declared if Rajat is not removed from Mirchpur case, entire family would be killed.

Please take appropriate action.

Sd/-

Complainant

Rikhiram Advocate, Hansi

Dated: 16.04.11

**IN THE SUPREME COURT OF INDIA**  
**CIVIL ORIGINAL JURISDICTION**  
**I.A. NO. OF 2011**  
**IN**  
**WRIT PETITION (C) NO. 211 OF 2010**  
**IN THE MATTER OF:**  
**Jaswant & Ors. ... Petitioners**  
**Versus**  
**State of Haryana & Ors. ... Respondents**

**APPLICATION FOR DIRECTIONS**

TO,

THE HON'BLE CHIEF JUSTICE  
AND HIS LORDSHIPS COMPANION JUSTICES  
OF THE SUPREME COURT OF INDIA

THE APPLICATION OF THE  
PETITIONER ABOVENAMED

Most respectfully showeth that:

1. The petitioners have filed this Writ Petition under Article 32 of the Constitution of India by way of a public interest litigation for issuance of appropriate directions to the Respondents for seeking adequate compensation, relief, rehabilitation, and security, as per Articles 14, 15, 16, 21, 21A, and 29 of the Constitution of India for the victims of the Dalit atrocity in village Mirchpur.
2. That the petitioners are filing this Application to be read with I.A. Nos. 3 and 4 of 2010 for seeking protection for the victim witnesses and their families in view of the increased pressure and threats being faced by the victim witnesses and their families after the commencement of the hearing of the evidence in the case before the Learned Additional Sessions Judge, Dr. Kamini Lau, Rohini Court, Delhi. That as the victim witnesses have started deposing before the Hon'ble Court at Rohini, the threats to them and their families have increased. They fear that returning to Haryana would mean putting their and their families lives at grave risk. This is especially more so the case with the victim witnesses who have identified the accused persons present at the time of the massacre.

3. That after the case was transferred to the Court of the Learned Additional Sessions Judge, Dr. Kamini Lau, at Rohini, Delhi many of the victims who were till then still in the village Mirchpur were also forced to move out due to the increased threats given to them by the dominant community, as they were given an ultimatum that either they should compromise or suffer the consequences. That in view of the increased pressure from the dominant community and lack of support from the administrative authorities, the victims went to different places in search of jobs and shelter. However, even in the places where they migrated the members of the dominant community followed them and threatened them.
4. That seeing the atrocities being done to the victim community, one Shri Vedpal Tanwar, a person from a different community other than the dominant community, who has a farmhouse in Hisar, Haryana came to their support and gave them shelter in his farmhouse in Hisar. He put up tents for the victims and their families and gave them free food and shelter. That for the last two months about 120 families are living in his farmhouse at Hisar, Haryana. Pursuant to the support given by these victims by a member of another community, the dominant community started targeting Shri Vedpal Tanwar and registered false cases against him. The farmhouse where he has given shelter to these victims was ordered to be demolished, while other farmhouses in the vicinity were not touched. Further, when one of the schools near the farmhouse gave admission to the children of these victims, the dominant community closed the school in protest. That after these victim families have been given protection by Vedpal Singh Tanwar, he has also been implicated in many false cases. That in view of the above the victims and their families are in constant fear and threat. It is therefore important to provide them protection wherever they are residing including at the Tanwar farmhouse.
5. That since 22.03.11, the victim witnesses have started deposing before the Court of Dr. Kamini Lau, Additional Sessions Judge, Rohini, Delhi, temporary stay arrangement has been made at the home in Lampur, by the Government of NCT of Delhi. However, the home is surrounded by the dominant community and the witnesses are living in constant fear.
6. That the witnesses are being provided security while they are being summoned from their place of residence till they give their statement, however after their statement they are being asked to go back. That the witnesses who have truthfully deposed and have identified the accused persons are in danger of losing their lives and are scared to go back to Haryana. They and their families are receiving threats on a daily basis. Further, since these families have been without any source of income for almost one year, they are now living at the verge of poverty and are not able to sustain themselves. That the women, children and elderly are especially vulnerable and have no place to go or the means to fend for themselves.
7. That in order to provide continued stay arrangements for the witnesses who have already deposed in Delhi, the counsels for the victims moved an application in the Court of Dr. Kamini

Lau, Learned Additional Sessions Judge, Rohini Court, New Delhi dated 08.04.2011. The learned ASJ passed the following interim directions vide order dated 8.4.11,

*“It is submitted that many of the witnesses who have already been examined by this court and have supported the prosecution case having identified the accused persons, are presently housed at Lampur Seva Kendra and are under apprehension of threats the moment they are out of Delhi. It is submitted by the Ld. Counsel that these witnesses and their families would be exposed to the accused persons in case if they are compelled to leave Delhi. He requests that directions may be issued to the authorities to permit these witnesses to stay at the place earmarked by Delhi Administration till such time of completion of the evidence of the prosecution, It is also submitted by the victims counsel that they are also in a process of moving the Hon'ble Supreme Court for appropriate orders in this regard and if the witnesses are compelled to leave, their petition would become infructuous.*

*I have considered the submissions made before me. Notice has already been issued to the GNCT of Delhi on the similar application filed by the victims (as aforesaid). I am not oblivious of the fact that the protection of the witnesses is required to continue not only till the date of their examination in the court but thereafter keeping in view the circumstances of the case and their apprehensions even thereafter. Hence, keeping in view the exceptional circumstances as pleaded by some of the victims who apprehend danger to their lives and to the lives of their family members and also taking into account the various complaints placed on record by the victims showing that they are prima facie under pressure and threats from the persons of dominant community, the interest of justice require that till such time the witnesses of the prosecution are under examination before this court, adequate arrangements for their security is made in order to ensure that they are under no pressure. For this reason I hereby permit the witnesses who have already been examined in the court, to stay at the place earmarked by the GNCT of Delhi till such time of disposal of their application filed by them before this court today on which notice has been issued to the GNCT of Delhi. I may clarify that this order shall not come in the way of victims to move the Hon'ble Supreme Court for appropriate orders in this regard as prayed by them before this court.”*

A copy of the order dated 08.04.2011 passed by the Learned Additional Sessions Judge, Rohini Court, New Delhi is annexed and marked herewith as *Annexure A-1*.

8. That on 19.4.11, the Home Department, Delhi Secretariat, Govt of NCT of Delhi has filed a status report in the case titled State v/s Dharambir & Ors. in which it was stated as under, *“The matter was discussed in a meeting with the counsel for victims, Sh. Shreeji Bhavasar. It was decided that efforts should be made to accommodate the victims at Haryana Bhavan on Copernicus Marg, New Delhi. GNCT of Delhi has, in principle, agreed to take up the matter of accommodation of the victims/ witnesses at Haryana Bhavan, Copernicus Marg, New Delhi, with the Govt of Haryana. The security concerns of the victims /witnesses will be addressed by Delhi Police.”*

A copy of the reply dated 19.04.2011 passed by the Home Department, Delhi Secretariat, Govt of NCT of Delhi is annexed and marked herewith as *Annexure A-2*.



9. That in view of the failure of the State Government and the District authorities of Haryana to take appropriate measures and provide adequate security and appropriate protection to the members of the victim community even after various applications, requests and directions issued to the authorities, as well as the counsels of the victims the applicants are constrained to approach this Hon'ble Court for seeking appropriate reliefs and directions.

### **Prayer**

In the facts and circumstances of the case, the Petitioners therefore humbly pray as follows:

- (a) For an order/s or direction to make adequate arrangements for boarding and lodging of victim witnesses and their families in Delhi till such time they feel safe to return to Haryana.
- (b) For an order/s or direction to provide adequate security by the Delhi Police and CRPF to the victim witnesses and their families both in Delhi and in Haryana, including in the Tanwar farmhouse in Hisar, Haryana.
- (c) For any other order/s or direction/s as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

Aand for this act of kindness the petitioner as in duty bound shall ever pray.

Filed by

Jyoti Mendiratta

Advocate for the petitioner

Drawn on: 21.04.2011

Filed on: .04.11

**IN THE SUPREME COURT OF INDIA**  
**CIVIL ORIGINAL JURISDICTION**  
**I.A. NO. \_\_\_\_\_ OF 2011**  
**IN**  
**WRIT PETITION (CIVIL) NO. 211 OF 2010**  
**IN THE MATTER OF:**  
**Jaswant & Ors. ... Petitioners**  
**Versus**  
**State of Haryana & Ors. ... Respondents**

AFFIDAVIT

I, Satyavan, S/o Shri Roshan Lal, aged about 30 years, resident of Vill & P.O Mirchpur, Tehsil – Narnaund, District Hisar, Haryana presently at Delhi, do hereby solemnly state and affirm as under: -

1. That I am the Petitioner no. 3 in the above-mentioned matter and in such capacity I am well conversant with the facts and circumstances of this case and am competent to swear this affidavit.
2. That the contents of the accompanying Application have been read out to me in Hindi and explained.
3. That I have gone through the accompanying Application at pages 1 to 7, and Annexures and say that the same has been drafted under my instructions and the contents thereof are true and correct true to the best of my knowledge and belief.

DEPONENT

VERIFICATION

Verified at New Delhi on this the day of 2011 that the contents of the above affidavit are true to best my knowledge and belief and nothing material has been concealed therefrom.

DEPONENT

**TRUE COPY OF THE ORDER DATED 08.04.2011 PASSED BY THE LEARNED ADDITIONAL SESSIONS  
JUDGE, ROHINI COURT, NEW DELHI**

**State Vs. Dharambir etc.**

FIR No. 166/2010  
PS. Narnaud  
8.4.2011

**Present:**

Sh. Rakesh Kumar and Sh. Taufiq Ahmed, Special Public Prosecutors [SC/ST (POA) Act] for the state.

Sh. S. P. Ahluwalia, Amicus Curiae and Special Public Prosecutor for the State of Haryana along with Sh. Rupansh Purohit, Sh. Pradeep Rana and Sh. Dinesh Kumar, Advocates.

Sh. Satish Tamta, Special PP for the victims along with Sh. Rajat Kulsan and Sh. Shreeji Bhavsar Advocates for the complainants/victims.

Accused Ved Pal S/o Daya Nand is present on bail with counsel.

All other accused are present in judicial custody with Sh. B. S. Rana, Sh. R. S. Malik, Sh. Rajbir Malik, Sh. Anil Rathee and Sh. Pradeep Hooda, Advocates for the accused persons.

Investigating officers DSP Tula Ram and DSP Amrik Singh are present.

PW41 Sunita and PW42 Vicky have been examined and discharged. The witnesses who have already been examined in the court, may be taken back to Haryana under the security of Haryana Police and if they want to leave Delhi of their own, they are permitted to do so after prior intimation in writing to Assistant Commissioner of Police, Narela.

A typographical error has been pointed at Page 8, 3<sup>rd</sup> Para of Order on Charge dated 10.03.2011 wherein judgement has been wrongly mentioned as R. S. Malik Vs. A. R. Antulay AIR 1986 which should be read as R. S. Naik Vs. A. R. Antulay AIR 1986, Pg. 2045. The typographical error has been corrected on the judicial file itself against the signatures of the court.

Monthly report has been filed by DSP Amrik Singh, which is taken on record.

Applications are filed by the counsels for the victims seeking appropriate directions for their safety and for the protection of the victim/ witnesses and their families. Copies are supplied to the DSP Amrik Singh who is directed to file his report on the same. Also issue notice on the application to State (GNCT of Delhi) for reply and arguments.

On request of the Ld. Special PP for the victims who wants to place on record some authorities in support of his application, the orders on the application for amendment of charge against the

accused Ved Pal S/o Daya Nand is deferred which application shall be taken up for further hearing on the next date.

Case be listed for orders on this application for amendment of charge file on behalf of the victims and remaining prosecution evidence on the date already fixed i.e. **18.04.2011**.

At this stage, an application has been filed by Sh. Shreeji Bhavsar Advocate for the victims seeking appropriate directions. It is submitted that many of the witnesses who have already been examined by this court and have supported the prosecution case having identified the accused persons, are presently housed at Lampur Seva Kendra and are under apprehension of threats the moment they are out of Delhi. It is submitted by the Ld. counsel that these witnesses and their families would be exposed to the accused persons in case if they are compelled to leave Delhi. He requests that directions may be issued to the authorities to permit these witnesses to stay at the place earmarked by Delhi Administration till such time of completion of the evidence of the prosecution, it is also submitted by the victims counsel that they are also in a process of moving the Hon'ble Supreme Court for appropriate orders in this regard and if the witnesses are compelled to leave, their petition would become infructuous.

I have considered the submissions made before me. Notice has already been issued to the GNCT of Delhi on the similar application filed by the victims (as aforesaid). I am not oblivious of the fact that the protection of the witnesses is required to continue not only till the date of their examination in the court but thereafter keeping in view the circumstances of the case and their apprehensions even thereafter. Hence, keeping in view the exceptional circumstances as pleaded by some of the victims who apprehend danger to their lives and to the lives of their family members and also taking into account the various prima-facie under pressure and threats from the persons of dominant community, the interest of justice that till such time the witnesses of the prosecution are under examination before this court, adequate arrangements for their security is made in order to ensure that they are under no pressure. For this reason I hereby permit the witnesses who have already been examined in the court, to stay at the place earmarked by the GNCT of Delhi till such time of disposal of their application filed by them before this court today on which notice has been issued to the GNCT of Delhi. I may clarify that this order shall not come in the way of victims to move the Hon'ble Supreme Court for appropriate orders in this regard as prayed by them before this court.

On request of the Ld. counsel for the victims, a copy of this order be given dasti to him for service upon the GNCT of Delhi along with the notice.

(Dr. Kamini Lau)

ASJ/NW-II, Rohini/8.4.2011

**TRUE COPY OF THE REPLY DATED 19.04.2011 PASSED BY THE HOME DEPARTMENT, DELHI  
SECRETARIAT, GOVT OF NCT OF DELHI**

**HOME DEPARTMENT  
'C' WING, 5<sup>TH</sup> FLOOR, DELHI SECRETARIAT, I. P. ESTATE  
NEW DELHI GOVT OF NCT OF DELHI  
STATUS REPORT IN THE CASE FIR NO. 166/2010. P.S NARNAUD**

**State  
Vs  
Dharambir & Ors.**

The point wise stand of Govt. of NCT of Delhi, on the victim's application dated 08.04.2011 is as under:-

- 8(a) Adequate security to the victims / witnesses is being provided at their place of stay and also during their movement to the court and back, by Delhi Police.
- 8(b) The main concern of the witnesses has been the inadequacies felt by them at the Lampur Welfare Home, which has been earmarked by the GNCT of Delhi for their stay till the disposal of trial. In this regard, on the request of the counsel for the victims, alternative places were explored along with them. Principal Secretary( Home) along with Ms. Anubha Rastogi and Sh. Satish Tamta, visited Ambedkar Bhavan, Garhwal Bhavan, Babu Jagjivan Ram Vidya Bhavan, in an around Jhandewalan, Delhi. However, none of these were available to accommodate the witnesses. Thereafter, another place i.e NDMC Barat Ghar at Aliganj, was also visited. This was agreed to by the Counsel of the victims but, subsequently, they were not willing to shift to this place. The matter was discussed in a meeting with the counsel for victims, Sh. Shreeji Bhavasar. It was decided that efforts should be made to accommodate the victims at Haryana Bhavan on Copernicus Marg, New Delhi. GNCT of Delhi has, in principle, agreed to take up the matter of accommodation of the victims/ witnesses at Haryana Bhavan, Copernicus Marg, New Delhi, with the Govt of Haryana. The security concerns of the victims /witnesses will be addressed by Delhi Police.
- 8(c) Presently, Govt. of NCT of Delhi is providing stay, food, medical facilities, newspapers etc, to the victims / witnesses at their place of stay, free of cost, for the entire course of trial. However, this may be treated as interim reply on the matter of paying minimum wages, etc., as requested by them. It may be necessary to consult the Govt. of Haryana on the matter, apart from consulting the Delhi Government.

8(d) Free medical aide, free food and other recreational facilities are being provided at the Lampur Home. The question of the expenses being reimbursed has to be taken up afresh with the Govt. of Haryana and Govt. of NCT of Delhi, following a decision, in the proposal to shift them to the Haryana Bhawan, Delhi. As such, this may be treated as an interim reply.

8(e) As on date, there is no provision to provide interim admission to the victims / witnesses children in Delhi schools, free of cost during the course of trial. We will be consulting the Directorate of Education Govt. of NCT of Delhi, apart from consulting the Govt. of Haryana, on the matter. As such, this may be treated as an interim reply.

Sd/-

Jt. Secretary (Home)

**IN THE SUPREME COURT OF INDIA**  
**CIVIL ORIGINAL JURISDICTION**  
**I.A. NO. \_\_\_\_\_ OF 2010**  
**IN**  
**WRIT PETITION (CIVIL) NO. 211 OF 2010**  
**IN THE MATTER OF:**  
**Jaswant & Ors. ... Petitioners**  
**Versus**  
**State of Haryana & Ors. ... Respondents**

**APPLICATION FOR DIRECTIONS**

TO,

THE HON'BLE CHIEF JUSTICE  
AND HIS LORDSHIPS COMPANION JUSTICES  
OF THE SUPREME COURT OF INDIA

THE APPLICATION OF THE  
PETITIONER ABOVENAMED

Most respectfully showeth that:

1. The petitioners submit that they have filed this Writ Petition under Article 32 of the Constitution of India by way of a public interest litigation for issuance of appropriate directions to the Respondents. This Application is being filed because even after the last order of this Hon'ble Court the conditions have not improved. In fact they have become worse. Abuse and threats that they will be killed are made on a daily basis. Children are out of school. A social and economic boycott is in place. The trials are being sabotaged. The food supplies have come to an end. The prospect of rehabilitation appears nil. The administration has become more aggressive despite the pendency of the case in the Supreme Court. If the situation continues the entire village will be forced to flee once again within a month's time.

**(A) Wrong statement regarding persons residing in the temple**

2. By order dated 2.6.2010 this Hon'ble Court observed as under:

*"Mr. H.S. Hooda, learned Advocate General gave out that most of the families which had migrated from the village in the wake of the incident which occurred on 21.04.2010 have returned. This has been disputed by Mr. Colin Gonsalves who stated that large number of families are still living in Balmiki temple at Panchkuian Road, Delhi.*

...

*Mr. Yudhbir Singh Khyalia who is present in the Court is directed to personally visit Balmiki Mandir, Panchkuian Road and ascertain the exact number of Balmiki families of Mirchpur village which are living in the temple. On the basis of his assessment, Mr. Yudhbir Singh Khyalia should file an additional affidavit in this Court within a period of four weeks."*

3. Accordingly Shri Yudhbir Singh Khyalia, filed this affidavit dated July 2010 stating in para 2 thereof as under:

*"That in compliance of the aforesaid directions the deponent visited Balmiki Mandir, Panchkuian Road, New Delhi on the same day i.e. 2.6.2010, at about 1.30 p.m...*

*About 120-125 people (men, women and children) were found present in the Temple."*

4. Therefore the statement of the Learned Advocate General to the effect that "most of the families... have returned" was an incorrect statement.
5. After Shri Khyalia promised normalcy the families returned to Mirchpur only to find that the promise was an empty one. A fact-finding team of concerned social workers visited the villages at Mirchpur, Adampur and city of Hisar where the victim families are currently residing and interviewed them on 9.7.2010. Thereafter the Petitioners filed in this Hon'ble Court an additional affidavit dated 16.7.10 putting on record the events that have taken place after the last order of this Hon'ble Court dated 2.6.2010.
6. The fact-finding report discloses that even today only 100 out of the 150 victim families are residing in Mirchpur. The rest are at Adampur (10), Hisar (12), Jind (11), Barwala (12), Fatehabad (5) and Delhi (3). These persons who have shifted from Mirchpur are those who had relatives elsewhere. The families currently residing in Mirchpur are also looking for outside places to which they can shift.

**(B) Wrong statement regarding children attending school**

7. The affidavit of Shri Khyalia, Deputy Commissioner, also mentions at paragraph 5:  
*"Majority of the children are attending school".*

This statement also appears to be incorrect as the fact-finding report which is based on extensive interviews with the mothers shows that none of the children are attending school. (page 9 and 10 of the additional affidavit).

8. When the children were interviewed at Adampur and Hisar by the fact finding team they said that they could not attend school elsewhere because the school leaving certificates were not granted although they repeatedly approached the school authorities at Mirchpur for the same. At Mirchpur, the children said that they were very scared to go to school. One girl, Jyoti aged 14 years who attended school after this incidents died out of shock after she was scolded and threatened by the teacher.



**(C) Compensation**

9. As against the 25 houses totally burnt, the government has paid compensation for only 18. Those left out are:
- i) Sanjay Kumar S/o Satpal
  - ii) Suresh S/o Chander Singh
  - iii) Dilbagh S/o Dhup Singh
  - iv) Dilbagh S/o Sube Singh
  - v) Sattu S/o Mange Ram
  - vi) Umesh S/o Chander Singh
  - vii) Sajjana S/o Ram Swarup
10. Government has failed to pay compensation to those whose houses were damaged and articles looted. The list of 101 such families with the details of the articles looted and damaged are at Annexure F to the additional affidavit dated 16.7.2010.

**(D) Construction of houses**

11. By order dated 2.6.2010 this Hon'ble Court made the following observations:

*“Mr. H.S. Hooda, learned Advocate General gave out that in all 18 houses belonging to the members of the Balmiki community were damaged in the incident of 21.04.2010 and the State administration will build new houses for them under the Indira Avas Yojana within a period of next 60 days.”*

In accordance with the order of this Hon'ble Court the state government began the construction of 18 houses only but the construction is so poor (for details see additional affidavit page 5 and 6) that in the monsoon there is a risk that this new construction will come down again. Mud walls have been constructed instead of cement as originally constructed. The interiors and exteriors are unfinished. The floors have also been made of mud.

**(E) Accused persons roaming free**

12. The Superintendent of Police informed that 71 warrants of arrests have been issued by the police in addition to the 48 persons arrested. These 71 persons have not been arrested, according to the SP, as they are not in the village. However the victim families have seen these persons roaming around openly at the Khap Panchayat meetings (page 7, 11 additional affidavit). According to the Petitioners the police are openly colluding with the assailants. This can be seen from the fact that out of the 48 persons arrested about 15 persons has been released on bail.
13. The following threats were given to the victim families.

- (a) Joginder S/o Chattar Singh threatened Gulab Singh S/o Jai Ram and Jagpal S/o Bir Singh on 05.07.2010, abused them on their caste, told them not to come to the village, and that they will not be given milk or lassi.
- (b) Hukum Chand S/o Rolia Ram was going to the field in a drunk state on 14. 07.10 at 9 p.m. While passing through the lane of the Balmikis he threatened Gulab Singh S/o Jai Pal saying that we will pick up each person from the village and kill him.
- (c) 4 unidentified persons threatened Jaswant S/o Jagbir on 24.07.2010 to withdraw the complaint or else they would kill him.
- (d) Dinesh S/o Chander Singh, Amit S/o Suraj Bhan and another boy of Balmiki village had gone to Jind to buy clothes. 4-5 boys of the dominant caste surrounded them, hit them and stole their clothes. They also threatened to kill them.

All the other families are also continuously threatened to leave the village or else they will be killed.

14. Members of the dominant community now dominate the so-called Peace Committee whose purpose, it would appear, is solely to pressurize the victim families to withdraw their cases.
15. On 11.7.2010, 300 persons attended a Khap Panchayat and called for the withdrawal of all cases against the accused persons. An atmosphere of terror has been created.
16. On 18.7.2010 another Khap Panchayat was called. On hearing that the victim community was unwilling to withdraw the cases the dominant community announced full boycott. Nothing will be sold to a member of the victim community. No employment will be given to them. They were told to die in their houses.
17. Petitioners submit that it is not possible to have a fair trial within the State of Haryana as the dominant community will ensure by force and violence that no person of the victim community will be able to give evidence against the accused persons. It appears that the I.O. and the Public Prosecutors are all from the dominant community who will be forced to obey the orders of the Khap Panchayat. Hence prayer is being made for witness protection and for transfer of the cases to Delhi.

**(F) NREGA**

18. By order dated 2.6.2010 this Hon'ble Court observed as under:  
*"Mr. Hooda further stated that one member of each family, which had earlier migrated due to the incident of 21.04.2010 will be provided employment under NREGA and/or other State schemes till the next date of hearing."*
19. However, out of the 150 victim families, employment under NREGA was provided to about 65 persons but only for one or two days. NREGA employment is for 100 days. Employment was

given on the day when the Joint Parliamentary Committee came to visit Mirchpur. Employment was discontinued on the next day.

**(G) Social and economic boycott**

20. This Hon'ble Court's order dated 2.6.2010 required the state government to rehabilitate the victims. Instead a social and economic boycott started after the victims left the temple at Delhi and returned to Mirchpur. Prior to the boycott, more than 100 victim families were working on the Jat owned properties. That has been completely stopped. The victim families are now not allowed to purchase food such as vegetables and milk from the shops. The free rations of 2 quintals provided by the government in April have been exhausted.

**(H) Women fear for their lives**

21. This has been put on record at page 9 of the additional affidavit.

22. The victim families have had discussions with the authorities including Kumari Selja, Minister of Urban Development in the Union Cabinet. The Hon'ble Minister agreed to provide alternative land for rehabilitation at Talwadirana, which is 50 kilometers from Mirchpur and where substantial government land is available. This has not been done.

23. Petitioners therefore pray for the following reliefs in addition to the reliefs requested in the petition:

**Prayer**

- (a) For an order directing the State of Haryana to provide 2 quintals of wheat per family every two months until further order.
- (b) For an order directing the State of Haryana to pay each of the 150 families Rs. 10,000 per month by way of subsistence allowance, which would include the education of the children elsewhere.
- (c) For an order directing the State of Haryana to ensure that School leaving certificates are provided to the children of the victim families.
- (d) For an order directing the State of Haryana to provide NREGA work continuously for one year at a place acceptable to and safe for the victim community.
- (e) For an order directing compensation of Rs. 1,00,000/- each to be paid to the 7 families listed at paragraph 8.
- (f) For an order directing the State of Haryana to allot land to the victim families for relocating at a safe place, preferably at Talwadirana, located 50 kms from Mirchpur village.

- (g) For an order transferring all the criminal cases relating to this incident to Delhi in accordance with the decision of the Supreme Court in *Zahira Habibulla H. Sheikh and Another vs. State of Gujarat and Ors.* (2004 (4) SCC 158).
- (h) For an order directing the appointment of special PPs with the concurrence of the victim community in accordance with the decision of the Supreme Court in *Zahira Habibulla H. Sheikh and Another vs. State of Gujarat and Ors.* (2004 (4) SCC 158).
- (i) For an order directing witness protection in accordance with the decision of the Supreme Court in *NHRC vs. State of Gujarat* (2009 (6) SCC 767) as deemed fit by the Hon'ble Court.
- (j) For an order directing permanent government employment to be provided to one member from each family by way of rehabilitation.

And for this act of kindness the petitioner as in duty bound shall ever pray.

Filed by

Jyoti Mendiratta

Advocate for the petitioner

drawn on: 19.07.2010

filed on: 20.07.10

**IN THE SUPREME COURT OF INDIA**  
**CIVIL ORIGINAL JURISDICTION**  
**WRIT PETITION (CIVIL) NO. 211 OF 2010**  
**IN THE MATTER OF:**  
**Jaswant & Ors. ... Petitioners**  
**Versus**  
**State of Haryana & Ors. ... Respondents**

**AFFIDAVIT ON BEHALF OF UNION OF INDIA (INDIAN RAILWAYS)**  
**AS PER DIRECTION DATED 31.01.2011 OF THIS HON'BLE COURT**

I, (Mrs.) Shelly Srivastava, Dy. Chief Commercial Manager (FM), Northern Railway Headquarters Office, Baroda House, New Delhi do hereby solemnly affirm and state as under:

1. That I am Dy. Chief Commercial Manager (FM), Northern Railway, Headquarters Office, Baroda House, and I am conversant with the issue relating to the disruption of Railway Traffic and losses caused on account of this, as born from the records of the office as such I am competent to swear this affidavit on behalf of the Union of India (Indian Railways).
2. That the above mentioned application was listed before this Hon'ble Court on 31.01.2011 and after hearing their Lordships were pleased to pass following order:-

*"While hearing the case on the additional affidavit and second supplementary affidavit filed on behalf of the petitioners, we noticed that the Commission appointed by the State Government to enquire into the incident which occurred in village Mirchpur of District Hisar issued warrant of arrest against one Satyavan son of Roshal Lal, Balmiki, resident of Mirchpur under Order XVI Rule 10. In reply to the Court's query, the learned Advocate General, State of Haryana submitted that the warrant must have been issued by the Commission after satisfying itself that provisions of Order XVI Rule 10 have been fully complied with. With a view to ascertain whether the warrant of arrest was issued against Satyavan after complying with the said provisions, we direct the Registrar-cum-Secretary of the Commission of Enquiry with headquarter at Chandigarh to file an affidavit within three weeks detailing the procedure adopted by the Commission before the warrant of arrest was issued.*

*The documents filed with the second supplementary affidavit also disclose that the rail route from Jind to Ferozpur, Delhi etc. was disrupted by a group of people. According to the learned Advocate General, there was peaceful dharna by members of various communities which resulted in disruption of rail traffic for 11 days.*

*Let notice be issued to the Union of India through Secretary, Railway Board. Shri A.K. Sharma, learned Counsel accepts notice on behalf of the Railway Board. The General Manager, Northern Railway is directed to instruct a senior officer to file affidavit detailing*

*the loss suffered by the railways on account of disruption of traffic on the route in question for 11 days. The required affidavit be filed within three weeks.*

*The Chief Secretary, State of Haryana should also file an affidavit giving the details of the loss suffered by the State on account of dharna which resulted in disruption of road and rail traffic for 11 days. The Chief Secretary should also give the details of steps taken by the State Government for ensuring that nobody is able to obstruct the free flow of traffic on the roads and rails.*

*List on 21.02.2011*

*Copy of the order be given dasti by today itself.”*

3. That the present affidavit is being filed as per direction of this Hon'ble Court. It is submitted that after receiving the letter from Advocate-on-Record and the notice from the Registry of this Hon'ble Court, the General Manager Northern Railway Baroda House, constituted a committee of four members to assess the losses caused to the Railway Administration on account of above mentioned Dharna and disruption of the passenger and goods traffic.
4. That the said Committee collected required information from different section /divisions/ departments regarding the disruption of passenger and goods traffic and same was discussed and analysed by the members of the committee. after detail study and deliberations the committee assessed the loss of freight earning to the tune of Rs. 32 crores and loss of passenger earning to the tune of Rs. 1,82,75,806. Further the haulage charges loss was assessed to the tune of Rs. 5,14,959. The loss towards the damage to the Railway property was assessed to the tune of Rs. 7.23 lacs. Thus the total loss (direct and indirect) was assessed to the tune of Rs. 33,95,14,038.

The true and correct copy of the Report dated 17.02.2011 submitted by the Committee constituted by the Northern Railway is enclosed herewith and marked as Annexure –A.

5. That the facts stated in this affidavit are true and correct to my knowledge based on record and nothing material has been concealed therefrom.

#### VERIFICATION

I, the above named deponent do hereby verify that the contents of this affidavit are true and correct to my knowledge based on record and nothing material has been concealed therefrom.

DEPONENT

Verified at New Delhi on this the 19<sup>th</sup> day of February 2011

DEPONENT

## NORTHERN RAILWAY

REPORT OF THE JA GRADE OFFICERS COMMITTEE NOMINATED TO ASSESS THE COMPLETE LOSSES CAUSED TO RAILWAYS BY DISRUPTION OF TRAFFIC DUE TO DHARNA BY JAT MAHASABHA AT JIND REGARDING RELOCATION OF THE RESIDENTS OF MIRCHPUR VILLAGE OF DISTRICT HISAR (HARYANA)

### Committee Members

1. Shri Deomani Dy. CCM/Co-ordinator
2. Shri S.C. Chaudhry Dy. CME/Chg
3. Shri Sunil Bhasker Dy. CE/TS
4. Smt Neeti Sarkar Dy. FA & CAO / Stores

**Sub:** WP No. 211 of 2010, titled Jaswant V/s State of Haryana and Ors in the Supreme Court of India

### Reference:

Vide Dy. GM/Law's Letter no. NR/HQ/LIT/SC/01/2011 dt 14.2.2011 nomination of four member committee comprising of following mentioned officers were notified:

1. Shri Deomani Dy. CCM/Co-ordination
2. Shri S.C. Chaudhry Dy. CME/Chg
3. Shri Sunil Bhasker Dy. CE/TS
4. Smt Neeti Sarkar Dy. FA & CAO / Stores

### 1. Proceedings

**(a) First meeting** of the Committee was held on 14.2.2011 itself at 17.00 hours.

**(b) Information Collection** – To check the losses due to disruption to Rail Traffic a reference was faxed to Divisional Railway Manager, Ambala and Firozpur and Chief Claims Officer/Northern Railway

Details of losses asked to be worked out were as under:

1. Traffic loss (passenger & goods)
2. Haulage losses
3. Damage to Railway property (movable/immovable etc.)
  - (a) Engineering, S&T, Electrical (General & TRD)
  - (b) Mechanical (Power, Carriage & Wagons)

4. Any report submitted by RPF in this regard may also be submitted along with above information.
5. The committee met on 17.02.2011 at 10.30 hours. The information received from divisions, Chief Freight Traffic Manager (CFTM), Northern Railway, Chief Passenger Traffic Manager (CPTM), Northern Railway, Chief Commercial Manager/Freight/Marketing (CCM/FM) and Chief Claims Officer (CCO), Northern Railway were discussed in details.

## 2. Methodology adopted

- (a) **Traffic Losses:** The information provided by the above mentioned authorities was deliberated by the committee in details and it was found that goods traffic losses and haulage losses due to diversion of Mail/Express trains through alternate or longer routes submitted by divisions and Headquarter were at variance. Committee is of the view that since consolidated position of goods traffic and haulage losses as compiled by Headquarter Officers CPTM, CCM/FM and CFTM takes a holistic view of detention and diversions of trails all over Northern Railway and its impact whereas the divisional data is limited to the divisional operation within the physical jurisdiction of division. Therefore committee decided to take into consideration the figures of goods traffic and haulage losses as advised by the CPTM, CCM/FM and CFTM having more reasoning. However, figures of loss to the passenger earning has been taken from the divisions as this figures takes care of reserve and unreserved both segments.
- (a) **Loss due to claims:** As per information received from Chief Claims Officer (CCO) Northern Railway, no claims have been received by Railway from its customers either passenger or goods traffic. As such the information in this regard was considered as NIL by the Committee.
- (c) **Damage to Railway property (Moveable/immovable):** The information received in this regard from divisions has been considered by the committee as most appropriate as assets are directly managed by divisional authorities.

## 3. Assessment of losses

### I. Traffic loss

- (a) **Goods traffic:** The agitation started from 15.1.2011 over a local law and order issue at Jind (Haryana state) and continued upto 26.11.11. the whole stream of traffic over South Punjab Railway Section (Shakurbasti to Bhatinda) was blocked. All the freight trains including those catering to Suratgarh and Lehra Mohabat power house were diverted to single line. Standard 1 interlocked Dhuri-Bathinda section). This agitation also spread to the Branch lines (Narwana-Kurukshetra) and also the Hisar region of North Western Railway which lead to blockade of Barwala power house as well. The approx. loss of freight earning of Rs. 32 crores over Northern Railway has been assessed by CFTM.



**(b) Passenger traffic:** Due to agitation trains were canceled and short terminated. Trains diversion and short termination is as under:

- Mail/Express trains of Rohtak-Jind section were diverted via Rohtak- Bhiwani-Bhatinda
- Passenger trains of Rohtak Jind section were short terminated/originated at ex/Jind
- Passenger trains of Jind-Kurkshetra section were short terminated /originated at/ex Narwana.
- Passenger trains of Jind-Sirsa / Firozpur section were short terminated/Originated at/ex. Jind

This resulted in loss to passenger earning both reserved and unreserved category.

(a) Ambala Division:	Rs. 10,47,000/-
(b) Delhi Division	Rs. 1,68,82,000/-
(c) Firozpur Division	Rs. 3,46,806/-
Total	Rs. 1,82,75,806/-

II. **Haulage loss:** As per report of the CCM/FM after diversion of trains from the actual route differences come for 3628 kilometers. The haulage charges loss @ of Rs. 141.94 x 3628 work out to Rs. 5,14,959/-.

III. **Losses due to claims:** As per details received from CCO, Northern Railway, as a result of this agitation between Jind and Jhakar no claim has been lodged by any customer for passenger and Good services by his offices. The information in this regard may treated as NIL.

IV. **Damages to the property (Moveable/immovable):** As per information furnished by divisions following damages to the properties have been reported.

(a) Delhi division	Rs. 5.60 lacs
(b) Ambala Division	Rs. 1.63 lacs
(c) Firozpur division	Nil
Total	Rs. 7.23 lacs

### Conclusion

From the discussion in foregoing paras, the committee is of the opinion that there were two type of losses namely direct loss to property and indirect losses as result of diversion / short termination / cancellation of trains.

**(a) Direct Losses:** The total losses calculated for direct losses of property (moveable/immovable) amount to Rs. 7,23,000/- approx.

(b) **Indirect losses:** Due to diversion/short termination/cancellation of passenger services and freight services the calculated losses amount to Rs. 33,87,90,765/approx.

The committee concludes that due to disruption of rail traffic the total loss incurred to Railway amount to Rs. 33,95,14,038/- (Thirty three cores, ninety five lakhs, fourteen thousand and thirty eight only)

**Deomani**

**S.C. Chaudhry**

**Sunil Bhasker**

**Neeti Sarkar**

Dy. CCM/Co-ord

Dy. CME/Chg

Dy. CE/TS

Dy. FA&CAO/S

**IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION  
WRIT PETITION (C) 211 OF 2010  
IN THE MATTER OF:  
Jaswant & Ors. ... Petitioners  
Versus  
State of Haryana & Ors. ... Respondents**

**AFFIDAVIT OF PETITIONER NO. 3 DATED 24.02.2011**

IN REPLY TO THE AFFIDAVIT OF S.P. ARORA, REGISTRAR, COMMISSION OF INQUIRY

I, Satyavan, S/o Shri Roshan Lal, Petitioner No. 3, aged about 31 years, resident of Vill. & P.O Mirchpur, Tehsil – Narnaund, District Hisar, Haryana presently at Delhi, do hereby solemnly state and affirm as under:

1. It is stated by the Registrar of the Commission of Inquiry in his affidavit dated 14.2.11 that I was served and summoned to appear before the Commission on 2.12.10. It is stated that I was present in the PWD Rest House, Hansi 2.12.10 but did not appear before the Commission when called. It is then stated that Shri Prem Dhanda informed the Commission that I had left the premises due to some urgent work and would appear on 3.12.10. Since I did not appear on 3.12.10 a warrant of arrest was issued along with a summons for my presence on 6.1.11. Thereafter it is stated by the Registrar that I was examined on 22.1.11.
2. The above statements of the Registrar are incorrect in many aspects.  
  
Commission Proceedings 2.12.10
3. The first incorrect statement is that I was present in the Rest House, Hansi on 2.12.10. I was not in Hansi, I was not in Hisar. I was in Delhi on that day, as the case was on board in the Supreme Court and I was required to attend since all the affidavits filed in the Supreme Court were being made by me.
4. In the meanwhile members of the victim community who were initially inclined to give evidence before the Commission found that at the PWD Rest House, Hisar and the PWD Rest House, Hansi dominant caste members were at the premises making it not conducive for any of the victim community members to approach. Inside the room where the Hon'ble Judge sits, members of the dominant community sit in front of him. In Hisar and Hansi all the dominant caste persons occupy the seats and stand around. Many members of the press were moving around freely making it impossible for the victim to depose in confidence. If the Commission

is to understand the suffering of the victim community and the abject fear that they have today, the manner in which the proceedings are conducted does not inspire confidence that the Commission will ever arrive at the truth.

5. Secondly, the Commission has relied on the statement of one Prem Dhanda who informed the Commission that I had left the premises on 2.12.10 because of urgent work and that I would give evidence on 3.12.10. It is truly ironic that the Commission should rely on the statement of this person who lives with the Sarpanch, Mirchpur, Ms. Kamlesh. It is he who does all her work. He and the Sarpanch are from the dominant community.
6. On 2.12.10, my advocate Rajat Kalsan was present for the recording of the statements of Mr. Pradeep from the victim community. On his instructions I say that after the statement of Mr. Pradeep was recorded, the Advocate repeatedly requested for a copy of the statement but he was not given a copy and he ultimately left the Commission without a copy. The copy has not been provided to this date.
7. In recording the statement of Mr. Pradeep the Advocate for the Commission Shri R.K. Sheoran, also from the dominant community did so as if he was cross examining Mr. Pradeep. Thus the overall atmosphere in the Commission is not at all conducive for the determination of the truth. A copy of the newspaper report dated 3.12.10 of Dainik Bhaskar, Hisar is annexed and marked herewith as **Annexure A-1**.
8. Since Advocate Rajat Kalsan represents the victim community, the Commission could well have asked Mr. Kalsan about my whereabouts instead of relying on Shri Prem Dhanda. Again on instructions from Shri Kalsan I state that the Commission put no question to Mr. Kalsan about me even though he was present in the Commission for about 1 ½ hour. It is not known when the order dated 2.12.10 set out in the affidavit of the Registrar was passed. Advocate Kalsan was present until the proceedings ended on 2.12.10. This order was not made in his presence.
9. It is stated in the order that 5 victim witnesses were present and examined. They are Pradeep, Jaswant, Aman, Binder and Banni Singh. At least 3 of these witnesses are the hostile witnesses, namely, Jaswant, Aman and Binder. This appears to be the direction in which the Commission of Inquiry is proceeding.

Commission Proceeding 3.12.10

10. I remained unaware that Prem Dhanda had made a statement on my behalf that I would appear before the Commission 3.12.10. On that day I remained in Delhi to prepare another affidavit for the Supreme Court case. This is how on 3.12.10 the Commission came to a hasty conclusion that I was wilfully avoiding summons and issued a warrant for my arrest.

11. On 3.12.10 the statement of Sanjay S/o Banni Singh from the victim community was recorded. I am informed by Sanjay that copy of his statement was not given to him. We have some concern about the recording of statements and we are not sure about the integrity of the recording of statements.
12. On 6.1.11, I appeared at the Police Station to have the warrants cancelled. A few days later I appeared before the Commission to make my statement. Neither I nor the members of the Balmiki community have any confidence in this Commission of Inquiry set up by the Haryana Government yet we are forced to depose under threat of arrest. When I gave my evidence it was recorded in handwriting of another person and thereafter sent for typing. I asked for permission to write the complaint myself. This was refused and I was told that it would be written by a government advocate. I asked to see and get a copy of the handwritten statement but that was refused. I asked for a typed copy but that was refused. Even to this day neither has a copy of my statement been given to me nor has my sign been taken on the statement.
13. In similar circumstances three other victim witnesses namely, Sube Singh S/o Burra Ram, Gulab Singh S/o Jaila, and Chander Singh S/o Lacchman, have had their statements recorded and copies have not been given to them and they have not been allowed to sign their statements. The victim community is deeply apprehensive that there is going to be a different handwritten or typed version of what they actually deposed and that their statements will be twisted out of context in the final version.
14. The manner in which the hostile witnesses' statements are promptly recorded and signed gives rise to the apprehension that this is a one-sided enquiry in which the members of the dominant community are most comfortable.
15. That the contents of this affidavit are true and correct to the best of my knowledge and belief.

DEPONENT

#### VERIFICATION

Verified at New Delhi on this the 24th day of February 2011 that the contents of this affidavit are correct, no part of it is false and nothing material has been concealed therefrom.

DEPONENT

**TRANSLATED COPY OF THE NEWSPAPER REPORT****Dainik Bhaskar**

3<sup>rd</sup> December, 2010

MIRCHPUR SCANDAL TARA CHAND'S SON PRADEEP GIVES

EVIDENCE IN FRONT OF EX-JUSTICE IQBAL SINGH

BASTI SET ON FIRE IN FRONT OF POLICE

Bhaskar News, Hansi:

Chairman Ex-Justice Iqbal Singh of Judicial Inquiry Commission of Mirchpur scandal on Thursday, in PWD Rest House, recorded statements of witnesses. Tara Chand's son Pradeep killed in Mirchpur violence did not go in evidence last time, because of which his warrants were issued. But now he was produced before the Commission. He gave statement that when the crowd attacked the Basti, then the police present there shifted. He told that on 21<sup>st</sup> April, crowd of around 300 people entered their Basti. Those people were equipped with Lathis and Gandason. They were carrying kerosene and petrol. In someone's hand was a can of plastic, in someone's iron boxed. During the incident, police was present on the spot. There were 10.-12 policemen with Narnaul's SHO Vinod Kajal. They did nothing. After the crowd came, the police shifted.

When Ex-Justice Iqbal asked tem whether he was inside the house or outsideat the time of the incident. On this, he answered that he was out on the street. If he would have been inside, then he also would have got burnt. I tried to go inside, but I was stopped outside. People in the crowd were abusing and saying that kill these today. Pradeep listed the named of some of the people in the crowd.

**HAPPY WITH GOVERNMENT HELP, BUT CULPRITS SHOULD BE PUNISHED**

Before the Commission, Pradeep was also asked questions about his family background and his present status. Governments lawyer asked him that what his total family income would be?

Pradeep answered that- About 20 thousand per month. When he was asked tat when he got a BPL card made, then was income mentioned? Then he refused. Pradeep was asked questions about government help got after Mirchpur scandal. He was asked that till now how much help had been received. Pradeep's reply was – Rupees 16 lakh. All three brothers had got a job. Brother Amar lal got Rupees 5 lakh separately. When he was asked that whether he was happy with the government help, but the culprits should be severely punished. The situation in Mirchpur is not fine, our going there is dangerous.

#### PRADEEP RAISES OBJECTION TO A QUESTION

Pradeep raised objections on a question by the lawyer of the Respondent side. He was asked a question that on 21<sup>st</sup> April after the incident when was your father picked up. Pradeep answered that - around 1 o'clock. When he was asked that during the time the fire caught whether the lock of the door of the shop was from inside or from outside, answer received – Lock was open. When Pradeep was asked that whether his sister was younger or elder, he said that she was one year elder and used to study in 12<sup>th</sup>. After this when Pradeep was asked that how many times did shi fail, then he raised an objection and said that why was he asking such a question. On this, even Ex-Justice Iqbal stopped the lawyer. Pradeep said that on him, unnecessary pressure was being made. Same thing was being asked many many times. The incident in which someone's father or sister was burned alive, his position should be understood.

In village Mirchpur in Narnaul, on 21<sup>st</sup> April 2010, in community violence, 18 houses of Balmiki community were burned. In the fire. Tare Chand Valmik and his daughter Suman were burned alive. Relating to this matter, even there was upsurge in the Parliament. After that under the Chairmanship of Ex-Justice Iqbal Singh, Inquiry Commission was formed.

#### LEADER OF THE AGITATION JASWANT ALSO TURNS HOSTILE

From Hisar to Delhi, fornrunker of Mirchpur agitation Jaswant turned hostile on Thursday. Apart from him, three other witnesses also turned hostile. In these, residents of Mirchpur Aman, Bunny Singh and Bindar. Jaswant said that that day he was in Delhi-Badarpur on MCD school duty. Bindar described that whole situation but during the incident denied his presence. Before this, ten witnesses have turned hostile. Witnesses shall be heard on Friday too.

#### POLICE MADE WRONG WITNESSES: JASWANT

After statement, on being asked by reporters, jaswant expressed surprise and said that how did his name come up in evidence. This has been put in the police on their wish. He turned and put the allegation on police that such people have been made witnesses, who were not on the spot only. When he was asked that whether culprits of Mirchpur scandal should be punished, then he said that real should be punished, but the innocent should be released.

#### REPORT WILL BE SUBMITTED TO GOVERNMENT: JUSTICE

Justice Iqbal, talking to the reporters, said that report of facts and findings of Mirchpur scandal will be submitted to the government. Judicial inquiry will be separately continued in the court. Their job is not to punish anyone, but to find out the truth of the matter.

**IN THE SUPREME COURT OF INDIA AT NEW DELHI****W.P (C) NO. 211/2010****IN THE MATTER OF:****Jaswant & Ors. ...Petitioner****V****State Of Haryana & Ors ...Respondents****SUBMISSIONS ON THE ASPECT OF REHABILITATION  
OF THE 123 VICTIM FAMILIES**

Most respectfully showeth:

1. That the trial in the criminal case has been concluded and 15 accused persons have been convicted. The aspect of rehabilitation of the victim community was not dealt with by the Trial Court as the same is pending before this Hon'ble Court.
2. The victim community has stated that they cannot foresee a future in the village where they have been humiliated by the Jat community. This is especially the stand taken by the women of the victim community in view of the manner in which the women were also humiliated (the accused persons dancing naked in front of the women of the balmiki community after arsoning and rioting).
3. That further most of these persons who were cited as witnesses in the present trial along with their families, relatives and dependants had stayed in Lampur during the course of the trial. It is these 123 families which have been ostracized right from the beginning and these families for the stand that they have taken continue to be victimized.
4. Lastly, it is an admitted position of fact that this is a caste atrocity where the victim is a not a singular person, but the entire community faces ostracisation and danger of a backlash resulting in loss of property, limb and life.

**Rehabilitation**

5. Provision of Rehabilitation under the Code of Criminal Procedure:

**Section 2 – Definitions**

*In this Code, unless the context otherwise requires,-*

*(wa) "victim" means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression "victim" includes his or her guardian or legal heir*

**Section 357 - Order to pay compensation:**

*(1) When a Court imposes a sentence of fine or a sentence (including a sentence of death)*



*of which fine forms a part, the Court may, when passing judgement order the whole or any part of the fine recovered to be applied-*

- (a) *in defraying the expenses properly incurred in the prosecution;*
  - (b) *in the payment to any person of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the Court, recoverable by such person in a Civil Court;*
  - (c) *when any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the persons who are, under the Fatal Accidents Act, 1855 (13 of 1855), entitled to recover damages from the person sentenced for the loss resulting to them from such death;*
  - (d) *when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen in compensating any bona fide purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.*
- (2) *If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or if an appeal be presented, before the decision of the appeal.*
  - (3) *When a Court imposes a sentence, of which fine does not form a part, the Court may, when passing judgement order the accused person to pay, by way of compensation such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.*
  - (4) *An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.*
  - (5) *At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under this section.*

**"357A. Victim compensation scheme-**

- (1) *Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.*
- (2) *Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1).*
- (3) *If the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.*

- (4) *Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services Authority for award of compensation.*
- (5) *On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry-award adequate compensation by completing the enquiry within two months.*
- (6) *The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer in charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit."*

6. Provision of Rehabilitation under the Scheduled Castes/ Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the rules framed therein:

**16. Power of State Government to impose collective fine**

*The provisions of section 10A of the Protection of Civil Rights Act, 1955 (22 of 1955) shall, so far as may be, apply for the purposes of imposition and realisation of collective fine and for all other matters connected therewith under this Act.*

**21. Duty of Government to ensure effective implementation of the Act**

1. *Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for the effective implementation of this Act.*
2. *In particular, and without prejudice to the generality of the foregoing provisions, such measures may include -*
  - i) *the provision for adequate facilities, including legal aid to the persons subjected to atrocities to enable them to avail themselves of justice*
  - ii) *the provision for travelling and maintenance expenses to witnesses, including the victims of atrocities, during investigation and trial of offences under this Act*
  - iii) *the provision for the economic and social rehabilitation of the victims of the atrocities*
  - iv) *the appointment of officers for initiating or exercising supervision over prosecutions for the contravention of the provisions of this Act*
  - v) *the setting up of committees at such appropriate levels as the State Government may think fit to assist that Government in formulation or implementation of such measures*
  - vi) *provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provision of this Act*
  - vii) *the identification of the areas where the members of the Scheduled Castes and the Scheduled Tribes are likely to be subjected to atrocities and adoption of such measures so as to ensure safety for such members*

3. *The Central Government shall take such steps as may be necessary to co-ordinate the measures taken by the State Governments under sub-section (1)*
4. *The Central Government shall, every year, place on the table of each House of Parliament a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this section.*

## **RULES**

### **6. Spot inspection by officers.-**

1. *Whenever the District Magistrate or the Sub-Divisional Magistrate or any other executive Magistrate or any police officer not below the rank of Deputy Superintendent of Police receives an information from any person or upon his own knowledge that an atrocity has been committed on the members of the Scheduled Castes or the Scheduled Tribes within his jurisdiction, he shall immediately himself visit the place of occurrence to assess the extent of atrocity, loss of life, loss and damage to the property and submit a report forthwith to the State Government.*
2. *The District Magistrate or the Sub-Divisional Magistrate or any other executive Magistrate and the Superintendent of Police/Deputy Superintendent of Police after inspecting the place or area shall on the spot:-*
  - i) *draw a list of victims, their family members and dependents entitled for relief;*
  - ii) *prepare a detailed report of the extent of atrocity loss and damage to the property of the victims;*
  - iii) *order for intensive police patrolling in the area;*
  - iv) *take effective and necessary steps to provide protection to the witnesses and other sympathisers of the victims;*
  - v) *Provide immediate relief to the victims.*

### **9. Nomination Of Nodal Officer:**

*The State Government shall nominate a nodal officer of the level of a Secretary to the State Government preferably belonging to the Scheduled Castes or the Scheduled Tribes, for coordinating the functioning of the District Magistrates and Superintendent of Police or other officers authorised by them investigating officers and other officers responsible for implementing the provisions of the Act. By the end of the every quarter, the nodal officer shall review:-*

- i) *the reports received by the State Government under sub-rule (2) and (4) of rule 4, rule 6, clause (xi) of rule 8;*
- ii) *the position of cases registered under the Act;*
- iii) *law and order situation in the identified area;*
- iv) *various kinds of measures adopted for providing immediate relief in cash or kind or both to the victims of atrocity or his or her dependent;*
- v) *adequacy of immediate facilities like rationing, clothing, shelter, legal aid, travelling allowance, daily allowance and transport facilities provided to the victims of atrocity or his/her dependents;*

- vi) *Performance of non-Governmental organisations, the Scheduled Castes and the Scheduled Tribes Protection Cell, various committees and the public servants responsible for implementing the provisions of the Act.*

**10. Appointment of a Special Officer:**

*In the identified area a Special Officer not below the rank of a Additional District Magistrate shall be appointed to co-ordinate with the District magistrate, Superintendent of Police or other officers responsible for implementing the provisions of the Act, various committees and the Scheduled Castes and the Scheduled Tribes Protection Cell.*

*The Special Officer shall be responsible for:*

- i) *providing immediate relief and other facilities to the victims of atrocity and initiate necessary measures to prevent or avoid re-occurrence of atrocity;*
- ii) *setting up an awareness centre and organizing workshop in the identified area or at the district head quarters to educate the persons belonging to the Scheduled Castes and the Scheduled Tribes about their rights and the protection available to them under the provisions of various Central and State enactments or rules and schemes etc. framed therein:*
- iii) *co-ordinating with the Non Governmental organisations and providing necessary facilities and financial and other type of assistance to non-Governmental Organisation for maintaining centres or organising workshops;*

**15. Contingency Plan by the State Government:**

(1) *The State Government shall prepare a model contingency plan for implementing the provisions of the Act and notify the same in the Official Gazette of the State Government. It should specify the role and responsibility of various departments and their officers at different levels, the role and responsibility of Rural/Urban Local Bodies and Non-Government Organisations. Inter alia this plan shall contain a package of relief measures including the following.*

- (a) *scheme to provide immediate relief in cash or in kind or both;*
- (b) *allotment of agricultural land and house sites;*
- (c) *the rehabilitation packages;*
- (d) *scheme for employment in Government or Government undertaking to the dependant or one of the family members of the victim;*
- (e) *pension scheme for widows, dependant children of the deceased, handicapped or old age victims of atrocity;*
- (f) *mandatory compensation for the victims;*
- (g) *scheme for strengthening the socio-economic condition of the victim;*
- (h) *provisions for providing brick/stone masonry house to the victims;*
- (i) *such other elements as health care, supply of essential commodities, electrification, adequate drinking water facility, burial /cremation ground and link roads to the Scheduled Castes and the Scheduled Tribes habitats.*

*(2) The State Government shall forward a copy of the contingency plan or a summary thereof and copy of the scheme, as soon as may be, to the Central Government in the Ministry of Welfare and to all the District Magistrates, Sub-Divisional Magistrates, Inspector General of Police and Superintendents of Police.*

7. That in line with the above provisions of law and the trend that has been demonstrated by the various Governments in rehabilitating victims of violence, caste based, communal etc, the victims pray to this Hon'ble Court to direct the concerned authorities to rehabilitate the 123 victim families on the following grounds.
8. That the following points be considered while passing an order on rehabilitation:
  - (a) Identification of land/village where the victims can be shifted. The community has suggested Talwandi rana or ghoda ghar
  - (b) Homes to be built for all families
  - (c) Electricity and water supply
  - (d) Adequate rations
  - (e) Assistance in necessary documentation like ration cards, BPL cards where applicable, AAY cards and voters id.
  - (f) Proximity to a school for all school going children and admission in the same and all applicable provisions as per the Right to free and compulsory education Act.
  - (g) Existence of a functioning primary health centre and proximity to a community health centre as mandated by the government
  - (h) Job opportunities as per qualifications for atleast one person in each family
    - (i) Job guarantee under NREGA
    - (j) Adequate security arrangements
  - (k) Compensation for loss of work for the past one and a half year, for loss of one schooling year for the children

It is prayed for indulgence of this Hon'ble Court accordingly

PETITIONERS  
THROUGH  
JYOTI MENDIRATTA

DELHI

DATED

# COURT ORDERS



**SUPREME COURT OF INDIA**  
**WRIT PETITION (CIVIL) NO(s). 211 OF 2010**  
**Jaswant & Ors. ...Petitioner(s)**  
**Versus**  
**State of Haryana & Ors. ...Respondent(s)**

**Date: 31/05/2010**

CORAM:

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE C.K. PRASAD

(VACATION BENCH)

For Petitioner(s)

Mr. Colin Gonsalves, Sr.Adv.

Ms. Ritu Kumar, Adv.

Ms.Jyoti Mendiratta, Adv.

For Respondent(s)

Dr. Monika Gusain, Adv.

[for State of Haryana]

UPON hearing counsel the Court made the following

**ORDER**

On an oral request made by the learned senior counsel appearing for the petitioners, the names of respondent's nos.4 and 5 are deleted from the array of parties. The amended cause title be filed within two days.

In this petition, the petitioners have prayed for issue of mandamus to respondents to forthwith make arrangements for the accommodation of the 150 victim families who have been displaced from their village in District Hisar, within the State of Haryana, to maintain them by paying Rs.10,000/- per month, to rehabilitate them and pay compensation. Further prayer of the petitioners is to direct the respondent to provide protection to all the scheduled castes families.

W.P. (C) No.211/2010 contd....

Issue notice.



Dr. Monika Gusain, Advocate-on-record presenting the State of Haryana accepts notice.

List the case on 2nd June, 2010.

Deputy Commissioner, Hisar is requested to appear before the Court on the next date of hearing. The concerned officer is expected to come prepared with the relevant facts and also seek instruction from the State on the issue of rehabilitation of 150 Balmiki families, who are said to have been victimized in their village by those belonging to upper caste.

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**Date: 02/06/2010**

UPON hearing counsel the Court made the following

ORDER

...We have perused the affidavit of Mr.Yudhbir Singh Khyalia, in which the deponent has given details of the measures taken by the State Government for providing relief to the families of Balmikis who were compelled to leave their village.

For the time being, we do not want to make any comment on the measures taken by the State of Haryana for providing monetary and other reliefs to the victims of the incident which occurred on 21.04.2010 in village Mirchpur.

Mr. H.S.Hooda learned Advocate General gave out that most of the families which had migrated from the village in the wake of the incident which occurred on 21.04.2010 have returned. This has been disputed by Mr.Colin Gonsalves who stated that large number of families are still living in Balmiki temple at Panchkuian Road, Delhi.

Mr. H.S.Hooda learned Advocate General gave out that in all 18 houses belonging to the members of the Balmiki community were damaged in the incident of 21.04.2010 and the State administration will build new houses for them under the Indira Avas Yojna within a period of next 60 days.

Mr. Hooda further stated that one member of each family, which had earlier migrated due to the incident of 21.04.2010, will be provided employment under NAREGA and/or other State schemes till the next date of hearing.

In our view, the assurance given by the learned Advocate General may bring some succour to the families which have suffered in the incident of 21.04.2010.

Mr.Yudhbir Singh Khyalia who is present in the Court is directed to personally visit Balmiki Mandir, Panchkuian Road and ascertain the exact number of Balmiki families of Mirchpur village which

are living in the temple. On the basis of his assessment, Mr.Yudhbir Singh Khyalia should file an additional affidavit in this Court within a period of four weeks.

Learned Advocate-General should depute a team of two advocates of his office who shall, within next four weeks, visit village Mirchpur and Balmiki Mandir, Panchkuian Road, Delhi and submit a comprehensive report incorporating therein the background in which the incident took place, the steps taken by the State administration to provide relief and rehabilitation to the families of Balmiki and also suggest the measures for re- settlement of the families, who have suffered in the incident of 21.04.2010.

List the case on 19.07.2010.

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**Date: 26/08/2010**

UPON hearing counsel the Court made the following

ORDER

I.A.No.3 of 2010

In compliance of order dated 02.06.2010, Mr.Yudhbir Singh Khyalia, Deputy Commissioner, Sirsa who is holding the additional charge of Deputy Commissioner, Hisar, has filed two affidavits.

The team of advocates of the office of Advocate General, Haryana has also submitted a report to this Court in a sealed envelope.

The sealed envelope has been opened in the Court. The report is taken on record. The Registry is directed to supply copies of the report to the learned counsel for the parties by 30.08.2010.

Response to I.A.No.3 of 2010, filed by the petitioners, be filed within seven days.

In the meanwhile, the concerned authorities of the State of Haryana shall provide two quintals of wheat to each of the 150 families affected by the incident which took place in village Mirchpur. This shall be done within a period of seven days from today.

The concerned officers are also directed to ensure that warrants of arrest issued against the remaining accused are executed well before the next date of hearing.

List on 10.09.2010.

**Date: 10/09/2010**

UPON hearing counsel the Court made the following

ORDER

The letter has been circulated by learned counsel for the petitioners for adjournment to enable his clients to file response to affidavit of Shri Yudhbir Singh Khyalia, Deputy Commissioner, Hisar, filed on 05.09.2010.

The request of the learned counsel is accepted.

List the case on 25.10.2010.

While adjourning the case, we deem it proper to take cognizance of the averments contained in unmarked para of affidavit of Shri Yudhbir Singh Khyalia that in compliance of order dated 26.08.2010, two quintals of wheat has been provided to the Balmiki families who presented themselves before the concerned officer and, in all, 60 persons in addition to 52 already arrested have been arrested after 26.08.2010.

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**Date: 15/11/2010**

UPON hearing counsel the Court made the following

ORDER

Interlocutory Application No.5/2010, seeking permission to implead applicant Kamla Devi as party petitioner, is dismissed.

Interlocutory Application No.6/2010, seeking permission to allow applicants Karan singh and others to intervene in the writ petition, is dismissed.

List on 16.11.2010, to be taken up at 2.00 P.M.

**Date: 07/12/2010**

UPON hearing counsel the Court made the following

ORDER

In compliance of order dated 23.11.2010 passed by this Court, Additional Sessions Judge, Hisar has sent his report in a closed envelope. The same was opened in presence of the learned counsel for the parties. We have perused the report, which was also made available to the learned counsel for the parties for perusal.

Shri Colin Gonsalves, learned senior counsel appearing for the petitioners and Shri Manjit Singh Dalal, Additional Advocate General, Haryana assisting Shri P.N. Mishra, learned senior counsel appearing for the State of Haryana request for a day's time to find out whether Special Courts have been established at Chandigarh and/or Delhi under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989.

List on 8.12.2010.

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**Date: 08/12/2010**

UPON hearing counsel the Court made the following

ORDER

By this order, we are disposing of prayer (g) made in I.A. No. 3 of 2010 filed by the petitioners for transferring the criminal cases relating to the incident, which is subject matter of the writ petition to Delhi.

By an order dated 23.11.2010, the Court had, after taking into consideration affidavits of Shri Rajat Kalson and Smt. Veena Sharma, Advocates who had appeared in the Court of Additional Sessions Judge, Hisar in connection with Case No.3-SC/ST titled State v. Dharambir and others, directed Additional District Judge, Hisar to send a report. In compliance of that order, Additional Sessions Judge, Hisar sent report to this Court in an envelope, which was opened in the presence of the learned counsel for the parties. After going through the report, which was also made available to the learned counsel for the parties for perusal, the case was adjourned for today to enable the learned counsel for the parties to find out whether Special Courts have been established at Chandigarh and/or Delhi under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, the 1989 Act').

Learned counsel for the petitioners has submitted a list of nine Courts at Delhi, which have been designated as Special Courts under the 1989 Act. Shri P.N. Mishra, learned senior counsel appearing for the State of Haryana stated that two Courts including the Court of Sessions Judge, Chandigarh have been designated as Special Courts for the purposes of the 1989 Act.

Shri Colin Gonsalves learned senior counsel appearing for the petitioners argued that the case should be transferred to some Court in Delhi because free and fair trial of the case is not possible due to surcharged atmosphere prevailing in the area. He submitted that on each date of hearing large number of relatives and friends of the accused gather in the Court premises and the advocates representing the petitioners are so frightened that they are unable to effectively conduct the case. Shri Gonsalves submitted that Delhi is nearer to Hisar as compared to Chandigarh and if the case is transferred to a Court at Delhi, the prosecution will be able to conduct trial without any pressure from any quarter. Shri P.N. Mishra learned senior counsel for the State of Haryana submitted that the case may be transferred to either of the two Courts at Chandigarh, else the police authorities will find it extremely difficult to provide protection to the witnesses and the alleged victims of crime.

We have considered the arguments/submissions of the learned counsel and carefully perused the report sent by Additional Sessions Judge, Hisar.

Keeping in view the nature of the case and the developments which have taken place over a period of about 6 months, we feel that it is a fit case for exercise of power by this Court under Section 406 of the Code of Criminal Procedure. Accordingly, we direct transfer of Case No.3-SC/ST titled "State versus Dharambir and others" pending in the Court of Additional Sessions Judge, Hisar to the Court of Additional Sessions Judge, Rohini Courts, Delhi, which has been notified as Special Court under the 1989 Act. The Additional Sessions Judge, Hisar is directed to transmit the records of the case to the Court of Additional Sessions Judge (SC/ST), Rohini Courts at the earliest. The Court at Rohini shall be free to conduct the trial afresh.

For consideration of other issues, the petition is adjourned to second week of January. 2011.

**Date: 31/01/2011**

UPON hearing counsel the Court made the following

ORDER

While hearing the case on the additional affidavit and second supplementary affidavit filed on behalf of the petitioners, we noticed that the Commission appointed by the State Government to enquire into the incident which occurred in village Mirchpur of District Hisar issued warrant of arrest against one Satyavan son of Roshan Lal, Balmiki, resident of Mirchpur under Order XVI Rule 10.

In reply to the Court's query, the learned Advocate General, State of Haryana submitted that the warrant must have been issued by the Commission after satisfying itself that provisions of Order XVI Rule 10 have been fully complied with.

With a view to ascertain whether the warrant of arrest was issued against Satyavan after complying with the said provisions, we direct the Registrar-cum-Secretary of the Commission of Enquiry with headquarter at Chandigarh to file an affidavit within three weeks detailing the procedure adopted by the Commission before the warrant of arrest was issued.

The documents filed with the second supplementary affidavit also disclose that the rail route from Jind to Ferozepur, Delhi etc. was disrupted by a group of people. According to the learned Advocate General, there was peaceful dharna by members of various communities which resulted in disruption of rail traffic for 11 days.

Let notice be issued to the Union of India through Secretary, Railway Board. Shri A.K.Sharma, learned counsel accepts notice on behalf of the Railway Board. The General Manager, Northern Railway is directed to instruct a senior officer to file affidavit detailing the loss suffered by the railways on account of disruption of traffic on the route in question for 11 days. The required affidavit be filed within three weeks.

The Chief Secretary, State of Haryana should also file an affidavit giving the details of the loss suffered by the State on account of dharna which resulted in disruption of road and rail traffic for 11 days. The Chief Secretary should also give the details of steps taken by the State Government for ensuring that nobody is able to obstruct the free flow of traffic on the roads and rails.

List on 21.02.2011.

Copy of the order be given dasti by today itself.

**Date: 21/02/2011**

UPON hearing counsel the Court made the following

ORDER

Shri Wasim A. Qadri, learned counsel for the Railway Board has handed over copies of the affidavit to the counsel for the petitioners and the learned Advocate General for the State of Haryana and undertakes to file the same during the course of the day. The petitioners may file reply affidavit within seven days.

List the case on March 7, 2011.

On the next date, the State Government and the Railway Board shall indicate the steps proposed to be taken for recovery of the loss caused to the public property.

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**Date: 07/03/2011**

UPON hearing counsel the Court made the following

ORDER

The affidavit filed on behalf of the Union of India [Indian Railways] is taken on record.

Shri Harin P.Raval, learned Additional Solicitor General appearing for the Railway Board and Shri Manjit Singh Dalal, learned Additional Advocate General appearing for the State of Haryana jointly request for two weeks' time to enable them to file affidavits of the competent authorities about the actual steps proposed to be taken for the recovery of the loss caused to the Northern Railways and the State Government on account of agitation which resulted in blocking of rail traffic for 11 days.

Shri Colin Gonsalves, learned senior counsel appearing for the petitioners made a request that in view of an earlier order passed by this Court transferring Case No.3-SC/ST titled "State versus Dharambir and others" from Hisar to Delhi, case arising out of F.I.R. dated 3.5.2010 numbered as Case No.5-SC/ST may also be transferred to an appropriate Court in Delhi.

Learned Additional Advocate General, Haryana requests for time to seek instructions.

List the case on 28th March, 2011.

**Date: 28/03/2011**

UPON hearing counsel the Court made the following

ORDER

We have perused the affidavit of Shri Deo Mani, Deputy Chief Commercial Manager/Coordination, Northern Railway, Headquarters Office as also the affidavit of Shri Samir Mathur, Financial Commissioner and Principal Secretary to Government, Home Department, Haryana.

Learned counsel for the parties should come prepared to address the Court on the following issues:

- 1) Whether in the name of peaceful agitation by a political outfit or a group of persons, the State administration can allow (directly or indirectly) disruption of rail and road traffic?
- 2) In the event of disruption of rail and road traffic, what is the responsibility of the State to bring before law the persons responsible for such disruption?
- 3) In the event loss is suffered by the railways (direct or indirect) on account of disruption of movement of trains (passenger as well as goods), whether the State should be asked to reimburse the railways.
- 4) What guidelines, if any, should be laid down by the Court for ensuring that the incidents, like the one of which cognizance was taken in this petition, do not recur and the public property is not damaged by the group of people who indulge in illegal disruption of rail and road traffic.

List after three weeks.

I.A. No. \_\_\_\_ of 2011:

This is an application by Dharambir and 97 others for being allowed to intervene in the proceedings of the writ petition.

We have heard Mr. Jawahar Lal Gupta, learned senior counsel appearing for the applicants and Shri Colin Gonsalves, learned senior counsel appearing for the petitioners and are satisfied that the prayer made by the applicants for being allowed to intervene in the proceedings of the writ petition deserves to be accepted.

Ordered accordingly.



**Date: 25/04/2011**

UPON hearing counsel the Court made the following

ORDER

I.A. No.11 of 2011:

In this application for directions, following prayers have been made:

- "a) For an order directing the Chief Minister of the State of Haryana and the Director General of Police to give a clear undertaking to this Court that Shri Rikhi Ram, Shri Rajat Kalsan, Shri Rohit Kalsan, Shri Surender Yadav, Shri Bhagat Singh Ranga and Shri Vishal Vimal, Advocates and their families will not be harmed in any manner and that effective police protection will be provided.*
- b) In addition to the above for an order directing the Union of India to provide full and effective CRPF protection to all the persons above-mentioned and their families so that no harm whatsoever comes to them.*
- c) For an order directing the Government of NCT of Delhi to provide temporary accommodation to Shri Rajat Kalsan, Shri Rohit Kalsan, Shri Surender Yadav, Shri Bhagat Singh Ranga and Shri Vishal Vimal, Advocates at Delhi at the cost of the Government of Haryana till such time as the threats to their safety continue.*
- d) For an order directing the Director General of Police, Haryana to ensure that all the files and other properties of Advocate Rajat Kalsan are recovered and returned to him immediately.*
- e) For an order directing the SHO, PS City Hansi to treat the contents of this application as an FIR(s) on behalf of Advocate Rajat Kalsan and to register the same immediately and to take action in accordance with law."*

Reply affidavit on behalf of the intervenors Dharambir and others is rejected.

We have heard Shri Colin Gonsalves, learned senior counsel appearing for the applicants/petitioners and the Advocate General for the State of Haryana and perused the record.

In the facts and circumstances of the case, we direct Chief Judicial Magistrate, Hansi and Senior Superintendent of Police, Hisar to conduct thorough inquiry in the incidents mentioned in the application and submit report to this Court within two weeks.

List the case after receipt of the reports.

Copies of this order be immediately forwarded to Chief Judicial Magistrate, Hansi and Senior Superintendent of Police, Hisar along with copies of I.A. No. 11 of 2011.

**Date: 12/05/2011**

UPON hearing counsel the Court made the following

ORDER

I.A.No. 14 of 2011:

We have heard Mr. Colin Gonsalves, learned senior counsel for the applicant and perused the record. In our view, ends of justice will be met if Mr. Manjit Singh Dalal, Addl. Advocate General is asked to ensure that appropriate protection is provided to the persons who deposed in the case pending at Delhi and are presently living in Haryana.

Mr. Dalal says that as soon as the details of such persons are made available to him, he will direct the concerned police authorities to provide protection to those persons.

I.A.No.3 of 2010:

In this application a prayer is made to issue a direction to the State administration to provide two quintals of wheat and also to provide work to the victim families. Mr. Dalal says that as soon as a representation is made to the Deputy Commissioner, Hisar, two quintals of wheat will be supplied to each family for the months of May and June, 2011.

I.A.No.13 of 2011:

I.A.No.13 is allowed.

The Government of National Territory of Delhi (NCT) is impleaded as a party to the proceedings in this case. Issue notice to the impleaded respondent.

**Date: 12/09/2011**

UPON hearing counsel the Court made the following

ORDER

At the hearing of the writ petition, Shri R.F. Nariman, learned Solicitor General made a mention that one of the issues being considered by this Court, namely, liability of the State Government to reimburse the loss suffered by the Railways on account of disruption of traffic in the wake of various agitations is also being considered by the Allahabad High Court, Lucknow Bench in suo motu Writ Petition (Civil) No.2736 of 2011 and the Ministry of Railways has filed an application seeking transfer of that case from Allahabad High Court to this Court.

In view of the statement of the learned Solicitor General, we deem it proper to adjourn the hearing of this case and direct the Registry to list the transfer case before an appropriate Bench.

I.A. No.3/2010 in W.P. (C) No.211/2010:

Having heard Shri Colin Gonsalves, learned senior counsel appearing for the petitioners and Shri Manjit Singh Dalal, Additional Advocate General for the State of Haryana, we direct Deputy Commissioner, Hisar to make available two quintals of wheat for the months of September and October, 2011 to each family affected by the incident which took place in village Mirchpur in April, 2010. The needful be done within a period of 15 days from today.

For consideration of other issues, list the case in the third week of October, 2011.

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**Date: 01/11/2011**

UPON hearing counsel the Court made the following

ORDER

Learned Solicitor General requests for a short adjournment to present comprehensive suggestions for a solution of the problem which is under consideration in the main petition as well as the transferred case.

Put up on 22nd November, 2011.

**Date: 14/12/2011**

UPON hearing counsel the Court made the following

O R D E R

Learned Solicitor General has handed over a note containing suggestions which could, after further discussion, form part of the Court's order.

Copies of the note have been made available to Shri Gonsalves, learned senior counsel appearing for the petitioners as also Shri Prashant Bhushan, learned counsel, who is appearing on behalf of the petitioner in Writ Petition (C)No.512 of 2011.

Shri Gonsalves has handed over a compilation and submitted that the Court should issue comprehensive directions for rehabilitation of the victims of the riot which took place in village Mirchpur.

Shri Gonsalves also stated that Writ Petition(C) No.140 of 2006 filed on similar issues is pending before this Court after admission.

Before considering the feasibility of issuing comprehensive directions for effective implementation of the provisions of the Scheduled Castes and the Scheduled Tribes

(Prevention of Atrocities)Act, 1989 and the rules framed thereunder, we deem it proper to examine the desirability of giving notice to the Union of India as various State Governments and seek their response.

Let the record of Writ Petition(C) No.140 of 2006 be tagged with this case.

List on 16.12.2011.

To be taken up at 10.30 A.M.

In the meanwhile, Shri P.N.Misra, learned senior counsel appearing for the State of Haryana may seek instructions from the State Government on the issue of releasing of foodgrains to the 150 families of Scheduled Castes and Scheduled Tribes and providing them alternative accommodation.

The counsel assisting Shri Gonsalves has produced copy of the judgment of the trial Court in case titled State vs. Dharamvir.

The same is taken on record.



# JUDGEMENTS



IN THE COURT OF Dr. KAMINI LAU: ADDL. SEESIONS  
JUDGE-II (NORTH-WEST)/ SPL. JUDGE (SC/ST CASES):

ROHINI COURTS: DELHI

Session Case No. 1238/10

Unique Case ID No. 02404R0326422010

**State Versus**

- |   |   |  |
|---|---|--|
| 1. Dharambir<br>S/o Sh. Tara Chand<br>R/o Village Mirch Pur,<br>Distt Hisar, Haryana<br><b>(Acquitted)</b>    | 6. Balwan<br>Sh. Inder Singh<br>R/o Village Mirch Pur,<br>Distt Hisar, Haryana<br><b>(Acquitted)</b>      | 11. Rajbir @ Nanha<br>S/o Sh. Mai Chand<br>R/o Village Mirch Pur,<br>Distt Hisar, Haryana<br><b>(Acquitted)</b>      |
| 2. Pawan S/o<br>Sh. Ram Mahar<br>R/o Village Mirch Pur,<br>Distt Hisar, Haryana<br><b>(Acquitted)</b>         | 7. Satyavan<br>S/o Sh. Tara Chand<br>R/o Village Mirch Pur,<br>Distt Hisar, Haryana<br><b>(Acquitted)</b> | 12. Viren S/o<br>Sh. Yashpal<br>R/o Village Mirch Pur,<br>Distt Hisar, Haryana<br><b>(Acquitted)</b>                 |
| 3. Karambir S/o<br>Sh. Tara Chand<br>R/o Village Mirch Pur,<br>Distt Hisar, Haryana<br><b>(Convicted)</b>     | 8. Jaibir<br>S/o Sh. Manphool<br>R/o Village Mirch Pur,<br>Distt Hisar, Haryana<br><b>(Acquitted)</b>     | 13. Dharambir @ Illa<br>S/o Sh. Mai Chand<br>R/o Village Mirch Pur,<br>Distt Hisar, Haryana<br><b>(Convicted)</b>    |
| 4. Joginder @ Jogar<br>Sh. Bhim Singh<br>R/o Village Mirch Pur,<br>Distt Hisar, Haryana<br><b>(Acquitted)</b> | 9. Ajit S/o Sh. Sukhbir<br>R/o Village Mirch Pur,<br>Distt Hisar, Haryana<br><b>(Acquitted)</b>           | 14. Deepak @ Sonu<br>S/o Sh. Krishan @ Pappu<br>R/o Village Mirch Pur,<br>Distt Hisar, Haryana<br><b>(Acquitted)</b> |
| 5. Dalbir<br>Sh. Dalip Singh<br>R/o Village Mirch Pur,<br>Distt Hisar, Haryana<br><b>(Acquitted)</b>          | 10. Balwan S/o<br>Sh. Dharmabir<br>R/o Village Mirch Pur,<br>Distt Hisar, Haryana<br><b>(Acquitted)</b>   | 15. Kuldeep @ Midda<br>S/o Sh. Balbir<br>R/o Village Mirch Pur,<br>Distt Hisar, Haryana<br><b>(Acquitted)</b>        |



16. Rajinder  
S/o Sh. Balu  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
17. Jagdish @ Hathi  
S/o Sh. Baru Ram  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
18. Suresh Kumar  
S/o Sh. Balbir  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
19. Rajinder Kr.  
S/o Sh. Sadhu Ram  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
20. Ramphal  
S/o Sh. Prithvi  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Convicted)**
21. Daya Singh  
S/o Sh. Jeet Singh  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
22. Pardeep  
S/o Sh. Balwan  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
23. Rishi  
S/o Sh. Satbir  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Convicted)**
24. Jasbir  
S/o Sh. Ishwar  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
25. Karampal  
S/o Sh. Satbir  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Convicted)**
26. Sunil @ Sonu  
S/o Sh. Jasbir  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
27. Sumit  
S/o Sh. Satyavan  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Convicted)**
28. Pardeep  
S/o Sh. Ramphal  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
29. Roshan Lal  
S/o Sh. Ram Swarup  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
30. Surender  
S/o Sh. Jagda  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
31. Hoshiar Singh  
S/o Sh. Mangal @  
Manga  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
32. Ajit  
S/o Sh. Dalip  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
33. Rajinder  
S/o Sh. Dhup Singh  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
34. Rajinder  
S/o Sh. Pali  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Convicted)**
35. Vijender  
S/o Sh. Hoshiar Singh  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
36. Dinesh S/o Sh. Prem  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**

37. Vinod  
S/o Sh. Ram Niwas  
R/o Vill Nidhana,  
Tehsil Meham,  
Distt Rohtak, Haryana  
**(Acquitted)**
38. Kulvinder  
S/o Sh. Ram Mahar  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Convicted)**
39. Monu  
S/o Sh. Suresh  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Convicted)**
40. Amit  
S/o Sh. Satyavan  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
41. Sunil  
S/o Sh. Daya Nand  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Convicted)**
42. Baljeet  
S/o Sh. Inder  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Convicted)**
43. Rajesh S/o Sh. Dupa  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
44. Ramesh  
S/o Sh. Karan Singh  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
45. Ameer  
S/o Sh. Tara  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
46. Anil  
S/o Sh. Prem Singh  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
47. Balwan  
S/o Sh. Jeela  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
48. Charan  
S/o Sh. Sadhu Ram  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
49. Anup  
S/o Sh. Dharma  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
50. Dalbir  
S/o Sh. Tara  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
51. Krishan Kr. @ Dhaula  
S/o Sh. Satyavan  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
52. Jugal @ Doger  
S/o Sh. Hawa Singh  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
53. Jitender  
S/o Sh. Satbir  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
54. Jora Singh  
S/o Sh. Balwan  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
55. Rakesh @ Kala  
S/o Sh. Satyavan  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
56. Krishan  
S/o Sh. Karan Singh  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
57. Kuldeep  
S/o Sh. Om Prakash  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**

58. Jasbir @ Lillu  
S/o Sh. Raja  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Absconder)**
59. Manbir  
S/o Sh. Jile Singh  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
60. Nasib  
S/o Sh. Prem Singh  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
61. Rakesh @ Nikle  
S/o Sh. Amarlal @  
Lala Ram  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
62. Pappu  
S/o Sh. Pyara  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
63. Pradeep S/o Sh. Jagbir  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
64. Pradeep  
S/o Sh. Jaibir  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Convicted)**
65. Pradeep  
S/o Sh. Suresh  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Convicted)**
66. Pradeep  
S/o Sh. Satbir  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
67. Praveen  
S/o Sh. Jagdev  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
68. Pawan  
S/o Sh. Hoshiar Singh  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
69. Pawan S/o Sh. Rajbir  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
70. Sandeep  
S/o Sh. Mahinder  
Singh  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
71. Sandeep  
S/o Sh. Raj Kumar  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
72. Sandeep  
S/o Sh. Ram Swarup  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
73. Sandeep  
S/o Sh. Rattan Singh  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
74. Sandeep  
S/o Sh. Joginder  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
75. Sandeep @ Langra S/o Sh.  
Chander  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
76. Sanjay @ Sanjeep  
S/o Sh. Amar Lal  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
77. Sanjay Handa  
S/o Sh. Daya Nand  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
78. Satta Singh  
S/o Sh. Karan Singh  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**

79. Sattu Singh  
S/o Sh. Randhir Master  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
80. Satyavan  
S/o Sh. Rajinder  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
81. Shamsheer  
S/o Sh. Rajinder  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
82. Sheela @ Sunil  
S/o Sh. Bira  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
83. Sonu @ Monu  
S/o Sh. Ramesh  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
84. Mandeep @ Sonu  
S/o Sh. Dalbir  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
85. Naveen @ Tina  
S/o Sh. Rajbir  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
86. Vedpal @ Bedoo  
S/o Sh. Karan Singh  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
87. Vikash  
S/o Sh. Sunehra @  
Sumer Singh  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
88. Vipin  
S/o Sh. Joginder Singh  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
89. Jokhar @ Joginder  
S/o Sh. Inder Singh  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
90. Rajpal  
S/o Sh. Sheo Chand  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Convicted)**
91. Jaibir S/o Sh. Balbir  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
92. Ramesh @ Mahesh  
S/o Sh. Dalip Singh  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
93. Rupesh  
S/o Sh. Tek Chand  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
94. Bobal @ Langra  
S/o Sh. Tek Chand  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Convicted)**
95. Jagdish @ Jangla  
S/o Sh. Lahna @  
Lakshman  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
96. Pawan @ Tinku  
S/o Sh. Sewa Ram  
R/o Village Petwar,  
Distt Hisar, Haryana  
**(Acquitted)**
97. Vinod  
S/o Sh. Jagdeep  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**
98. Ved Pal  
S/o Dayanand  
R/o Village Mirch Pur,  
Distt Hisar, Haryana  
**(Acquitted)**

**FIR No.:** 166/10

**Police Station:** Narnaund (Haryana)

**Under Sections:** 120-B, 302, 307, 147, 149, 148, 323, 324, 325, 395, 397, 427, 435, 436, 449,450, 452

Indian Penal Code and under Sections 3(1) (x), (xv), 3 (2) (iii), (iv) (v) of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989.

**Date on which the case was transferred to this Court:** 18.12.2010

**Date on which orders were reserved:** 2.8.2011/ 17.9.2011

**Date on which judgement pronounced:** 24.9.2011

Thomas Jefferson wrote the memorable words “*All men are created equal, that they are endowed by their creator by certain inalienable rights, that among these are life, liberty, and the pursuit of happiness*” (American Declaration of Independence, 1776). A large section of Indian society still regard a section of their own countrymen as inferior and in the words of Justice Markandey Katju this mental attitude is simply unacceptable in the modern age, and it is one of the main causes holding up the country's progress. It is unfortunate that the centuries old Indian Caste system still takes its toll from time to time. This case unfolds the worst kind of atrocities committed by the so-called upper caste (Jat's hereinafter to be referred as 'J') against the so-called lower caste (Balmiki's hereinafter to be referred as 'B') in civilized country. It is absolutely imperative to abolish the caste system as expeditiously as possible for the smooth functioning of Rule of Law and Democracy in our country.

## JUDGEMENT

### Brief facts

This case was received on transfer vide the orders of Hon'ble Supreme Court dated 8.12.2010 with the directions that this court shall be free to conduct the trial afresh. As many as *one hundred and three* number of accused have been charge sheeted out of which *five accused* are juveniles facing trial in Juvenile Justice Board Hisar, whereas *ninety eight* are facing trial before this court of whom one accused namely Jasbir Singh has escaped/ absconded from custody during trial whose trail has been separated and the proceedings for declaring him a proclaimed offender are underway.

### Prosecution case

The case of the prosecution is that on 19.04.2010 at about 8–8.30 PM some of the boys belonging to the 'J' community namely *Rajender S/o Pale, Sonu S/o Pappu, Monu S/o Suresh, Rishi S/o Satbir* alongwith 10 – 15 other boys were passing through 'B' Basti in an inebriated state and on seeing them, the she-dog of the complainant Karan Singh barked at them. The accused persons took an

offence to the barking of the dog and started throwing stones at it which entered into the house of Karan Singh ('B') and was objected to by his nephew Yogesh. The complainant Karan Singh then intervened in the matter and attempted to settle the same after which the group of these boys then moved away from there. After some time Ajeet (belonging to 'J' community) a resident of the same village who is residing near the 'B' Basti at Village Mirchpur approached the complainant Karan Singh and advised him to apologise or else they would have to face more problems by saying '*zyada nuksaan ho jayega*'. The complainant along with his neighbour Birbhan went towards the house of Rajendra S/o Pali where all the boys belonging to the dominant 'J' community had gathered to settle the matter but instead the complainant and Virbhan were beaten up by the accused as a result of which they received injuries. The injuries on Virbhan were more serious. Initially both Karan Singh and Virbhan were rushed to the hospital in Hansi, but since Virbhan had serious injuries, Karan Singh took Virbhan to the District Hospital in Hisar where he was admitted for a day. On 20.04.2010 the complainant Karan Singh in apprehension of the tension in the village escalating into further violence, got Virbhan discharged from the hospital and on the way back to the village stopped at the police station Narnaund and informed the SHO concerned about the incidents of 19th (19.4.2010) and also apprised him of the tension that was prevailing in the village but the SHO (accused Vinod S/o Ram Niwas) did not pay much heed to the pleas of the complainant and sent five to six Constables to handle the matter which was despite the clear information from the complainant that the situation in the village was turning volatile and there was a lot of tension on account of the instance of violence at the behest of the persons belonging to the 'J' community. The Constables sent by the SHO attempted to settle the tension, but to no avail and in the morning of 21.04.2010, there was tension at the 'B' Basti due to which reason the SHO Narnaund and the dominant community called a meeting of the 'J' community in the 'J' Chaupal and then called a meeting of the members of 'B' community in the 'B' Chaupal. As per the allegations the men of the 'B' community gathered in the 'B' Chaupal and most persons like women, children and old persons stepped out to see what was going on, when the accused before this court in furtherance of their common intention and in pursuance of the common design duly armed with kerosene, petrol in bottles along with lathis, jellies and stones surrounded the 'B' Basti and gave out cries for attacking the 'B' Basti shouting "*in saale chooron ke gharon ko jhala do, inki bacchon ko gharon main hi zinda jhala do, inke ghar tod do aur inka gaon se khatma kar do*". This according to the prosecution was done with the backing and under the protection of the SHO (accused Vinod S/o Ram Niwas).

On account of the aforesaid one Tara Chand and his daughter Suman (who was handicapped) were badly burnt. While Suman died at the house itself, Tara Chand in order to save his life had rushed to the house of his neighbour Diwan Singh while his house was set on fire and managed to save himself at that time but having sustained severe burn injuries was taken to Civil Hospital, Hisar in Government Gypsy by his son Amar Lal and Nephew Ashok in a burnt condition where the police recorded his statement (Dying Declaration) and also got a statement (Dying

Declaration) recorded from the Judicial Magistrate First Class and he later succumbed to his injuries on the same day. In the village as many as 51 persons all belonging to Dalit community received injuries, 18 properties belonging to Dalits were burnt and there was large scale rioting and looting of properties of Dalits. After investigations, the charge sheet was filed in the present case wherein provisions of Sections 120-B, 302, 307, 147, 148, 149, 323, 325, 395, 397, 427, 435, 436, 449, 450, 452 Indian Penal Code and under Sections 3 (1) (x), (xv), 3 (2) (iii), (iv) (v) of the Scheduled Caste/ Scheduled Tribes (Prevention of Atrocities) Act, 1989, have been invoked against these accused.

### Sequence of events

**19.4.2011:** Rajender S/o Pale, Sonu S/o Pappu, Monu S/o Suresh, Rishi S/o Satbir alongwith ten to fifteen other boys allegedly passing in front of the house of Karan Singh (belonging to 'B' community) situated in the main gali at about 9-9:30 PM in an intoxicated state when the she-dog belonging to Jai Parkash, the brother of Karan Singh started barking at them. On this the boys belonging to 'J' community got irritated and threw a dalla when a portion of the "dalla" hit the dog and a portion entered the house of Karan Singh on which Yogesh son of Jai Parkash and nephew of Karan Singh came out and there was an altercation between Rajender S/o Pale and Yogesh and followed by hatha pai (physical altercation) when other persons came and separated them. After some time Ajeet came and told Karan Singh that he had been called at the house of Rajender S/o Pale towards the houses of the 'J' community as there was a 'J' Panchayat on the incident stating that they would get the matters amicably resolved. However, when Karan Singh and Birbhan went there, they were beaten by the persons from 'J' community and they sustained injuries.

**20.4.2010:** (1) A complaint was made by Karan Singh and Birbhan to the SHO Police Station Narnaund regarding incident dated 19.4.2011. (2) Rajender S/o Pale who was running a milk dairy could not supply milk to many residents of the village particularly in the 'B' Basti.

**21.4.2010:** Incident in question took place

**22.4.2010:** DSP Sh. Abhay Singh arrested the accused Dharambir S/o Tara Chand, Pawan S/o Ram Mehar, Karam Bir S/o Tara Chand, Joginder @ Jogar S/o Bhim Singh, Dalbir S/o Dalip Singh, Balwan S/o Inder, Satyavan S/o Tara Chand, Jai Bir S/o Manphool, Ajeet Singh S/o Sukhbir, Balwan S/o Dharam Singh, Roshan S/o Ram Swaroop, Pradeep S/o Ram Phal, Vijender S/o Hoshiar Singh, Hoshiar Singh S/o Mangal Singh, Ajeet S/o Dalip Singh, Rajinder S/o Dhupa, Surender Kumar S/o Jagde Ram and Rajbir S/o MaiChand. Provisions of Section 4 of SC/ST (POA) Act were added by DSP Sh. Abhay Singh on the application of Karan Singh.

**23.4.2010:** DSP Sh. Abhay Singh arrested the accused Dinesh S/o Prem Singh and Viren S/o Yashpal.

**27.4.2010:** Various politicians including Sh. Bhupender Singh Hooda, Chief Minister, Haryana visited the village Mirchpur and announced the compensation to the victims

**30.4.2010:** Investigations were transferred to DSP Sh. Tula Ram who arrested the accused Dharambir S/o Mai Chand and Deepak S/o Krishan. Team of doctors from Government Hospital Hisar visited village Mirchpur and conducted medical examination of the persons injured in the incident dated 21.4.2010.

**1.5.2010:** Inspector Vinod Kumar the then SHO Police Station Narnaund was arrested

**02.05.2010:** DSP Sh. Tula Ram arrested accused *Naib Tehsildar Jage Ram* (not sent up for trial) from the office of DSP Hansi.

**14.5.2010:** Accused Kuldeep, Rajender S/o Belu Ram, Jagdish S/o Baru Ram, Suresh S/o Balbir, Rajender S/o Sadhu Ram, Ramphal S/o Prithvi Singh and Daya S/o Ajeet were arrested.

**15.5.2010:** Accused Pradeep S/o Balwan was arrested.

**16.5.2010:** Accused Rishi S/o Satbir, Jasbir S/o Ishwar and Karampal S/o Satbir were arrested

**17.5.2010:** Accused Sunil Kumar @ Soni S/o Jaiveer and Sumit S/o Satyavan were arrested

**19.5.2010:** DSP Tula Ram prepared the charge sheet in respect of 28 persons and sent it to prosecution department.

**21.5.2010:** Accused Rajender S/o Pale was arrested.

**11.06.2010:** (1) First charge sheet was filed by DSP Sh. Tula Ram in respect of twenty eight accused persons. (2) Judicial Magistrate-First Class, Hansi on the request of DSP Hansi Sh. Tula Ram, discharged/released the accused Jage Ram (Naib Tehsildar-Hisar), Deepak S/o Ajmer, Satish S/o Ajmer, Rajesh S/o Om Prakash, Ajay S/o Sukhbir, Sukhbir S/o Manphool, Naresh S/o Prem Singh, Dinesh S/o Amar Lal, Kulwant S/o Chander Singh and Ram Meher S/o Gulab Singh on the ground that these persons have no concern with the alleged offence though their names have been mentioned by the victims and the complainants.

**1.7.2010:** DSP Sh. Tula Ram filed the charge sheet in respect of nine persons arrested later.

**27.7.2010:** DSP Tula Ram interrogated Birbhan S/o Man Singh, Suresh S/o Raj Kumar, Ashok S/o Maha Singh, Parveen and Amar Lal both sons of Tara Chand and prepared the supplementary charge sheet against the accused Vinod Kajal, the then SHO Police Station Narnaund.

**29.7.2010:** Supplementary charge sheet against the accused Vinod Kajal the then SHO Police Station Narnaund was filed by DSP Sh. Tula Ram before the court. Accused Jogender S/o Inder, Rajpal S/o Sheo Chand and Jaiveer S/o Balbir were arrested.

**01.08.2010:** Accused Ramesh @ Mahesha S/o Dalip, Rupesh S/o Tek Ram and Bobal @ Langra S/o Tek Ram were arrested.



**12.08.2010:** Accused Jagdish S/o Lenha was arrested.

**24.08.2010:** Accused Pawan @ Tinku S/o Sewa Singh was arrested

**31.08.2010:** Accused Balwan S/o Jai Lal was arrested.

**01.09.2010:** Accused Pardeep S/o Suresh, Satish S/o Randhir and Pawan S/o Hoshiyar Singh were arrested.

**02.09.2010:** Accused Jora S/o Balwan and Ved Pal S/o Daya Nand were arrested

**03.09.2010:** Accused Kuldeep S/o Om Parkash, Jogal @ Jogar S/o Hawa Singh, Naseeb S/o Prem Singh, Pardeep S/o Jaiveer Singh, Pardeep S/o Satbir, Shamsher S/o Rajender, Rakesh @ Meenu S/o Ramesh, Jitender S/o Satbir, Charan Singh S/o Sadhu Ram, Parveen S/o Jagdev, Sandeep S/o Ram Swaroop, Sandeep S/o Ratan Singh, Vikas S/o Sunehra, Ved Pal S/o Karan Singh, Kala @ Rajesh S/o Satyavan, Pawan S/o Rajbir, Sandeep S/o Raj Kumar, Monu S/o Suresh Kumar, Amit S/o Satyavan, Ramesh S/o Karan Singh and Sata S/o Karan were arrested

**04.09.2010:** Accused Dalbir S/o Tara Chand, Pardeep S/o Jagbir, Sanjay @ Sanjeev S/o Amar Lal, Sunil @ Shila S/o Bhira, Naveen @ Tina S/o Rajbir, Vinod S/o Jagdev, Manbir S/o Zile Singh, Pappu S/o Pyarelal, Rakesh @ Nikli S/o Amar Lal, Vipin S/o Jogender, Sandeep S/o Mahender, Sandeep S/o Jogender, Satyavan S/o Vijender, Sunil S/o Daya Nand and Radhey S/o Dhoopa were arrested.

**05.09.2010:** Accused Baljeet S/o Inder, Dhaula S/o Satyavan, Anoop S/o Dharma, Sandeep S/o Chander, Lilu @ Jasbir S/o Raja, Krishan S/o Karan Singh, Meer Singh S/o Tara Chand and Anil S/o Prem Singh were arrested

**06.09.2010:** Accused Sonu S/o Dalbir and Kulwinder S/o Ram Mehar were arrested.

**09.09.2010:** Accused Sanjay @ Handa S/o Daya was arrested.

**16.10.2010:** DSP Tula Ram prepared the charge sheet in respect of fifteen accused.

**18.10.2010:** DSP Sh. Tula Ram filed the charge sheet in the court in respect of fifteen accused.

**28.10.2010:** DSP Sh. Tula Ram handed over the investigating file to Insp. Vijay Pal SHO Narnaund who filed the charge sheet for the remaining fifty accused in the court.

**8.12.2010:** The case was transferred to this court vide the orders of Hon'ble Supreme Court dated 8.12.2010 with the directions that this court shall be free to conduct the trial afresh.

**26.2.2011:** This court conducted the spot inspection at village Mirchpur.

**11.3.2011:** Charges were framed against all the accused

**18.3.2011:** Trial/ prosecution evidence commenced

**List of witnesses examined:** omitted...

**Details of the exhibits:** omitted...

**Spot inspection by the Court:** omitted...

**CHARGES:** omitted...

**Facts admitted or not disputed by the prosecution/ victims and the defence:** omitted...

**Cases Referred:** omitted...

**Prosecution Evidence:** omitted...

**Court witness:** omitted...

**Findings:** omitted...

**Defence Evidence:** omitted...

**Court Witness:** omitted...

### **Delay in registration of FIR**

It is vehemently argued by the Ld. Defence Counsel that despite the fact that the information regarding the incident had reached the police in the morning pursuant to which senior officers of the rank of Deputy Superintendent of Police, Superintendent of Police and Inspector General had also reached the spot, yet the perusal of the FIR would reveal that it was registered only at 6:15 PM which shows that the investigating agency has not come out with the correct version of the incident and the registration of the FIR was deliberately delayed and it contains a coloured and exaggerated version in which the genesis of the occurrence has been suppressed and the accused have been named only after due deliberations and consultations. It is pointed out that the time of occurrence is 10.00 AM to 11.00 AM and the senior police officials including the Superintendent of Police were available in the village even when the occurrence was going on and the FIR was lodged on the basis of the statement of Karan Singh (DW), the member of the Block Samiti from the 'B' community at about 06.15 PM which statement was recorded at 5.30 PM in the village by Abhay Singh DSP (PW26). It is argued that sufficient time was taken by the police in the village to confabulate with the respectables of the 'B' community and then lodge the FIR naming and implicating more than forty persons and there was no attempt by any police official to immediately record the statement of any one of the victims and then to lodge the FIR which fact is clear from the endorsement below the statement.

It is also argued that there is a delay in the special report as well which reached the Magistrate at 12:30 AM (midnight) at Hansi that is after six hours of FIR and delivered by PW2 EASI Manohar Lal although the distance between Narnaund and Hansi is hardly twenty kilometers on highway

and with sufficient means of transport and the explanations given by Mahohar Lal (PW2) are not supported by the daily diary entries. It is submitted that the names of the accused and the version to be given in the complaint was finalized late in the night by the police and the members of 'B' community after the situation had been muddled by the visits of the politicians who had started their interference and hence the version contained in FIR is not at all reliable since the FIR was lodged by Karan Singh Member Block Samiti who has not supported the version recorded in the FIR on three occasions that is before the trial court at Hisar, before the inquiry Commission and before this court which consistent denial made by Karan Singh of the contents of the FIR render it unreliable. It is further argued that the FIR cannot be used to corroborate the prosecution version because it is not a substantive piece of evidence and Karan Singh has not been examined by the prosecution to prove its contents and cannot be used to corroborate the other ocular version brought on record. It is pointed out that the fact that a particular accused is named in FIR is no more available to the prosecution as a substantive piece of evidence to connect him with the crime. It is further argued that the effect of this delayed FIR is writ large that the truth had been suppressed in as much as the incident in the morning of 21.04.2010 which ignited the already settled issue of 19.04.2010 is totally absent from the FIR and what happened on that day which started the brick batting and later on the arson, is missing from the FIR.

I have considered the submissions made before me. Before coming to the merits of the arguments made by the Ld. Defence Counsel, I may observe that in the case of *State of Rajasthan -vs- Om Prakash* reported in (2002) 5 SCC 745, the Hon'ble Supreme Court has observed that *in case where delay is explained by the prosecution in registering the case, the same could be condoned moreover when the evidence of the victim is reliable and trustworthy.*

Similar view was taken in the case of *Saheb Rao -vs- State of Maharashtra* reported in AIR 2006 SC 2002 and also in the case of *Tulshidas Kanolkar -vs- The State of Goa* reported in (2003) 8 SCC 590 wherein it was held by the Supreme Court that:

*“The unusual circumstances satisfactorily explained the delay in lodging of the first information report. In any event, delay per se is not a mitigating circumstance for the accused when accusation of rape are involved. Delay in lodging first information report cannot be used as a ritualistic formula for discarding prosecution case and doubting its authenticity. It only puts the court on guard to search for and consider if any explanation has been offered for the delay. Once it is offered, the Court is to only see whether it is satisfactory or not. In a case if the prosecution fails to satisfactory explain the delay and there is possibility of embellishment or exaggeration in the prosecution version on account of such delay, it is a relevant factor. On the other hand satisfactory explanation of the delay is weighty enough to reject the plea of false implication or vulnerability of prosecution case. As the factual scenario shows, the victim was totally unaware of the catastrophe which had befallen to her. That being so the mere delay in lodging of first information report does not in any way render prosecution version brittle.*

Applying the settled principles of law to the facts of the present case, it is evident that the incident in question involved large scale rioting where a number of properties were set on fire or damaged which incident continued till afternoon and the police was throughout busy in dousing the fire and rushing the victims to the hospital. Therefore, it was only in the evening that when the inquiries were made that a clear picture of what had happened came out and the rukka was sent after which the FIR was registered at 6:15 PM. I may observe that delay in registration of FIR is not per-se a mitigating circumstance for the accused and delay in lodging the first information report cannot be used as a ritualistic formula for discarding prosecution case and doubting its authenticity. It only puts the court on guard to search for and consider if any explanation has been offered for the delay and once that explanation is offered, the Court is required to ascertain whether it is satisfactory or not. No doubt the possibility of embellishment or exaggeration in the prosecution version on account of delay in registration of first information report would be one of the relevant factor while considering the case on merits.

I may further observe that the First Information Report is not an encyclopedia of the fact concerning the crime and merely because the minutest details of the occurrence have not been mentioned in the First Information Report, the same cannot make the prosecution case doubtful. In fact it is not necessary that the minutest details of any other incident which might have happened in the morning of 21.04.2010 which ignited the earlier issues of dispute dated 19.04.2010 should have been stated in the First Information Report. It is sufficient if a broad picture is presented and the First Information Report contains the broad features which has been done. In fact, for lodging First Information Report in a criminal case the stress must be on prompt lodging of the First Information Report. (Ref.: S. Sudershan Reddy -vs- State of Andhra Pradesh reported in AIR 2006 SC 2716 and Rohtash -vs- State of Rajasthan reported in 2007 Cr.L.J. 758). Hence mere absence of indications of what might have happened in the morning of 21.4.2010 which ignited the earlier issues of dispute dated 19.04.2010 would not affect the prosecution version.

In so far as the aspect of delay is concerned I hereby hold that on the basis of the circumstances reflected from the record there is no delay in registration of the FIR and even if there is a delay the same has been satisfactorily explained and shall not be fatal to the case of the prosecution. (Ref.: *Surender Pal & Others -vs- State of UP* reported in 2010 (9) SC 399 wherein the Hon'ble Supreme Court had observed that a five and a half hour delay in registration of FIR was not fatal to the case of the prosecution).

**Complainants Birbhan and Karan Singh have turned hostile:** omitted...

### **Non-apprehension of assailants at the time of the incident**

It is argued that after the police force headed by the Superintendent of Police, Hisar Sh. Subhash Yadav arrived in the village Mirchpur a large number of the assailants who were roaming were

apprehended but on account of political pressure the said assailants were released by the police. In this regard it has been pointed out by the Ld. Defence Counsel that the various prosecution witnesses including the police officers have themselves admitted this fact and it was later only in order to work out the present case on account of extreme political pressure that the accused have been falsely implicated whereas the other assailants who were politically and socially well connected have been left by the investigating agency. On the other hand Ld. Special Public Prosecutor has not only endorsed what has been stated by the Ld. Defence Counsel but has also added that this has been done deliberately by the State Government to assist the accused belonging to the dominant community and the investigations at every stage were rigged and adversely affected due to extraneous interference and considerations but that in itself will not no ground to grant any benefit to the accused.

Before coming to the submissions made by the Ld. Counsel on merits, I may observe that considering the aspect of faulty investigations the Hon'ble Apex Court has in the case of *State of U. P. -vs- Jagdeo & Others.*, reported in (2003) 1 Supreme Court Cases 456, observed that:

*“..... Mere faulty investigations cannot be a ground for acquittal of the accused. For the fault of the prosecution the perpetrators of a ghastly crime cannot be allowed to go scot-free. The testimony of eyewitnesses in the present case, completely proved the prosecution case – Criminal Procedure Code, 1973, Sec. 159, 161 and 164.....”*

It has been further observed that:

*“.....Coming to the aspect of the investigation being allegedly faulty, we would like to say that we do not agree with the view taken by the High Court. We would rather like to say that assuming the investigation was faulty, for that reason alone the accused persons cannot be let off or acquitted. For the fault of the prosecution, the perpetrators of such a ghastly crime cannot be allowed to go scot-free. All the accused persons were armed with deadly weapons and they attacked the members of the victims' family who were totally unarmed and were sleeping at night in the open. The High Court has expressed a doubt about the FIR being lodged at the time alleged by the prosecution and the manner in which it is so stated by the prosecution. The question however is: is it sufficient to acquit all the persons? The trial court had discussed all the elements leading to the brutal murder in this case and found them against the accused persons. Unfortunately, the High Court remained on the periphery and never attempted to grapple with the substance of the evidence on record. This peripheral approach of the High Court led to the impugned judgement of acquittal being passed. In presence of such a strong evidence on record implicating the accused persons, things like alleged improper recording of time of lodging of FIR are not sufficient to dislodge the verdict of convictions passed by the Sessions Court. In our considered view the evidence of eye witnesses in the present case completely proves the prosecution case. The doubt thrown by the High Court on the presence of the eye witnesses at the time of occurrence is totally unacceptable. The impugned judgement of the High Court whereby all the accused persons have been acquitted is hereby set aside. ....”*

In the present case, I may observe that there is no indication of any of the assailant who had had been apprehended by the police team headed by the Superintendent of Police Hisar at the spot on the date of incident itself and thereafter released. I have also gone through the case diaries which are silent on this aspect. I may however add that the arrests which have been duly admitted by the accused reveal that after the registration of the case on the same date in the late evening hours, the arrests of as many as twenty five accused were made on 22.4.2010 that is on the next date of incident. Admittedly these arrests were not at the instance of the victims or the witnesses nor any Test Identification Parade had been conducted but I may observe that many of the assailants have not only been named by the victims/ witnesses in their statements under Section 161 Cr.P.C. being residents of the same village. However, the eye witnesses having deposed of many such persons being apprehended by the police in the village at the time of the incident itself of which there is no record, the possibility of many of the accused before this Court particularly those who have been named and arrested much later being falsely implicated cannot be ruled out and the benefit of the same is required to be given to them.

### **Non-conduct of the Judicial Test Identification Parade and dock identification of the accused**

The Ld. Defence Counsel has argued that none of the accused was apprehended at the spot of the incident itself but had been picked up by the police later on only to work out the present case. He has pointed out that not even one prosecution witness has deposed that either the accused had been apprehended at his instance or presence or was got identified by the police either at the police or in the court or in the jail at any point of time. He submits that under these circumstances the identification of all the accused by the witnesses for the first time in the court is valueless and their testimonies to the extent of their identification is liable to be discarded. The Ld. Special Public Prosecutor for the victims on the other hand has pointed out that the accused being named in the statement of the victims/witnesses recorded by the Investigating Officer under section 161 Code of Criminal Procedure being previously known to them, there is no necessity of the Judicial Test Identification Parade and therefore the Investigating Officer not having conducted the Judicial Test Identification Parade of the accused would not affect the case of the prosecution in any manner.

I have considered the rival contentions. At the very outset I may observe that the Hon'ble Apex Court while dealing with the legal aspects of Test Identification and dock identification of the accused has in the case of Mulla & Anr. -vs- State of Uttar Pradesh reported in AIR 2010 SC 942 observed as under:

*"..... The evidence of test identification is admissible under Section 9 of the Indian Evidence Act. The Identification parade belongs to the stage of investigation by the police. The question whether a witness has or has not identified the accused during the investigation is not one which is in itself relevant at the trial. The actual evidence regarding identification is that which is given by witnesses in Court. There is no provision in the Cr. P.C. entitling the*

*accused to demand that an identification parade should be held at or before the inquiry of the trial. The fact that a particular witness has been able to identify the accused at an identification parade is only a circumstance corroborative of the identification in Court. Failure to hold test identification parade does not make the evidence of identification in court inadmissible, rather the same is very much admissible in law. Where identification of an accused by a witness is made for the first time in Court, it should not form the basis of conviction. The necessity for holding an identification parade can arise only when the accused persons are not previously known to the witnesses. The whole idea of a test identification parade is that witnesses who claim to have seen the culprits at the time of occurrence are to identify them from the midst of other persons without any aid or any other source. The test is done to check upon their veracity. In other words, the main object of holding an identification parade, during the investigation stage, is to test the memory of the witnesses based upon first impression and also to enable the prosecution to decide whether all or any of them could be cited as eyewitnesses of the crime. The identification proceedings are in the nature of tests and significantly, therefore, there is no provision for it in the Code and the Indian Evidence Act, 1872. It is desirable that a test identification parade should be conducted as soon as possible after the arrest of the accused. This becomes necessary to eliminate the possibility of the accused being shown to the witnesses prior to the test identification parade. This is a very common plea of the accused and, therefore, the prosecution has to be cautious to ensure that there is no scope for making such allegation. If, however, circumstances are beyond control and there is some delay, it cannot be said to be fatal to the prosecution. The identification parades are not primarily meant for the Court. They are meant for investigation purposes. The object of conducting a test identification parade is two-fold. First is to enable the witnesses to satisfy themselves that the accused whom they suspect is really the one who was seen by them in connection with the commission of the crime. Second is to satisfy the investigating authorities that the suspect is the real person whom the witnesses had seen in connection with the said occurrence. Therefore, the following principles regarding identification parade emerge: (1) an identification parade ideally must be conducted as soon as possible to avoid any mistake on the part of witnesses; (2) this condition can be revoked if proper explanation justifying the delay is provided; and, (3) the authorities must make sure that the delay does not result in exposure of the accused which may lead to mistakes on the part of the witnesses...."*

Further, in the case of *Matru -vs- State of U.P.* reported in (1971) 2 SCC 75 the Hon'ble Supreme Court while relying upon the case of *Santokh Singh -vs- Izhaz Hussain* reported in (1973) 2 SCC 406, has observed as under:

*".....Identification tests do not constitute substantive evidence. They are primarily meant for the purpose of helping the investigating agency with an assurance that their progress with the investigation into the offence is proceeding on the right lines. The identification can only be used as corroborative of the statement in Court...."*

In another case of *Pramod Mandal -vs- State of Bihar* reported in 2004 (13) SCC 150, the Hon'ble Supreme Court while placing reliance on the case of *Anil Kumar -vs- State of Uttar Pradesh* reported

in (2003) 3 SCC 569 observed that:

*“..... It is neither possible nor prudent to lay down any invariable rule as to the period within which a Test Identification Parade must be held, or the number of witnesses who must correctly identify the accused, to sustain his conviction. These matters must be left to the Courts of fact to decide in the facts and circumstances of each case. If a rule is laid down prescribing a period within which the Test Identification Parade must be held, it would only benefit the professional criminals in whose cases the arrests are delayed as the police have no clear clue about their identity, they being persons unknown to the victims. They therefore, have only to avoid their arrest for the prescribed period to avoid conviction. Similarly, there may be offences which by their very nature may be witnessed by a single witness, such as rape. The offender may be unknown to the victim and the case depends solely on the identification by the victim, who is otherwise found to be truthful and reliable. What justification can be pleaded to contend that such cases must necessarily result in acquittal because of there being only one identifying witness? Prudence therefore demands that these matters must be left to the wisdom of the courts of fact which must consider all aspects of the matter in the light of the evidence on record before pronouncing upon the acceptability or rejection of such identification...”*

Applying the settled principles of law to the facts of the present case I may observe that in so far as the law relating to conduct of the Judicial Test Identification Parade is concerned the witnesses can be categorized in to three. First those who have specifically named the assailants/ accused in their statements to the police having identified them. Second those whose have not named the assailants/ accused to the police but have only give their description. Third those who have neither named nor given the description of the assailants/ accused but have generally stated that they could identify the assailants/ accused if shown to them. Here I may observe that the conduct of Judicial Test Identification parade is not an essential requirement in so far as the first category of witnesses are concerned as the accused are known to the victims/ witnesses and their identity has already been made known. However in so far as the second and third category of witnesses are concerned the requirement of a Judicial Test Identification Parade is essential, particularly more in the third category where neither the description nor the name of the assailant/ accused is made known which is to avoid any mistake on the part of the witnesses or false implication of innocent persons at later stage for ulterior motives. In the present case the necessity of conducting the Judicial Test Identification Parade would have arisen only in those cases and circumstances where the accused are unknown to the victim or their identity is under dispute for some reason or the other. The assailants were all from the same village and were known to the victims even prior to the incident. Most of the victims/ witnesses in their statements under Section 161 Cr.P.C. made to the police have specifically named the accused along with their parentage and therefore under these circumstances there was no requirement for the Investigating Officer to get the Judicial Test Identification Parade conducted from these witnesses who have already named the accused. However, I may observe that there are a large number of witnesses who have in their statements made to the police under Section 161 Cr.P.C. claimed that there were other assailants whom they



could identify (who have not been named). It is this set of witnesses to whom the accused were required to be put for identification after their arrest which has not been done and therefore under these circumstances it is the first time identification of those accused in the Court who have not been previously named or described by the witnesses which cannot form the basis of conviction.

I may also observe that many of the prosecution witnesses claiming to be eye witnesses have not been able to name the accused whom they had previously named in their statements under Section 161 Cr.P.C. but have identified them by pointing out towards them. Their testimonies qua the identification of such an accused cannot be rejected as the possibility of the witness having forgotten the name of the accused earlier named by him/ her cannot be ruled out. However, it is evident from the record that a large number of accused who were not previously named, described or identified by the witnesses have for the first time in the Court been named/ identified which is despite the fact that the witnesses and the accused being residents of the same village were presumably known to each other even at the time of the incident. The identification of these accused for the first time in the Court is a clear improvement in the testimonies of these witnesses who have earlier not named or identified them. The law as laid down by the Hon'ble Apex Court and the various High Courts in this regard is very clear.

In the case of *Yudhistir -vs- State of Madhya Pradesh* reported in 1971 SCC (Cr.) 684 the Hon'ble Apex Court while dealing with the question regarding the improvements in the testimonies made by the witnesses in the Court has observed that:

*"..... When a particular fact deposed to by the witness does not find mention both in the FIR and in the statements recorded under Section 161 Cr.PC. it is an improvement and it cannot be considered....."*

It has been further observed by the Hon'ble Court that:

*"..... Corroboration from any evidence given by a witness may be found necessary when a Court is not inclined to reject the evidence of the witness to be false, but when the evidence of a witness has been rejected as unacceptable, there is no scope for attempting to find corroboration by other independent evidence or circumstances...."*

Similar view has been taken by the Hon'ble Rajasthan High Court in the case of *Tej Singh and Anr. -vs- State of Rajasthan* reported in 1995 Cri.L.J. 1944 wherein it has been held that:

*"... A witness who in his earlier statement has not stated that he witnessed the occurrence and did not see the accused running, and if he tries to make improvement and tries to become an eye witness of the occurrence then the testimony of such a person cannot be believed and he cannot be said to be an eye witness to the occurrence...."*

In a similar case of dock identification of the accused, there being no evidence it was observed by the Hon'ble Delhi High Court in the case of *Parmod Kumar -vs- State (Delhi)* reported in 1990 (3) RCR 293 that such an identification of a person considered as suspect without there being any

supportive evidence particularly when there is no previous identity of the accused by the witness and therefore no conviction could be based upon the same.

Applying the settled principles of law to the facts of the present case it is evident that the victim community and the accused are all residents of the same village and known to each other and it is for this reason that no Judicial Test Identification Parade has been conducted. The accused have been named in the statements made by the witnesses in their statements under Section 161 Cr.P.C. on the basis of which the arrests have been made. It is also an admitted case of the prosecution that the accused have not been arrested on the pointing out of any of the witnesses. However, I may observe that there are witnesses who have for the first time identified some of the accused (not previously named/ described by them in their statements) in the Court. It is this set of witnesses whose testimonies qua identification of these accused pointed out by them for the first time in the Court which is required to be read with care on which no conviction can be based. The question of reading the previous statement of such a witness recorded by the Investigating Officer under Section 161 Cr.P.C. against such accused neither named nor described does not arise and the benefit of the same has to go to the accused.

Now coming specifically to the testimonies of the witnesses of the prosecution particularly Sushil (PW25), Dhoop Singh (PW29), Santra (PW30), Rani (PW33), Sanjay (PW36), Meena Kumar (PW37), Mahajan (PW38), Sube Singh (PW39), Vijender (PW40), Vicky (PW42), Dilbagh (PW43), Sanjay (PW44), Manoj (PW45), Satyavan (PW47), Gulaba (PW48), Pradeep (PW49) and Kamla (PW50) it is evident that they are all not residing in the village after the incident dated 21.4.2010 and except Kamla (PW50) and Pradeep (PW49) they are all residing at Ved Pal Tanwar Farm House. Their statements under Section 161 Cr.P.C. particularly the witnesses of Vicky (PW42), Manoj (PW45) and Pradeep (PW49) had been recorded after almost two months of the incident. They had been in regular touch with the investigating agency and their statements had been recorded on many occasions particularly of the witnesses Vicky (PW42) and Pradeep (PW49). There was ample opportunities for these witnesses to have named the accused who were previously known to them whom they have now named or identified by pointing out for the first time in the Court which they have not done. It was also open to the Investigating Officer to have subjected these accused to Test Identification by the witnesses which has not been done. I may further observe that it has come on record that all these witnesses named above had been holding regular dharnas/ protests in order to seek compensation from the Government of Haryana in the background of this incident which had taken place on 21.4.2010. Here I may observe that the witnesses Amar Lal (CW1), Pradeep (PW49) and Kamla (PW50) are now residing at Hisar in a government accommodation after Amar Lal and Pradeep have been given government job pursuant to the incident and the witness Sushil (PW25), Dhoop Singh (PW29), Santra (PW30), Rani (PW33), Sanjay (PW36), Meena Kumar (PW37), Mahajan (PW38), Sube Singh (PW39), Vijender (PW40), Dilbagh (PW43), Sanjay (PW44), Manoj (PW45) and Gulaba (PW48) are all residing at Ved Pal Tanwar Farm House for the last many

months where they have shifted after the incident. It has come on record that this Ved Pal Tanwar is a local politician harboring political ambitions and running an organization in the name of Gair Jat Sangathan (Anti Jat Organization). These witnesses from the 'B' community who have left village Mirchpur after the incident were housed at the Ved Pal Tanwar Farm House for many months from where they were carrying forward their legal battles. Under the given circumstances this Court certainly cannot ignore and overlook the aspect of the witnesses acting in consortium and the possibility of involving innocent persons along with the guilty in order to secure punishment for the maximum number of persons for reasons whatsoever cannot be ruled out.

The purpose of prior identification is to test and strengthen the trustworthiness of the witness and it is accordingly considered a safe Rule of Prudence to generally look for corroboration of the sworn testimonies of the witnesses in the Court as to the identity of the accused who are strangers to them. This Rule of not relying upon the identification made by the witnesses for the first time in the Court is only a Rule of Prudence and it is on the basis of the facts and circumstances of each case that the reliability on such a statement has to be ascertained. In the present case the witnesses and the accused are all residents of the same village belonging to two different caste fractions/ groups and not strangers. The background of the case being a fight between groups of boys belonging to two different castes which later on transformed into caste violence. The tendency of the part of the prosecution witnesses to implicate some innocent persons belonging to the same community also along with the guilty ones cannot be ruled out and in this regard I am supported by the observation of the Hon'ble Supreme Court in the case of *Bijoy Singh and Anr. -vs- State of Bihar* reported in 2002 RCR (Cri) 544 that in the case of party factions and group rivalries there is a tendency on the part of the prosecution witnesses to implicate some innocent persons also along with the guilty ones. Even otherwise the Rule of looking for corroboration is only subject to one exception that is when the Court is impressed by a particular witness on whose testimony it can safely rely without such other corroboration. But in a case where no satisfactorily explanation is forthcoming from the Investigating Officer for failure to hold the Test Identification Parade in case of the accused not previously named by the witness then no weight can be attached to the first time identification held in the Court (*Ref.: Swaran Singh -vs- State of Punjab* reported in AIR 2002 SC 3652) and given the circumstances of the present case the necessity of rejecting the identification made by the witnesses for the first time in the Court. Therefore, the argument put forward by the Ld. Defence Counsel regarding the witnesses being tutored and prompted to involve maximum number of persons from the 'J' community only to seek revenge also may not be all that unfounded. The Rule of Prudence therefore requires that the testimonies of these witnesses namely Sushil (PW25), Dhoo Singh (PW29), Santra (PW30), Rani (PW33), Sanjay (PW36), Meena Kumar (PW37), Mahajan (PW38), Sube Singh (PW39), Vijender (PW40), Vicky (PW42), Dilbagh (PW43), Sanjay (PW44), Manoj (PW45), Satyavan (PW47), Gulaba (PW48), Pradeep (PW49) and Kamla (PW50) who have identified the accused for the first time in the Court be subjected to independent scrutiny meaning thereby

that there should be an independent reliable corroboration forthcoming which does not imply finding a corroboration from each other testimony but should be corroborated by the testimony of a witness who has been held by the Court to be completely trustworthy, truthful and reliable. Unfortunately, in the present case no such independent reliable corroboration is forthcoming to the testimonies of the aforesaid witnesses and therefore the first time identification of the accused in the Court (dock identification) by these witnesses namely Sushil (PW25), Dhoop Singh (PW29), Santra (PW30), Rani (PW33), Sanjay (PW36), Meena Kumar (PW37), Mahajan (PW38), Sube Singh (PW39), Vijender (PW40), Vicky (PW42), Dilbagh (PW43), Sanjay (PW44), Manoj (PW45), Satyavan (PW47), Gulaba (PW48), Pradeep (PW49) and Kamla (PW50) even otherwise from the very nature being inherently an evidence of a weak character, would be unacceptable.

### **Dying Declaration**

The case of the prosecution that at the time when the injured Tara Chand was got admitted to General Hospital, Hisar at about 2:30 PM by SI Bane Singh, he was conscious and oriented and was declared fit for statement by the doctors. SI Bane Singh who had accompanied Tara Chand to the hospital (General Hospital Hisar) is stated to have made inquiries from Tara Chand when he disclosed about the manner of assault and the names of the assailants. According to the prosecution after getting the fitness from Dr. Dinesh SI Bane Singh recorded the statement of Tara Chand in the presence of Dr. Dinesh Kumar and son of Tara Chand namely Amar Lal which statement is *Ex.PW64/C*. It is further the case of the prosecution that on the advice of senior officers SI Bane Singh immediately moved a request before the Judicial Magistrate First Class, Hisar for recording the statement of Tara Chand. Pursuant to the application moved by SI Bane Singh (*Ex.PW55/A*) Sh. Harish Goyal, Ld. Duty Magistrate, Hisar posted as Judicial Magistrate, 1<sup>st</sup> Class reached General Hospital, Hisar at about 5:30 PM and after Dr. Dinesh Kumar gave a certificate regarding fitness of Tara Chand to make his statement, Ld. Duty Magistrate recorded the statement of Tara Chand which is *Ex.PW55/B* and after his statement the doctor on duty again certified about the condition of Tara Chand at point B on *Ex.PW55/A*. However, soon thereafter the condition of Tara Chand deteriorated and while he was being shifted to the Soni Burns Hospital, Hisar for specialized treatment he succumbed to his injuries and expired at between 6:00 to 6:15 PM. The Ld. Special Public Prosecutor has placed his reliance on both the above statements of the deceased Tara Chand and has vehemently argued that being the earliest untutored authentic version of the incident, reliance can be placed on the aforesaid. On the other hand Ld. Counsel appearing on behalf of the accused have challenged the correctness, authenticity, credibility and truthfulness of the said Dying Declarations of Tara Chand recorded first by SI Bane Singh (*Ex.PW64/C*) and thereafter by Judicial Magistrate First Class Sh. Harish Goyal (*Ex.PW55/B*) on the following grounds:

- Dr. Dinesh Kumar who was on duty at that time and had examined the deceased Tara Chand had not made any endorsement regarding the fact that the witness was conscious and was

in a fit mental state to make a statement and particularly attestation of doctor who was not examined creates doubt about the authenticity of this record and in the peculiar facts when the PW64 specifically deposed that it was recorded in the presence of doctor.

- In the Dying Declaration recorded by Sh. Harish Goel Judicial Magistrate First Class which is *Ex.PW55/B* there is no fitness certificate by the doctor or endorsement by him and is only attested by ACJM (Senior Division) Hisar who has also not been examined.
- Prior to recording of dying declaration of Tara Chand *Ex.PW55/B* another statement of the deceased was recorded by SI Bane Singh which is *Ex.PW64/C* and it is writ large that both the statements are identical showing that the probability of the later statement recorded by the Judicial Magistrate First Class being influenced by the first statement recorded by SI Bane Singh cannot be ruled out more so because the second Dying Declaration recorded by Judicial Magistrate First Class *Ex.PW55/B* was admittedly not sealed on 21.04.2010 but was rather sealed on 23.04.2010. The Ld. Counsel has placed his reliance on the case of *Kushal Rao -vs- State of Bombay* reported in AIR 1958 SC 22, followed later in the case of *Ashok Panduranga Jadhav -vs- State of Maharashtra* wherein it was observed that in a case where the police had oral knowledge regarding the dying declaration prior to recording the same by the judicial magistrate then the said dying declaration even though recorded by the judicial magistrate is not at all trustworthy. It is submitted that in the present case according to prosecution SI had already recorded the dying declaration then it was recorded by Judicial Magistrate First Class, so it is not reliable at all in view of the above law settled by the Hon'ble Apex Court.
- Though PW64 SI Bani Singh has deposed that CW1 Amar was also present at the time of recording of the evidence but CW1 Amar has nowhere deposed of the dying declaration being recorded by SI Bani Singh in his presence.
- At the time of examination of Amar Lal the prosecution has only shown him his signatures and had not even suggested that the dying declaration was recorded in presence of SI Bane Singh and in this regard they have placed their reliance on the crossexamination of Amar Lal wherein he has admitted as correct that *Ex.PW64/C* dying declaration of his father recorded by SI Bani Singh bearing his signatures at point A.
- In so far as the signatures of Dr. Dinesh are concerned it has been made clear that it was got attested by the doctor but the presence of Amar Lal at that time is not established because if the signature of Amar Lal on *Ex.PW64/C* are got compared with his signatures on *Ex.CW1/DX1* and the dying declaration it would be evidence that the signatures at point A on *Ex.PW64/C* are not of Amar Lal.
- Non-deposition of Amar Lal before the Enquiry Commission and his affidavit on the point of dying declaration creates a doubt with regard to the credibility of this witness and his presence at the spot.

- Because the presence of the accused Rajender S/o Pale stands established at Jind at the time of alleged incident as evident from the call detail records placed before this court and therefore under these circumstances the dying declarations on which the prosecution is seeking to place its reliance are not at all trustworthy and are doubtful.
- That the dying declaration is not at all trustworthy because bed head ticket shows burning of 99% and Tara Chand according to prosecution reached the hospital at 2:30 P.M. and according to M.L.C. he was referred to PGIMS urgently, as such Tara Chand was referred from Hisar hospital between 2:30 to 3 PM, and if this be so then the deceased Tara Chand having been shifted out of the General Hospital Hisar there can be no recording of his statement at the Hisar Hospital thereafter. It is argued that two things being undisputed firstly that the burn injuries were received by Tara Chand around 12:30 PM and he reached at hospital at 2:30 PM MLR shows his urgently reference PGIMS proves that dying declaration is not trustworthy and secondly that Tara Chand could not reach at PGIMS Rohtak and he was brought back to Hisar where the doctors have written that he has been brought dead and therefore the statement could not have been recorded.
- The alleged recording of his dying declaration first by SI Bani Singh and then by Judicial Magistrate First Class is not at all trustworthy as SI Bani Singh has deposed he only got the statement of Tara Chand attested by doctor which makes it crystal clear that Tara Chand was not declared fit to make statement before he allegedly made a statement to SI Bani Singh and then Judicial Magistrate First Class.
- Because the FSL report also rule out the use of kerosene oil or petrol.

I have duly considered the submissions made before me and the various authorities on which reliance has been placed by both the sides. I may observe that there is a historical and a literary basis for recognition of dying declaration as an exception to the Hearsay Rule. Some authorities suggest the rule is of Shakespearian origin. In "The Life and Death of King John", Shakespeare has Lord Melun utter what a "hideous death within my view, retaining but a quantity of life, which bleeds away,..lost the use of all deceit" and asked, "Why should I then be false, since it is true that I must die here and live hence by truth?" (Ref.: William Shakespeare, *The Life and Death of King John* act. 5, sc.2, lines 22-29).

It is the provisions of Section 32 of the *Indian Evidence Act* which are relevant in case of statements of the persons who are dead or cannot be found. It reads as under:

**Section 32. Cases in which statement of relevant fact by person who is dead or cannot be found etc., is relevant:** Statements, written or verbal of relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence or whose attendance cannot be procured without an amount of delay or expense which, under the circumstances of the case, appears to the court unreasonable, are themselves relevant facts in the following cases:

- (1) *when it relates to cause of death: When the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question. Such statements are relevant whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceedings in which the cause of his death comes into question.*

Section 32 of the *Indian Evidence Act* provides for exception to the rule of hear-say. As a general rule the hear-say evidence is excluded and best evidence must always be given but Section 32 of the *Indian Evidence Act* is an important exception to this rule and one of the exceptions so provided where a person is dead or incapable of giving evidence or cannot be found, then in such case since no better evidence can be obtained, the oral or written evidence of such a person relating to relevant fact under inquiry, becomes admissible. The test of cross-examination being unavailable, the safeguards which are enumerated under *Section 32* of the *Indian Evidence Act* must be observed. Dying Declaration is only a piece of untested evidence and must like any other evidence satisfy the court that what has been stated therein is the unalloyed truth and that it is absolutely safe to rely upon it. The evidentiary value or weight which has to be attached to such a statement/ Dying Declaration necessarily depends upon the facts and circumstances of each case. It is the duty of the court to subject such a statement to close scrutiny to ascertain whether it was honest and truly made and not a result of any tutoring, prompting or imagination and the deceased had opportunity to observe and identify the assailants and was in a fit state to make a declaration. It is hence settled that in passing upon admissibility of an alleged dying declaration, all attendant circumstances should be considered, including weapon which injured the victim, nature and extent of injuries, victim's physical condition, his conduct, and what was said to and by him. The Hon'ble Apex Court has in various judicial pronouncements has consistently taken the view that where a proper and sufficient predicate has been established for the admission of a statement under dying declaration, Hearsay exception is a mixed question of fact and law. It is equally well settled that dying declaration can form the sole basis for conviction but at the same time due care and caution must be exercised in considering weight to be given to dying declaration in as much as there could be any number of circumstances which may affect the truth. The Hon'ble Apex Court has in more than one decision cautioned the courts to be on guard to see that the dying declaration was not the result of either tutoring or prompting or a product of imagination and has observed that it is the duty of the courts to find that the deceased was in a fit state of mind to make the dying declaration. In order to satisfy itself that the deceased was in a fit mental condition to make the dying declaration, the courts have to look for the medical opinion.

It is not difficult to appreciate why dying declarations are admitted in evidence at a trial for murder, as a striking exception to the general rule against hearsay. For example, any sanction of the oath in the case of a living witness is a thought to be balanced at least by the final conscience of the dying man. Nobody, it has been said, would wish to die with a lie on his lips. A dying declaration

has got sanctity and a person giving the dying declaration will be last to give untruth as he stands before his creator. There is a legal maxim "*Nemo Moriturosus Praesumitur Mentire*" meaning, that a man will not meet his maker with lie in his mouth. *Woodroffe* and *Amir Ali*, in their treatise on Evidence Act state: "when a man is dying, the grave position in which he is placed is held by law to be a sufficient ground for his veracity and therefore the tests of oath and cross-examination are dispensed with."

Therefore it is for the court to consider in each case and under the given circumstances as to what value should be given to a dying declaration. The court on assessment of the circumstances and the evidence and materials on record, has to come to a conclusion about the truth or otherwise of the version, be it written, oral, verbal or by sign or by gestures. It is also a settled principle of law that dying declaration is a substantive evidence and an order of conviction can be safely recorded on the basis of dying declaration provided the court is fully satisfied that the dying declaration made by the deceased was voluntary and reliable and the author recorded the dying declaration as stated by the deceased. This court laid down the principle that for relying upon the dying declaration the court must be conscious that the dying declaration was voluntary and further it was recorded correctly and above all the maker was in a fit condition - mentally and physically - to make such statement.

In *Smt. Paniben -vs- State of Gujarat* reported in (1992) 2 SCC 474, the Hon'ble Apex Court while observing that a dying declaration is entitled to great weight however cautioned to note that the accused has no power to cross-examination. It was observed that:

*"Such a power is essential for eliciting the truth as an obligation of oath could be. This is the reason the Court also insists that the dying declaration should be of such a nature as to inspire full confidence of the Court in its correctness. The Court has to be on guard that the statement of deceased was not as a result of either tutoring, prompting or a product of imagination. The Court must be further satisfied that the deceased was in a fit state of mind after a clear opportunity to observe and identify the assailants. Once the Court is satisfied that the declaration was true and voluntary, undoubtedly, it can base its conviction without any further corroboration. It cannot be laid down as an absolute rule of law that the dying declaration cannot form the sole basis of conviction unless it is corroborated. The rule requiring corroboration is merely a rule of prudence. This Court has laid down in several judgements the principles governing dying declaration, which could be summed up as under:*

- (i) *There is neither rule of law nor of prudence that dying declaration cannot be acted upon without corroboration [Munnu Raja -vs- State of M.P.] (1976) 3 SCC 104; 1976 SCC (Cri.) 376; (1976) 2 SCR 764; AIR 1976 SC 2199].*
- (ii) *If the Court is satisfied that the dying declaration is true and voluntary it can base conviction on it, without corroboration. [(State of U.P. -vs- Ram Sagar Yadav) (1985) 1 SCC 552 : 1985 SCC (Cri) 127; AIR 1985 SC 416; Ramavati Devi -vs- State of Bihar (1983) 1 SCC 211: 1983 SCC (Cri) 169; AIR 1983 SC 164].*



- (iii) Court has to scrutinise the dying declaration carefully and must ensure that the declaration is not the result of tutoring, prompting or imagination. The deceased had opportunity to observe and identify the assailants and was in a fit state to make the declaration. [(K. RamChandra Reddy -vs- Public Prosecutor) (1976) 3 SCC 618: 1976 SCC (Cri) 473: AIR 1976 SC 1994].
- (iv) Where dying declaration is suspicious it should not be acted upon without corroborative evidence. [Rasheed Beg -vs- State of M.P.) (1974) 4 SCC 264 : 1974 SCC (Cri) 426].
- (v) here the deceased was unconscious and could never make any dying declaration the evidence with regard to it is to be rejected. [(Kake Singh -vs- State of M.P.) 1981 Supp. SCC 25: 1981 SCC (Cri.) 645 : AIR 1982 SC 1021].
- (vi) A dying declaration which suffers from infirmity cannot form the basis of conviction. [(Ram Manorath -vs- State of U.P.) (1981) 2 SCC 654 : 1981 SCC (Cri) 581].
- (vii) Merely because a dying declaration does not contain the details as to the occurrence, it is not to be rejected. [(State of Maharashtra -vs- Krishnamurti Laxmipati Naidu) 1980 Supp. SCC 455 : 1981 SCC (Cri) 364 : AIR 1981 SC 617].
- (viii) Equally, merely because it is a brief statement, it is not to be discarded. On the contrary, the shortness of the statement itself guarantees truth. [(Surajdeo Oza -vs- State of Bihar) 1980 Supp. SCC 769 : 1979 SCC (Cri) 519 : AIR 1979 SC 1505].
- (ix) Normally the court in order to satisfy whether deceased was in a fit mental condition to make the dying declaration look up to the medical opinion. But where the eye-witness has said that the deceased was in a fit and conscious state to make this dying declaration, the medical opinion cannot prevail. [(Nanahau Ram and Anr. -vs- State of M.P.) 1988 Supp. SCC 152 : 1988 SCC (Cri) 342 : AIR 1988 SC 912].
- (x) Where the prosecution version differs from the version as given in the dying declaration, the said declaration cannot be acted upon. [(State of U.P. -vs- Madan Mohan) (1989) 3 SCC 390 : 1989 SCC (Cri) 585 : AIR 1989 SC 1519]"

Further, in the case of *Mayur Panabhai Shah -vs- State of Gujarat*, reported in AIR 1983 SC 66, Their Lordships of the Supreme Court did not approve the observation made by a learned Single Judge of the Gujarat High Court to the effect that 'our Courts have always taken the Doctors as witness of truth'. The Supreme Court of India observed 'even where a doctor has deposed in court, his evidence has got to be appreciated like the evidence of any other witness and there is no irrebuttable presumption that a doctor is always a witness of truth.'

In the case of *Ashok Pandurang Jadhav -vs- The State of Maharashtra*, CrI. Appeal No. 372/09 decided on 6.5.2011, it has been reaffirmed by the Hon'ble Bombay High Court that like every other piece of evidence, the declarations made by the dying man ought to be subjected to scrutiny and cannot be accepted as true merely because it is proved that the dying man indeed made such statements. The Hon'ble Bombay High Court also observed that one of the principles, which ought to be kept in mind in assessing the value of dying declaration as laid down by Their Lordships of the Supreme Court in the case of *Khushal Rao* (supra) is that a dying declaration stands on the same footing as another piece of evidence and has to be judged in the light of surrounding circumstances

and with reference to the principles governing the weighing of evidence and further observed that the weight, which is to be attached to the testimony of a witness, depends, in a large measure, upon considerations, that is, if on the face of it, his evidence is so much in consonance with the probabilities and consistent with other evidence and generally so fits with the material details of the case of prosecution, as to carry conviction of truth to a prudent mind, it can be safely accepted. What is true with respect to evidence of witnesses is also true with respect to the statements made by a dying man. In fact, they deserve to be scrutinized more carefully as they cannot be tested on the anvil of the cross-examination.

The Hon'ble Bombay High Court also in the above case culled out the possible infirmities in a dying declaration which according to it could be one or more of the following :

- (a) The declarant may not have been mentally fit to make the alleged declaration.
- (b) The nature of the record made may have considerably detracted from the actual words uttered by the declarant.
- (c) The declaration may have been lacking in circumstantial guarantee of its trustworthiness.
- (d) The declaration may have been the result of suggestion or consultation.

Further, in the case of *Khushal Rao -vs- State of Bombay* reported in AIR 1958 SC 22 a Full Bench of the Supreme Court of India, specifically dealt with the evidentiary value of dying declarations. Their Lordships of the Supreme Court referred to a previous decision of the Supreme Court reported in *AIR 1953 SC 420(E)*, wherein it had observed that it was not safe to convict an accused merely on the evidence of dying declaration, without any corroboration. Their Lordships reproduced the observations as under:

*"It is settled law that it is not safe to convict an accused person merely on the evidence furnished by a dying declaration without further corroboration because such a statement is not made on oath and is not subject to cross-examination and because the maker of it might be mentally and physically in a state of confusion and might well be drawing upon his imagination while he was making the declaration. It is in this light that the different dying declarations made by the deceased and sought to be proved in the case have to be considered."*

Their Lordships further observed as under:

*"We have, therefore, to examine the legal position whether it is settled law that a dying declaration by itself, can, in no circumstances, be the basis of a conviction."*

After extensively examining the provisions of Sec.32(1) of the Evidence Act and referring to various conflicting views with regard to the value of dying declaration as a piece of evidence expressed by different High Courts, Their Lordships laid down the following principles :

*"1) That it cannot be laid down as an absolute rule of law that a dying declaration cannot form the sole basis of conviction unless it is corroborated;*

- 2) *that each case must be determined on its own facts keeping in view the circumstances in which the dying declaration was made;*
- 3) *that it cannot be laid down as a general proposition that a dying declaration is a weaker kind of evidence than other pieces of evidence;*
- 4) *that a dying declaration stands on the same footing as another piece of evidence and has to be judged in the light of surrounding circumstances and with reference to the principles governing the weighing of evidence;*
- 5) *that a dying declaration which has been recorded by a competent magistrate in the proper manner, that is to say, in the form of questions and answers, and, as far as practicable, in the words of the maker of the declaration, stands on a much higher footing than a dying declaration which depends upon oral testimony which may suffer from all the infirmities of human memory and human character; and*
- 6) *that in order to test the reliability of a dying declaration, the Court has to keep in view, the circumstances like the opportunity of the dying man for observation, for example, whether there was sufficient light if the crime was committed at night; whether the capacity of the man to remember the facts stated had not been impaired at the time he was making the statement, by circumstances beyond his control; that the statement has been consistent throughout if he had several opportunities of making a dying declaration apart from the official record of it; and that the statement had been made at the earliest opportunity and was not the result of tutoring by interested parties."*

Their Lordships then observed as under:

*"Hence, in order to pass the test of reliability, a dying declaration has to be subjected to a very close scrutiny, keeping in view the fact that the statement has been made in the absence of the accused who had no opportunity of testing the veracity of the statement by cross-examination. But, once, the Court has come to the conclusion that the dying declaration was the truthful version as to the circumstances of the death and the assailants of the victim, there is no question of further corroboration. If, on the other hand, the Court, after examining the dying declaration in all its aspects, and testing its veracity, has come to the conclusion that it is not reliable by itself, and that it suffers from an infirmity, then without corroboration it cannot form the basis of a conviction. Thus, the necessity for corroboration arises not from any inherent weakness of a dying declaration as a piece of evidence, as held in some of the reported cases, but from the fact that the Court, in a given case, has come to the conclusion that particular dying declaration was not free from the infirmities, referred to above or from such other infirmities as may be disclosed in evidence in that case."*

In the case of *Nallapati Sivaiah -vs- Sub-Divisional Officer, Guntur, A. P.* reported in AIR 2008 Supreme Court 19 the Hon'ble Apex Court while examining the credibility, consistency and truthfulness of the Dying Declaration recorded by the Magistrate and capacity of the declarant of making an intelligible statement and observed that:

*"... It was the duty of the prosecution to establish the charge against the accused beyond reasonable doubt and the benefit of doubt must always go in favour of the accused....."*

It further observed that:

*“..... It is true that dying declaration is a substantive piece of evidence to be relied on provided it is proved that the same was voluntary and truthful and the victim was in a fit state of mind.....”*

It was also observed that:

*“..... It is not the requirement in law that the doctor who certified about the condition of the victim to make a Dying Declaration is required to be examined in every case but it was the obligation of the prosecution to lead corroborative evidence available in the peculiar circumstances of the case....”*

The court further observed that:

*In our considered opinion, the medical evidence and surrounding circumstances altogether cannot be ignored and kept out of consideration by placing exclusive reliance upon the testimony of person recording a dying declaration. The Dying Declaration must inspire confidence so as to make it safe to act upon. Whether it is safe to act upon a Dying Declaration depends upon not only the testimony of the person recording Dying Declaration - be it even a Magistrate but also all the material available on record and the circumstances including the medical evidence. The evidence and the material available on record must be properly weighed in each case to arrive at proper conclusion. The court must satisfy to itself that the person making the Dying Declaration was conscious and fit to make statement for which purposes not only the evidence of persons recording dying declaration but also cumulative effect of the other evidence including the medical evidence and the circumstances must be taken into consideration.*

In the case of *K. Ramachandra Reddy and another -vs- The Public Prosecutor* reported in (1976) 3 SCC 618: 1976 SCC (Cri) 473: AIR 1976 SC 1994, the court having noticed the evidence of a prosecution witness who conducted the postmortem that there were as many as 48 injuries on the person of the deceased out of which there were 28 incised wounds on the various parts of the body including quite a few gaping incised injuries came to the conclusion that in view of those serious injuries it was difficult to believe that the deceased would have been in a fit state of mind to make a dying declaration. It was also a case where the Magistrate did not put a direct question to the injured whether he was capable mentally to make any statement. In the circumstances this court came to the conclusion that the Magistrate committed a serious irregularity in "not putting a direct question to the injured whether he was capable mentally to make any statement." It has been observed that:

*“..... Even though the deceased might have been conscious in the strict sense of the term, "there must be reliable evidence to show, in view of his intense suffering and serious injuries, that he was in a fit state of mind to make statement regarding the occurrence." The certificate issued by the doctor that the deceased was in a fit state of mind to make statement by itself would not be sufficient to dispel the doubts created by the circumstances and particularly the omission by the Magistrate in not putting a direct question to the deceased regarding the mental condition of the injured.....”*

In the case of *Darshan Singh @ Bhasuri and Ors. -vs- State of Punjab* reported in 1999 AIR SCW 3727, relying on the evidence of the Medical Officer who conducted the postmortem examination on the body of victim to the effect that the victim's vital organs like peritoneum, stomach and spleen were completely smashed and that there were remote chances of his remaining conscious after receipt of such injury, the Hon'ble Apex Court came to a conclusion that it was impossible to believe that he was in a fit state of mind and body to make any kind of coherent or credible statement relating to the circumstances which resulted in his death. It was observed that

*"..... true, he was quite near his Creator, dangerously so indeed, and we may accept that his mind was then free from failings which afflict the generality of human beings, like involving enemies in false charges. But; was too ill to entertain any thoughts, good or bad, and he could not possibly even in a position to make any kind of intelligible statement..."*

The court accordingly refused to place any reliance on the dying declaration and excluded the same from consideration.

In the case of *Laxman -vs- State of Maharashtra* reported in 2002 AIR SCW 3479, Para 3; 8 (2002) 6 SCC 710, a Constitution Bench of the Hon'ble Apex Court held:

*"The court, however, has always to be on guard to see that the statement of the deceased was not as a result of either tutoring or promoting or a product of imagination. The court also must further decide that the deceased was in a fit state of mind and had the opportunity to observe and identify the assailant. Normally, therefore, the court in order to satisfy whether the deceased was in a fit mental condition to make the dying declaration looks up to the medical opinion. But where the eyewitnesses state that the deceased was in a fit and conscious state to make the declaration, the medical opinion will not prevail, nor can it be said that since there is no certification of the doctor as to the fitness of the mind of the declarant, the dying declaration is not acceptable. A dying declaration can be oral or in writing and any adequate method of communication whether by words or by signs or otherwise will suffice provided the indication is positive and definite. In most cases, however, such statements are made orally before death ensues and is reduced to writing by someone like a magistrate or a doctor or a police officer. When it is recorded, no oath is necessary nor is the presence of a magistrate absolutely necessary, although to assure authenticity it is usual to call a magistrate, if available for recording the statement of a man about to die. There is no requirement of law that a dying declaration must necessarily be made to a magistrate and when such statement is recorded by a magistrate there is no specified statutory form for such recording. Consequently, what evidential value or weight has to be attached to such statement necessarily depends on the facts and circumstances of each particular case. What is essentially required is that the person who records a dying declaration must be satisfied that the deceased was in a fit state of mind. Where it is proved by the testimony of the magistrate that the declarant was fit to make the statement even without examination by the doctor the declaration can be acted upon provided the court ultimately holds the same to be voluntary and truthful. A certification by the doctor is essentially a rule of caution and therefore the voluntary and truthful nature of the declaration can be established otherwise."*

The Constitution Bench in its authoritative pronouncement declared that there is no requirement of law that dying declaration must necessarily contain a certification by the doctor that the patient was in a fit state of mind especially when a dying declaration was recorded by a Magistrate. It is the testimony of the Magistrate that the declarant was fit to make the statement gains the importance and reliance can be placed upon declaration even in the absence of the doctor provided the court ultimately holds the same to be voluntary and truthful. The judgement does not lay down a proposition that medical evidence, even if available on record, as also the other attending circumstances should altogether be ignored and kept out of consideration to assess the evidentiary value of a dying declaration whenever it is recorded by a Magistrate. The Constitution Bench resolved the difference of opinion between the decisions expressed by the two Benches of three learned Judges in *Paparambaka Rosamma and Ors. -vs- State of A.P.* reported in (1999) 7 SCC 695 and *Koli Chunilal Savji and Anr. -vs- State of Gujarat* reported in (1999) 9 SCC 562 and accordingly held that there is no requirement of law that there should be always a medical certification that the injured was in a fit state of mind at the time of making a declaration and such certification by the doctor is essentially a rule of caution and even in the absence of such a certification the voluntary and truthful nature of the declaration can be established otherwise. (1999 AIR SCW 3440, 1999 AIR SCW 3727, 9 (1999) 7 SCC 695)

In the case of *Kailash -vs- State of M.P.* reported in (2006) 11 SCC 420 the Hon'ble Apex Court while advertng to the question as to the course open to the courts where oral evidence is to be found inconsistent with the medical evidence has observed:

*"When, however, oral evidence is found to be inconsistent with the medical evidence, the question of relying upon one or the other would depend upon the facts and circumstances of each case. No hardand-fast rule can be laid down thereof."*

In the case of *State of Rajasthan -vs- Bhanwar Singh* reported in 2004 AIR SCW 5245, Para 6 the Hon'ble Apex Court observed as under:

*"Though ocular evidence has to be given importance over medical evidence, where the medical evidence totally improbabilities the ocular version that can be taken to be a factor to affect credibility of the prosecution version."*

Applying the settled principles of law to the facts of the present case it is evident that *Firstly* it is not disputed by anyone that Tara Chand had sustained burns in the incident dated 21.4.2010 and was rushed to the hospital by the police in an ambulance. *Secondly* that on receiving burns Tara Chand had rushed out of his house and took refuge in the house of Deewan Singh which is situated on the opposite side towards the main gali on one side. *Thirdly* within a few minutes Tara Chand going to the house of Deewan Singh, police arrived at the spot and on seeing his condition rushed him to General Hospital Hisar. *Fourthly* that SI Bane Singh and the son of Tara Chand namely Amar Lal along with nephew of Tara Chand namely Ashok S/o Maha Singh accompanied him to the hospital. *Fifthly* when Tara Chand reached General Hospital Hisar he was conscious

and oriented and his MLR Ex.PW52/A was prepared by Dr. Dinesh Kumar (PW68) who also gave information to the police vide Ex.PW64/A. Tara Chand when examined was found to be having 99% burns with superficial deep burns all over the body with skin denuded at multiple places, bulla filled with water and burns sparing the perineal area, a red line was present between the burnt and unburnt area. *Sixthly* Tara Chand was examined by Surgeon Dr. Sunita Garg (DW44) at 2:30 PM and on seeing his condition she urgently referred him to PGIMS, Rohtak and her endorsement to this effect is present on Ex.PW52/B at point encircled X1 bearing her signatures. *Seventhly* the bed head ticket of Tara Chand Ex.PW52/B which was prepared by Dr. Dinesh Kumar shows that at 2:30 PM when Tara Chand was examined he was unconscious and not oriented and his Blood Pressure and pulse were not recordable and at that time he was given IV fluids. *Eighthly* that SI Bane Singh had recorded the statement of Tara Chand in the presence of his son Amar Lal on which Dr. Dinesh had given the fitness in respect of Tara Chand on the application of SI Bane Singh Ex.PW64/B and also signed on the statement of Tara Chand on Ex.PW64/C. *Ninthly* the Judicial Magistrate First Class Sh. Harish Goyal (PW55) had come to the hospital and recorded the statement of Tara Chand at about 5:15-5:30 PM at which time Tara Chand was conscious and Dr. Dinesh Kumar had given the fitness in respect of Tara Chand to him on Ex.PW55/A both before and after the recording of the statement by the Ld. Judicial Magistrate. *Tenthly* Dr. Dinesh Kumar had referred Tara Chand to PGIMS Rohtak at 6:00 PM as his condition deteriorated when Tara Chand was shifted from the hospital. *Lastly* body of Tara Chand was brought back to the hospital since he had expired on the way to Soni Burns Hospital and was declared dead when he reached there and was therefore brought back to General Hospital Hisar.

Now coming to the statement of Tara Chand made to SI Bane Singh at the first instance which is Ex.PW64/C the same reads as under:

*Bayan anjane Tara Chand putar Swaroop Singh, kaum Balmiki, gaon Mirchpur, ba umar 60 saal. Bayan kiya ki uprokat pate ka rehne wala hu and ghar par hi rehta hu, aaj samay karib 12 baje din mei we meri ladki Suman, apahij ghar par the. Mitti ka tail dal kar Rajender we uske sath 20 ladke aur the. Kamre mei mei we meri ladki Suman ba umar 18 warsh ko aag laga kar kamla ka bahar se kunda band kar ke jatisuckar galiya de ththa darwaja jalaya. Jalne ke bad jasi he mei bahar nikla inhi logo ne lathiyo se hamla kiya. Phir mei Diwan Singh ke ghar mei jali hui halat mei pauch gaya. Ttha meri ladki Suman jalkar apahij hone ke karan makan ke andar hi rah gayi. Iske sath dusre mere ghar ki bethak mei aag laga di. Mera aaj mei sara sharir jal gaya. Phir mera ladka Amar ve mera bhatija Ashok Kumar S/o Maha Singh sarkar gypsy mei illaj ke liye sarkar hasptal Hisar ke aye, jaha doctor sahab ne mere ko dakhil karke marham pati ki ve illaj shuru kar diya. Rajender Singh ke illawa jat samuday ke ladko ke naam mera ladka Amar batla sakta hai. Samne ane par mei pehchan sakta hu. Jhagra ka karan mere pariwar wale hi batla sakte hai. Bayan likha, diya samajh liya, sun liya thek hai.*

It is evident from above that Tara Chand has only named *Rajender S/o Pale* as the assailant and has further told the Investigating Officer that his son Amar Lal who was present at that time would give

the names of other assailants. The time when the above statement of Tara Chand was so recorded by SI Bane Singh is nowhere mentioned on the said statement.

Now coming to the statement *Ex.PW55/B* recorded by Sh. Harish Goyal Judicial Magistrate First Class which is as under:

*Q: Apka naam kya hai?*

*Ans.: Tara Chand.*

*Q: Apko Kya hua hai?*

*Ans.: Mai apne ghar mei tha. Mera ghar jato ne phook diya. Aag Rajender ne lagai thi. Rajender ke bap ka naam Pali hai.*

*Q: Apko kuch aur kehna hai?*

*Ans.: Nahi.*

It is evident that both before and after recording the above statement, the fitness of the patient has been given by the doctor but soon after the condition of Tara Chand is stated to have deteriorated when he was shifted out from the hospital at 6:00 PM and while on the way to the Soni Burns Hospital Hisar he expired and had to be brought back to General Hospital, Hisar.

It is settled law that while assessing the truthfulness of a Dying Declaration reference to other circumstances which are either undisputed or satisfactorily proved may be necessary. A Dying Declaration lacking any circumstantial guarantee of its trustworthiness even if it was held to be made by the deceased, would fail.

Coming first to the statement recorded by SI Bane Singh which is *Ex.PW66/C* I may observe that at 2:30 PM when Dr. Dinesh had examined Tara Chand he was unconscious and not oriented and his Blood Pressure and pulse were not recordable and at that time he was given IV fluids. Naturally his statement could not have been recorded at that time. Thereafter it was SI Bane Singh who had gone to the District Courts Hisar and on the advise of his senior officers moved an application before the Duty Magistrate for recording the statement of Tara Chand and according to Sh. Harish Goyal, Judicial Magistrate First Class the application was put up before him at 5:00 PM and he (Judicial Magistrate First Class) reached the hospital by 5:15 PM after which he recorded the statement of Tara Chand. This being so, SI Bane Singh would have apparently reached the Hisar Court only after 4:00 PM and it was for this reason that he moved the application before the Ld. Duty Magistrate and not before the Ilaka Magistrate. According to Dr. Dinesh the Investigating Officer had recorded the statement of Tara Chand before the Ld. Magistrate had recorded his statement. It is not possible that SI Bane Singh could have recorded the statement of Tara Chand between 4:30 to 5:00 PM since SI Bane Singh was not present in the hospital at that time but was rather present in the Hisar Court where he reached at 4:30 PM and prepared and filed an application before the Ld. Duty Magistrate for recording the statement of Tara Chand. Dr. Dinesh Kumar has proved that in the application filed by SI Bane Singh he has mentioned the time when he had given the fitness of Tara Chand to SI Bane



Singh at 5:30 PM. He has however admitted that nowhere in the bed ticket or in the MLR of Tara Chand has he recorded the time when Tara Chand regained consciousness after 2:30 PM. According to SI Bane Singh after Dr. Dinesh Kumar prepared the MLR of Tara Chand he proceeded to record the statement of Tara Chand. The MLR shows that Tara Chand had been brought to the hospital at about 2:30 PM when he was unconscious and not oriented. When was it then that SI Bane Singh had recorded the statement of Tara Chand who had suffered 99% burns and could not even survive for four hours after being brought to the hospital.

I may further observe that there is a major contradiction in the MLR *Ex.PW52/A* and the bed head ticket *Ex.PW52/B*. At the time when the MLR was prepared at 2:30 PM Tara Chand was shown as conscious and oriented but Blood Pressure and Pulse were not recordable and at the same time thereafter at 2:30 PM again when the bed Head Ticket was prepared he was shown as unconscious and not oriented and his Blood Pressure and Pulse were not recordable. This proves that as soon as Tara Chand reached the hospital and was taken to the bed before treatment was given to him, he became unconscious and was not oriented and was therefore put on IV fluids. The bed head ticket *Ex.PW52/B* reflects the extremely precarious condition of the patient who had suffered 99% burns and was put on the antibiotics, pain killers and plasma through IV fluids as he was not in a position to take anything orally. It is this what makes me think that at a time when the life of a person is hanging between life and death and he is in extreme pain how then was it possible for him to have made such a precise and perfect statement to SI Bane Singh. Further, the fitness given by the doctor with regard to Tara Chand on a separate application of SI Bane Singh *Ex.PW64/B* at point B at 3:50 PM does not inspire confidence of this court and the chances of the same having been taken later cannot be ruled out as the above statement *Ex.PW64/C* only bear his attestation. Even otherwise assuming that at 3:50 PM the doctor had given the fitness of Tara Chand pursuant to which SI Bane Singh proceeded to record the statement of Tara Chand, how is it possible that such a detailed and precise statement as *Ex.PW64/C* could have been given by Tara Chand to SI Bane Singh within this span of ten to fifteen minutes, so much so that after recording the same SI Bane Singh was in a position to have reached the District Courts at Hisar where he went to the court of Sh. Harish Goyal, Duty Magistrate Hisar at 4:30 PM. Assuming that Tara Chand did make a detail statement as above to SI Bane Singh then how is it that when the Ld. Judicial Magistrate came to him at 5:15 PM and questioned him about the incident Tara Chand is unable to tell the Ld. Magistrate all that he has earlier told SI Bane Singh.

Now coming to the statement recorded by the Ld. Judicial Magistrate First Class which is *Ex.PW55/B* it is evident that even when the Ld. Judicial Magistrate First Class recorded the statement of Tara Chand, he was only giving the answers to the queries put by the Ld. Magistrate in short suggesting his deteriorating physical condition, intense suffering, serious injuries and the pain. The important aspects borne out from the above statement are elaborated as under:

- That Tara Chand was in his house when it was set on fire by the persons from the 'J' community (*Mai apne ghar mei tha. Mera ghar jato ne phook diya*).
- That Rajender S/o Pale had set his house on fire (*Aag Rajender ne lagai thi. Rajender ke bap ka naam Pali hai*).
- That when the Ld. Judicial Magistrate First Class asked Tara Chand if he wanted to say something else, he refused saying no (*Nahin*) and apparently he had nothing else to tell to the Ld. Judicial Magistrate.
- That Tara Chand does not mention to the Ld. Judicial Magistrate that petrol or oil was sprinkled on him.
- That Tara Chand does not mention to the Ld. Judicial Magistrate that he was pushed inside his house by persons from the 'J' community.
- That Tara Chand does not tell the Ld. Judicial Magistrate that he was locked in his house or was not allowed to come out.
- That Tara Chand also does not mention to the Ld. Judicial Magistrate regarding the presence of his son Amar Lal or any other family member.

In the background of this Dying Declaration of Tara Chand, his statement so allegedly recorded by SI Bane Singh does not inspire confidence of the Court and a new story regarding Amar Lal and Ashok S/o Maha Singh being present at the spot has been inserted which is despite the fact that Ashok S/o Maha Singh in his testimony before this Court does not make any mention of either his going to the hospital along with Tara Chand or regarding Tara Chand having made any statement to SI Bane Singh.

I may observe that Tara Chand had suffered 99% burn injuries and his Blood Pressure and pulse were not recordable and at 2:30 PM was unconscious and not oriented. No doubt the patient under these circumstances may have waxing and waning phases of consciousness and unconsciousness and perhaps when his statement was recorded by the Ld. Judicial Magistrate he was conscious despite his severe burns and extremely low/ non-recordable Blood Pressure and Pulse but it is difficult for this Court to believe that under these circumstances when it was extremely difficult for the deceased Tara Chand to have even given elaborate replies to the queries put by the Ld. Judicial Magistrate, that he could have made a detailed and elaborate statement to SI Bane Singh as allegedly recorded by him. Also, there being no endorsement made by the doctor on the statement allegedly recorded by SI Bane Singh to the extent that Tara Chand was conscious in a strict sense of term and in a fit state of mind to make a statement regarding the occurrence, as already observed herein above, the probability of this endorsement having been obtained from the doctor by SI Bane Singh later on a separate application is strengthened and perhaps it is for this reason that when

Dr. Dinesh (PW68) was examined in the Court he was unable to give the time when this statement was recorded by SI Bane Singh *Ex.PW64/C*.

It is evident that there is a material improvement in the statement of the deceased Tara Chand so recorded by SI Bane Singh with regard to the manner in which Tara Chand had received fatal injuries and the names of the assailants. The statement so recorded by SI Bane Singh *Ex.PW64/C* does not inspire confidence and is liable to be rejected. However, in so far as the statement *Ex.PW55/B* is concerned I hereby hold that no conviction can be based on the basis of the sole testimony of Tara Chand so recorded by the Ld. Magistrate but his statement can certainly be looked into for corroborating other evidence including the circumstantial evidence which has come on record.

**Disclosure statements made by the accused are inadmissible:** omitted...

### **Non-recovery of weapons of offence**

The case of the prosecution is that the assailants had come in large numbers duly armed with jellies, gandases and dandas and had inflicted injuries upon the persons belonging to the 'B' community. It is vehemently argued by the Ld. Defence Counsel that the evidence on record would show that there is no recovery of any weapon from any of the accused nor any injury of the nature as caused by any gandase or jellies find reflected in the MLRs of any of the injured/ victim showing that the incident has been exaggerated and no weapon such as jellie and gandases were used as alleged. The Ld. Special Public Prosecutor has admitted that no weapon of offence had been recovered during the investigations but states that the investigations conducted were not up to the mark and the non-recovery of weapon of offence was only to help the accused.

I have considered the rival submissions made in this regard and also the evidence on record. *Firstly* I may observe that despite the allegations made by a large number of victims in their oral testimonies that the assailants from the 'J' community had come in large numbers duly armed with jellies, gandases and dandas, the only injuries reflected in the MLRs of the victims are abrasions, contusions, bruises and swellings apparently caused by blunt object thereby ruling out the use of these sharp edged/ pointed/ dangerous weapons. In fact not even a single MLR reflects any kind of sharp incised injuries which could have been caused by weapons such as gandases or jellies.

*Secondly* there is no recovery of any weapon either from the spot of the incident or from any of the accused either on the date of the incident that is 21.4.2010 or later nor any efforts were made in this regard. Here I may observe that not even a single witness so examined by the prosecution has deposed that he had received any injuries by use of gandase or jellie.

*Thirdly* it is evident from the testimony of the various prosecution witnesses that no dandas were recovered after the police party reached the spot of the incident. In fact all the police officers have only deposed to the extent that they found stone pelting going on at the spot though the evidence on record does not show that any exhibits in the form of bricks, stones etc. were lifted by them.

*Fourthly* perusal of the photographs *Ex.PW3/A-1 to Ex.PW3/A-109* and the video clippings *Ex.PW5/A* taken on the same day of incident (21.4.2010) only shows the presence of brick bats at the spot and does not reflect any other weapon including such as danda, gandase or jellies.

*Lastly* in so far as the victim Gulaba Ram (PW48) is concerned it is evident from his testimony that he had been hit by the assailants after they snatched his own danda from his hand. It is also not the case of Gulaba Ram (PW48) that any of the assailants had assaulted him with their danda.

Therefore under these circumstances when the MLRs of the injured, photographs and video clippings taken soon after the incident do not reflect the use of sharp edged dangerous weapons such as gandases and jellies, I hereby hold that the use of these weapons by the assailants as orally alleged by the witnesses is not established.

**Medical Evidence:** omitted...

**Forensic Evidence:** omitted...

### **Photographic/ video recorded evidence**

The case of the prosecution is that when the Superintendent of Police, Hisar came to the village on the date of the incident, the site of the incident was immediately directed to be got photographed and also videographed and hence the photographs of the various properties which were damaged were taken and video clippings were also prepared. It is argued by the Ld. Addl. Public Prosecutor that in the arson and rioting which took place the properties of Dhoop Singh S/o Rattnu, Jagpal S/o Bir Singh, Ramphal S/o Rajmal, Ram Niwas S/o Rajmal, Chander Singh S/o Laxman, Dilbagh S/o Gulaba, Gulaba S/o Jai Lal, Sanjay S/o Bani Singh, Manoj S/o Mahender, Rajender S/o Mahender, Satyavan S/o Bale Ram, Sube S/o Bura, Tara Chand S/o Swaroopa, Pradeep S/o Tara Chand, Sunita W/o Surta Ram, Sanjay S/o Satpal and Dilbagh S/o Satpal Singh were destroyed by fire and damage was caused to the properties of Bania S/o Surta, Sushil S/o Surta, Mahajan S/o Satpal, Raja S/o Pratap, Rajmal S/o Pokar, Satyavan S/o Roshan, Jaswant S/o Jagbir, Jai Singh S/o Sudhan, Bijender S/o Surta, Dharambir S/o Chattar Singh, Binder S/o Raj Kumar, Bani S/o Bale Ram, Nawab S/o Laxman, Rajesh S/o Bambu, Praveen S/o Surta, Satpal S/o Pratap, Ram Niwas S/o Inder, Dharambir S/o Chandgi, Karambir S/o Balbir and Pawn S/o Jagat Singh.

The photographs of the spot of the incident regarding the damage were taken on the same day that is on 21.4.2010 by ASI Miyan Singh (PW3) who has proved the said photographs which are *Ex.PW3/A-1 to Ex.PW3/A-109* and the CD is *Ex.PW3/B*. Ct. Anil Kumar (PW5) had also videographed the spot on the same day that is 21.4.2010 which video CD has been proved by him as *Ex.PW5/A*. I may also observe that the postmortem of the deceased Tara Chand and Suman at the mortuary of Civil Hospital was also videographed by Ct. Devi Lal (PW4) who has proved the same as *Ex.PW4/A*.

The Ld. Defence Counsel has not disputed the authenticity or correctness of the video CDs and the CD containing the clippings of the photographs taken by the above witnesses on the date of the incident itself. Even otherwise the witnesses ASI Miyan Singh, Ct. Anil and Ct. Devi Lal have duly proved that the above photographs/ video recording was made on the same day of the incident that is 21.4.2010 and the authenticity of the same cannot be doubted.

I have perused the photographs and also watched the CD containing the spot of the incident showing the extent of damage caused to various properties and also the CD containing the postmortem of the deceased Tara Chand and Suman conducted on 22.4.2010. These photographs and video recordings have assisted this Court to a large extent in providing a fair picture of the condition of the spot which existed after the incident. It is evident from these photographs and video clippings that large scale stone pelting and brick batting had taken place but not even a single photograph/ video clipping reflect any dangerous weapon like gandases and jellies lying at the spot. The extent of damage caused to various properties is also reflected in these photographs and video clippings.

I have gone through the oral testimonies of the witnesses examined by the prosecution particularly the alleged victims and at the very outset I may observe that not even one witness of the prosecution has identified his property from the photographs placed on record to prove the extent of damage. It is in this background that this Court at the final stage of trial had to seek assistance of both the prosecution and the defence so that the properties as reflected in the photographs/ video clippings could be got identified. Here I may observe that with the assistance of Amar Lal (CW1) and some of the accused and the Ld. Counsels that many of the properties as reflected in the photographs/video clippings could be got identified though there was a dispute in respect of the properties reflected in some of the photographs so identified in the Court.

For the sake of convenience the details of the properties allegedly burnt/ damaged on account of fire are enumerated in a tabulated form as under:

**Damage on account of fire**

Sr. No.	Name of the victim whose property has been damaged/ burnt	Nature of damage as observed by the Court in the photographs/ video clippings	Remarks
1.	Dhoop Singh S/o Rattnu	House was pucca construction and damage by fire and rioting is reflected	Witness examined but photograph and video clippings not put to him
2.	Jagpal S/o Bir Singh	House damaged by fire	Witness not examined
3.	Ramphal S/o Rajmal	House damaged by fire	Witness not examined
4.	Ram Niwas S/o Rajmal	House damaged by fire	Examined as a defence-witness

Sr. No.	Name of the victim whose property has been damaged/ burnt	Nature of damage as observed by the Court in the photographs/ video clippings	Remarks
5.	Chander Singh S/o Laxman	House partly damaged by fire	Witness not examined
6.	Dilbagh S/o Gulaba	No damage evident as per <i>Ex.PW3/A-108</i> which also shows Dilbagh standing in front of his house which shows no signs of damage	Witness examined
7.	Sanjay S/o Gulaba	Partial damage to the property by fire/ rioting	Witness examined
8.	Gulaba S/o Jai Lal	No photograph/ video clipping	Witness examined but photograph and video clippings not put to him
9.	Sanjay S/o Bani Singh	House damaged by fire	Witness not examined
10.	Manoj S/o Mahender	House damaged by fire	Witness examined but photograph and video clippings not put to him
11.	Rajender S/o Mahender	Cow dung cakes and waste material lying outside burnt/ damaged by fire (house not reflected as burnt)	Witness not examined
12.	Satyavan S/o Bale Ram	House damaged by fire	Witness not examined
13.	Sube S/o Bura	Cow dung cakes lying outside the house in the Gher burnt/ damaged by fire (house not reflected as burnt)	Witness examined but photograph and video clippings not put to him
14.	Tara Chand S/o Swaroopa	House damaged by fire	Witness examined (son of the deceased)
15.	Pradeep S/o Tara Chand	House damaged by fire	Witness examined but photograph and video clippings not put to him
16.	Sunita W/o Surta Ram	No photograph/ video clipping	Witness not examined
17.	Sanjay S/o Satpal	No photograph/ video clipping	Witness not examined
18.	Dilbagh S/o Satpal Singh	No photograph/ video clipping	Witness not examined

Now, for the sake of convenience the details of the properties allegedly damaged on account of rioting by the assailants are also enumerated herein below in a tabulated form:

**Damage on account of rioting**

Sr. No.	Name of the victim whose property has been damaged	Nature of damage as observed by the Court in the photographs/video clippings	Remarks
1.	Bania S/o Surta	No photographs/ video Clippings	Witness not examined
2.	Sushil S/o Surta	No photographs/ video Clippings	Witness examined
3.	Mahajan S/o Satpal	No photographs/ video clippings	Witness not examined
4.	Raja S/o Pratap	No photographs/ video Clippings	Witness not examined
5.	Rajmal S/o Pokar	No photographs/ video clippings	Witness not examined
6.	Satyavan S/o Roshan	No photographs/ video Clippings	Witness examined
7.	Jaswant S/o Jagbir	No photographs/ video Clippings	Witness not examined
8.	Jai Singh S/o Sudhan	No photographs/ video Clippings	Witness not examined
9.	Bijender S/o Surta	No photographs/ video Clippings	Witness examined
10.	Dharambir S/o Chattar Singh	No photographs/ video Clippings	Examined as <i>defence witness</i>
11.	Binder S/o Raj Kumar	No photographs/ video Clippings	Witness not examined
12.	Bani S/o Bale Ram	No photographs/ video Clippings	Witness not examined
13.	Nawab S/o Laxman	No photographs/ video Clippings	Witness not examined
14.	Rajesh S/o Bambu	No photographs/ video Clippings	Witness examined but does not support prosecution case in respect of damage
15.	Praveen S/o Surta	No photographs/ video Clippings	Examined as <i>defence witness</i>
16.	Satpal S/o Pratap	No photographs/ video Clippings	Witness not examined
17.	Ram Niwas S/o Inder	No photographs/ video Clippings	Witness not examined
18.	Dharambir S/o Chandgi	No photographs/ video Clippings	Witness not examined
19.	Karambir S/o Balbir	Damaged radio/ stereo	Witness not examined
20.	Pawan S/o Jagat Singh	No photographs/ video clippings	Witness not examined

It is evident from the above that the aspect that photographs and the videography was done on the date of the incident has been proved by ASI Miyan Singh, Ct. Anil and Ct. Devi Lal. However, I may observe that exhibition of a document is one aspect whereas the proof of its contents is another. Merely exhibiting the photographs and video clippings do not per-se tantamount to the proof of damage. *Firstly* the properties as reflected in the photographs and the video clippings were to be got identified from the witnesses particularly the occupants of the said property which has not been done. *Secondly* the victims whose properties have been allegedly damaged were required to prove the extent of damage which again has not been done and *Lastly* it is necessary for the prosecution to connect the accused before this Court with the damage as reflected in the photographs.

Here I may observe that the allegations made by the prosecution with regard to the extent of damage has been elaborated in the above table but I may add that apart from the above there are photographs which placed on record reflecting that in some of the properties there was no damage but a large number of brick bats are shown lying scattered. In this regard the photographs pertaining to the properties of Inder S/o Mange Ram, Mahabir S/o Kundan and Joginder S/o Bhale Ram are relevant which show a large number of brick bats lying around the properties though there is no corresponding damage to the said properties. It is these photographs which confirm the allegations regarding stone pelting and brick batting though the oral testimonies of many of the prosecution witnesses who claim themselves to be eye witnesses are not in conformity with the photographs/ video clippings placed on record. I may also observe that it would be evident from the aforesaid that majority of the alleged victims whose houses were damaged either on account of fire or rioting have not been examined by the prosecution on the plea that they have been won over by the accused and rightly so. Therefore, no doubt the the photographs/ video clippings which show the extent of damage to the properties would be admissible in evidence but that would not be a conclusive proof to connect the accused with the damage so reflected in the photographs. It is only the testimonies of those eye witnesses/ victims who have deposed before this Court and submitted for examination and whose testimonies find due corroboration from the above photographs/ video clippings to the extent of damage which are admissible on this aspect.

**Medical/ Forensic Evidence is contrary to Ocular Evidence:** omitted...

**Ocular Evidence:** omitted...

### **Witness protection and steps taken by the Court**

Before commencing to analyze the testimonies of the various victims/eye witnesses it is necessary to bring on record the fact that before the commencement of trial an application had been filed on behalf of the complainants/victims pleading that the witnesses in this case were receiving constant threats from the family members of the accused for withdrawing the present case and it was pointed out that the members of the 'B' community had moved out of the village due to fear after having received threats from the dominant class. It was also pleaded that though many of these families have returned to the village but live in fear on account of threats from the dominant class and also because the local police was non-cooperative and was not providing any protection to them. A response was sought on the aforesaid from the Government of Haryana who were directed to inform this court about the steps being taken by them to ensure protection to the witnesses/ victims of crime in the present case. This court was thereafter informed that a Police Post having strength of one Sub Inspector and twenty seven other ranks has been established in village Mirchpur and two companies of armed police along with two DSPs and three Inspectors had been posted with anti riots equipments in village Mirchpur. Further, a PCR and Motor Cycle (Rider) had been deployed for the round clock patrolling duty in the village; police officers of security branch were posted in village Mirchpur to collect intelligence and key witnesses of the incident



had been provided security cover (gunmen). It was also reported that six police check posts each with strength of one ASI and five other ranks had been established all around the 'B' Basti and two separate shifts for day and night were provided and senior officers i.e. Superintendent of Police (Hisar), Additional S.P. (Hansi) and DSPs were regularly visiting the village Mirchpur to assess the situation and to build up confidence among the victims and weaker sections. Further, in so far as the enhancement of security provided to victim/witness of the present case after transfer of the case is concerned, one gunman had been provided to each victim witnesses and a rider had been deployed nearby House No. E-6,

Government Family Quarter situated in the premises of Mini Secretariat Government family quarters. It was also reported that one more gunman was deployed to victim/witnesses and PCR had been deployed for safety and security of the victim. Also, the gunman had been provided to the victim/ witnesses as per their will and a Company of Central Para Military force (CRPF) had also been deployed to ensure life and liberty of the members of the 'B' community. It was also informed by DSP St. Vs. Dharambir Etc, FIR No. 166/10, PS Narnaund (Haryana) Page No. 588 Hansi that a CRPF Coy. had been deployed in Mirchpur village on 24/25.1.2011. Thereafter this court passed a detailed order regarding the security arrangement at village Mirchpur as under:

*"I have considered the submissions made before me and also the response of Government of Haryana which shows that already Armed Police Force, 1st Bn. constituting 128 police officials headed by an officer of the rank of Inspector who is reporting to DSP Amrik Singh (under whose jurisdiction village Mirchpur falls) has been deployed in addition to the CRPF Coy. Security cover/ gunmen has also been provided to the eye witnesses namely Smt. Kamla Devi W/o Late Tara Chand; Ravinder S/o Late Tara Chand; Pradeep S/o Late Tara Chand; Amar Lal S/o late Tara Chand; Virbhan S/o Sh. Man Singh, Suresh Kumar S/o Sh. Ram Kumar; Sh. Karan Singh Nambardar Balmiki, Sh. Satyavan S/o Sh. Roshan Balmiki; Sh. Chander Singh S/o Sh. Abhay Ram @ Abhna 'B' and Sh. Jaswant Singh S/o Sh. Jagbir Singh. This being so, no further directions are required in this regard, except that the above arrangement should not be varied till further directions from this court. CRPF deployment has also been made in the village by the Government of Haryana, though very belatedly, after the agitation of the dominant class had spread over the State. This measure, no doubt could have been taken earlier. Be that as the case may be, having done so I now direct that this CRPF deployment at village Mirchpur should be made preferably near the spot of the incident i.e. around the 'B' Basti and should continue till such time the public witnesses in the case are examined/ till further orders of this court. This arrangement is to only reassure the victims and their families of full security and protection and to remove all traces of fear or pressure from their minds. It is further directed that in case of any exigency the witnesses, victims, their families, can immediately report the same to DSP (Hansi) Sh. Amrik Singh who shall personally monitor/ supervise the witness protection arrangements under intimation to this court from time to time. I further direct that a monthly report regarding the security arrangement/ preventive measures/ witness protection arrangements be submitted to this court till the conclusion of trial of this case. I also direct that any attempt of any kind to overawe, pressurize or threaten the witnesses/ their family members or to*

*create an atmosphere prejudicial to free trial of the case, should be immediately brought to the notice of this court by the Local Administration including DSP (Hansi)."*

Further, vide order dated 10.3.2011 after the framing of charge against the accused this Court passed additional directions to ensure the safety and security of the witnesses to be examined in the Court as under:

*"I hereby direct the Special Public Prosecutor to place before this court a proposed tentative schedule for examination of witnesses on 11.3.2011 with directions that the Investigating Officer/Pervi Officer shall ensure the presence of these witnesses in Delhi at-least one to two days prior to their examination in the court (as the case may be). Needless to say the expenses for the appearance of the witnesses shall be borne by the Government of Haryana and in case if the witnesses come on their own they shall be entitled to reimbursement as per the existing rules (reimbursable from the State of Haryana). Further, the responsibility of the boarding, lodging, food, medical facilities in Delhi shall be of GNCT of Delhi and the necessary arrangement for the protection of the witnesses particularly the victims during the period of their stay in Delhi shall be made by the GNCT of Delhi. The expenses for the same shall be borne by the GNCT of Delhi (reimbursable from the Government of Haryana as per the joint agreement)."*

Pursuant to the above directions of the Court the Government of National Capital Territory of Delhi earmarked the Lampur Detention Center as the place where the witnesses were housed in police protection till their examination in the court and in order to take care of their day to day requirements, a Nodal Officer was also designated by the GNCT of Delhi. In this background it was only after this Court was satisfied regarding the voluntariness of the witnesses and the fact that they were free from all kind of fear, force, pressure and coercion that they were finally examined by the Court.

**Eye witness account has to be truthful, credible and specific:** omitted...

**Appreciation of Ocular Evidence:** omitted...

### **Hostile witnesses**

Witnesses are eyes and ears of the Court. As on date the Courts in India are struggling with this problem of dealing with witnesses either not turning up in the Court to depose against the affluent accused or not mustering enough courage to depose against the accused for the reasons of threat to their lives or on account of the accused being close to power political, economic or muscle power or being won over by the accused on account of allurances or threats.

The Hon'ble Apex Court in the case of *Krishna Mochi -vs- State of Bihar* reported in AIR 2002 SC 1965 had an occasion to consider the issue regarding witnesses not inclined to depose particularly in cases involving persons who are socially, politically and economically in a higher position to that of the witness and while doing so it observed that:

*"..... Even in ordinary cases, witnesses are not inclined to depose or their evidence is not found to be credible by Courts for manifold reasons. One of the reasons may be that they do not have courage to depose against an accused because of threats to their life, moreso when the offenders are habitual criminals or high-ups in the Government or close to powers, which may be political, economic or other powers including muscle power. A witness may not stand the test of cross- examination which may be sometime because he is a bucolic person and is not able to understand the question put to him by the skillful crossexaminer and at times under the stress of crossexamination, certain answers are snatched from him. When a rustic or illiterate witness faces as astute lawyer, there is found to be imbalance and, therefore, minor discrepancies have to be ignored. These days it is not difficult to gain over a witness by money power or giving him any other allurence or giving out threats to his life and/or property at the instance of persons, in/or close to powers and muscle men or their associates. Such instances are also not uncommon where a witness is not inclined to depose because in the prevailing social structure he wants to remain indifferent. It is most unfortunate that expert witnesses and the investigating agencies and other agencies which have an important role to play are also not immune from decline of values in public life. Their evidence sometimes becomes doubtful because they do not act sincerely, take everything in a casual manner and are not able to devote proper attention and time....."*

Recently the Hon'ble Supreme Court in the case of *State of Uttar Pradesh -vs- Ram Sanjivan & Ors.* reported in (2010) 1 Supreme Court Cases 529 involving offence against a victim a member of the SC/ST community observed that:

*"In a case of this nature, the witnesses turning hostile is not unusual particularly in a scenario where upper caste people have crated such a great fear psyche. The instinct of survival is paramount and the witnesses cannot be faulted for not supporting the prosecution version. Even the evidence which is on record particularly of Jasodiay and Kally, PW14 supported by the evidence of HC Kashi Prasad Tiwari, PW27 is sufficient to bring home the guilt of the accused. The evidence of PW14 and PW27 lead to the only conclusion that the accused were squarely responsible for committing such a ghastly crime".*

Further it has been observed that:

*"we are equally conscious of the fact that reversal of the judgement of of the High Court would mean sentence of life imprisonment for some of the accused. We have given patient hearing to the Ld. counsel for the parties and have examined and re-examined the entire evidence and documents on record to ensure that no innocent person is punished. On a careful scrutiny of the statement of Kallu, PW14, only one aspect creates slight doubt in our minds about his remembering the names of the 18 accused persons along with the names of their villages after a lapse of three months. Some people with sharp memory may perhaps be able to recount and recall all the names and villages correctly. But when we take the case of an ordinary rustic illiterate villagers, the possibility of over implication cannot be fully ruled out.*

It is a settled law that the evidence of a prosecution witness cannot be read into toto because the prosecution chose to treat him as hostile. The evidence of such a witness cannot be treated as

effaced or washed of the record altogether but the same can be accepted to the extent his version is found to be dependable on a careful scrutiny. The fact that a witness is resiled from his earlier statement made in the course of investigations put the Court on guard and cautions the Court against the acceptance of such evidence without satisfactory corroboration. [Ref.: *Radha Mohan Singh -vs- State of UP* reported in 2006 Cri.LJ 1121 (1125) SC; *Bhagwan Singh -vs- State of Haryana* reported in AIR 1976 SC 202 and *Ram Swaroop -vs- State of Rajasthan* reported in 2004 Cri.LJ 5043 SC].

I may observe that the position in our case is no different. Out of *ninety five* public witnesses cited by the prosecution who were stated to be eye witnesses, the prosecution has examined only *forty three* such witnesses out of which only *twenty two* witnesses have supported the prosecution version of the case whereas others have turned hostile either on the identity of the accused or with regard to the entire incident. Here I may observe that all these public witnesses are residents of village Mirchpur and the reasons for their not supporting the case of the prosecution could be many fold including their chances of having been won over by the family members of the accused being residents of the same village or could be any other reason including social or financial. I may further observe that these public witnesses have more or less corroborated each other with regard to the incident dated 21.4.2010.

Therefore under these circumstances the entire testimonies of these witnesses who have been either declared hostile by the prosecution or have not supported the case of the prosecution on limited aspects is not liable to be rejected. In fact the testimonies of all these witnesses can always be looked into and read into evidence to the extent to which they have supported the case of the prosecution.

### **Statement of the witnesses/ victims before the Commission of Inquiry**

Ld. Counsels appearing on behalf of the accused have placed their reliance on the affidavits and statement made by the alleged victim of the incident before the Hon'ble Mr. Justice Iqbal Singh (Retd.) Commission of Inquiry (Mirchpur), Haryana wherein both Dilbagh (PW43) and Sanjay (PW44) have denied having seen any of the assailants. It has been vehemently argued that when confronted with their statements earlier made before Hon'ble Mr. Justice Iqbal Singh (Retd.) Commission of Inquiry (Mirchpur), Haryana the said witnesses (Dilbagh S/o Gulab Singh, Sanjay S/o Gulab Singh and Amar Lal S/o Tara Chand) have admitted the affidavits and statements but denied that they have made an improvement and deliberately identified the assailants in the court at the instance of the prosecution and tutoring of other persons from their community.

At the very outset, I may mention that the provisions of *Section 6* of the *Commission of Inquiry Act* are very clear. It provides that:

No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement-

- (a) is made in reply to a question which he is required by the Commission to answer; or
- (b) is relevant to the subject matter of inquiry.

In view of the specific legal bar the statements and affidavits filed by the victims before the Hon'ble Mr. Justice Iqbal Singh (Retd.) Commission of Inquiry (Mirchpur), Haryana cannot be used to contradict them. I may however add that the truthfulness and credibility of the witness can always be looked into by the Court to assess the amount of reliability and credence which can be placed on the testimony of such a witness. Hence I hereby hold that in so far as the witnesses Dilbagh (PW43), Sanjay (PW44) and Amar Lal (CW1) are concerned their testimonies are not required to be discarded in toto only on the ground that they had earlier made a different statement before the Commission but can always be scrutinized and independently tested on the touch stone of truthfulness.

**Contradictions and discrepancies:** omitted...

**Evaluation of Ocular Evidence:** omitted...

**Categorization of witnesses:** omitted...

**Allegations Against the Accused:** omitted...

**Second Version of the incident:** omitted...

### **Criminal Conspiracy**

The case of the prosecution is that there has been a prior meeting of mind of accused and they all have conspired with each other to damage the properties and to burn the houses belonging to the 'B' community. It is also alleged that it was the accused Vinod Kajal the then SHO Police Station Narnaund who also conspired with the persons belonging to 'J' community and it was he who told the persons from the 'B' community to gather at their ('B') Chaupal while he exhorted the persons belonging to the 'J' community to burn the houses of 'B' community within one hour.

The Ld. Special Public Prosecutor has argued that after the altercation on 19.04.2010, the persons belonging to the 'J' community had made up their minds about taking revenge as to how even a dog owned by a member of 'B' community had the guts to bark on an upper caste person and in pursuance to that they got together on 20.04.2010 and were seen moving around in groups armed with lathis and threatening the persons from the 'B' community in their own basti. Thereafter, in

the morning on 21.04.2010 they gathered in large numbers and proceeded towards 'B' Basti after making preparations for burning the houses of the persons from the 'B' community. In this regard the Ld. Special Public Prosecutor has placed his reliance on the testimonies of the prosecution witnesses particularly Mahajan (PW38) who has in his testimony deposed that on 21.4.2010 Rajender S/o Pali had threatened about returning and setting the houses of persons from the 'B' community on fire. He has further argued that the unlawful assembly was armed with lathis, jellies and gandases, all of which are common agricultural tools found in any village and had also come with preparation for pelting stones on the persons belonging to 'B' community and injuring them by these means thereby establishing the common illegal object of the assembly. He has also argued that the manner in which the 'B' Basti was surrounded from all sides and the persons belonging to the 'J' community who were similarly armed prove that the incident did not occur on a sudden fight but was premeditated and pre-planned and also reflect the intention of the unlawful assembly to burn down the entire basti by surrounding it from all sides which was the common object of this unlawful assembly comprising of 'J' community. He has placed his reliance on the authority of *Dharnidhar -vs- State of U.P. and Ors.* reported in (2010)7SCC759.

I may observe that under Section 120A Indian Penal Code offence of criminal conspiracy is committed when two or more persons agree to do or cause to be done an illegal act or legal act by illegal means. When it is legal act by illegal means over act is necessary. Offence of criminal conspiracy is exception to the general law where intent alone does not constitute crime. It is intention to commit crime and joining hands with persons having the same intention. Not only the intention but there has to be agreement to carry out the object of intention, which is an offence. The question of consideration in a case is did all the accused had the intention and did they agree that the crime be committed. It would not be enough for the offence of conspiracy when some of the accused merely entertained a wish, howsoever, horrendous it may be, that offence is committed. Acts subsequent to the achieving of object of conspiracy may tent to prove that a particular accused was party to the conspiracy.

Conspiracy is always hatched in private or in secrecy. It is rarely possible to establish a conspiracy by direct evidence. Usually, both the existence of the conspiracy and its objects have to be inferred from the circumstances and the conduct of the accused. Conspiracy may, for example, be enrolled in chain A enrolling B, B enrolling C and so on and all will be the members of the single conspiracy if they so intend and agree, even though each member knows only the person who enrolled him and the person whom he enrolls. Persons may be members of a single conspiracy even though each is ignorant of the identity of many others who may have diverse role to play. It is not a part of the crime of conspiracy that all the conspirators need to agree to play the same on an active role.

When two or more persons agree to commit a crime of conspiracy then regardless of making or considering any plans for its commission, and despite the fact that no step is taken by any such

person to carry out their common purpose, a crime is committed by each and every one who joins in the agreement. There has thus to be two conspirators and there may be more than that. To prove the charge of conspiracy it is not necessary that intended crime was committed or not. If committed it may further help prosecution to prove the charge of conspiracy. It is not necessary that all conspirators should agree to the common purpose at that same time. They may join with other conspirators at any time before the consummation of the intended objective, and all are equally responsible. What part each conspirator is to play may not be known to everyone or the fact as to when a conspirator joined the conspiracy and when he left.

As stated above it is the unlawful agreement and not its accomplishment, which is gist or the essence of the crime of conspiracy. Offence of criminal conspiracy is complete even though there is no agreement as to the means by which the purpose is to be accomplished. It is the unlawful agreement, which is the gravamen of the crime of conspiracy. *The unlawful agreement which amounts to a conspiracy need not be formal or express, but may be inherent in and inferred from the circumstances, especially declarations, acts and conduct of the conspirators.* The agreement need not be extended into by all the parties to it at the same time, but may be reached by successive actions evidencing their joining of the conspiracy. It has been seen that a criminal conspiracy is a partnership in crime and that it is in each conspiracy a joint or mutual agency for the prosecution of a common plan. A man may join a conspiracy by word or by deed. If two or more person entered into conspiracy any act done by them pursuant to the agreement is under contemplated of law, an act of each of them and they are jointly responsible thereafter.

A conspiracy thus is a continuing offence and continues to subsist and is committed wherever one of the conspirators does an act or series of acts. As long as its performance continues, it is a continuing offence till it is executed or rescinded or frustrated by choice or necessity. A crime is committed as soon as the agreement is made, but it is not a thing of the moment. It is not necessary that each member of a conspiracy must know all the details of the conspiracy. This means that everything said, written or done by any of the conspirator in execution or any part-with is deemed to have been said, done and written by each of them and thus joint responsibility existence not only to what is done by any of the conspirator pursuant to the original agreement but also to collaterally cause incident and growing out of the original purpose.

In a case reported as *V. R. Nedunchezhian -vs- State* reported in 2000 Cr.L.J. 976 Their Lordships observed in para 69 as under:

*"... It is true that the conspiracy may be a chain; where each party performs even without the knowledge of the other, a role that aids or abets succeeding parties in accomplishing the criminal objectives of the conspiracy. For example, in a case of smuggling, what is done in the process of procuring and distributing narcotics or smuggled goods for sale in different parts of the globe? In such case, these smugglers, middlemen, retailers are privies to a single conspiracy to smuggle and distribute narcotics. These smugglers know that the*

*middlemen must sell to retailers; and the retailers know that the middlemen must buy from importers, Thus the conspirators at one end at the chain know that the unlawful business would not, and could not, stop with their buyers, and those at the other end know that it had not begun with their settlers. The action of each has to be considered as a spoke in the hub-there being a rim to bind all the spokes together in a single conspiracy..”*

While referring this example, the Apex Court in (1996) 2 Crimes 64: 1996 Cr. L. J. 2448 (SC) (supra) would observe as follows (at p.2453 of CrLJ): -

*“To establish a charge of conspiracy knowledge about indulgence in either an illegal act or a legal act by illegal means is necessary. In some cases, intent of lawful use being made of the goods or services in question may be inferred from the knowledge itself..... Finally, when the ultimate offence consists of a chain of actions, it would not be necessary for the prosecution to establish, to bring home the charge of conspiracy, that each of the conspirators had the knowledge of what the collaborator would do, so long as it is known that the collaborator would put the goods or service to an unlawful use.”*

In a case reported as *Kehar Singh & Ors. -vs- the State (Delhi Admn.)* reported in AIR 1988 SC 1883 Their Lordships observed as under:

*“In some cases intention of unlawful use being made of the goods or services in question may be inferred from the knowledge itself. This apart the prosecution has not to establish that a particular unlawful use was intended, so long as the goods or service in question could not be put to any lawful use. Finally, when the ultimate offence consists of a chain of actions, it would not be necessary for the prosecution to establish, to bring home the charge of conspiracy, that each of the conspirators had the knowledge of what the collaborator would do , so long as it is known that the collaborator would put the goods or service to an unlawful use.”*

In a case reported as *Ajay Aggarwal -vs- Union of India & Ors.* reported in JT 1993 (3) SC 203 it has been observed that it is not necessary that each conspirator must know all the details of the scheme nor be a participant at every stage. It is necessary that they should agree for design or object of the conspiracy.

In the case of *Abuthagir and Ors. -vs- State (Rep. by Inspector of Police, Madurai)* reported in AIR 2009 SC 2797, the Hon'ble Supreme Court has observed as under:

*“In the case of conspiracy there cannot be any direct evidence. The ingredients of the offence are that there should be an agreement between persons who are alleged to conspire and the said agreement should be for doing an illegal act or for doing by illegal means an act which itself may not be illegal. Therefore, the essence of criminal conspiracy is an agreement to do an illegal act and such an agreement can be proved either by direct evidence or by circumstantial evidence or by both, and it is a matter of common experience that direct evidence to prove conspiracy is rarely available. Therefore, the circumstances proved before, during and after the occurrence have to be considered to decide about the complicity of the accused”*



In the case of *Ramesh & Anr. -vs- State of Uttar Pradesh etc.* reported in 2009 (15) SCC 513 while appreciation of evidence the Hon'ble Supreme Court has held that the minor contradictions, inconsistencies, exaggerations and embellishments in the testimonies of the eye-witnesses were bound to be there, however, they, by themselves, did not decide the credibility of the witness which has to be tested by the Court.

Applying the settled principles of law to the facts of the present case, it is evident from the record that despite there being allegations regarding the assailants hatching the criminal conspiracy there is no evidence to show prior meeting of mind or the common object sought to be achieved by the unlawful assembly. Rather, the witnesses of the prosecution who had earlier in their statements made to the Investigating Officer under Section 161 Cr.P.C. made allegations regarding the persons belonging to the 'J' community moving about in the village in large number on 20.4.2010 and having a meeting or asking the persons from the 'B' community to come for a settlement, have not supported their earlier version so given to the police but have rather come up with altogether a new version. They are not only inconsistent but have also contradicted each other on material particulars on the aspect of conspiracy.

Now coming to the evidence adduced by the prosecution, I may observe that it is only the witnesses Meena Kumar (PW37), Mahajan (PW38), Vijender (PW40), Vicky (PW42), Sanjay (PW44), Satyavan (PW47) and Pradeep (PW49) who have made casual reference to the incident dated 20.4.2010, which allegations are highly vague and no independent person belonging to any other community including the aggressor community has been examined. To prove that a 'J' Panchayat had been held in the village on 20.4.2010. No names of the persons who had attended the 'J' Panchayat/ meeting of the persons belonging to 'J' community, have been specified. The place where the said meeting had taken place has not been mentioned nor the time when it took place has been mentioned.

I now proceed to individually examine the testimonies of the prosecution witnesses on the aspect of alleged meeting/ Panchayat of the 'J' community which took place on 20.4.2010.

- Rajbir (PW10) does not say anything about any happening dated 20.4.2010.
- Sushil (PW25) does not say anything about any happening dated 20.4.2010.
- Sandeep (PW28) does not say anything about any happening dated 20.4.2010.
- Dhooop Singh (PW29) does not say anything about any happening dated 20.4.2010 except that Karan Singh had made some complaint on 20.4.2010 with regard to the incident dated 19.4.2010.
- Santra (PW30) does not say anything about any happening dated 20.4.2010. Rather, she was not available in the village on 20.4.2010.
- Abhishek (PW31) does not say anything about any happening dated 20.4.2010.

- Sheela (PW32) has testified that the dispute of 19.4.2010 almost died down on 20.4.2010.
- Meena Kumar (PW37) does not say anything about any happening dated 20.4.2010 except for casually stating that he came to know in the village that the boys from the 'J' community would again commit some problem due to which reason they called Karan Singh and Birbhan back to the village. Here I may observe that the allegations made by this witness Meena Kumar are general and vague. What sources from where he came to know about the aforesaid has not been specified nor he has given any details. Even otherwise Karan Singh the complainant does not support his version.
- Mahajan (PW38) has deposed that on 20.4.2010 there was a talk in the village by the boys belonging to the 'J' community who were going around the village threatening that they would burn the houses of the "*chooras*" and would throw them out of the village "*choora ne kada ge, choora ne ghara ne aag lageye gai*" and on hearing this Birbhan who was in the hospital came back to the village. Here I may observe that this is a totally new story and version given by Mahajan for the first time in the Court which is contrary to the version given by Meena Kumar (PW37) and other witnesses and is also a total improvement over his earlier statement under Section 161 Cr.P.C. Karan Singh (DW13) has not supported the case of the prosecution and Birbhan has not been examined by the prosecution.
- Sube Singh (PW39) does not say anything about any happening dated 20.4.2010 and has simply stated that on 20.4.2010 Karan Singh and Birbhan were brought back from the hospital.
- Vijender (PW40) does not say anything about any happening dated 20.4.2010 except that on 20.04.2010 there was a talk of compromise in the village between the two communities and therefore Karan Singh and Birbhan were called back from the hospital and on that day all these boys of the 'J' community were consuming alcohol while sitting at the water tank which aspect, I may observe, does not find any independent reliable corroboration.
- Vicky (PW42) I may observe is the only witness who has given a different version from the other prosecution witnesses. According to him, on 20.04.2010 some persons from the Panchyat comprising of 'J' community went to the Hisar hospital and requested Karan Singh and Birbhan not to get the FIR registered and told them that they would get the matters compromised and therefore in the evening Birbhan was also brought back from the hospital and Karan Singh had already come back to his house before that. He has testified that on 20.04.2010 there was an atmosphere of fear in the village since a large number of boys from the 'J' community had gathered and the 'B' of the village were afraid, apprehending that they might attack and they all from the 'B' community remained alert and awake during the night which is a new story put forth by Vicky being a total improvement over his earlier statement under Section 161 Cr.P.C. which does not find any reliable corroboration.

- Dilbagh (PW43) does not say anything about any happening dated 20.4.2010.
- Sanjay (PW44) does not say anything about any happening dated 20.4.2010 except that on 20.04.2010 there was a meeting amongst the persons from the 'J' community in the village and they decided that they would do mar pitai with the 'B'. Here I may observe that this a total improvement over his previous statement and a new story has been put forward by him and there is no other witness who has corroborated the testimony of Sanjay in this regard. Even otherwise the allegations so made by him are vague and there are a number of unanswered questions like Where was the meeting held? Who participated in this meeting? How he came to know about this etc?
- Manoj (PW45) does not say anything about any happening dated 20.4.2010 except that there was a Panchayat in the village who tried to settle the matter.
- Rajesh (PW46) does not say anything about any happening dated 20.4.2010 except that he had heard from the villagers that there was a meeting of the persons belonging to the 'J' community and there was talks of compromise.
- Satyavan (PW47) has testified that on 20.04.2010 the 'J' Panchayat met in the village and it was decided that the matter should be compromised in the village and on account of the above Birbhan was brought back from the hospital after getting him discharged and Karan Singh also came back with him. The said aspect is a total improvement over his earlier statement under Section 161 Cr.P.C.
- Gulab Singh (PW48) does not say anything about any happening dated 20.4.2010.
- According to Pradeep (PW49) the dispute between the boys belonging to the 'J' community and the boys belonging to the 'B' community took place on 20.4.2010 (which is contrary to the prosecution case) and on the same day Karan Singh and Birbhan had gone to the persons from the 'J' community to settle and compromise the dispute but they were beaten and had to be taken to the hospital (which is again contrary to the prosecution case since the earlier incident took place on 19.4.2010). Further according to Pradeep the persons from the 'J' community got together and had a meeting and after the meeting collected at water tank where they consumed alcohol and thereafter passed through the main gali of the village while abusing the persons from 'B' community while they were in an intoxicated condition. Here I may observe that it is for the first time in the Court that he has made these allegations which do not find corroboration from any other source and are unreliable. The testimony of Pradeep on this aspect is not only factually incorrect as the date on which the earliest incident took place when Birbhan and Karan Singh were injured was 19.4.2010 and not 20.4.2010. In fact the story put forward by him in the Court for the first time is contrary to the prosecution case.

- Kamla (PW50) does not say anything about any happening dated 20.4.2010.
- Amar Lal (CW1) does not say anything about any happening dated 20.4.2010.
- I may observe that Karan Singh the complainant before this court has turned completely hostile. He does not support the case of the prosecution in so far as the incident dated 19.4.2010 is concerned nor has he supported the version of the prosecution in respect of the incident dated 20.4.2010 put forward by the prosecution witnesses and the testimonies of the witnesses of the prosecution do not find corroboration from any other source. The other material witness namely Birbhan has not been examined by the prosecution on the ground that he had been won over and was therefore dropped having been turned hostile earlier during his deposition before the Hisar Court.

The MLRs of the victims do not prove any injuries caused by the weapons such as jellies, gandases or dandas nor there is any recovery of these weapons from the spot of the incident. The FSL report *Ex.PX1* rules out the presence of Hydrocarbons of Petroleum (kerosene, petrol or diesel). Further, a consolidated reading of the entire evidence does not support the theory of premeditation or prior meeting of mind as alleged by the prosecution. Rather, it is evident that the incident of rioting had happened in the village on 21.4.2010 was a result of the incident which took place in the morning when two boys from the 'J' community were stopped and beaten by the boys belonging to 'B' community and were injured by them as a result of which they had to be rushed to the hospital when in the meanwhile a rumor spread in the village regarding the death/ killing of one of these boys (Rajender) as a result of which a large number of persons belonging to the 'J' community being highly agitated gathered in the main street/ gali where the incident had taken place after which previously there was stone pelting both from the side of 'B' and 'J' community in which the victims had received injuries.

In so far as the incident dated 21.4.2010 is concerned, the case of the prosecution is that on 21.4.2010 in pursuance to their illegal designs the persons belonging to the 'J' community had gathered at 'J' Chaupal and thereafter the accused Vinod Kajal (the then SHO Police Station Narnaund) came and got mixed up with the persons belonging to the 'J' community. Thereafter as a matter of strategy the persons belonging to 'J' community came towards 'B' Basti duly armed with lathies, jellies, gandases and oil cans/ containers filled with the kerosene/petrol. On the asking of Vinod Kajal the men folk belonging to 'B' community had gathered in their ('B') Chaupal but in the meanwhile Vinod Kajal asked the persons belonging to 'J' community to burn the houses of persons from 'B' community within one hour and thereafter the assailants started pelting stones on the persons belonging to 'B' community and started setting their houses on fire. I may observe that it is the prosecution witnesses Sanjay (PW36), Mahajan (PW38), Sube Singh (PW39), Vicky (PW42), Satyavan (PW47) and Pradeep (PW49) who have deposed in this regard. The allegations made are as under:

- Sanjay (PW36) has deposed that on the 21.4.2010 there was rolla/dispute in the village at about 9-10 AM resulting into stone pelting and the boys belonging to 'J' community first assembled in their Chaupal i.e. the 'J' Chaupal where they were scheming and thereafter they surrounded the 'B' Basti and thereafter started pelting stones and arson where they burnt houses of persons belonging to the 'B' community.
- Mahajan (PW38) has deposed that on 21.4.2010 at about 9-9:30 AM Rajender S/o Pale passed through the main gali in his boogie while he was coming back from his fields and threatened some of the boys sitting in the gali who were from the 'B' community saying that *“abhi dekhege tare ko, ektha ho kar angeye, aag lanageye”*.
- Sube Singh (PW39) has deposed that on 21.04.2010 at about 10-11 AM all the persons of the 'J' community residing in the village got together in their Chaupal i.e. 'J' Chaupal and from there they carried lathies, jellies, dandas, gandase and came to their ('B') Basti where they started shouting *“choorya ne dedha ne phook do, mar do”*.
- Vicky (PW42) has stated that in the morning of 21.04.2010 at about 8 AM Rajender S/o Pale was passing through the main gali in his boogie while he was going to his house when he had some verbal altercation with some boys of the 'B' community but he (Vicky) was not there and he (Rajender S/o Pale) ran from that place raising alarm *“choorya ne mar diya, choorya ne mar diya”*. Rajender S/o Pale went to the main Chaupal of the 'J' community and collected a large number of boys from where all these boys came towards houses of persons belonging to 'B'; community duly armed with dandas, gandases and stones and when they came to their houses there was a quarrel between them and 'B' (*apas mein jhagra hua*). After some time all these boys ran away back towards the houses belonging to the 'J' community and Gulab Singh, Chowkidar was coming from the gali and was crossing from the gali of Rajender S/o Pale when he (Gulab Singh) was stopped by *Rajender S/o Pale* and *Rishi S/o Satbir* and beaten with dandas after which Gulab Singh came towards houses of persons belonging to 'B' community and informed them that he was injured on his knees and legs and was beaten with dandas. Thereafter these boys from the 'J' community called more persons and boys belonging to the 'J' community from out side areas (outside the village) and about 1000-1500 persons from the 'J' community gathered at the 'J' Chaupal from where they came to the 'B' Basti and were armed with lathies, gandases, stones, oil cans and petrol.
- Satyavan (PW47) has deposed that on 21.04.2010 at about 7:00 AM the panchayat of the village came to the house of Birbhan and asked him to compromise the dispute to which Birbhan agreed and while the panchayat members were still sitting at the house of Birbhan, Gulab Singh the chowkidar of the village who had gone to collect milk and lassi from the village, was beaten by *Rajender S/o Pale* and other boys of the 'J' community who had started gathering in the village in large number. Gulab Singh some how manage to come back to the 'B' basti

and told the persons residing in the 'B' Basti as to what had happened with him on which they ('B') also got together and made a call to the Narnaund police station and informed them and also requested the SHO to come to the spot as he was apprehending the matters could get aggravated. The SHO (accused Vinod Kajal) first sent four to five police persons in the village but in the meanwhile at about 9 AM large number of persons from the 'J' community gathered and came towards the 'B' Basti who have initially about 100-150 in numbers but later on the numbers swelled to about 300-400. He (Satyavan) again called up the SHO from his mobile and told him that the matter would going out of hand and that a large number of boys from the 'J' community had gathered and had come to the 'B' mohalla and requested the SHO to come to the village personally. The SHO Inspector Vinod Kajal then came to the village along with one gypsy and then he along with the officials went to 'J' boys. After some time he (Inspector Vinod Kajal) came back and told them that there would be no problem as he has already advised these boys and also asked them ('B') to collect at the 'B' Chaupal so that he could get a compromise affected between them. On this they all i.e. males of the village belonging to the 'B' community went to the 'B' Chaupal but in the meanwhile these persons belonging to the 'J' community who had gathered in the village surrounded the 'B' mohalla and they heard the cries of their ladies informing them that the mohalla had been surrounded by the persons belonging to 'J' community on which the persons from the 'B' community all ran from the Chaupal and found that the entire mohalla had been surrounded by these persons from the 'J' community who were throwing stones. He has also stated that while he was coming out from the Chaupal he told the SHO (accused Vinod Kajal) "*SHO sahab ye kya kara diya*" on which the SHO told him "*mein kya karo bhai*". He further told the SHO "*apne to hame marva diya*" on which the SHO told him "*mein ke karo, jessi bhaga jata ho to bhag ley*". They ('B') also pleaded with the SHO and the other police officials to save them but they all started running away from the village from the kacha rasta going towards Rakhi village and the SHO said "*jab mera hi bachna muskil hai to tumhe kya bachau*" and he also ran away from the village.

- Pradeep (PW49) has deposed that SHO Vinod Kajal who had come with the police force was mixed up with the persons from 'J' community and he saw him going towards these boys from the 'J' community who had collected in the village and talking to them and thereafter came towards the persons belonging to 'B' community and told them to collect at the Chaupal stating that he would get a compromise effected in respect of the dispute between both the communities.
- Kamla (PW50) has deposed that on the date next to the day when the dispute on the she-dog had taken place Gulaba Chowkidar had gone to take lassi from the village in the morning when he was surrounded by these boys (persons from the 'J' community) and injured. On the next day thereafter Rajender S/o Pale called the other boys from the 'J' community and collected stones and bricks and started pelting stones on the houses of the persons 'B' community and

were shouting "*choore dheda ne maro*". After some time police from Police Station Narnaund came to the village and the SHO Vinod Kajal also came and they pleaded with him to save them on which the SHO Vinod Kajal took their ('B') children to the Chaupal and all the ladies were left behind and she saw him and she pleaded with him to save her husband and children but he told the 'J' boys "*dheda ne ek ghante mein aag laga do*". According to amla their men folk had been taken to the Chaupal by that time and the boys started setting their houses on fire and son of Sishu belonging to 'J' community instigated the other boys to burn the houses of 'B' community on fire by saying "*na daro choorya sae aag laga do*" and he further said "*jo kar sansi neikale tha nu choorya ne neikal do*". The Narnaund police did not help them and her house was set on fire due to which her husband Tara Chand and her daughter Suman were burnt to death.

It is evident from the aforesaid testimonies that the fact that persons from the 'J' community had gathered at the 'B' Basti is not disputed and is an admitted case of both the parties. According to the prosecution these persons from the 'J' community had gathered in large numbers to set fire and damage the houses of the persons belonging to 'J' community whereas according to the defence they had gathered on account of an incident which took place in the morning in which two boys belonging to 'J' community (accused Rajender S/o Pale and Dinesh S/o Prem Singh) had sustained injuries as they were beaten by the boys belonging to 'B' community and had to rushed to the hospital after which a rumor spread in the village that Rajender had been killed by the persons from the 'B' community. This incident which transpired in the morning was suppressed by the prosecution but finds a mention in the testimonies of the various prosecution and defence witnesses who are persons belonging to 'B' community and also finds a mention in the case diaries dated 21.4.2010. This being the position it is only natural for the residents to collect at the spot where the incident had taken place that is in the main gali at 'B' Basti and therefore when the stone pelting started from both the sides, it was the houses situated along the main gali of the place of the incident which first suffered damages.

Further, in so far as the accused Vinod Kumar S/o Ram Niwas (the then SHO Police Station Narnaund) is concerned only the witnesses Sunita (PW13), Satyavan (PW47), Pradeep (PW49) and Kamla (PW50) have made allegations regarding his mixing up with the 'J' boys. However, in this regard I may observe that Sunita (PW13) is a false witness and even otherwise she has not been able to identify the accused Vinod Kumar S/o Ram Niwas. On the one hand Satyavan (PW47) has come up with an altogether new story with regard to the conduct of the accused Vinod Kajal (the then SHO Police Station Narnaund) which does not find corroboration from the other evidence on record whereas on the other hand Pradeep (PW49) has deposed in the court that SHO Vinod Kajal who had come with the police force was mixed up with the persons from 'J' community and he saw him going towards these boys from the 'J' community who had collected in the village and talking to them and thereafter came towards the 'B' and told them to collect at the Chaupal stating that he

would get a compromise effected in respect of the dispute between both the communities while Kamla (PW50) has deposed before this court that the SHO Vinod Kajal took their ('B') children to the Chaupal and all the ladies were left behind and she saw him and pleaded with him to save her husband and children but he told the 'J' boys "*dheda ne ek ghante mein aag laga do*" (burn the dhedas within one hour). The witnesses Satyavan (PW47), Pradeep (PW49) and Kamla (PW50) have contradicted each other and have come up with altogether a new version. They have not stated all these facts in their statements made to the Investigating Officer under Section 161 Cr.P.C. and their testimony do not find corroboration from any other source.

I may observe that the accused have examined Sajna (DW7), Karan Singh (DW13), Ajmer (DW16), Ram Niwas (DW20), Dharambir (DW21) and Praveen (DW22) who are persons from the 'B' community as their witnesses who were earlier cited by the prosecution but not examined, in their testimonies have fully supported the case of defence and the other version given by the defence which had taken place in the morning when Rajender and Karampal were stopped by the boys belonging to 'B' community and first there was a verbal and thereafter physical altercation on which Karampal raised an alarm in the village on which Dinesh came to the rescue of Rajender and was brutally assaulted with a pointed object as a result of which he sustained injuries on his eye and both Rajender and Dinesh were rushed to the hospital. They have also proved that thereafter a rumor was spread in the village that Rajender had been killed by the persons belonging to 'B' community on which a large number of persons collected in the 'B' Basti where the incident had taken place and the persons belonging to 'B' community being apprehensive started pelting stones which was occurred in the morning and there was a retaliation followed by aggravated incident of rioting where a large number of houses belonging to 'B' community were damaged and burnt. In fact many of the witnesses examined by the prosecution also admitted that Rajender is involved in sale of milk in the village and there was some altercation in the morning when one of the boys belonging to the 'J' community namely Rajender was stopped by these boys and there was some altercation. Amar Lal (CW1) who is the son of the deceased Tara Chand has also in his testimony not denied the alleged incident but when confronted by the Court but was vague. According to him, he is not aware of the morning incident since at that time he had gone to take a bath but when he came out both the injured were taken to the hospital meaning thereby that there was some incident of aggression by the boys belonging to the 'B' community initiated in the morning wherein these boys of 'J' community received some injuries. Further, the fact regarding Rajender being beaten is also corroborated by the prosecution witnesses himself and I may mention that the call details record *Ex.DW34/C* further reflect that 10:04 AM and 10:25 AM Rajender was not in the village and returned thereafter since the details of the CDR show the presence of the user in the village till 12:28 noon after which his location is repeatedly changing till 1:07 PM (noon) when his location is shown at Jind from where he had made a call to Dr. Kuldeep and where he remained till 8:58 PM. This again corroborates the version put forward by the defence of the incident not being



premeditated and absence of conspiracy. The circumstantial evidence does not support the charge of conspiracy put forward by the prosecution or of joint or mutual agency for prosecution of a common plan or an agreement.

This being the background the conspiracy theory so put forward by the prosecution does not stand established and I hereby hold that the prosecution has failed to bring on record evidence to establish the allegations of conspiracy beyond reasonable doubt.

**Unlawful assembly in prosecution of common object causing rioting, murder, dacoity/ robbery, causing grievous/ simple hurt, mischief by fire with intention to cause death, criminal house trespass in order to commit the above offences and also the offence under the SC/ST (POA) Act**

The case of the prosecution that the accused before this Court all belonging to 'J' community constituted themselves into an unlawful assembly having a common object of committing the illegal acts of rioting, murder, dacoity/ robbery, grievous/ simple hurt, mischief by fire with intention to cause death, criminal house trespass in order to commit the above offences and also the offence under the SC/ST (POA) Act by illegal means. It is also alleged that the members of the unlawful assembly were armed with deadly weapons such as jellies, gandases, lathies, cans/ containers filled with kerosene oil and petrol etc. and in prosecution to the common object as aforesaid had also committed the murder of Tara Chand S/o Swaroop Singh and Suman D/o Tara Chand and caused grievous hurt to Dhooop Singh S/o Rattan Singh and Birbhan S/o Maya with blunt object and simple injuries to Gulab Ram S/o Jai Lal, Mahajan S/o Satpal, Raj Kumar S/o Kapoora, Sushil S/o Surta, Rajbir S/o Baje Singh, Sanjay S/o Raja Ram, Ravi S/o Mahender, Raju S/o Pasha, Monika D/o Ramesh Kumar, Bindu D/o Suresh Kumar, Rajmal S/o Poker, Priya D/o Jagdesh, Rani W/o Sanjay, Karambir S/o Balbir, Pali W/o Jagdish, Nawab S/o Laxman, Sheela W/o Subhash, Jai Prakash S/o Tek Ram, Karan Singh S/o Tek Ram, Naseeb S/o Karan Singh, Praveen S/o Surta, Santara W/o Satyavan, Yogesh S/o Jai Prakash, Poonam D/o Chandrabhan, Jagbir S/o Nawab Singh, Ashok S/o Jagdish, Ramphal S/o Risala, Kamlesh W/o Jai Prakash, Radha W/o Sandeep, Madho W/o Tekram, Murti W/o Karamvir, Shanti Devi W/o Jugti Ram, Sunita W/o Satbir, Asjmer S/o Balbir, Sunita W/o Surta, Satbir S/o Bhaleram, Chandrapati W/o Sajna, Sandeep S/o Satpal, Ashok S/o Maha Singh, Sanjay S/o Satpal, Abhishek S/o Sanjay, Angoori W/o Dalip Singh, Sunita W/o Ved, Suman D/o Raghbir, Ishro W/o Pasa, Pooja D/o Surta, Krishna W/o Rabhbir, Aman S/o Surta and Kalapati W/o Jai Singh.

It has also been alleged that in prosecution of the aforesaid common object of such unlawful assembly the accused armed with deadly weapons, committed criminal house trespass by entering into and remaining in the houses of Dhup Singh S/o Ratnu, Jagpal S/o Bir Singh, Ramphal S/o Rajmal, Ramniwas S/o Raj Mal, Chandra Singh S/o Laxman, Dilbagh S/o Gulaba, Sanjay S/o Gulab, Gulab S/o Jai Lal, Sanjay S/o Bani Singh, Manoj S/o Mahendra, Rajendra S/o Mahendra, Satyavan S/o Bhale Ram, Sube S/o Bhura, Tara Chand S/o Saroopa, Pradeep S/o Tara Chand, Sunia W/o Surta

Ram, Sanjay S/o Satpal and Dilbagh S/o Satpal Singh used as human dwelling in order to commit offences and also caused damage to property of more than Rs.100/- after committing criminal house trespass of the above persons and committed mischief by fire by setting the houses ablaze. Further, it is alleged that the accused in prosecution of the aforesaid common object of such unlawful assembly caused damage and destruction to the properties of Bania S/o Surta, Sushil S/o Surta, Mahajan S/o Satpal, Raja S/o Pratap, Rajmal S/o Poker, Satyavan S/o Roshan, Jaswant S/o Jagbir, Jai Singh S/o Sudhan, Bijendra S/o Surta, Dharambir S/o Chatar Singh, Bindra S/o Raj Kumar, Bani S/o Bhale Ram, Nawab S/o Laxman, Rajesh S/o Bhamboo, Praveen S/o Surta, Satpal S/o Pratap, Ramniwas S/o Indra, Dharambir S/o Chandagi, Karambir S/o Balbir, Pawan S/o Jagat Singh worth more than Rs.50/- and also committed dacoity in the houses of Chander Singh S/o Laxman Ram, Satyavan S/o Bhale Ram, Kuldeep S/o Raja, Jagpal S/o Bir Singh, Rajender S/o Mahender Singh, Ramniwas S/o Rajmal, Manoj S/o Mahender Singh, Sanjay S/o Bani Singh, Gulaba S/o JaiLal, Sanjay S/o Bulaga, Sunita W/o Surta, Dilbagh S/o Gulaba Chowkidar, Dhup Singh S/o Rattan Singh and Ramphal S/o Raj Mal.

The Ld. Special Public Prosecutor has vehemently argued that the prosecution has successfully been able to bring on record that the happenings of 20.04.2010 that is between the incident of 19.04.2010 and 21.04.2010 establishes the prior meeting of mind and common object and the motive for the offence which took on 21.04.2010. He has pointed out that the prosecution witnesses have specifically mentioned in their testimonies that the 'B' Basti was surrounded by the persons from 'J' community in a large number who were armed with deadly weapons like jellies, gandases, dandas etc. and had brought rehris loaded with stones/bricks and also had can's containing inflammatory material (petrol and kerosene) and sounded caste abuse slogans "*Deda ne mar do*"; "*choore deda ne maro*"; "*chooreya nu jala do*"; "*chooro ke aag laga do deda ne kad do bahar*"; "*Phook do phook deda ne phook do*"; "*Jala do, aag lago do deda ne*"; "*choorya ne dedha ne phook do, mar do*"; "*Phook do dedhan ne*"; "*Chooraya ne phoonk do*"; "*Jala do deda ne*"; "*Maro in dedya ne bhanjod ne kutya ne*"; "*Maro, jala do*" etc. He has submitted that once a membership of an unlawful assembly is established, it is not incumbent on the prosecution to establish any specific overt act to any of the accused for fastening of liability with the aid of Section 149 IPC and commission of overt act by each member of the unlawful assembly is not necessary. He has placed his reliance on the case of *Mahmood -vs- State of U.P.* reported in (2007) 14 SCC 16 and has argued that the common object of the unlawful assembly of the accused in the present case is evident from the fact that some of them were armed with deadly weapons and none of them were curious onlookers or spectators to the incident on 21.4.2010 at Village Mirchpur. It has been vehemently argued that the meeting of minds of the accused persons has also been demonstrated by the prosecution as is the essential ingredient to prove a criminal conspiracy and in this regard has placed his reliance on the case of *Abuthagir and Ors. -vs- State (Rep. by Inspector of Police, Madurai)* reported in AIR 2009 SC 2797; *Rabindra Mahto and Ors. -vs- State of Jharkhand* reported in 2006 Cri.L.J. 957 and *Dharnidhar*

-vs- *State of U.P. and Ors.* reported in 2010 (7) SCC 759. It is argued by the Ld. Special Public Prosecutor that it is the case of the prosecution that the accused persons had, after the altercation on 19.04.2010, made up their minds about taking revenge as how even a dog owned by a member of 'B' community had the guts to bark on an upper caste person and hence on 20.04.2010 as is borne out by police records and the unchallenged testimony of the witnesses the accused persons were moving around in groups armed with lathis and threatening the persons from 'B' community in their own basti. He has argued that the prosecution witnesses have also established that in the morning of 21.04.2010 the preparation for burning of houses was in way as the persons from the 'J' community were collecting inflammable substances and also the aspect that the accused Rajender S/o Pali had while passing through the main gali on 21.4.2010 threatened about returning and setting houses belonging to the members of 'B' community on fire. Ld. Special Public Prosecutor has further pointed out that the Basti was surrounded from all sides and the persons belonging to the unlawful assembly on all sides were armed in a similar manner which clearly does away with the notion that a sudden fight broke out. He has submitted that houses on all sides of the 'B' Basti were burnt which indicates that the intention of the unlawful assembly was to burn down the entire basti by surrounding it from all sides and that was the common object of the unlawful assembly. According to the Ld. Special Public Prosecutor the evidence on record shows that the unlawful assembly was also armed with lathis, jellies and gandases, all of which are common agricultural tools found in any village and had also come with preparation for pelting stones on the persons from 'B' community and injuring them through this means.

Further, according to the Ld. Special Public Prosecutor in so far as the role of accused Vinod Kajal (the then SHO Police Station Narnaund) is concerned, his presence at the site of violence is not in dispute. The conduct of the accused person, to begin with, brings him within the purview of sec 4 of The SC/ST (POA) Act. Further, his connivance with the mob of persons belonging to 'J' community is clear from the fact that he asks the males belonging to 'B' community to leave, while the mob of persons from 'J' community was still present in the 'B' Basti. Thereafter he clearly instructs the mob of that boys "*deda ne ek ghante mein aag laga do*" in the presence of the remaining persons from the 'b' community in the village, mostly women and children.

The Ld. Special Public Prosecutor has, in so far as the aspect of committing murder is concerned, argued that it has clearly been borne out by the testimony of eye witnesses which has gone unchallenged that even after seeing that the deceased persons, Suman and Tara Chand were in the house, the assailants did not stop and did not hesitate to do whatever is necessary to kill both the persons. He has also pointed out that in the postmortem of the bodies of both Suman and Tara Chand it is revealed that the bones of both these persons in the limb area were fractured which was as a result of the beating that they both had received first and then they were pushed inside the house and the door was bolted from outside.

On the other hand the Ld. Defence counsel has argued that no case of vicarious liability is made out since the incident even as per the prosecution clearly happened at different areas of the village and amply divided among the four corners of the village in which situation the Sections 148 and 149 IPC cannot be said to be attracted. He has pointed out that there is no recovery of any weapon from any of the accused and further the alleged use of brick bats by the accused is a clear sign that no weapons were used in the incident and that it was not a premeditated attack. He has placed his reliance on the testimony of Dhoop Singh (PW29) wherein he has deposed that he was caught by some erring boys in his house and was left by them unharmed which is a clear indicator that the incident was not aimed at causing death of any person and thus there cannot be said to have been a common object of the assembly of causing death of any person. He has submitted that the prosecution witnesses are all from the different portions of the 'B' Basti whereas in the site plan it is clear that the places are quite far away from each other with intervening streets and rows of houses. It is argued that apart from the members of family of Kamla who have roped in all the accused, the other prosecution witnesses have also given names of the same accused who under the given circumstances cannot be present at all the places at the same times.

Before analyzing the evidence on record the legal position as it exists is briefly discussed as under: In the case of *Rabindra Mahto & Ors. -vs- State of Jharkhand* reported in 2006 Cri.L.J. 957 the relationship between Section 149 and Section 120B IPC has been brought out clearly by the Hon'ble Supreme Court as under:

*“Under Section 149 IPC, if the accused is a member of an unlawful assembly, the common object of which is to commit a certain crime, and such a crime is committed by one or more of the members of that assembly, every person who happens to be a member of that assembly would be liable for the commission of the crime being a member of it irrespective of the fact whether he has actually committed the criminal act or not. There is a distinction between the common object and common intention. The common object need not require prior concert and a common meeting of minds before the attack, and an unlawful object can develop after the assembly gathered before the commission of the crime at the spot itself. There need not be prior meeting of the mind. It would be enough that the members of the assembly which constitutes five or more persons, have common object and that they acted as an assembly to achieve that object. In substance, Section 149 makes every member of the common unlawful assembly responsible as a member for the act of each and all merely because he is a member of the unlawful assembly with common object to be achieved by such an unlawful assembly. At the same time, one has to keep in mind that mere presence in the unlawful assembly cannot render a person liable unless there was a common object and that is shared by that person. The common object has to be found and can be gathered from the facts and circumstances of each case.”*

In the case of *Adalat Pandit & Anr. -vs- State of Bihar* reported in (2010) 6 Supreme Court Cases 469, which was a case where witnesses had deposed that three accused having lathi but none referring to any overt act by them, it was held by the Hon'ble Supreme Court that benefit of doubt can be granted to persons who were present as bystanders without committing any overt acts and

cannot be roped in either on the basis of Section 34 or Section 149. There was no evidence that the accused was carrying a spear and witness was making a general statement that all accused persons were holding spears.

In the case of *Yunis @ Kariya -vs- State of M.P.* reported in 2003 (1) SCC 425 eight accused persons armed with deadly weapons, attacked the deceased in broad daylight in a marketplace causing his death and the same was witnessed by several persons, three of whom were eye-witnesses and where the testimony of the eye-witnesses was tallying with each other, the oral testimony of the eye-witnesses as well as the medical and other evidence established the commission of crime. The Hon'ble Supreme Court held Section 149 IPC to have been established on the basis of evidence.

In the case of *Mukteshwar Rai & Ors. -vs- State of Bihar*, and *Bhola Rai Kurmi & Ors. -vs- State of Bihar*, 1992 SCC (Cri) 349, 1992 Supp (1) SCC 727 where the houses of the victim burnt and two persons charred to death by a mob and two persons were found to be missing and charges under Sections 436 read with 149, 364 read with 149 and 302 read with 149 were framed against the accused who were members of the mob, it was observed by the Hon'ble Supreme Court that specific overt act of actively participating in setting fire and throwing the victims into the fire was disbelieved as there was no evidence adduced showing that the missing persons had been murdered. It was also evident that none of the accused shown to be armed. Therefore on the facts it was held that common object of the unlawful assembly of committing murder was not established. It was further observed that in the absence of any evidence missing persons also cannot also be held to be murdered. However the Hon'ble Supreme Court held that the common object of setting fire punishable under Section 436 read with 149 was established beyond reasonable doubt and therefore the conviction under Section 302 read with 149 and sentence of life imprisonment was set aside and the sentence under Section 436 read with Section 149 and 364 read with 149 was reduced from 10 years to 5 years.

In the case of *State of Andhra Pradesh -vs- Rayaneedi Sitharamaiah & Ors.* reported in 2010 (4) SCC (Cri.) which was a case where the provision of Section 148 IPC was invoked and there was identification of 45 accused by one solitary witness as the members of the unlawful assembly it was held not safe to place reliance on such a witness and their conviction under Section 148 unsustainable. In the case of *Maranadu & Anr. -vs- State by Inspector of Police, Tamil Nadu* reported in 2008 (16) SCC 529 on the question of law under Section 149 IPC, the Hon'ble Supreme Court has cautioned against the acceptance of the evidence of the partisan witnesses, particularly in case involving Section 149 IPC and while stating the principles of appreciation of evidence, relied on the case of *Masalti -vs- State of U.P.* reported in AIR 1965 SC 202, it was observed by the Hon'ble Court that:-

*"...it would be unreasonable to contend that evidence given by witnesses should be discarded only on the ground that it is evidence of partisan or interested witnesses. The mechanical rejection of such evidence on the sole ground that it is partisan, would invariably lead to failure of justice."*

*We are quite convinced in this case that the evidence of the eye-witnesses, though they were somewhat partisan, was liable to be accepted, excepting against the three accused persons who were acquitted. We have given the reasons for acceptance of that evidence and also for the acquittal of three accused persons, who could not be held to be the part of the unlawful assembly....”*

In the case of *Pandurang Chandrakant Mhatre -vs- State of Maharashtra*, reported in AIR 2010 SC (Supp) 204 the Hon'ble Apex Court in a case where the incident took place between two rival political parties and it was the evidence of witnesses that accused armed with sword while others were armed with iron bars and all of them started attacking the deceased with their respective weapons in their hands was truthful and found corroboration from medial evidence, the accused persons whose presence as members of party of assailants was consistently mentioned and their over acts in chasing and assaulting deceased were clearly proved and were liable to be convicted under Section 302 r. w. S 149 whereas other accused persons entitled to benefit of doubt. However, all accused persons were held guilty of offences punishable under S 148 and S 326 read with S 149. In this case the Hon'ble Apex Court enunciated the principle that under Section 149, two ingredients are required to be satisfied. Firstly, there has to be the commission of an offence by any member of an unlawful assembly. Secondly, such offence must have been committed in prosecution of the common object of that assembly or must be such that the members of that assembly knew it to be likely that the offence would be committed. The Hon'ble Court has held as under:

*“Section 149 IPC creates a specific and distinct offence. Its two essential ingredients are:*

- (i) commission of an offence by any member of an unlawful assembly and;*
- (ii) such offence must have been committed in prosecution of the common object of that assembly or must be such as the members of that assembly knew it be likely to be committed.”*

Similarly in the said case the Hon'ble Apex Court again placed its reliance on the case of *Masalti -vs- State of U.P.* reported in AIR 1965 SC 202 wherein it had earlier observed that:

*“.....What has to be proved against a person who is alleged to be a member of an unlawful assembly is that he was one of the persons constituting the assembly and he entertained along with the other members of the assembly the common object as defined by Section 141 IPC. Section 142 provides that whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly. In other words, an assembly of five or more persons actuated by, and entertaining one or more of the common object specified by the five clauses of Section 141, is an unlawful assembly. The crucial question to determine in such a case is whether the assembly consisted of five or more persons and whether the said persons entertained one or more of the common objects as specified by Section 141. While determining this question, it becomes relevant to consider whether the assembly consisted of some persons who were merely passive witnesses and had joined the assembly as a matter of idle curiosity without intending to entertain the common object of the assembly....”*

Further in the case of *Musa Khan & Others -vs- State of Maharashtra* reported in 1977 SCC (Cri) 164 the Hon'ble Supreme Court had observed that the presence in an assembly of persons does not make the accused a member of an unlawful assembly, unless it is shown by direct or circumstantial evidence that accused shared the common object of the assembly. It was held that:

*".....Culpable liability does not arise from mere presence in the assembly, nor does participation in one incident lead to liability for consequences of all the incidents that the unlawful assembly may consequently indulge in – Liability of each individual accused adjudged on facts. ....Thus a court is not entitled to presume that any and every person who is proved to have been present near a riotous mob at any time or to have joined or left it at any stage during its activities is in law guilty of every act committed by it from the beginning to the end, or that each member of such a crowd must from the beginning have anticipated and contemplated the nature of the illegal activities in which the assembly would subsequently indulge. In other words, it must be proved in each case that the person concerned was not only a member of the unlawful assembly at some stages, but at all the crucial stages and shared the common objects of the assembly at all these stages. It is not uncommon that an unruly crowd on the rampage may contain some miscreants who may go beyond the common object and commit ad-hoc crimes graver than the mob had as its objective..."*

The Hon'ble Court while having regards to the facts of the case further observed that:

*"....On fact, having regard to the background against which the events took place all the four incidents were parts of the same transaction but they were separate incidents in which different members of the mob had participated..... In these circumstances, therefore, the accused who were not present or who did not share the common object of the unlawful assembly at other stages cannot be convicted for the activities of the assembly at those stages. ...."*

In the case of *Ramappa Halappa Pujar & Ors. -vs- State of Karnataka* reported in 2009 (1) SCC (Cri) 250 it was observed that:

*".... members of the unlawful assembly can be held liable under Section 149 IPC, if it is shown that they knew beforehand that the offence actually committed was likely to be committed in prosecution of the common object...."*

In the case of *Kanwarpal & another -vs- State of M. P.* reported in AIR 2002 Supreme Court 3690 it was observed that in the case of a free fight, conviction by recourse to S.149 was not permissible unless it is shown that a particular accused caused injuries he could not be convicted.

Also, in the case of *Dharnidhar -vs- State of Uttar Pradesh* reported in (2010) 7 Supreme Court Cases 759 the Hon'ble Apex Court while placing its reliance on the case of *Sheo Prasad Bhore -vs- State of Assam* reported in (2007) 3 SCC 120, and while analyzing the findings of the Trial Court observed that:

*".....The learned Trial Court, besides recording the finding against the accused on motive and referring to the recovery of the sphere, has also, in great detail, dealt with the injuries caused by the accused upon the two deceased. In terms of the medical reports proved by*

*PW 6, (being Ext. K3 and K4), there were four gun shots on the body of each of the deceased and in addition thereto one incised wound near the shoulder of Bahadur Singh and two incised wounds on the neck of Pyare Lal. The medical evidence is clear that these injuries could be caused by gun, sphere and kulhari. The attending circumstances fully support the case of the prosecution. PW1 and PW3, who were present at the different places of occurrence, have frankly stated that they were to intervene and save their brother and father but because of the fear of the gun they could not do so. Having found the above four accused guilty on the strength of Section 302 read with Section 34 of the IPC, the Trial Court held all the 5 accused are guilty of Section 302 read with Section 149 of the IPC for the murder of Pyare Lal. It has been shown in the evidence that after committing the murder of Bahadur Singh, they moved to the fields where Pyare Lal was watching his bajra crop, after having clearly made up their minds and with a common object to kill Pyare Lal. Once they reached the spot, they were joined by Dharnidhar, who also participated in the commission of the crime and in fact, played an active role by snatching the kulhari of the deceased and causing injury on his neck. The said injury and the gun injuries proved to be fatal, which ultimately resulted in the death of Pyare Lal on the spot itself. In fact, it is not even expected of the prosecution to assign particular or independent roles played by each accused once they are members of unlawful assembly and have assaulted the deceased persons, which resulted in their death. Every person of such an unlawful assembly, can be held to be liable....."*

In the case of *Md. Ankoos -vs- Public Prosecutor, High Court of A.P.* reported in AIR 2010 SC 566, the Hon'ble Supreme Court has held that:

*"....Section 149 IPC creates constructive liability i.e. a person who is a member of the unlawful assembly is made guilty of the offence committed by another member of the same assembly in the circumstances mentioned in the Section, although he may have had no intention to commit that offence and had done no overt act except his presence in the assembly and sharing the common object of that assembly. The legal position is also fairly well settled that because of a mere defect in language or in the narration or in form of the charge, the conviction would not be rendered bad if accused has not been affected thereby"*

In the case of *State of U.P. -vs- Dan Singh & Ors.* Reported in (1997) 3 SCC 747 the Hon'ble Supreme Court while placing its reliance on the case of *Lalji & Ors. -vs- State of U.P.* reported in 1989(1) SCC 437 has observed as under:

*".....Common object of the unlawful assembly can be gathered from the nature of the assembly, arms used by them and the behaviour of the assembly at or before the scene of occurrence. It is an inference to be deduced from the facts and circumstances of each case". What has happened in the present case is precisely what has envisaged in the explanation to Section 141 I.P.C. With Khima Nand being injured, all hell broke loose. A cry was raised that the doms should be burnt and killed, and this is precisely what happened. the marriage party was assaulted by the villagers. Six of the members of the marriage party were burnt, five of them having been locked inside the house of the only Dom resident of the village whose house was also burnt. Eight others were pursued and then mercilessly beaten and were killed elsewhere in the village. We fail to appreciate how anyone, under the circumstances, can possibly come to the conclusion that an unlawful assembly having the common object*



*of killing the Doms did not exist when fourteen people have been killed without the use of any weapon more lethal than a stick or stone. Considering the number of injuries on the persons who had died, it is evident that a large number of persons must have taken part in the assault. Even if the assembly of villagers was initially lawful, the same, undoubtedly, became unlawful when the riot started after Khima Nand was injured. All the eye witnesses have said that fifty or more villagers had taken part in the attack. Who were members of the assembly will be considered later but what is relevant to note is that a large number of villagers were present, duly armed with lathis and sticks, when the occurrence started and except six people who were burnt, eight others were beaten to death by blows from lathis, sticks and stones. It is difficult to appreciate the conclusion of the High Court that, under the circumstances, the attackers probably had a similar object but not a common object. This brings us to the next question as to who were the persons who were members of this unlawful assembly. It is no doubt true that some of the villagers may have been present at the time of the occurrence who were mere spectators and could not be regarded as being members of the unlawful assembly. It also happens, when people are killed during a riot, there may be a possibility of the incident being exaggerated or some innocent persons being named as being part of the assailants party. This may happen wittingly or unwittingly. But just because there may be some inconsequential contradictions or exaggeration in the testimony of the eye witnesses that should not be a ground to reject their evidence in its entirety. In the cases of rioting, where there are a large number of assailants and a number of witnesses, it is but natural that the testimony of the witnesses may not be identical. What has to be seen is whether the basic features of the occurrences have been similarly viewed and/or described by the witnesses in a manner which tallies with the outcome of the riot, viz., the injuries sustained by the victims and the number of people who are attacked and killed. Before we deal with the testimony of these witnesses, it will be important to bear in mind that in the present case the conviction is being sought under Section 302 I.P.C. with the aid of Section 149 I.P.C.. The two essential ingredients of this Section are that there must be a commission of an offence by any member of unlawful assembly and that such offence must be committed in prosecution of common object of that assembly or must be such as the members of that assembly knew to be likely to be committed. It is also a well-settled law (see Masalti -vs- State of Uttar Pradesh, AIR 1965 SC 202) that it is not necessary for the prosecution to prove which of the members of the unlawful assembly did which or what act. In fact as observed in Lalji's case (supra) while overt act and active participation may indicate common intention of the person perpetrating the crime, the mere presence in the unlawful assembly may fasten vicariously criminal liability under Section 149". Mr. Lalit is right in submitting that the witnesses would be revengeful as a large scale violence had taken place where the party, to which the eye witnesses belonged, had suffered and it is, therefore, necessary to fix the identity and participation of each accused with reasonable certainty. Dealing with a similar case of riot where a large number of assailants who were members of an unlawful assembly committed an offence of murder in pursuance of a common object, the manner in which the evidence should be appreciated was adverted upon by this court in Masalti's case (supra) at page 210 as follows:*

*"Then it is urged that the evidence given by the witnesses conforms to the same uniform pattern and since no specific part is assigned to all the assailants, that evidence should not have been accepted. This criticism again is not well founded. where a crowd of assailants*

*who are members of an unlawful assembly proceeds to commit an offence of murder in pursuance of the common object of the unlawful assembly, it is often not possible for witnesses to describe accurately the part played by each one of the assailants. Besides, if a large crowd of persons armed with weapons assaults the intended victims, it may not be necessary that all of them have to take part in the actual assault. In the present case, for instance, several weapons were carried by different members of the unlawful assembly, but it appears that the guns were used and that was enough to kill 5 persons. In such a case, it would be unreasonable to contend that because the other weapons carried by the members of the unlawful assembly were not used, the story in regard to the said weapons itself should be rejected.*

*‘Appreciation of evidence in such a complex case is not doubt a difficult task; but criminal courts have to do their best in dealing with such cases and it is their duty to sift the evidence carefully and decide which part of it is true and which is not.’ One more principle which was laid down in Masalti's case (supra), and which would be applicable here, is that where a "court has to deal with the evidence pertaining to the commission of an offence involving a large number of offenders and a large number of victims, it is usual to adopt the test that the conviction could be sustained only if it is supported by 2/3 or more witnesses who give a consistent account of the incident. In a sense the test may be described as mechanical; but it cannot be treated as irrational or unreasonable".*

The principles of law which broadly emerge from a broad reading of the aforesaid are briefly culled out as under:

- Section 149 IPC creates a constructive liability i.e. a person who is a member of the unlawful assembly is made guilty of the offence committed by another member of the same assembly in the circumstances mentioned in the Section, although he may have had no intention to commit that offence and had done no overt act except his presence in the assembly and sharing the common object of that assembly.
- Two essential ingredients of this Section are that there must be a commission of an offence by any member of unlawful assembly and that such offence must be committed in prosecution of common object of that assembly or must be such as the members of that assembly knew to be likely to be committed.
- An assembly, which is lawful to begin with, subsequently becomes unlawful. In other words, unlawful intent can develop during the course of the incident at the spot *co-instanti*.
- For determination of the common object of an unlawful assembly the conduct of each of the member of the said assembly before the attack, at the time of attack and thereafter as well as the motive for the crime are some of the relevant facts for consideration.
- Common object of the unlawful assembly can be gathered from the nature of the assembly, arms used by them and the behavior of the assembly at or before the scene of occurrence which inference has to be deduced from the facts and circumstances of each case

- Mere spectators who may be present at the time of the incident cannot be regarded as being members of the unlawful assembly.
- Possibility of exaggeration or implication of innocent persons being a part of the assailants party cannot be ruled out which may happen wittingly or unwittingly.
- That there are some inconsequential contradictions or exaggeration in the testimony of the eye witnesses cannot be a ground for rejection of their evidence in its entirety.
- In a case of rioting where there are a large number of assailants and a number of witnesses are involved it is only natural that the testimony of the witnesses may not be identical.
- The Court is required to ascertain whether the basic features of the occurrences have been similarly viewed or described by the witnesses in a manner which tallies with the outcome of the riot, that is the injuries sustained by the victims and the number of people who were attacked or killed.
- In a case where the Court has to deal with the evidence pertaining to the commission of an offence involving a large number of offenders and a large number of victims, it is usual to adopt the test that the conviction could be sustained only if it is supported by two to three or more number of witnesses who give a consistent account of the incident which may be described as mechanical but it cannot be treated as irrational or unreasonable.
- It is the duty of the Court to sift the evidence carefully and decide which part of it is true and which is not.

It is in the background of the aforesaid principles that I now proceed to examine the testimony of the eye witnesses, in order to determine as to which of the accused could be stated to have been a part of the unlawful assembly whose common object was to commit the illegal acts of rioting, murder, dacoity/ robbery, grievous/ simple hurt, mischief by fire with intention to cause death, criminal house trespass in order to commit the above offences and also the offence under the SC/ST (POA) Act by illegal means.

*Firstly* I may observe that as per the ocular evidence on record the presence of the accused Sumit S/o Satyavan, Pradeep S/o Jaibir, Rajpal S/o Sheo Chand, Pradeep S/o Suresh, Sunil S/o Daya Nand, Baljeet S/o Inder, Karambir S/o Tara Chand, Karampal S/o Satbir, Dharambir @ Illa S/o Mai Chand, Rishi S/o Satbir, Monu S/o Suresh, Kulwinder S/o Ram Mehar, Bobal @ Langra S/o Tek Ram, Ramphal S/o Prithvi and Rajender S/o Pali has been established at the spot of the incident. It has further emerged from the evaluation of this evidence that the accused *Sumit S/o Satyavan, Pradeep S/o Jaibir, Rajpal S/o Sheo Chand, Pradeep S/o Suresh, Sunil S/o Daya Nand, Rishi S/o Satbir* and *Monu S/o Suresh* were present at the spot at the time of the incident as one of the persons being a part of the unlawful assembly where they were indulging into stone pelting. Further, the presence of

the accused *Baljeet S/o Inder, Karambir S/o Tara Chand, Karampal S/o Satbir, Dharambir @ Illa S/o Mai Chand, Bobal @ Langra S/o Tek Ram* at the spot at the time of the incident along with the other persons constituting an unlawful assembly and indulging into stone pelting, causing damage to the properties of persons from 'B' community stand established. It also stand established that the accused *Kulwinder S/o Ram Mehar, Ramphal S/o Prithvi and Rajender S/o Pale* were present at the spot at the time of the incident along with the other persons constituting unlawful assembly and were indulging into stone pelting, causing damage to the properties of persons from the 'B' community and also setting fire to the house of Tara Chand in which Tara Chand and his daughter Suman had been burnt to death.

*Secondly* it stands established that there was no recovery of any kind of weapon from the above accused or from the site thereby demolishing the case of the prosecution regarding use of weapons.

*Thirdly* the photographs and the video clippings placed on record only prove the use brick bats by the accused and not dangerous weapons.

*Fourthly* the medical evidence on record clearly established that most of the injured were only complaining of body pain with no marks of injuries due to which reason either no opinion was given by the doctor or the injuries were opined to be Simple and others were having injuries abrasions, swelling, bruises etc. which are compatible to the use of brick bats and stone pelting.

*Fifthly* the FSL report *Ex.PX1* show the absence of Hydrocarbons of petroleum (kerosene, petrol or diesel) in the exhibits sent to the FSL nor the clothes of the deceased Suman which she was wearing at the time of the incident showed any signs of Hydrocarbons of petroleum (kerosene, petrol or diesel) and hence the allegations in the oral testimonies of her family members of petrol/ kerosene oil being poured on the deceased does not stand established and cannot be believed.

*Sixthly* not even a single public witness/ eye witness whose property was damaged or destroyed has lead any evidence to prove the said damage. The photographs/ video clippings of the properties so placed on record and proved by the police witnesses does reflect the damage caused by fire and rioting but not the person to whom the property belongs. Here I may observe that the said photographs/ video clippings have not been specifically put to any of the eye witnesses nor they have been got identified from the said eye witnesses nor the extent of damage proved, except for the properties of Tara Chand and Kamla whose properties were completely destroyed and from where the dead body of Suman was removed. I may also observe that majority of the victims whose properties are shown to have been damaged have either not been examined by the prosecution on account of being won over by the accused or have appeared as witnesses of the defence and not supported the prosecution version. Further, the oral testimonies of the witnesses and the site plan also reveal that not all the houses and the properties belonging to the 'B' community had been damaged by the assailants. The damaged properties reflected in the site plans show that they are

scattered in the 'B' Basti thereby establishing that not all the houses of persons belonging to 'B' community were targeted. The damage was in fact selective and it is this which lends support to the defence version that the incident was not premeditated nor was it aimed at entire 'B' community.

*Seventhly* the video clippings and photographs placed on record wherein properties have been duly got identified with the assistance of the representatives of the victims and complainant, indicate that five houses of the persons belonging to 'B' Community were totally burnt/ damaged whereas partial damage had been caused to nine number of houses. Here I may observe that out of the persons whose houses were allegedly burnt totally only Kamla (PW50) has been examined as a witness and out of the persons whose houses were damaged only Manoj S/o Mahender (PW45), Vicky S/o Dhoop Singh (PW42) and Sanjay S/o Gulab Singh (PW44) have appeared to depose in the Court whereas Ramphal & Ram Niwas both sons of Raj Mal; Dilbagh S/o Sube Singh; Dilbagh S/o Dhoop Singh; Sunil, Sanjay and Dilbagh all sons of Jai Lal; Suresh S/o Chander; Chander S/o Laxman; Sanjay & Vinod both sons of Bani Singh and Jagpal S/o Beer Singh have not appeared to prove the same. It has been emerged from the evidence on record that the incident had spread over a large part of the village. While at one place that is in the bye-lane near the main street where house of Tara Chand is situated there was damage to property by fire, whereas at other places where was stone pelting and at some other areas the rioters had even entered the houses and broke/damaged the furniture/ household articles. Not all accused were found present everywhere and in fact they were scattered all over with different set of persons at different places, hence though at a particular point of time a person may have shared the common object of the assembly but what has to be proved is that he was a member of unlawful assembly at a crucial stage and shared common object at these stages. It is common that an unruly crowd on rampage may contain miscreants who may go beyond the common object and commit other offences.

*Eighthly* it is further evident from the photographs and video clippings which were taken after a few hours of the incident that fire had been set at various places where the domestic fuel in the form of uplas (cow dung cakes) and thansras (dried sticks) were stacked and there is indication of the spread of fire to the houses particularly adjoining those having kachcha/ wooden roofs.

*Ninthly* it is reflected from the statements of many of the injured and eye witnesses including Dhoop Singh (PW29) and Sube Singh (PW39) that it was never the intention of the persons of unlawful assembly to commit murder. In fact the witness Sube Singh has specifically deposed that when the assailants came to him and he pleaded to them one of the assailant had told him to sit by saying "Dada baith jao" while the other assailants left the premises and in fact the photographs placed on record show Sube Singh standing in front of his house with no evidence of damage to his property. Hence it does not stand established that the common object of the assembly was causing death of any person rather it is evident that the assembly which was lawful initially turned unlawful when there was stone pelting from both the sides which got aggravated as a result of which damage was caused to the properties of persons belonging to 'B' community.

*Tenthly* the postmortem examination reports of Tara Chand and Suman does not show any signs of injuries to prove the use of blunt force (use of lathi as alleged by Kamla and Amar Lal) prior to their death. The fractures observed on the body of Suman during the postmortem have been opined to be burn fractures and there is no ground to suspect the opinion of the doctor in this regard since the video clipping of the postmortem examination of Suman reflect that her body was badly charred. Hence under these circumstances the extreme heat which reflects on the body causes fractures in the process of removing the body from the burnt house. (*Ref: Medical jurisprudence and Toxicology, 23rd edition written by Modi*)

*Eleventhly* Dhoop Singh (PW29) is the only person who had received grievous injuries which according to him had been inflicted upon him by one Ramphal S/o Prithvi which is not the accused Ramphal S/o Prithvi before this Court and not by any of the accused before this Court. Therefore under these circumstances none of the accused can be held guilty for the offence under Section 326 Indian Penal Code.

*Twelfthly* it has also been alleged that the members of the unlawful assembly in prosecution to their common object also committed looting/ robbery/ dacoity in the houses of persons of 'B' community. In this regard I may observe that most of the witnesses examined by the prosecution in this regard have only made oral and general allegations in this regard without specifying either the details of the articles being taken away or the names of the persons who had committed this act. None of the witnesses except Gulab Singh (PW48) and Kamla (PW50) have made any specific and definite allegations in this regard. The allegations regarding robbery/ dacoity have been made by these witnesses for the first time in the Court. I may further observe that Gulab Singh (PW48) is the Chowkidar of the village having no landed property living on the mercy of the dominant classes and he has not lead any evidence to prove that Rs.20,000/- and two gold rings which were kept in his house had been looted by the assailants nor he has made any specific allegations against any accused in this regard by name. This Court for the reasons already discussed in detail and not being repeated for the sake of brevity has observed that Gulab Singh (PW48) is not a totally reliable witness and has made repeated improvements and exaggerations qua the incident and also qua the assailants and therefore under these circumstances it is not safe to rely upon his testimony without any independent reliable corroboration. I may observe that Gulab Singh (PW48) has made only bald allegations regarding looting without specifying either the name of the boys who had committed the dacoity despite having identified them in the Court in so far as the incident is concerned nor his testimony finds any corroboration from any other source in this regard. In so far as the testimony of Kamla (PW50) is concerned, it has already been held to be an unreliable and on most of the aspects she has come up with a version which is not in conformity with the prosecution case and the testimonies of other prosecution witnesses. Initially in her testimony Kamla (PW50) did not state anything on this aspect and it is only when the Ld. Special Public Prosecutor put leading questions to her for refreshing her memory that she admitted having told the Investigating Officer

that Rs. Four lacs along with jewellery had been looted from her house. Here I may observe that Tara Chand was the only earning member of the family and it is for this reason that his sons Amar Lal, Ravinder and Pradeep have been given government jobs on compassionate grounds by way of a Cabinet decision dated 10.8.2010 of the Government of Haryana. It is impossible for Tara Chand in this background to have even afforded or kept Rs. Four lacs in his house he himself being a landless labour. Even otherwise the video clippings and the photographs placed on record do not substantiate and establish the allegations of robbery/ dacoity. I may mention that the video clippings show the trunk kept in the room of Suman in a burnt condition but the clothes and the articles inside being untouched which prove that the trunk was in fact opened after the house was burnt and Suman was taken out and not at the time when assailants reportedly set the houses on fire or else all the articles lying inside would have also been burnt along with the other things in the room. The allegations of looting are false on the face of it and cannot be believed.

*Lastly* it is proved that the accused being the member of the unlawful assembly have committed criminal house tress pass by the use of deadly weapons has not been proved by the prosecution...

### **Allegations under Section 302 Indian Penal Code**

As per allegations, the accused before this Court who were all members of unlawful assembly with a common object committed the murder of Tara Chand S/o Swaroop Singh and his daughter Suman and intentionally caused their death by setting them ablaze. Before coming to the evaluation of evidence on record I may observe that as per the provisions of Section 299 Indian Penal Code who ever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Further, as per the provisions of *Section 300* Indian Penal Code culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or if it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid and this is punishable under Section 302 Indian Penal Code. There are five exceptions provided to the above. *Firstly* culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident. I may observe that this exception is also subject to the proviso that the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person; the provocation is not given by

anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant; the provocation is not given by anything done in the lawful exercise of the right of private defence; the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact. *Secondly* Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence. *Thirdly* Culpable homicide is not murder if the offender, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused. *Fourthly* Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner and it is immaterial in such cases which party offers the provocation or commits the first assault. *Lastly* Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.

The academic distinction between 'murder' and 'culpable homicide not amounting to murder' has always vexed the Courts. Confusion is caused, if Courts losing sight of the true scope and meaning of the terms used by the legislature in these sections, allow themselves to be drawn into minute abstractions. The safest way of approach to the interpretation and application of these provisions seems to be to keep in focus the keywords used in the various clauses of Sections 299 and 300 Indian Penal Code. (Ref.: *Daya Nand -vs- State of Haryana* reported in AIR 2008 SC 1823).

Whenever a court is confronted with the question whether the offence is 'murder' or 'culpable homicide not amounting to murder' on the facts of a case, it will be convenient for it to approach the problem in three stages. The question to be considered at the first stage would be, whether the accused has done an act by doing which he has caused the death of another. Proof of such causal connection between the act of the accused and the death, leads to the second stage for considering whether that act of the accused amounts to "culpable homicide" as defined in Section 299. If the answer to this question is prima facie found in the affirmative, the stage for considering the operation of Section 300, Penal Code, is reached. This is the stage at which the Court should determine whether the facts proved by the prosecution bring the case within the ambit of any of the four Clauses of the definition of 'murder' contained in Section 300. If the answer to this question is in the negative the offence would be 'culpable homicide not amounting to murder', punishable under the first or the second part of Section 304, depending, respectively, on whether the second or the third Clause of Sec. 299 is applicable. If this question is found in the positive, but the case comes within any of the Exceptions enumerated in Section 300, the offence would still be 'culpable



homicide not amounting to murder', punishable under the First Part of Section 304, Penal Code. Note: All murders are culpable homicide but not vice-a-versa. (Ref.: *State of A.P. -vs- Rayavarapu Punnayya* reported in AIR 1977 SC 45).

In our present case the allegations against the accused are of intentionally causing death of Tara Chand and Suman whereas the Ld. Defence Counsel has vehemently argued that the case falls within *Exception 4 to Section 300* Indian Penal Code punishable under Section 304 Indian Penal Code and not under *Section 302* Indian Penal Code. Here, I may observe that for bringing in operation of *Exception 4 to Section 300* Indian Penal Code it has to be established that the act was committed without premeditation, in a sudden fight in the heat of passion upon a sudden quarrel without the offender having taken undue advantage and not having acted in a cruel or unusual manner. The Fourth Exception of Section 300, IPC covers acts done in a sudden fight. The said exception deals with a case of prosecution not covered by the first exception, after which its place would have been more appropriate. The exception is founded upon the same principle, for in both there is absence of premeditation. But, while in the case of Exception 1 there is total deprivation of self-control, in case of Exception 4, there is only that heat of passion which clouds men's sober reasons and urges them to deeds which they would not otherwise do. There is provocation in Exception 4 as in Exception 1; but the injury done is not the direct consequence of that provocation. In fact Exception 4 deals with cases in which notwithstanding that a blow may have been struck, or some provocation given in the origin of the dispute or in whatever way the quarrel may have originated, yet the subsequent conduct of both parties puts them in respect of guilt upon equal footing. I may observe that a 'sudden fight' implies mutual provocation and blows on each side. The homicide committed is then clearly not traceable to unilateral provocation, nor in such cases could the whole blame be placed on one side. For if it were so, the Exception more appropriately applicable would be Exception 1. There is no previous deliberation or determination to fight. A fight suddenly takes place, for which both parties are more or less to be blamed. It may be that one of them starts it, but if the other had not aggravated it by his own conduct it would not have taken the serious turn it did. There is then a mutual provocation and aggravation, and it is difficult to apportion the share of blame which attaches to each fighter. The help of Exception 4 can be invoked if death is caused (a) without premeditation, (b) in a sudden fight; (c) without the offender's having taken undue advantage or acted in a cruel or unusual manner; and (d) the fight must have been with the person killed. To bring a case within Exception 4 all the ingredients mentioned in it must be found. It is to be noted that the 'fight' occurring in Exception 4 to Section 300, IPC is not defined in the IPC. It takes two to make a fight. Heat of passion requires that there must be no time for the passions to cool down. A fight is a combat between two or more persons whether with or without weapons. It is not possible to enunciate any general rule as to what shall be deemed to be a sudden quarrel. It is a question of fact and whether a quarrel is sudden or not must necessarily depend upon the proved facts of each case. For the application of Exception 4, it is not sufficient to show that there was a

sudden quarrel and there was no premeditation. It must further be shown that the offender has not taken undue advantage or acted in cruel or unusual manner. The expression 'undue advantage' as used in the provision means 'unfair advantage'. (Ref.: *Sachchey Lal Tiwari -vs- State of Uttar Pradesh* reported in AIR 2004 SC 5039 and *Suresh Chander -vs- State of UP* reported in AIR 2005 SC 3120). In this present case the aspect of premeditation, or that there was a combat/ fight between two groups has not been established. Merely because there was a fight in the morning between the boys of the 'B' and 'J' community will not bring the case within the Fourth Exception since the evidence on record reflects that there were sufficient cooling time, the provocation if any cannot be stated to be sudden and grave. Further, the intention and mens-rea for invoking Section 300 IPC has also not been established.

The case of the prosecution is that the assailant came armed with oil cans and had beaten the deceased with dandas after which oil was sprinkled on them and they were pushed into fire. The relevant question which now arises is whether this act of the accused as alleged by the prosecution would bring the case within the ambit of Section 300 IPC. The answer to this is 'Yes'. However, if the evidence on record does not establish any premeditation or establish that oil was sprinkled on the victims or that they were beaten and pushed inside the house which was set on fire, then the conclusion would of course be different and the answer would be 'No'.

The allegations made by Pradeep (PW49) are that petrol was sprinkled on Tara Chand and Suman who were pushed inside their house whereas according to Kamla (PW50) her husband Tara Chand and daughter Suman were beaten with dandas and thereafter kerosene oil was poured over them and they were thrown inside the house door of which was locked from outside by persons from the 'J' community and set on fire. Further, according to Amar Lal (CW1) kerosene oil was poured over his father Tara Chand and his sister Suman who were thereafter pushed inside the house which was set on fire whose doors were locked outside. The other witnesses of the prosecution do not corroborate the testimonies of Pradeep (PW49), Kamla (PW50) and Amar Lal (CW1) on this aspect and have only testified that the house of Tara Chand was set on fire in which Tara Chand and Suman were burnt to death.

Here I may *Firstly* observe that this allegation of Pradeep, Kamla and Amar Lal that Suman and Tara Chand were first beaten with dandas or that kerosene or petrol was poured over them does not find any corroboration from the statement/ Dying Declaration of Tara Chand made to the Ld. Judicial Magistrate First Class which is *Ex.PW55/B* wherein Tara Chand does not say that he had been beaten or that petrol/ kerosene oil was sprinkled on him or that he was pushed inside his house which was locked from outside which was set on fire but has rather told the Ld. Judicial Magistrate that it was his house which was set on fire an aspect which finds due corroboration from the testimonies of the other eye witnesses who have also similarly testified that house of Tara Chand was set on fire wherein Tara Chand and Suman were burnt. The testimonies of Pradeep,

Kamla and Amar Lal being an exaggeration on this aspect does not find any corroboration to this extent from any other source.

*Secondly* the FSL report *Ex.PX1* also does not support the prosecution version as it show the absence of Hydrocarbons of petroleum (kerosene, petrol or diesel) in the ashes which were lifted soon after the incident and sent to the laboratory for examination.

*Thirdly* the clothes which Suman was wearing at the time of incident and were sent to the FSL also do not show the presence of Hydrocarbons of petroleum (kerosene, petrol or diesel) as evident from *Ex.PX1*.

*Fourthly* the postmortem examination report of Tara Chand and Suman also do not show any signs of injuries to prove the use of blunt force (use of lathi as alleged by Kamla and Amar Lal) prior to their death and the only injuries present were on account of burns which included burn fractures. Here I may observe that the postmortem report of Suman *Ex.PW52/D* reveal the following injuries:

- Superficial to deep burns were present all over the body except pubic region right upper thigh region. Whole body was oedematous. Burn fractures were present in both hands over distal phalanges. Red line of demarcation was present between burnt and unburnt area.
- Trachea was congested and contained secretions with a mixture of black soot particles. Both lungs were congested. On cut sections soot particles oozed out.
- Further, the postmortem report of Tara Chand which is *Ex.PW52/C* show the following injuries:
- Superficial to deep burns were present all over the body except both axillary region and inguinopubic region. Red line of demarcation was present between healthy and burnt tissue.
- Membranes of brain were oedematous and congested.
- In thorax both lungs were congested and oedematous. On cut sections, both the lungs were containing soot particles and were congested and were oedematous.
- Whole body organs were congested.

The *cause of death of Suman was opined due to shock as a result of extensive burns* and the cause of death of Tara Chand was *due to extensive burns and its complications*. Even the presence of soot particles in the lungs which were congested is compatible to the findings of the doctor regarding death on account of extensive burns which does not establish use of physical force or sprinkling of kerosene or petrol on them.

*Fifthly* the fact that the doors of the rooms where Tara Chand and Suman were present were locked from outside by persons from the 'J' community also does not stand established. It is apparent from the evidence on record that in so far as Tara Chand is concerned he had suffered 99% burns and

expired after almost six hours of the incident. It is evident that after the assailants had gone away he himself, came out of his house after opening the door and went to the house of his neighbour Diwan Singh from where the police rushed him to the hospital. Had the door of the house where Tara Chand was present been locked from outside he could not have rushed out after opening the same or would have broken the same, of which there is no evidence. Similarly Suman who was handicapped had already expired in the fire when her body was taken out by the police after breaking the roof of the room. This aspect finds corroboration from the photographs and video clippings taken soon after the incident and also her postmortem report showing the presence of dust and mud on her body when it was brought to the hospital. Had the door of her room been locked from outside either the photographs or the video clippings would have reflected the same or the police would have opened the door to enter the room which is again not the case. Rather, the police had to break the roof to enter the room showing that the door was perhaps locked from inside, which Suman might have locked to save herself from the rioters and it is for this reason that it could not open.

*Sixthly* despite the allegations made by a large number of victims in their oral testimonies that the assailants from the 'J' community had come in large numbers duly armed with jellies, gandases and dandas yet the only injury present on the bodies of the victims were Simple blunt injuries. In fact not even one person suffered any kind of incised or sharp injuries which could have been caused by weapons such as gandases or jellies, on account of which the oral testimonies of the witnesses on this aspect is discarded. The aspect that the assault was premeditated and the assailants came armed with deadly weapons does not stand established.

*Seventhly* there is no recovery of any weapon either from the spot of the incident or from any of the accused either on the date of the incident that is 21.4.2010 or later.

*Eighthly* it is evident from the testimony of the various prosecution witnesses that not even dandas were recovered from the spot and when the police reached the spot they had found stone pelting going on and even the photographs placed on record which are *Ex.PW3/A-1 to Ex.PW3/A-109* and the video clippings *Ex.PW5/A* taken on the same day of incident (21.4.2010) shows brick bats lying at the spot but no other weapon including danda.

*Ninethly* the evidence on record also suggest that it was never the intention of the persons of unlawful assembly to commit murder which fact is reflected from the statements of many of the injured and eye witnesses including Dhoop Singh (PW29) and Sube Singh (PW39). In fact the witness Sube Singh has specifically deposed that when the assailants came to him and he pleaded with them on which one of the boys told him to sit by saying "*Dada baith jao*" while the other assailants left the premises. In fact the photograph *Ex.PW3/A-40* show Sube Singh standing in front of his house with no evidence of damage to his property and it is one motorcycle which was parked in the

open area adjoining the house of Sube which is seen burnt. The photographs and video clippings also show that there were two stacks of domestic fuel in the form of cow dung cakes (uplas) and dried sticks (thansras) at the place where the motorcycle was parked (on both sides of motorcycle) which was set on fire, which fire also engulfed the motorcycle lying parked in the vicinity.

*Tenthly* it also cannot be ruled out that the incident of stone pelting took place in a heat of passion. It has been established that when Rajender and Karampal who were coming in their boogie in the morning and passing through the main gali were waylaid by some of the boys belonging to the 'B' community and there was a verbal altercation between them followed by a physical altercation during which Karampal escaped and raised an alarm in the village. On hearing this alarm Dinesh came to the rescue of Rajender and sustained injuries on his eye and had to be rushed to the hospital along with Rajender after which a rumor was spread in the village that Rajender had been killed by boys belonging to the other group on which a large number of persons gathered at the spot where the incident had taken place. What happened thereafter is known to all. There was brick batting/ stone pelting by both the groups with the persons of 'J' Community on one side and the persons of the 'B' Community on the other side. The use of dangerous weapons has not been established. The FSL report *Ex.PX1* proves the absence of Hydrocarbons of petroleum (kerosene, petrol or diesel) and therefore the oral testimonies of the witnesses that kerosene or petrol was sprinkled on the walls is liable to be rejected. Rather, it is evident from the photographs and video clippings prepared on the date of incident itself that there were dumps of domestic fuel consisting of cow dung cakes (uplas) and dried sticks (thansras) stacked at various places in the 'B' Basti which were in fact set on fire. The possibility of the fire spreading faster in Kaccha houses consisting of roofs made of wooden rods (karis) which includes the house of Tara Chand (which was a kaccha house with roof made of wooden karis as evident from the photographs) cannot be ruled out. Both the deceased had sustained burns because they were inside the house when it was set on fire. Intention on the part of the accused to cause murder of the deceased does not stand established beyond doubt but it goes without saying that setting somebody's dwelling house on fire is an act which is done with a requisite knowledge that it is likely to cause death.

*Lastly* I may observe that in the instant case the prosecution has not been able to establish any motive strong enough to induce the accused to kill any of the deceased that is Tara Chand and Suman. In fact neither the accused nor the deceased had any enmity with each other. If the real intention was to kill, the accused would have come armed with dangerous weapons and the casualties and damage would have been much more. In fact the injuries on the person of the other victims only prove the use of brick bats. There is, therefore, nothing to demonstrate that the accused had the intention to cause death or at any rate to cause such bodily injury that would cause death.

What lies in the mind of a person, none can tell and has to be gathered from the surrounding circumstances. In the present case the absence of knowledge is inferred from the following:

- The absence of evidence on record to show that the assailants had knowledge that Tara Chand and Suman were inside the house which was set on fire.
- Failure of the prosecution to prove the presence of petrol or kerosene oil and the FSL report establishing the absence of Hydrocarbons of Petroleum (Petrol, Diesel or Kerosene) on the clothes of the deceased Suman and the postmortem report showing that the deceased had expired on account of ordinary burns (not on account of oil burns).
- Absence of any injury on the body of Tara Chand and Suman to prove a physical assault particularly on account of beatings caused by dandas (fractures on Suman being burn fractures as per the postmortem report).
- Absence of any evidence to prove that Tara Chand and Suman were pushed inside the house and that the doors of their house were locked thereafter from outside.

Hence the medical, forensic and other evidence on record totally lacking on the aforesaid does not establish the necessary intent so attributed to the accused by the prosecution but here I may hold that setting one's dwelling house is an act that any reasonable person is deemed to be possessing the requisite knowledge that it is likely to cause death of the person so residing/ present in the house. Under these circumstances I hereby hold that the prosecution has miserably failed to conclusively establish that the accused had the intention to cause death or such bodily injuries sufficient in the ordinary course of nature to cause death or such bodily injury as is likely to cause death. However, it stands established that the act of the accused in setting the house of Tara Chand and Kamla on fire was such that the accused were deemed to have knowledge that it was likely to cause death and hence the case of the accused is covered under the provisions of *Section 299 IPC* and they are guilty of culpable homicide not amounting to murder. The accused being unaware of the presence of the deceased inside the house and the case of the accused would fall within the purview of *Section 304 (Part-II)* Indian Penal Code and not under *Section 302* Indian Penal Code, the required mens-rea for murder not being present.

### **Applicability of the provisions of Section 3 of the SC/ ST (POA), 1989**

The case of the prosecution is that all the accused being members of an unlawful assembly and in prosecution of common object of the assembly forced the members of a Scheduled Caste that is Gulab Singh, family of Tara Chand, Sanjay, Satyavan, Dilbagh, Manoj, Dhoop Singh and others to leave their houses with intent to humiliate them and committed mischief by fire and caused damage to the houses used as a human dwelling belonging to Scheduled Caste.

The Ld. Defence Counsel has vehemently argued that the incident is not a case where the two communities are against each other on account of the castes to which they belong but it is a case of two groups, one belonging to the dominant caste and the other being Scheduled Caste who

had since many years been living in harmony, ended up in a group clash because of the stages which aggravated with the happening of certain events, which were in no manner related to the caste of either of the groups. It is argued that under such circumstances, the offences cannot be said to have been committed as an atrocity on the lower caste by the people of the upper caste and therefore no offences under the SC/ ST Act can be said to have been made out. It is also argued that the allegations of the lalkaras attributed to the crowd are improvements and also self contradictory since there is no specific evidence of lalkara against the set of individuals and its an exaggeration to incorporate the SC and ST Act. According to the Ld. Defence Counsel on the basis of the allegations on record the charges under Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 are under two separate heads. They are:

- **Under Section 3(x)** Insulting and humiliating the Scheduled Castes in public view, and
- **Under Section 3 (vx)** Making a Scheduled Caste to leave their houses.

It is submitted that for this end the origin on the occurrence is relevant as for proving this fact the evidence of eye witnesses is to be appreciated along with the statutory presumption under Section 8 of the SC/ST Act which lays down the presumption in two situations:

- (i) Aiding or abetting by financial assistance which is not the case of the prosecution,
- (ii) Presumption of common intention or common object in case the offences against SC is committed as a sequel to an already existing land dispute or other matter.

It is argued by the Ld. Defence Counsel that in the present case the testimonies of the various witnesses examined by the prosecution who are residents of village Mirchpur read together with the testimonies of the various eye witnesses so examined by the defence who have been cited by the prosecution and not examined, show that the offence is not a sequel to any existing land dispute and there is no allegation of possession of any land or any way to street or water works. According to the Ld. Defence Counsel the second part that it was sequel to an already existing dispute is also not proved because the occurrence of 19.04.2010 is not a dispute of caste against the other, but a dispute between two groups of youngsters who quarreled over the barking of a dog and consequent stone throwing. The persons directly involved in this dispute i.e. Karan and Virbhan as well as Yogesh all of whom do not support the prosecution case in this regard. In fact Birbhan the complainant in the incident dated 19.4.2010 had turned hostile in the Courts at Hisar Court and was therefore dropped and not examined by the prosecution and being won over Yogesh the nephew of Karan Singh who was examined as PW10, is absolutely quiet on the incident dated 19.4.2010 and is hostile in so far as the identity of the accused is concerned in respect of the incident dated 19.4.2010. Karan Singh the complainant in the present FIR has not been examined by the prosecution and has rather appeared as a witness of defence and not supported the prosecution case. The evidence of most of the eye witnesses is improvement qua the incident of 19.04.2010

or is based upon hearsay and therefore the evidence on record is severely lacking and does not prove that the incident dated 21.4.2010 was sequel to the earlier incident dated 19.4.2010. He has also pointed out that most of the eye witnesses on the other hand have rather deposed that on 20.4.2010 things were quiet but again on new incident which took place on 21.4.2010 and hence the sequel does not stand established.

It is further submitted by the Id. Defence Counsel that on 20.04.2010 there was no incident of any kind and rather the occurrence of 19.04.2010 was settled by the Panchayat there and then also by the five to seven police officials who visited the village to pacify the matter and the version as submitted by the prosecution in the charge sheet is only a distortion. He has pointed out that the incident regarding beating to Gulab who had gone to bring lassi was introduced later on and if the testimony of Gulab is carefully perused he does not mention the fact that he thereafter went to house of Birbhan as alleged by Satyavan which aspect is also missing from the FIR. It is further argued that two most important witnesses of the prosecution that is PW47 Satyavan and PW48 Gulab have given contradictory version regarding the origin of incident. He has pointed out that if Gulab was the reason for initiation of the incident then there was no occasion for accused to have attacked the basti and then no answer is forthcoming as to why Gulab's house and family was not the first target which house as per site plan is in the extreme south end. It is also pointed out that another circumstance to break the sequel is the fact that Tara Chand/ Suman etc. were not involved in the incident of 19.04.2010 and no answer is forthcoming as to why they were killed or their house in the extreme end of that street torched.

Ld. Counsel has pointed out that the incident of 21.04.2010 was in fact initialed on account of the attack by members of 'B' community on Rajender and Karampal who were returning from the fields in his buggy on account of his failure to supply the milk. It is pointed out that Sheela (PW32) has made very damaging admission that Rajender refused to supply milk to Gulab on 21.04.2010 when he went there to get milk which shows that after the settlement of 20.04.2010 there was no caste war and it is for this reason that Gulab could go to Rajender. It is further submitted that it was the boys belonging to 'B' community who started the occurrence of 21.04.2010 after which the rumour got around that "Rajender has been killed by Balmikis" and there after the crowd assembled and stone throwing started from both sides an aspect which has also been mentioned by PW30 Santra the witness of the prosecution who has not been declared hostile who in her examination in chief has supported this version. It is therefore submitted that the prosecution is bound by its version and in this regard he has placed his reliance on the case reported in *2005 SCC Cr. 1050*. Ld. Counsel has also pointed out that even Satyavan (PW47) has in his testimony deposed that stone throwing started from the 'B' side which aspect has also been proved by the various prosecution witnesses and therefore under these circumstances no presumption of a common object or as provided under Section 8 of SC/ST (POA) Act can be raised.



With regard to the charge framed against the accused under Section 3(2) of the SC/ST (POA) Act, it is submitted by the Ld. Counsel that the houses of the persons from 'B' community have not been burnt due to any caste bias, but because of a group clash on 21.04.2010 in the morning between Rajender a person from 'J' community and boys belonging to 'B' community which culminated into this sudden flare up and it is for this reason that the site plan placed on record by the prosecution would show that a large number of houses in fact rows of houses in the Basti were left untouched despite the fact that a number of other houses suffered damage.

I have considered the rival contentions and I may observe that as per the allegations of the prosecution the accused Dharambir S/o Sh. Tara Chand, Pawan S/o Sh. Ram Mahar, Karambir S/o Sh. Tara Chand, Joginder @ Jogar S/o Sh. Bhim Singh, Dalbir S/o Sh. Dalip Singh, Balwan S/o Sh. Inder Singh, Satyavan S/o Sh. Tara Chand, Jaibir S/o Sh. Mnaphool, Ajit S/o Sh. Sukhbir, Balwan S/o Sh. Dharmabir, Rajbir @ Nanha S/o Sh. Mai Chand, Viren S/o Sh. Yashpal, Dharambir S/o Sh. Mai Chand, Deepak @ Sonu S/o Sh. Krishan @ Pappu, Kuldeep @ Midda S/o Sh. Balbir, Rajinder S/o Sh. Balu, Jagdish @ Hathi S/o Sh. Baru Ram, Suresh Kumar S/o Sh. Balbir, Rajinder Kr. S/o Sh. Sadhu Ram, Ramphal S/o Sh. Prithvi, Daya Singh S/o Sh. Jeet Singh, Pardeep S/o Sh. Balwan, Rishi S/o Sh. Satbir, Jasbir S/o Sh. Ishwar, Karampal S/o Sh. Satbir, S unil @ Sonu S/o Sh. Jasbir, Sumit S/o Sh. Satyavan, Pardeep S/o Sh. Ramphal, Roshan Lal S/o Sh. Ram Swarup, Surender S/o Sh. Jagda, Hoshiar Singh S/o Sh. Mang, Ajit S/o Sh. Dalip, Rajinder S/o Sh. Dhup Singh, Rajinder S/o Sh. Pali, Vijender S/o Sh. Hoshiar Singh, Dinesh S/o Sh. Prem, Kulvinder S/o Sh. Ram Mahar, Monu S/o Sh. Suresh, Amit S/o Sh. Satyavan, Sunil S/o Sh. Daya Nand, Baljeet S/o Sh. Inder, Rajesh S/o Sh. Dupa, Ramesh S/o Sh. Karan Singh, Ameer S/o Sh. Tara, Anil S/o Sh. Prem Singh, Balwan S/o Sh. Jeela, Charan S/o Sh. Sadhu Ram, Anup S/o Sh. Dharma, Dalbir S/o Sh. Tara, Krishan Kr. @ Dhaula S/o Sh. Satyavan, Jugal @ Doger S/o Sh. Hawa Singh, Jitender S/o Sh. Satbir, Jora Singh S/o Sh. Balwan, Rakesh @ Kala S/o Sh. Satyavan, Krishan S/o Sh. Karan Singh, Kuldeep S/o Sh. Om Prakash, Jasbir @ Lillu S/o Sh. Raja, Manbir S/o Sh. Jile Singh, Nasib S/o Sh. Prem Singh, Rakesh @ Nikle S/o Sh. Amarlal @ Lala Ram, Pappu S/o Sh. Pyara, Pradeep S/o Sh. Jagbir, Pradeep S/o Sh. Jaibir, Pradeep S/o Sh. Satbir, Pradeep S/o Sh. Suresh, Praveen S/o Sh. Jagdev, Pawan S/o Sh. Hoshiar Singh, Pawan S/o Sh. Rajbir, Sandeep S/o Sh. Mahinder Singh, Sandeep S/o Sh. Raj Kumar, Sandeep S/o Sh. Ram Swarup, Sandeep S/o Sh. Rattan Singh, Sandeep S/o Sh. Joginder, Sandeep @ Langra S/o Sh. Chander, Sanjay @ Sanjeep S/o Sh. Amar Lal, Sanjay Handa S/o Sh. Daya Nand, Satta Singh S/o Sh. Karan Singh, Sattu Singh S/o Sh. Randhir Master, Satyavan S/o Sh. Rajinder, Shamsher S/o Sh. Rajinder, Sheela @ Sunil S/o Sh. Bira, Sonu @ Monu S/o Sh. Ramesh, Mandeep @ Sonu S/o Sh. Dalbir, Naveen @ Tina S/o Sh. Rajbir, Vedpal @ Bedoo S/o Sh. Karan Singh, Vikash S/o Sh. Sunehera @ Sumer Singh, Vipin S/o Sh. Joginder Singh, Jokhar @ Joginder S/o Sh. Inder Singh, Rajpal S/o Sh. Sheoo Chand, Jaibir S/o Sh. Balbir, Ramesh @ Mahesh S/o Sh. Dalip Singh, Rupesh S/o Sh. Tek Chand, Bobal @ Langra S/o Sh. Tek Chand, Jagdish @ Jangla S/o Sh. Lakshman, Pawan @ Tinku S/o Sh. Sewa Ram, Vinod S/o Sh. Jagdeep all belonging to the 'J' community were members of the unlawful assembly on 21.4.2010

and at about 11:00 AM in prosecution of common object of the assembly forced the members of Scheduled Caste to leave their houses with intent to humiliate them. It has also been alleged by the prosecution that all the accused being the members of an unlawful assembly and in prosecution of common object of the assembly committed mischief by fire and there caused damage to the houses of the persons belonging to Scheduled Caste in order to compel them to leave their houses and with the intent to humiliate them and committed mischief by fire and caused damage to their houses being used as human dwellings.

At the very outset I may observe that the argument raised by the Ld. Defence Counsel that the only charges which could be invoked against the accused fall in two categories that is *Section 3 (1) (x)* and *3 (1) (xv)* of the Act is highly misconceived since it is obvious that on the basis of the aforesaid allegations the charges invoked are under *Sections 3(1) (xv), Section 3 (2) (iii)* and *3 (2) (iv)* of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Before proceeding to analyze these allegations and the evidence on record on merits it is necessary to discuss the existing statutory provisions and the law in this regard. *Section 3 (1) (xv)* of the SC/ST (POA) Act, 1989 provides that whoever, not being a member of a Scheduled Caste or a Scheduled Tribe forces or causes a member of a Scheduled Caste or a Scheduled Tribe to leave his house, village or other place of residence shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine. Similarly the provisions of *Section 3 (2) (iii)* of the SC/ST (POA) Act, 1989 provides that whoever, not being a member of a Scheduled Caste or a Scheduled Tribe commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause damage to any property belonging to a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine. Further, the provisions of *Section 3 (2) (iv)* of the SC/ST (POA) Act provide that whoever, not being a member of a Scheduled Caste or a Scheduled Tribe commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause destruction of any building which is ordinarily used as a place of worship or as a place for human dwelling or as a place for custody of the property by a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for life and with fine.

In the case of *Swaran Singh & Ors. -vs- State through Standing Counsel & Anr.* reported in (2008) 12 SCR 132, the Hon'ble Apex Court has observed as under:

*".....Today the word `Chamar' is often used by people belonging to the so-called upper castes or even by OBCs as a word of insult, abuse and derision. Calling a person `Chamar' today is nowadays an abusive language and is highly offensive. In fact, the word `Chamar' when used today is not normally used to denote a caste but to intentionally insult and humiliate someone. It may be mentioned that when we interpret section 3(1)(x) of the Act we have to see the purpose for which the Act was enacted. It was obviously made to prevent indignities,*

*humiliation and harassment to the members of SC/ST community, as is evident from the Statement of Objects & Reasons of the Act. Hence, while interpreting section 3(1)(x) of the Act, we have to take into account the popular meaning of the word 'Chamar' which it has acquired by usage, and not the etymological meaning. If we go by the etymological meaning, we may frustrate the very object of the Act, and hence that would not be a correct manner of interpretation. This is the age of democracy and equality. No people or community should be today insulted or looked down upon, and nobody's feelings should be hurt. This is also the spirit of our Constitution and is part of its basic features. Hence, in our opinion, the so-called upper castes and OBCs should not use the word 'Chamar' when addressing a member of the Scheduled Caste, even if that person in fact belongs to the 'Chamar' caste, because use of such a word will hurt his feelings. In such a country like ours with so much diversity - so many religions, castes, ethnic and lingual groups, etc. - all communities and groups must be treated with respect, and no one should be looked down upon as an inferior. That is the only way we can keep our country united. In our opinion, calling a member of the Scheduled Caste 'Chamar' with intent to insult or humiliate him in a place within public view is certainly an offence under section 3(1)(x) of the Act. Whether there was intent to insult or humiliate by using the word 'Chamar' will of course depend on the context in which it was used".*

Further, in the case of *Abdul Gafarsab -vs- State of Karnataka*, reported in 1998 Cri LJ 2488 it has been held by the Karnataka High Court that:

*"..... Merely because it has come on record that the deceased belonged to the Scheduled Caste, that this is no ground on which the accused can be convicted for an offence under this Act unless it is demonstrated that he has by his conduct said or done something that is directed to offend the sensibilities of the deceased in relation to the caste to which he belonged. The submission is that a scrutiny of the evidence will indicate that irrespective of what the evidence may establish with regard to the main charge, that there is no material to sustain the conviction under the subsidiary head. On a careful scrutiny of the record, we are in agreement with this submission as there is no justification for holding that the accused has committed any offence under the S.C. and S.T. (Prevention of Atrocities) Act, 1989....."*

In the case of *Mekala Raji -vs- State of Andhra Pradesh* reported in 2002 Cri LJ 3407 the Andhra Pradesh High Court while considering the provisions of Section 3 (2) (v) of the SC/ST (POA) Act has held that:

*"..... From the above provisions it is clear that the Statute laid stress on the intention of the accused in committing such offence. Therefore, I am of the view that mere knowledge that the victim belongs to Scheduled Caste or Scheduled Tribe community is not sufficient to constitute an offence under S. 3(2)(v) of the Act. On the other hand, such knowledge should necessarily be coupled with intention to commit such an offence, in order to belittle the person as he/she belongs to Scheduled Caste or Scheduled Tribe community...."*

In the case of *Pappu Singh -vs- State of UP* reported in 2002 Cri. L.J. 1251 where the word Chamaria was used by the accused it was observed by the Hon'ble Supreme Court that:

*"... Unless the words uttered by the applicant for commission of offence, it cannot be ascertained that those words amount to insult or intimidate to the complainant..."*

It further observed that:

*".... Assuming that the word Chamaria was used by the accused or the complainant was addressed by these words, it would not make out an offence under Section 3(1) (x) of the Act. Addressing a person by his caste without any intention to insult or intimidate does not constitute an offence under the Section..."*

In the above case the accused were held not guilty under the above provisions because the knowledge that the victim belong to SC community and the fact that the act was done with the intention to commit such an offence against since she belong to SC community could not be established and the Court held that it was difficult to draw an inference that the accused had the intention to commit the offence only because she belong to SC community.

Applying these settled principles of law to the facts of the present case it is apparent that three facts stand conclusively established *First* that the victims are the members of the Scheduled Caste 'B' community, *Second* that the aggressors belong to dominant 'J' community and *Third* that the property of the 'B' community had been damaged and many persons of the community had even sustained injuries.

I may also observe that one of the grounds so raised by the Ld. Defence Counsel is with regard to the applicability of the the provisions of *Section 8* of the SC/ST (POA) Act, 1989. Here I may observe that the investigating agency having decided to separate the charge sheet in respect of the incident dated 19.4.2010 from the present charge sheet which is only in respect of the incident dated 21.4.2010, the argument of the prosecution with regard to the presumptions available to them under *Section 8* of the SC/ST (POA) Act, 1989 itself fails. However, this would not mean that the provisions of the SC/ST (POA) Act would not apply and only implies that the presumption so available to the victims under *Section 8* of the SC/ST (POA) Act would no longer be available to them. Therefore, under these circumstances the onus of proving the charges against the accused beyond reasonable doubt would be upon the prosecution there being no presumption available to the victims.

Coming now to the allegations that Caste based abuses had been given derogatorily used by the members of the 'J' community who were the aggressors. The witnesses of the prosecution have attributed specific words to the aggressors who had sounded caste abuses slogans as *"Deda ne mar do"*; *"choore deda ne maro"*; *"chooreya nu jala do"*; *"chooro ke aag laga do deda ne kad do bahar"*; *"Phook do phook deda ne phook do"*; *"Jala do, aag lago do deda ne"*; *"choorya ne dedha ne phook do, mar do"*; *"Phook do dedhan ne"*; *"Chooraya ne phoonk do"*; *"Jala do deda ne"*; *"Maro in dedya ne bhanjod ne kutya ne"*; *"Maro, jala do"* etc. which aspect stands established from the testimonies of the witnesses but here I may observe that these slogans so attributed to the members of the

'J' community have been specified for the first time by these witnesses in the Court. Nowhere in their earlier statements made to the Investigating Officer under Section 161 Cr.P.C. the witnesses have specified or attributed the above. I may further observe that the words 'chooreyas' and 'deda' have been used in the context of identification and not in derogation keeping in view the incident which had taken place in the morning where the boys of the 'B' community had assaulted the boys belonging to the 'J' community. It is evident that the rioting took place only after the morning incident when a rumor had spread in the village that Rajender S/o Pale (accused before this Court) belonging to the 'J' community had been killed by the boys belonging to the 'B' community. Hence it is evident that what transpired thereafter was in the nature of a revenge on account of which the properties of the members of the 'B' community were targeted the aggressors in the earlier incident being the boys from the 'B' community.

The statute lays stress on the intention of the accused in committing such an offence and mere knowledge that the victim belong to the Scheduled Caste or Scheduled Tribe is not sufficient to constitute an offence and what is necessary is that such knowledge coupled with the intention to commit such an offence in order to belittle the victim only because he or she belongs to Scheduled Caste community. I may observe *that in a case where the name 'choora' or 'Deda' has not been used with the intent to belittle or for derogation of the victim community or in order to show ones own dominance, the provisions of the SC/ST (POA) Act, 1989 would not attracted. Further, in a case where the members of the 'B' community are themselves first aggressors or responsible for provoking or inciting violence the provisions of the Act would not apply.*

Here, I may observe that even if assuming that the members of the 'B' community were the first aggressors in respect of the incident in the morning but there is no justification nor explanation forthcoming as to why and how the properties of so many persons from the 'B' community were targeted and damaged. Neither the names of the aggressors that is the boys from the 'B' community who had waylaid Rajender S/o Pale and Karampal S/o Satbir and had inflicted injuries upon Dinesh S/o Prem Singh have been brought on record nor there is any complaint to the competent authority or cross case in this regard. No doubt the second version put forward by the defence regarding the incident which took place in the morning finds a support from the case diaries dated 21.4.2010 which incident should have been investigated in all fairness, which has not been done but that does not give any right to any person (members of 'J' community) to take the law in his hands. Therefore under these circumstances no justification or explanation forthcoming, there being no identification of the aggressors of the 'B' community to prove that it was the properties of the first assailants of the 'B' community which were targeted, the argument so advanced by the defence in this regard falls flat. Here I may observe that the incident which initially started as an ordinary altercation between two group of young boys belonging to two different communities displayed caste nuances and overtones when finally persons (from the 'B' and 'J' community) who had no concern with the initial dispute got involved only on account of the caste factor.

Coming first to the charge under *Section 3 (1) (xv)* of the SC/ST (POA) Act, 1989 that the members of the 'J' community forced or caused the members of the SC/ST to leave their village or other places of residence, on the basis of the evidence on record I hereby hold that the same has not been established and proved beyond doubt and many of the alleged victims who had been initially cited by the prosecution and were later on dropped or not examined have appeared as witnesses of defence and proved that even after the incident they are continuing to reside in the same village without fear. These witnesses who are residents of village Mirchpur and are members of the 'B' community have specifically testified in the Court that they are still residing in the village and have specifically deposed that they are under no threats. Here, I may add that it was necessary for the persons from the 'B' community who had alleged threat to have at least come to the Court and informed it of the same which they have never done despite the availability of the best legal assistance to them. It is not sufficient only to make tall claims of injustice, damage, discrimination, threats and fear. It is more important that people who make such claims should bring the same on record and prove the same which in the present case has not been done. I may further observe that the provisions of *Section 3(1) (xv)* would not apply to cases where the members of the SC/ST community voluntarily of their own decide to leave their houses, village or places of residence. The threat or force so contemplated in this provision has to be real and actual and not imaginary or illusory.

It will not be out of place to mention here that the witnesses Sushil (PW25) and Vicky (PW42) have also in their testimonies before the Court deposed about a warning on the public announcement system having been circulated by the members of the 'J' community threatening that they would ensure that their boys (accused before this Court) would be released and it is only thereafter out of fear that they left the village. Here I may observe that despite the fact that the Local Administration had made full security arrangements in the village and a police post has been specially created in the Village after which the CRPF Coy. had been deployed the allegations made do not appear to be real and neither they have been substantiated despite the fact that the case is sub-judice and despite all legal, financial and political assistance being provided to the alleged victims by the Non Government Organizations, politicians and the Government of Haryana not a single police complaint has been made in respect of the said incident nor the Court was informed about the same. The possibility of the allegations being made only to create a justification or an excuse for shifting and housing of a group of alleged victims at Ved Pal Tanwar Farm House and elsewhere for extraneous or superfluous considerations cannot be ruled out.

Coming now to the charges under *Section 3 (2) (iii) & (iv)* of the SC/ST (POA) Act, 1989 I may observe that the aspect of damage caused to the properties of the person from the 'B' community has already been discussed in detail herein above (under the head Unlawful assembly in prosecution of common object causing rioting, murder, dacoity/ robbery, causing grievous/ simple hurt, mischief by fire with intention to cause death, criminal house trespass in order to commit the above offences

and also the offence under the SC/ST (POA) Act) and is not being repeated for the sake of brevity. Applying the settled principles of law it stands established that the accused Baljeet S/o Inder, Karambir S/o Tara Chand, Karampal S/o Satbir, Dharambir @ Illa S/o Mai Chand and Bobal @ Langra S/o Tek Ram had caused mischief by fire knowing that they by their act are likely to cause damage to the property of Dhoop Singh S/o Rattnu (PW29); Sanjay S/o Gulaba (PW44); Gulaba S/o Jai Lal (PW48); Manoj S/o Mahender (PW45); Sube S/o Bura (PW39); Sushil S/o Surta (PW25), Satyavan S/o Roshan (PW48) and Vijender S/o Surta (PW40) to the tune of Rs.100/- and upwards for which they are held liable for the offence under *Section 435 Indian Penal Code* and *Section 3 (2) (iii)* of the SC/ST (POA) Act, 1989. It further stands established that the accused *Rajender S/o Pale, Kulwinder S/o Ram Mehar and Ramphal S/o Prithvi* had committed mischief by fire knowing it to be likely that they would caused destruction of the dwelling house of Tara Chand and Kamla both belonging to 'B' community for which the above accused are held liable for the offence under *Section 436 Indian Penal Code* and *Section 3 (2) (iv)* of the SC/ST (POA) Act, 1989.

Here, I may observe that the provisions of the Special Enactment that is SC/ST (POA) Act, 1989 would prevail over the General Legislation that is Indian Penal Code (Section 435 and 436 Indian Penal Code) and the punishment so provided under the Special Legislation [Section 3 (2) (iii) & 3 (2) (iv) of the SC/ST (POA) Act, 1989] would apply. I may further observe that the provisions of Section 3 (2) (v) of the SC/ST (POA) Act, 1989 would also apply by default in all cases where the offence committed against the member of an SC/ST community is punishable for imprisonment of more than ten years and in the present case the provisions of Section 436 Indian Penal Code (for which accused Rajender, Kulwinder and Ramphal have been held liable) provides for imprisonment for Life. Therefore under these circumstances technically along with the provisions of Section 3 (2) (iv) of the SC/ST (POA) Act 1989, the provisions of Section 3 (2) (v) of the SC/ST (POA) Act, 1989 would also apply.

### **Reasons for failure of the prosecution to establish charges against all the accused**

Before winding up it has become necessary for this Court to bring on record some of the glaring aspects noticed by this Court resulting into failure of the prosecution to bring home the charges it had invoked against the accused before this Court. At the very outset I may observe that *Firstly* there has been a suppression by the investigating agency of the genesis of the incident dated 21.4.2010 morning connected with an altercation between the accused Rajender (person from the 'J' community) and boys belonging to 'B' community wherein Rajender and Karampal were first waylaid by the boys of the 'B' community after which Rajender and Dinesh were beaten and had to be rushed to the hospital after which the rumour spread in the village of Rajender being killed by the members of 'B' community. *Secondly* for reasons best known to the investigating agency and the prosecution there was a segregation of the charge sheet with regard to the incident dated 19.4.2010 and 21.4.2010, the prosecution thereby demolishing its own argument regarding the incident dated 21.4.2010 being a sequel to the earlier incident dated 19.4.2010. *Thirdly* Karan Singh

a star witness of the prosecution who is the complainant in the present case has turned hostile not supporting the case of the prosecution and has appeared before this Court as a witness of the defence to prove the defence version of the incident. *Fourthly* Birbhan the complainant and the injured in the earlier incident dated 19.4.2010 (FIR No. 183/2010) turned hostile before the Courts at Hisar and therefore had to be dropped by the prosecution and not examined in the present case to prove the earlier incident dated 19.4.2010. Further, Yogesh Kumar (PW7) the nephew of Birbhan who was an eye witness to earlier incident of 19.4.2010 has also turned hostile and not supported the prosecution version in the present case nor has he identified any of the accused in the Court. *Fifthly* large scale eye witnesses/ victims belonging to the 'B' community have turned hostile and I may observe that out of ninety five witnesses cited by the prosecution who were stated to be eye witnesses, the prosecution has examined only forty three such witnesses out of which only twenty two witnesses have supported the prosecution version of the case whereas others have turned hostile either on the identity of the accused or with regard to the entire incident. I may observe that victims/ eye witnesses from the 'B' community of the incident dated 19.4.2010 and 21.4.2010 namely Sajjna (DW7), Karan Singh (DW13), Ajmer (DW16), Ram Niwas (DW20) and Praveen (DW22) who had been earlier cited by the prosecution, have rather appeared as witnesses of the defence and supported the version of the defence regarding the first aggression by the boys of 'B' community in the morning of 21.4.2010. *Sixthly* on the one hand there were some eye witnesses so examined by the prosecution like Vicky (PW42), Pradeep (PW49), Kamla (PW50), Santra (PW30), Manoj (PW45), Vijender (PW40), Sanjay (PW36) and Rani (PW33) who made huge exaggerations and improvements while identifying the accused in the Court so much so that large scale dock identifications were made by a handful of these witnesses raising a huge question mark on the genuineness of their claims whereas on the other hand there were witnesses like Satyavan (PW47) whose presence at the spot is not disputed but who at the time of identification of the accused fell flat. *Seventhly* many of the eye witnesses who have supported the case of the prosecution are those whose presence at the spot of the incident itself appeared doubtful in view of the absence of any injuries on their bodies or their behaviour and conduct being observed as improbable and unnatural. *Eighthly* despite having conducted the photography and videography of the damaged properties the Investigating Officers/ eye witnesses have failed to mark/ identify the same so as to establish to whom the said properties (so reflected in the photographs and the video clippings) belonged and thereafter to prove the extent of damage thereof. *Ninthly* the Register No. 19 so produced in the Court has been observed to be tampered where one entire page containing column no. 5, 6, 7 and 8 was torn for which no explanation is forthcoming. Therefore under these circumstances the possibility of the tampering of the exhibits so lifted from the spot and sent to the FSL for examination cannot be ruled out. *Tenthly* despite a huge police contingent reaching the spot by 12:30 noon headed by a senior officer of the rank of Superintendent of Police Hisar, the charge sheet does not reveal that any assailants/ accused before this Court was apprehended at the spot of the incident itself. Rather, allegations have been made that the persons so apprehended



by the Superintendent of Police were released later on whose details till date have not been made available. *Eleventhly* despite the allegations regarding the use of dangerous weapons like gandases and jellies not even a single weapon was seized from the spot nor any efforts were made to recover the same. *Twelfthly* the statements of the victims/ witnesses under Section 161 Cr.P.C. so recorded by the Investigating Officer reveal that neither the complete details of the incident, nor the complete details of the accused/ assailants or the roles so attributed to the various assailants find a mention in the same. There has been a mechanical recording of the statements of the witnesses by the Investigating Officer under Section 161 Cr.P.C. so much so that in many such statements the accused have been named much later that is after almost two to three months of the incident. Further, in many of the statements the accused have interestingly been grouped together alphabetically in a stereotyped manner making this Court to ponder about the correctness and genuineness of the same. (In this regard reference may be made to the statements of Sandeep S/o Satpal, Ishro W/o Pasha, Krishna W/o Raghubir, Abhishek S/o Sanjay, Pooja D/o Surta, Kelapati W/o Jai Singh, Shanti W/o Jugti, Sunita W/o Satbir and Chandernpati W/o Sajna all dated 18.5.2010). *Lastly* not even a single accused was arrested at the instance or pointing out of the victims and despite the fact that the victims in their statements to the police had specifically stated that there were assailants whom they could identify, nor any Test Identification was got conducted.

Coming now to the quality of the investigations, I am pained to observe that the caliber of the Investigating Officer and the quality of investigations, the same is severely lacking in skill and quality. Despite the allegations being of caste violence no efforts were made to get the statement of the victims recorded from a Magistrate under Section 164 Cr.P.C. or to have videographed the testimonies which should be done in such cases keeping in view the possibility of winning over of the witnesses and tampering of evidence. Further, the investigations have been conducted in a most unscientific, non-professional and lopsided manner which apparently did not appear to be fair and independent. Expert Team of forensics/ Crime Team not called at the spot by the investigating agency for collection of evidence and exhibits in the form of ashes etc. were randomly lifted by unskilled/ untrained personnel in a most rustic manner. The pullandas/ parcels so prepared were neither prepared nor sealed in the presence of public witnesses (pullandas and memos do not bear the signature of public persons) so as to rule out tampering. Further, the investigations so conducted are totally silent on the aspect as to how the fire spread. If petrol, kerosene or diesel were not used for setting the properties of persons of the 'B' community on fire then how was it that the damage so reflected in the photographs and video clippings was caused on account of the fire on which aspect no explanation is forthcoming. Finally after the investigations were concluded it is evident that the last Investigating Officer that is Deputy Superintendent of Police Sh. Tula Ram delayed the filing of the charge sheet in respect of 54 accused which ultimately was filed by an officer of the rank of Inspector for which no explanation is forthcoming.

Having brought on record the aforesaid, I hold that there was a total failure of the Administration to act on time. Had the Administration been more sensitive and alert to the dispute between two groups of youngsters already brewing in the village on one issue or the other for quite sometime, it could have certainly averted the explosive situation which took an ugly turn on 21.4.2010. It is desirable that an inhouse probe is carried out at the highest level to examine the manner in which the present case has been investigated and prosecuted particularly the aspects relating to the fairness and independence of investigations and Prosecution.

I may further observe that in order to ensure total independence in investigations, prosecution and trial of cases connected with communal and caste violence, due care should be taken to ensure that the Investigating Officers and the Prosecutors so deputed in the investigations and prosecution are in no way connected, related or associated with either of the warring/ litigating groups or communities. It is further recommended/ suggested that in all cases of communal and caste violence the statements of the eye witnesses should be got recorded by a Magistrate under Section 164 Cr.P.C. and should also be videographed keeping in view the possibility of winning over of the witnesses, as has happened in the present case.

### **Final Conclusions**

In the case of *Sharad Birdhichand Sarda -vs- State of Maharashtra*, AIR 1984 SC 1622, the Apex Court has laid down the tests which are pre-requisites before conviction should be recorded, which are as under:

1. *The circumstances from which the conclusion of guilt is to be drawn should be fully established. The circumstances concerned 'must or should' and not 'may be' established;*
2. *The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty;*
3. *The circumstances should be of conclusive nature and tendency;*
4. *They should exclude every possible hypothesis except the one to be proved; and*
5. *There must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.*

Applying the various guiding principles to the facts of the present case, I may observe that acquittal or conviction depends on proof or otherwise of the criminological chain which invariably comprises of why, where, when, how and who. Each knot of the chain has to be proved, beyond shadow of doubt to bring home the guilt. Any crack or loosening in it weakens the prosecution. Each link, must be so consistent that the only conclusion which must follow is that the accused is guilty. It is also settled law that though guilty should not escape but on reliable evidence truthful witnesses and honest and fair investigation no free man should be amerced by framing or to assuage feelings

as it is fatal to human dignity and destructive of social, ethical and legal norm. Heinousness of crime or cruelty in its execution howsoever abhorring and hateful cannot reflect in deciding the guilt.

Now coming to the present case, after due evaluation of evidence on record I hereby hold that it is admitted by both the parties and also stand established that Mirchpur is an old village with a settlement of almost a century old where persons from all the communities have co-existed with no caste based incident for the last many (that is almost 55) years. It is evident that there is a substantial population of people from the 'J' community in the village which is the dominant community and there are about 250 families of members of the 'B' community also residing in the same village and a number of members of the 'B' community are financially, economically, politically and also academically almost at par with the other communities. It is also evident that there is no caste based discrimination in matters of religion since for the last almost 20 years it is the members of the 'B' community who are controlling the management of the local temple of the village that is Mata Phoolan Devi Mandir having successively earned the offering rights of the temple duly auctioned by the village Panchayat after every two years.

Coming next to the facts which have been alleged but have not been established or proved beyond reasonable doubt, *Firstly* the incident dated 19.04.2010 (charge sheet of which has been separated) has not been proved by the prosecution Karan Singh having turned hostile and Birbhan not having examined on the ground of being won over by the defence and his nephew Yogesh Kumar (PW10) having turned hostile. The allegations regarding some of the accused before this Court being involved in the said incident of 19.4.2010 or having used caste based abuses or that the incident dated 21.4.2010 was a sequel to the earlier incident of 19.4.2010 has also not been substantiated and proved beyond reasonable doubt.

*Secondly* the identity of the assailants and the persons involved in the incident dated 19.4.2010 and also the nature of injuries received by Birbhan and Karan Singh has not been established, the charge sheet for the said incident having been separated in respect of which the trial is pending before the competent Court at Hisar. Since Birbhan having turned hostile before the competent court at Hisar has not been examined to prove the complaint in respect of the incident dated 19.4.2010 or that on 21.04.2010 at about 7AM the Panchayat of the members of 'J' community of the village came to the house of Birbhan, who had returned from the hospital and asked him to compromise the dispute to which Birbhan had agreed, the said aspects have not been established beyond doubt.

*Thirdly* Karan Singh having turned hostile it does not stand established that on 20.04.2010 a Panchayat belonging to the members of the 'J' community met in the village and it was decided that the matter should be compromised in the village due to which some persons from the Panchayat comprising of 'J' community went to the Hisar Hospital and requested Karan Singh and Birbhan not to get the FIR registered and said that they would get the matters compromised.

*Fourthly* it has not been established and proved beyond doubt that the persons from the 'J' community had a meeting on 20.04.2010 in the village to the extent that they would teach a lesson to the members of the 'B' community and that thereafter there was an atmosphere of fear in the village since a large number of boys from the 'J' community had gathered and were going around in the village in groups of twenties and thirties armed with lathis, threatening that they would burn the houses of the 'B' and would throw them out of the village by making utterances “chura ne kada ge, chura ne ghara ne aag lageye gai” or that the members of the 'B' community of the village were afraid, apprehending that the members of the 'J' community may attack due to which reason the members of the 'B' community remained alert and awake during the night.

*Fifthly* it has not been established that in the morning of 21.4.2010 Rajender while passing through the main gali in a boggie threatened some of the boys belonging to the 'B' community who were sitting in the gali/ street saying that “*abhi dekhege tare ko, ektha ho kar angeye, aag lanageye*” or that on account of this, he had a verbal altercation with some boys of the 'B' community after which Rajender S/o Pale ran away from that place raising a false alarm of “*churya ne mar diya, churya ne mar diya*”.

*Sixthly* it also does not stand established that after Gulab Singh (PW48) was beaten by the boys belonging to the 'J' community and shifted to his house, that he returned to the 'B' Basti and informed the persons of 'B' community residing there as to what had happened with him.

*Seventhly* it is alleged that the assailants from the 'J' community were duly armed with lathies, gandases, stones, oil canes, and petrol and also brought stones and containers of oil in a rehri/ carry cart. It is also alleged that the members of the 'J' community started burning the houses of the 'B' while simultaneously indulging into stone pelting and the mob led by Rajender S/o Pale started burning houses, stone pelting and beating the 'B' with lathis, gandases and jellies. The medical evidence consisting of the MLRs of the victims and the FSL report coupled with the fact that there was no recovery of weapons does not substantiate and establish this version of the prosecution and the above allegations regarding the use of gandases, jellies and petrol/kerosene oil so made against the accused does not stand established.

*Eighthly* it does not stand established that when the rioting was going on wherein there was a large scale stone pelting the persons from the 'B' community including Kamla pleaded with the accused Vinod Kajal (the then SHO Police Station Narnaund) to save them. It is also not established that many of the members of the 'B' community (males) went to 'B' Chaupal and the ladies, children and old persons were left behind and when the 'B' men and boys were moving towards the 'B' Chaupal from the 'B' Basti SHO Vinod Kajal (accused before this Court) told the boys of the 'J' community “*deda ne ek ghante mein aag laga do*” or that SHO Vinod Kajal along with son of Shishu (not an accused before the Court) instigated the 'J' boys to set the houses of 'B' on fire by saying, “*na daro churya sae, aag laga do*” and further instructed the 'J' boys that “*jo kar sansi nikale tha nu churya*

*ne nikal do*" on which Kamla pleaded with the accused Vinod Kajal (the then SHO Police Station Narnaund) once again to save her husband and children but on hearing the above exhortation from accused Vinod Kajal the boys from the 'J' community surrounded the 'B' Basti from all the four sides and attacked the persons from 'B' community with jellies, gandases and lathies.

*Ninethly* I may observe that it is for the first time in the Court that it has been alleged that the above persons from the 'J' community were also shouting the following caste abuses and slogans: "*chure deda ne maro*". "*chureya nu jala do*" "*churo ke aag laga do deda ne kad do bahar*". "*phook do phook deda ne phook do*" "*jala do, aag lago do deda ne*". "*churya ne dedha ne phook do, mar do*". "*Phook do dedhan ne, Chooraya ne phoonk do*" "*jala do deda ne*". "*maro in dedya ne bhanjod ne kutya ne*". "*maro, jala do,*" they were abusing using names of maa and bebe and earlier these allegations were only general and non-specific. It is not established that the persons from the 'J' community had come with preparation to carry out arson and looting, they started setting the houses of persons from the 'B' community.

*Lastly* the allegation that oil/ petrol was sprinkled on Tara Chand and Suman and thereafter they were beaten with dandas and pushed inside the house whose doors were locked outside which house was set on fire, has been alleged but not been established. It has also not been established and proved beyond reasonable doubt that Tara Chand had made a statement to SI Bani Singh *Ex.PW65/C*).

Now coming to the facts which have been alleged, substantiated and conclusively established. *Firstly* it stands established that some incident did take place on 19.4.2010 wherein Birbhan and Karan Singh had sustained injuries.

*Secondly* it stands established that Rajender S/o Pale is doing the business of supply of milk in the village and could not supply milk on 20.04.2010 and on 21.4.2010 at about 8 AM Rajender S/o Pale was passing through the main gali in his boogie when an altercation took place when Rajender son of Pale and some of the boys belonging to the 'B' community wherein the accused Dinesh who had rushed to save Rajender sustained injuries pursuant to which there was a rumor which spread in the village that Rajender son of Pale has been abducted or being killed. In fact this is the second version of the incident which was suppressed by the prosecution and has been established not only from the case diaries written by the Investigating officer but also by the eye witnesses belonging to the 'B' community examined by the prosecution who have not been declared hostile but also by those witnesses who have been cited by the prosecution and not examined but later on have appeared and deposed as witnesses of defence. This aspect of Dinesh sustaining injuries and Rajender being present at General Hospital Jind to get him treated also finds independent corroboration from the testimony of Dr. Rajesh Gandhi of General Hospital Jind (DW32) and the MLR of Dinesh proved by him and also from the call detail record of the accused Rajender *Ex.DW34/C* and the testimony of Dr. Kuldeep (DW33).

*Thirdly* the evidence on record also conclusively establishes that in the morning Gulab Singh the Chowkidar of the village belonging to the 'B' community who had gone to collect milk and lassi from the village, on his way back when he reached near the house of Rajender S/o Pale was stopped by certain boys belonging to the 'J' community including Rajender S/o Pale, Karampal S/o Satbir and Ramphal S/o Prithvi and that Rajender S/o Pale caught hold of Gulab Singh's collar, Karampal snatched his walking stick/ lathi and hit Gulab Singh on his back on which Gulab Singh fell down and Ramphal S/o Prithvi hit him on his head has been alleged and proved by Gulab Singh. It is also proved that Gulab Singh was lifted from there by persons from the 'B' Mohalla and was taken to his house and put on a cot/ charpai and after the police came to the spot he was shifted to the hospital.

*Fourthly* it stands established that Satyavan and other persons of 'B' community got together and telephoned the Narnaund police station and informed the SHO (accused Vinod Kajal) about Gulab Singh and the preparation which he had seen in the 'J' Basti and also requested him (accused Vinod Kajal) to come to the spot as Satyavan and members of 'B' community were apprehending that the matters could get aggravated on which the SHO first sent four/ five police persons to the village.

*Fifthly* it is further established that at about 9 AM large number of persons from the 'J' community gathered and came towards the 'B' Basti and initially there were about 100-150 persons but later on the numbers swelled to about 300-400.

*Sixthly* it is established that these assailants started pelting stones on the persons of 'B' community in the Basti and the members of the 'B' community also threw stones, bricks and whatever else they could lay their hands on, but the persons belonging to the 'J' community were more in number and there was stone pelting from both the sides on which Satyavan (prosecution witness) again called up the SHO (accused Vinod Kajal) from his mobile and told him that the matters were going out of hand and that a large number of persons from the 'J' community had gathered and had come to the 'B' mohalla and also requested the SHO to come to the village personally on which SHO Inspector Vinod Kajal (accused before this Court) then came to the village in an official vehicle.

*Seventhly* it has been established that the accused Vinod Kajal (the then SHO Police Station Narnaund) along with the other police personnel who had come with him and other police officials who were already present in the village went towards the large mob consisting of persons from 'J' community and after talking to the persons belonging to the 'J' community, SHO Vinod Kajal (the present accused) came towards the members of the 'B' community and told them to collect at the 'B' Chaupal stating that he would get a compromise affected in respect of the dispute between both the communities and also told the members of 'B' community that he had asked the persons from 'J' community to collect at the 'J' Chaupal.

*Eighthly* the Medico-Legal Reports of the various victims have been duly proved by the doctors and the photographs/ video clippings of the spot of the incident taken on the day of the incident itself stand conclusively established thereby proving the extent of the injuries caused to the victims

and also the extent of damage caused to the properties of the various victims. It is established that out of the 55 persons allegedly affected by the incident, two of them expired on account of burns while one sustained grievous injuries while 29 persons sustained simple injuries and 23 did not sustain any injuries. Further, damage to the properties of Dhoop Singh S/o Rattnu (PW29); Sanjay S/o Gulaba (PW44); Gulaba S/o Jai Lal (PW48); Manoj S/o Mahender (PW45); Sube S/o Bura (PW39); Sushil S/o Surta (PW25), Satyavan S/o Roshan (PW48), Vijender S/o Surta (PW40) and Tara Chand (deceased) also stand conclusively established.

*Ninethly* that Tara Chand made a statement to the Ld. Judicial Magistrate First Class (*Ex.PW55/B*) wherein he named the accused Rajender as the person who had set his house on fire, stands conclusively established.

*Tenthly* that there is no delay in registration of FIR and the delay if any, has been satisfactorily explained.

*Lastly* the fact that the house of Tara Chand was also set on fire wherein Tara Chand and his daughter Suman lost their lives on account of burns stand conclusively established.

I may further observe that there are two stages in the criminal prosecution. The first obviously is the commission of the crime and the second is the investigation conducted regarding the same. In case the investigation is faulty or has not been proved in evidence at trial, the question which arise is whether it would absolve the liability of the culprit who has committed the offence? The answer is obviously in negative, since any lapse on the part of the investigation does not negate the offence. I do not find any substance in the grounds raised by the Ld. Counsel for this accused who has vehemently that the investigating agency having committed serious defaults during the investigations as pointed out by him, the benefit of the same should go to the accused. The prosecution has proved the identity of the accused, the manner in which the offence has been committed, place of commission of the offence, the investigation including the documents prepared, postmortem report, etc. There is nothing which could shatter the veracity of the prosecution witnesses or falsify the claim of the prosecution. All the prosecution witnesses have materially supported the prosecution case and the testimonies of the prosecution witnesses do not suffer from any infirmity, inconsistency or contradiction and are consistent and corroborative. The evidence of the prosecution witnesses is natural and trustworthy and corroborated by medical evidence and the witness of the prosecution have been able to built up a continuous link.

Hence, on the basis of the aforesaid, I hereby hold that the allegations against the accused *Charan Singh S/o Sadhu Ram, Rakesh @ Nakli S/o Amar Lal @ Lala, Shamsher S/o Rajender, Sandeep S/o Ram Swaroop, Sandeep S/o Joginder, Anoop S/o Dharma, Dinesh S/o Prem, Ramesh S/o Karan Singh, Sandeep S/o Mahender, Sandeep S/o Raj Kumar, Sandeep S/o Rattan Singh, Sunil @ Sheela S/o Bira, Surender S/o Jagdev, Viren S/o Yashpal, Balwan S/o Dharambir, Hoshiar S/o Mangal Ram,*

*Jaibir S/o Balbir, Jaibir S/o Manphool, Jaibir S/o Ishwar, Joginder S/o Bhim Singh, Jora Singh S/o Balwan Singh, Kishan S/o Karan Singh, Kishan Kumar @ Dhaula S/o Satyavan, Rakesh @ Kala S/o Satyavan, Ved Pal @ Bedu S/o Karan Singh, Vinod S/o Jagdev and Satyavan S/o Tara Chand* have not been substantiated and proved nor their presence at the spot stand established and they are accordingly acquitted.

Further, the allegations against the accused *Vipin S/o Joginder, Jagdish @ Hathi S/o Baru Ram, Pawan S/o Hoshiar Singh, Praveen S/o Jagdev, Sandeep S/o Chander, Sanjay @ Sandeep S/o Amar Lal, Jitender S/o Satbir, Joginder @ Jogar S/o Inder, Kuldeep S/o Balbir, Sonu S/o Ramesh, Pappu S/o Pyara, Naseeb S/o Prem Singh, Rajesh S/o Dhoop Singh, Ajit S/o Dalip, Jagdish S/o Lehna Ram, Manbir S/o Zile Singh, Balwan Singh S/o Jailal, Rajender S/o Belu Ram, Sunil S/o Jaibir, Rajender S/o Dhoop Singh, Pawan S/o Rajbir and Dalbir S/o Tara Chand, Kuldeep S/o Om Prakash, Anil S/o Prem Singh, Dharambir S/o Tara Chand, Roshan S/o Ram Swaroop, Ajeet S/o Sukhbir, Vijender S/o Hoshiyar Singh, Ramesh S/o Dalip, Rajender S/o Sadhu Ram, Satish S/o Randhir, Jugal S/o Hawa Singh, Pradeep S/o Satbir, Pradeep S/o Jagbir, Dalbir S/o Dalip, Naveen @ Tina S/o Rajbir, Suresh S/o Balbir, Vikas S/o Sunehra, Amir S/o Tara Chand, Pawan @ Tinku S/o Sewa Singh and Sonu S/o Dalbir, Pradeep S/o Ramphal and Vedpal S/o Dayanand, Satyavan S/o Rajender, Amit S/o Satyavan, Pawan S/o Ram Mehar, Deepak @ Sonu S/o Kishan, Balwan S/o Inder Singh, Pradeep S/o Balwan, Sanjay S/o Daya Nand, Satyavan @ Satta S/o Karan Singh, Daya Singh S/o Ajeet Singh, Rupesh S/o Tek Ram and Rajbir @ Nanhe S/o Mai Chand* have not been proved beyond reasonable doubt nor their presence at the spot stand established. The accused are entitled to the benefit of doubt and are hereby acquitted.

Further, in so far as the accused *Vinod Kajal* is concerned, I hereby hold that the allegations regarding inaction or regarding the overt act of *Vinod Kajal* were added only on 22.04.2010 i.e. after the intervention of the political and community leaders from outside and was then arrested under Section 4 of the SC/ST (POA) Act which appears to have been done only for pacifying the situation. He was included in 120B by means of supplementary statements dated 27.07.2010 at the time of the filing of the challan which statements the witnesses alleged that they never made to the Investigating Officer but no admissible and reliable evidence has been brought on the record to connect him with the crime. Hence, I hold that the prosecution has not been able to prove and substantiate the allegations against him for which he is hereby acquitted.

However, I hereby hold that the presence of the accused *Sumit S/o Satyavan, Pradeep S/o Jaibir, Rajpal S/o Sheo Chand, Pradeep S/o Suresh, Sunil S/o Daya Nand, Rishi S/o Satbir and Monu S/o Suresh* at the spot at the time of the incident as one of the persons being a part of the unlawful assembly where they were indulging into stone pelting stands established, for which they are held guilty of the offence under Sections 147, 323/427 r/w 149 Indian Penal Code.



Further, the presence of the accused *Baljeet S/o Inder, Karambir S/o Tara Chand, Karampal S/o Satbir, Dharambir @ Illa S/o Mai Chand, Bobal @ Langra S/o Tek Ram* at the spot at the time of the incident along with the other persons constituting an unlawful assembly and indulging into stone pelting, causing damage to the properties of persons from 'B' community stand established, for which they are held guilty of the offence under *Sections 147, 323/427/435 r/w 149 IPC and Section 3 (2) (iii) of SC/ST Act, 1989*.

I also hold that the presence of the accused *Kulwinder S/o Ram Mehar, Ramphal S/o Prithvi and Rajender S/o Pale* at the spot at the time of the incident along with the other persons constituting unlawful assembly, indulging into stone pelting, causing damage to the properties of persons from the 'B' community and also setting fire to the house of Tara Chand stand established, for which they are held guilty of the offence under *Sections 147, 323/427/436/304 (II) r/w 149 IPC & Section 3 (2) (iv) of SC/ST (POA) Act, 1989*.

Case be listed for arguments on sentence on 29.9.2011.

Announced in the open court

**(Dr. KAMINI LAU)**

Dated: 24.9.2011

ASJ-II(NW)/ Spl. Judge (SC/ST Cases)  
Rohini Courts, Delhi

**Date of Judgement:** 24.9.2011

**Arguments heard on:** 21.10.2011

**Date of Sentence:** 31.10.2011

### **Appearance**

**Present:** Sh. Rakesh Kumar and Sh. Taufique Ahmed, Special Public Prosecutors for the State.

Sh. S.P. Ahluwalia, Special Public Prosecutor for the State of Haryana along with Sh. Rupansh Purohit and Sh. Dinesh Kumar Advocates and DSP Sh. Abhay Singh.

Sh. Satish Tamta, Special Public Prosecutor for the victims along with Ms. Anubha Rastogi and Sh. Shreeji Bhawsar Advocates.

All the convicts in judicial custody with Sh. B.S. Rana, Ms. Jaya Sharma, Sh. Shakti Singh, advocates.

### **Order on Sentence**

*Where the mind is without fear and the head is held high*

*Where knowledge is free;*

*Where the world has not been broken up into fragments*

*By narrow domestic walls;*

*Where words come out from the depth of truth;*

*Where tireless striving stretches its arms towards perfection;*

*Where the clear stream of reason has not lost its way*

*Into the dreary desert sand of dead habit;*

*Where the mind is led forward by thee,*

*Into ever-widening thought and action*

*Into that heaven of freedom, My Father, let his country awake*

*Rabindranath Tagore*

This case from Hisar (Haryana) relates to an unfortunate incident dated 21.4.2010 which initially started as an inconsequential dispute between two group of youngsters belonging to two different communities but ultimately ended up engulfing the two communities (the 'B' and 'J' community) of village Mirchpur. In the rioting which took place, two persons both members of the 'B' community lost their lives when their house was set on fire by the members of the 'J' community and one persons sustained injuries which were grievous and 27 persons sustained Simple injuries with damage caused to the properties belonging to member of the 'B' community in the said incident.

After investigations, charge sheet was filed against 103 accused in the present case wherein provisions of Sections 120-B, 302, 307, 147, 148, 149, 323, 325, 395, 397, 427, 435, 436, 449, 450, 452 Indian Penal Code and under Sections 3 (1) (x), (xv), 3 (2) (iii), (iv) (v) of the Scheduled Caste/ Scheduled Tribes (Prevention of Atrocities) Act, 1989, were invoked. Out of the 103 persons so charge sheeted, 98 faced trial before this Court (trial of five juveniles being separated) and out of these 98, one that is accused Jasbir @ Leelu absconded during trial who is now a Proclaimed Offender.

On the basis of the evidence on record including oral testimonies of the eye witnesses, MLRs of the victims, postmortem reports of the deceased, forensic evidence and documents placed before this Court, vide a detailed judgement dated 24.9.2011 eighty two accused have been acquitted whereas fifteen have been held guilty under various provisions of Indian Penal Code, out of whom eight accused have also been held guilty under the provisions of the SC/ST (POA) Act, 1989.

The prosecution has been able to successfully establish the following aspects:

- That some incident did take place on 19.4.2010 wherein Birbhan and Karan Singh had sustained injuries.
- That Rajender S/o Pale was doing the business of supply of milk in the village and could not supply milk on 20.04.2010 and on 21.4.2010 at about 8 AM Rajender S/o Pale was passing through the main gali in his boogie when an altercation took place when he and some of the boys belonging to the 'B' community wherein another accused Dinesh who had rushed to save Rajender sustained injuries pursuant to which a rumor spread in the village that Rajender son of Pale has been abducted or being killed which was the second version of the incident duly suppressed by the prosecution. This aspect stands established not only from the case diaries written by the Investigating officer but also by the eye witnesses belonging to the 'B' community examined by the prosecution who had not been declared hostile but also by those witnesses who had been cited by the prosecution and not examined but had later on appeared and deposed as witnesses of defence.
- That the aspect of accused Dinesh sustaining injuries and Rajender being present at General Hospital Jind to get him so treated also found independent corroboration from the testimony of Dr. Rajesh Gandhi of General Hospital Jind (DW32) who had proved the MLR of Dinesh him and from the call detail record of the accused Rajender Ex.DW34/C and the testimony of Dr. Kuldeep (DW33).
- That in the morning Gulab Singh the Chowkidar of the village belonging to the 'B' community who had gone to collect milk and lassi from the village, on his way back when he reached near the house of Rajender S/o Pale was stopped by certain boys belonging to the 'J' community including Rajender S/o Pale, Karampal S/o Satbir and Ramphal S/o Prithvi and that Rajender

S/o Pale caught hold of Gulab Singh's collar, Karampal snatched his walking stick/ lathi and hit Gulab Singh on his back on which Gulab Singh fell down and Ramphal S/o Prithvi hit him on his head an aspect which has been so alleged and proved by Gulab Singh.

- That Gulab Singh was lifted from there by persons from the 'B' Mohalla and was taken to his house and put on a cot/ charpai and after the police came to the spot he was shifted to the hospital.
- That Satyavan and other persons of 'B' community got together and telephoned the Narnaund police station and informed the SHO (accused Vinod Kajal) about Gulab Singh and the preparation which he had seen in the 'J' Basti and also requested him to come to the spot as members of the 'B' community were apprehensive that the matters could get aggravated on which the SHO first sent four/ five police persons to the village.
- That at about 9 AM large number of persons from the 'J' community gathered and came towards the 'B' Basti and initially there were about 100-150 persons but later on the numbers swelled to about 300-400.
- That these assailants started pelting stones on the persons of 'B' community in the Basti and the members of the 'B' community also threw stones, bricks and whatever else they could lay their hands on, but the persons belonging to the 'J' community were more in number and there was stone pelting from both the sides on which Satyavan again called up the SHO from his mobile and told him that the matters were going out of hand and that a large number of persons from the 'J' community had gathered and had come to the 'B' mohalla and also requested the SHO to come to the village personally on which SHO Inspector Vinod Kajal then came to the village.
- That the accused Vinod Kajal (the then SHO Police Station Narnaund) along with the other police personnel who had come with him and other police officials who were already present in the village went towards the large mob consisting of persons from 'J' community and after talking to the persons belonging to the 'J' community, SHO Vinod Kajal came towards the members of the 'B' community and told them to collect at the 'B' Chaupal stating that he would get a compromise affected in respect of the dispute between both the communities and also told the members of 'B' community that he had asked the persons from 'J' community to collect at the 'J' Chaupal.
- That by 12:30 noon a large police contingent headed by the Superintendent of Police Hisar reached village Mirchpur along with Fire Brigades and Ambulances and took control over the situation, after which the injured were rushed to the hospitals and the fire was got drowsed by the Fire Brigades and thereafter the photographs and video clippings were prepared at the spot and the exhibits lifted on the directions of the senior police officers.

- That out of the 55 persons whose medical examinations were got conducted, two of them expired on account of burns while one sustained grievous injuries while 29 persons sustained simple injuries and 23 did not show any visible signs of injuries.
- That there was damage to the properties of Dhoop Singh S/o Rattnu (PW29); Sanjay S/o Gulaba (PW44); Gulaba S/o Jai Lal (PW48); Manoj S/o Mahender (PW45); Sube S/o Bura (PW39); Sushil S/o Surta (PW25), Satyavan S/o Roshan (PW48), Vijender S/o Surta (PW40) and Tara Chand (deceased).
- That the house of Tara Chand was also set on fire wherein Tara Chand and his daughter Suman lost their lives on account of burns.
- That in the hospital (General Hospital Hisar) Tara Chand made a statement to the Ld. Judicial Magistrate First Class (Dying Declaration) wherein he named the accused Rajender as the person who had set his house on fire.
- That many witnesses who had initially made tall claims of injustice, damage, discrimination, threats and fear, failed to substantiate the same in the Court.
- That many of the accused before this Court were named and apprehended after many months of the incident and that too after intervention of the Court.

In the Judgement dated 24.9.2011, it has also been observed by this Court that the incident which initially started as a normal altercation between two group of youngsters of the village belonging to two different communities displayed caste nuances and overtones when finally persons (from the 'B' and 'J' community) who had no concern with the initial dispute got involved only on account of the caste factor. This Court also observed that there was a total failure of the Administration to act on time and had the Administration been more sensitive and alert to the dispute between two groups of youngsters already brewing in the village on one issue or the other for quite sometime, it could have certainly averted the explosive situation which took an ugly turn on 21.4.2010. It has also been found desirable that an in-house probe should be carried out at the highest level to examine the manner in which the present case has been investigated and prosecuted particularly the aspects relating to the fairness and independence of investigations and Prosecution.

Also, in the judgement dated 24.9.2011 this Court while considering the manner in which the statements of the witnesses/ victims were recorded, has recommended/ suggested that in all cases of communal and caste violence the statements of the eye witnesses should be got recorded by a Magistrate under Section 164 Cr.P.C. and should also be videographed keeping in view the possibility of winning over of the witnesses, as has happened in the present case and also that in order to ensure total independence and fairness during investigations, prosecution and trial of cases connected with communal and caste violence, due care should be taken to ensure that the

Investigating Officers and the Prosecutors so deputed are in no way connected, related or associated with either of the warring/ litigating groups or communities.

Finally, the accused Charan Singh S/o Sadhu Ram, Rakesh @ Nakli S/o Amar Lal @ Lala, Shamsher S/o Rajender, Sandeep S/o Ram Swaroop, Sandeep S/o Joginder, Anoop S/o Dharma, Dinesh S/o Prem, Ramesh S/o Karan Singh, Sandeep S/o Mahender, Sandeep S/o Raj Kumar, Sandeep S/o Rattan Singh, Sunil @ Sheela S/o Bira, Surender S/o Jagdev, Viren S/o Yashpal, Balwan S/o Dharambir, Hoshiar S/o Mangal Ram, Jaibir S/o Balbir, Jaibir S/o Manphool, Jaibir S/o Ishwar, Joginder S/o Bhim Singh, Jora Singh S/o Balwan Singh, Kishan S/o Karan Singh, Kishan Kumar @ Dhaula S/o Satyavan, Rakesh @ Kala S/o Satyavan, Ved Pal @ Bedu S/o Karan Singh, Vinod S/o Jagdev, Satyavan S/o Tara Chand Vipin S/o Joginder, Jagdish @ Hathi S/o Baru Ram, Pawan S/o Hoshiar Singh, Praveen S/o Jagdev, Sandeep S/o Chander, Sanjay @ Sandeep S/o Amar Lal, Jitender S/o Satbir, Joginder @ Jogar S/o Inder, Kuldeep S/o Balbir, Sonu S/o Ramesh, Pappu S/o Pyara, Naseeb S/o Prem Singh, Rajesh S/o Dhoop Singh, Ajit S/o Dalip, Jagdish S/o Lehna Ram, Manbir S/o Zile Singh, Balwan Singh S/o Jailal, Rajender S/o Belu Ram, Sunil S/o Jaibir, Rajender S/o Dhoop Singh, Pawan S/o Rajbir and Dalbir S/o Tara Chand, Kuldeep S/o Om Prakash, Anil S/o Prem Singh, Dharambir S/o Tara Chand, Roshan S/o Ram Swaroop, Ajeet S/o Sukhbir, Vijender S/o Hoshiyar Singh, Ramesh S/o Dalip, Rajender S/o Sadhu Ram, Satish S/o Randhir, Jugal S/o Hawa Singh, Pradeep S/o Satbir, Pradeep S/o Jagbir, Dalbir S/o Dalip, Naveen @ Tina S/o Rajbir, Suresh S/o Balbir, Vikas S/o Sunehra, Amir S/o Tara Chand, Pawan @ Tinku S/o Sewa Singh and Sonu S/o Dalbir, Pradeep S/o Ramphal and Vedpal S/o Dayanand, Satyavan S/o Rajender, Amit S/o Satyavan, Pawan S/o Ram Mehar, Deepak @ Sonu S/o Kishan, Balwan S/o Inder Singh, Pradeep S/o Balwan, Sanjay S/o Daya Nand, Satyavan @ Satta S/o Karan Singh, Daya Singh S/o Ajeet Singh, Rupesh S/o Tek Ram and Rajbir @ Nanhe S/o Mai Chand have been acquitted. It has also been observed in respect of the accused Vinod Kajal the then SHO Police Station Narnaund that the allegations regarding conspiracy, inaction, negligence and non-performance of duties were added only on 22.04.2010 i.e after the intervention of the political and community leaders from outside and it was only then that he was arrested under *Section 4* of the SC/ST (POA) Act, 1989 which it appeared was done only for pacifying the situation but the Court finding no admissible and reliable evidence to connect him with the crime, the material witnesses having turned hostile, he was acquitted.

Further, the accused Sumit S/o Satyavan, Pradeep S/o Jaibir, Rajpal S/o Sheo Chand, Pradeep S/o Suresh, Sunil S/o Daya Nand, Rishi S/o Satbir and Monu S/o Suresh have been held guilty of the offence under *Sections 147, 323/427 r/w 149 Indian Penal Code*. The accused Baljeet S/o Inder, Karambir S/o Tara Chand, Karampal S/o Satbir, Dharambir @ Illa S/o Mai Chand, Bobal @ Langra S/o Tek Ram have been held guilty of the offence under *Sections 147, 323/427/435 r/w 149 IPC and Section 3 (2) (iii) of SC/ST Act, 1989* and the accused Kulwinder S/o Ram Mehar, Ramphal S/o Prithvi and Rajender S/o Pale have been held guilty of the offence under *Sections 147, 323/427/436/304 (II) r/w 149 IPC & Section 3 (2) (iv) of SC/ST (POA) Act, 1989*.

Now coming to the aspect of quantum of sentence, it has been vehemently argued by the Ld. Special Public Prosecutor for the victims that a stern view be taken against the convicts keeping in view the facts of the present case where two persons have lost their lives and the entire community of the victim targeted. Ld. Special Public Prosecutor has submitted that the members of the 'J' community had resorted to agitation and protests in the form of 'rasta roko' and 'rail roko' in respect of which the Hon'ble Supreme Court has already taken an adverse view of the conduct of the community and the inability of the State Government to prevent the loss to the general public which demonstrate that the community of the convicts and their family members do not have an iota of remorse for what has happened. It is also submitted that as per the Special Legislation that is SC/ST (POA) Act, 1989 Sections 3 (2) (iv) and (v) clearly lay down the punishment of Life Imprisonment for the offence committed and this Court has no discretion to levy a lesser punishment. Ld. Special Public Prosecutor has also placed his reliance on the provisions of Section 16 of the SC/ST (POA) Act, 1989 which mandates the levy of a collective fine on the community which is responsible for the caste based crime and a request has been made that keeping in view the provisions of Section 357-A Code of Criminal Procedure this Court may award compensation for rehabilitation of the victim community over and above any such compensation given by the State Government. He has in this regard placed his reliance on the cases of *Sevaka Perumal and Another -vs- State of Tamil Nadu* reported in 1991 (3) SCC 471 and *Dhananjay Chaterjee -vs- State of West Bengal* reported in 1994 (2) SCC 220. I may further bring on record that while dealing with the aspect of compensation which could be awarded by this Court to the victims as a part of the sentence, this court was informed by Mr. Tamta that the State has already granted compensation to the victims who have now filed a petition before the Hon'ble Supreme Court seeking their shifting to some other place and providing employment facilities to them for their rehabilitation which matter is sub-judice. He requests that this being so, this Court may not touch upon these sub-judice issues. Mr. Ahluwalia, Special Public Prosecutor appearing on behalf of the State of Haryana has also informed this Court that in so far as the notification of the scheme formulated by the State Government under Section 357-A of the Cr.P.C. regarding compensation and rehabilitation of the victims is concerned, the same could not be notified pending consideration before the Punjab and Haryana High Court on the judicial side.

Sh. B.S. Rana the Ld. Defence Counsel has on the other hand prayed for a lenient view against the convicts most of whom are young boys in their twenties and thirties. He has submitted that the members of the 'J' community and the residents of the village Mirchpur belonging to all communities have in order to reestablish peace and tranquility in the village and end all hostilities have appealed and made efforts to bring back the persons from the 'B' community who have left the village and have decided to ensure their rehabilitation in respect of which a resolution has also been passed by the village Panchayat and the respectables of the village, copies of which have also been placed on record. He has further argued that in so far as the convicts Sumit S/o Satyavan, Pradeep S/o Jaibir, Rajpal S/o Sheo Chand, Pradeep S/o Suresh, Sunil S/o Daya Nand, Rishi S/o

Satbir and Monu S/o Suresh are concerned, they are all first time offenders, most of whom are below the age of 21 years and hence as they have only been convicted under the provisions of the Indian Penal Code, he prays for grant of benefit to these convicts under the Probation of Offenders Act. He has in this regard placed his reliance on the case of *Rajesh Kumar -vs- State* reported in 2004 (1) JCC 322 and *State of Karnataka -vs- Muddappa* reported in 1999 (10) JT 221. He has fairly conceded that in so far as the other convicts are concerned, keeping in view the fact that they have also been held guilty under the provisions of SC/ST (POA) Act, 1989, the Probation of Offenders Act would not apply in view of the provisions of Section 19 of the SC/ST (POA) Act, 1989. Further, in so far as the provisions of Section 3 (2) (iii) of the SC/ST (POA) Act are concerned it is argued by the Ld. Defence Counsel that there is no dispute, the said provisions being pari-materia to Section 435 Indian Penal Code providing for a punishment for an imprisonment for a term upto seven years. However, according to the Ld. Defence Counsel in so far as the punishment provided under Section 3 (2) (iv) of the SC/St (POA) Act, 1989 (which provisions are pari-materia to the provisions of Section 436 Indian Penal Code) the maximum punishment which can be so imposed, cannot be distinct and different to that provided under Section 436 Indian Penal Code or else it would be discriminatory and violative of the Constitutional provisions. He has argued that Article 15 of the Constitution of India only provides for special provisions for advancement of socially and educationally backward classes of citizens and Scheduled Castes/ Scheduled Tribes, which cannot be construed to include a Penal Legislation which discriminates on the ground of caste and hence under these circumstances, the word '*shall*' appearing in Section 3 (2) (iv) of the SC/ST (POA) Act, 1989 should be read as '*may*' and reading it as mandatory would render the provisions ultra-vires of the Constitution being discriminatory. He has argued that a Special Legislation may create a specific offence but cannot create a distinction/ discrimination with regard to the quantum of sentence to be imposed on the ground of caste of the victim. The Ld. Counsel has argued that the Constitution of India mandates creation of special provisions for advancement of Scheduled Caste/ Scheduled Tribes but prohibits discrimination on the basis of caste of the victim and hence, according to him, judicial discretion is available with the Court to impose a lesser punishment under Section 3 (2) (iv) of the SC/ST (POA) Act, 1989 as provided under the Indian Penal Code. Mr. Rana has submitted that ordinarily the used of word '*shall*' raises a presumption that it is imperative but there are numerous cases where it has been construed as merely directory. He has in this regard placed his reliance on the principles of interpretation while reading the words '*shall*' in the provisions of the SC/ST (POA) Act, 1989 and also on the observations made by Lord Esher in the case of *Tuckanson -vs- Priester* reported in 1887 (19) QBD 629 (638) and has argued that in a case where two reasonable constructions are possible of a penal provision then the Court must lean towards the construction which exempts the subject from penalty rather than which imposes a penalty. [Ref.: *Commentary given by Justice G.P. Singh (Retired) in his Book Principles of Statutory Interpretation 12th Edition 2010 (pages 406 to 409 and pages 894 & 895)*]. On the other hand Sh. Satish Tamta, Ld. Special Public Prosecutor for the victims has vehemently argued that no discretion has been provided under the Act to the Court to impose a



lesser punishment and the only punishment which can be imposed upon the convicts under Section 3 (2) (iv) of the SC/ST (POA) Act, 1989 is Life Imprisonment.

I have considered the rival contentions. No doubt the use of word 'shall' raises a presumption regarding a mandate but it is prima facie an inference which may be rebutted by other considerations such as the scope and object of the enactment and the consequences flowing from such a construction. Hon'ble Mr. Justice Hidayatullah has in the case of *Sainik Motors -vs- State of Rajasthan* reported in AIR 1961 SC 1480 (1485) observed that ordinarily the word 'shall' is mandatory but it is sometime not so interpreted if the context or intent otherwise demands. Hon'ble Mr. Justice Subbarao in the case of *State of Uttar Pradesh -vs- Babu Ram* reported in AIR 1961 SC 751 (765) observed that when a statute uses the word 'shall', prima facie it is mandatory, but the Courts may ascertain the real intent of the legislature by carefully attending the whole scope of the statute. In this regard the Court may in order to ascertain the real intent of the legislature, look into the legislative debates which have taken place at the time when the legislation was tabled in the House. Mr. Rana, the Ld. Defence Counsel has conceded that he has not been able to lay his hands on any such debates particularly on the aspect of the provisions of Section 3 (2) of the SC/ST (POA) Act, 1989 and submits that in fact no such debates are available as per his knowledge showing that perhaps at the time the Act was so tabled, no debates took place. I have considered the submissions made by Mr. Rana. Here, I may observe that it is necessary for Penal Legislation affecting life and liberty of persons to be subjected to intense legislative scrutiny in the House and the legislative debates which take place, provide an important insight to the manner in which the various provisions of the Act are required to be interpreted and it is unfortunate that no such debate is available in respect of this important legislation [SC/ST (POA) Act, 1989].

In so far as this Court is concerned, after considering the submissions made by the Ld. Counsels, I conclude that the word '*shall*' imposes an obligation and the word '*may*' confers a discretionary power unless the context and intent otherwise demands, which intent can be ascertained by looking into the scope and object of the legislation. Now, after going through the aims and objects of the SC/ST (POA) Act, 1989 and applying the rule a plain and literal interpretation, in my opinion the use of word '*shall*' as appearing in the *Section 3 (2) (iv)* of the Act is mandatory and not directory and the issues relating to validity and Constitutional vires of this provision when given such a construction are left open to be decided by the Higher Constitutional Courts.

Before proceeding further, I wish to bring on record the observations of the Hon'ble Mr. Justice D.P. Wadhwa in the case of *State of Maharashtra -vs- Rajendra Jamanmal Gandhi Etc.* reported in AIR 1997 Supreme Court 3986 (1) holding that there is a procedure established by law governing the conduct of trial of a person accused of an offence and a trial by press, electronic media or public agitation is very antithesis of rule of law which may lead to miscarriage of justice. Echoing the sentiments of the Hon'ble Apex Court, I hold that the task of the Judge in such cases become onerous and the

Court is required to guard itself against any such pressure and is to be strictly guided by the rules of law. For the convicts who have been found guilty by this Court for various offences the issue of the question of sentence to be awarded to the convicts has to be in accordance with the provisions of law uninfluenced by any kind of trial by press, electronic media or public agitations by members of either of the communities. At the same time this Court cannot permit groups based upon castes and community to highjack the governance of the State and hold democracy to ransom. In this country where we cherish the values of equality and justice, no leniency can be shown to those responsible for trampling these Constitutional objectives. In the words of Hon'ble Mr. Justice K. Ramaswamy in the case of *Sevaka Perumal Etc. Vs. State of Tamil Nadu* reported in AIR 1991 SC 1463

*“.....Undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law and society could not long endure under such serious threats. It is, therefore, the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed etc....”*

It is therefore necessary for the court to keep in mind that the object should be to protect the society and to deter the criminal while achieving the avowed object of law by imposing appropriate sentence. The Courts are expected to operate the sentencing system so as to impose such sentence which reflects the conscience of the society and sentencing process has to be stern where it should be. (Ref. *Siddarama and Ors. Vs. State of Karnataka* reported in 2006 IV AD (Cri.) SC 78). Guided by these principles I now proceed to determine the sentence to be awarded to the various convicts.

The report of the Probation Officer, District Hisar has been received in respect of the convicts Sumit S/o Satyavan, Pradeep S/o Jaibir, Rajpal S/o Sheo Chand, Pradeep S/o Suresh, Sunil S/o Daya Nand, Rishi S/o Satbir and Monu S/o Suresh. The Social Investigation Report reflects that all the above convicts are young boys in their twenties and thirties and have no criminal involvement except in the present case which according to the report was without any criminal intent. It has been reported that the chances of reform of these convicts are bright and they should be granted the benefit of the Probation of Offenders Act. The convict *Sumit S/o Satyavan* is a young boy of 20 years having a family comprising of parents and one brother. He is an agriculturalist and has no criminal background being a first time offender who is in custody since 17.5.2010. The convict *Pradeep S/o Jaibir* is a young boy of 21 years having a family comprising of aged widow mother and two sisters and is the sole bread earner of his family having no previous involvements being a first time offender who is in custody since 3.9.2010. The convict *Pradeep S/o Suresh* is aged about 25 years having a family comprising of aged widow mother, wife, one son and daughter who is an agriculturist and is the sole bread earner of his family with no previous involvements being a first time offender who is in custody since 1.9.2010. The convict *Sunil S/o Daya Nand* is aged about 35 years having a family comprising of aged parents, one brother, one sister, wife and two sons who is 8th class pass and was serving as a Constable in Haryana Police and is the sole bread earner of

his family. This convict had two previous involvements that is in *FIR No. 556/1997, u/s. 341 IPC, PS Narwana* and in *FIR No.51/2001, u/s. 341/186, 323/353, 506/34 IPC, PS City Jind* wherein he has been acquitted. He is in custody in the present case since 4.9.2010. The convict *Rishi S/o Satbir* is aged about 36 years with a family comprising of aged parents, two brothers, one sister and wife and no previous involvements being a first time offender who is in custody since 15.5.2010. The convict *Rajpal S/o Sheo Chand* is aged about 27 years with a family comprising of aged widow mother, three brothers and two sisters have not previous involvements being a first time offender who is in custody since 28.7.2010. He is a student and at the time of the incident was doing his Graduation. The convict *Monu S/o Suresh* is a young boy of 22 years with a family comprising of aged parents and one younger brother and has no previous involvements except in the present incident (dated 19.4.2010 wherein Karan Singh and Birbhan have not identified him). He is a student of B.A. 2nd year is in custody in the present case since 3.9.2010.

I may observe that all the above convicts are in custody for the last more than one year and have been held guilty of the offences under Sections 147,323/427 read with 149 Indian Penal Code which provide for a maximum punishment for a period of two years. In fact the convicts Sumit S/o Satyavan and Rishi S/o Satbir have already undergone imprisonment for almost one year five months. They have not been held liable for the offences under the SC/ST (POA) Act, 1989 and therefore can be given the benefit of the Probation of Offenders Act.

I accordingly direct that the convicts *Sumit S/o Satyavan, Pradeep S/o Jaibir, Rajpal S/o Sheo Chand, Pradeep S/o Suresh, Sunil S/o Daya Nand, Rishi S/o Satbir* and *Monu S/o Suresh* be released on probation of good conduct under *Section 4* of the Probation of Offenders Act, 1958 for a period of *one year with supervision*, on their furnishing a personal bond in the sum of *Rs.10,000/-* each with one surety of the like amount and to appear and receive sentence when called upon during such period and in the meantime to keep the peace and be of good behaviour. In case of any default or repetition of offence, the convicts shall undergo *Simple Imprisonment* for a period of *one year*.

Now coming to the convicts *Baljeet S/o Inder, Karambir S/o Tara Chand, Karampal S/o Satbir, Dharambir @ Illa S/o Mai Chand, and Bobal @ Langra S/o Tek Ram* they have been held guilty of the offence under *Sections 147, 23/427/435 r/w 149 IPC and Section 3 (2) (iii) of SC/ST Act, 1989*. Here, I may observe that the punishment as provided in the Special Legislation that is *Section 3 (2) (iii)* of the SC/ST (POA) Act, 1989 would prevail over the General Legislation that is *Section 435 Indian Penal Code*. The maximum punishment so provided is imprisonment which may extend to seven years and fine and the minimum punishment so provided is six months [Section 3 (2) (iii) of the SC/ST (POA) Act, 1989].

The convict *Baljeet S/o Inder*, aged about 37 years with a family comprising of widow mother aged about 70 years is an agriculturist and the sole bread earner of his family having no previous involvements being a first time offender who is in custody since 5.9.2010. The convict *Karambir S/o*

*Tara Chand*, aged about 42 years with a family comprising of aged parents, wife, one daughter and two sons is an agriculturist and the sole bread earner of his family having no previous involvements being a first time offender who is in custody since 21.4.2010. The convict *Karambir S/o Satbir*, aged about 26 years with a family comprising of aged parents is an agriculturist by profession and the sole bread earner of his family having no previous involvements being a first time offender who is in custody since 15.5.2010. The convict *Dharambir S/o Mai Chand*, aged about 38 years with a family comprising of old father aged about 80 years, wife and two sons is an agriculturist and the sole bread earner of his family having no previous involvements being a first time offender who is in custody since 28.4.2010. The convict *Bobal S/o Tek Ram*, aged about 38 years is unmarried and belongs to a very poor family having a small piece of land and is an agriculturist by profession. His parents have already expired and there is no other person in his family. He has no previous involvements and is a first time offender who is in custody since 1.8.2010.

I hereby award the following sentences to the convicts *Baljeet S/o Inder*, *Karambir S/o Tara Chand*, *Karampal S/o Satbir*, *Dharambir S/o Mai Chand* and *Bobal S/o Tek Ram*:

1. For the offence under *Section 147 IPC* they are sentenced to *Rigorous Imprisonment* for a period of *Two years*.
2. For the offence under *Section 323* read with *149 IPC* they are sentenced to *Rigorous Imprisonment* for a period of *Two years*.
3. For the offence under *Section 427* read with *149 IPC* they are sentenced to *Rigorous Imprisonment* for a period of *Two years*.
4. For the offence under *Section 3 (2) (iii) of the SC/ST (POA) Act, 1989* (which would prevail over *Section 435 IPC*) they are sentenced to *Rigorous Imprisonment* for a period of *Five years* and fine to the tune of *Rs.20,000/- each*. The entire fine amount, if recovered, shall be given as compensation to the victims. In default of payment of fine the convicts shall under go *Simple Imprisonment* for a period of *one month* each.

*All the sentences shall run concurrently. Benefit of Section 428 Cr.P.C. shall be given to all the convicts for the period already undergone by them during the trial.*

Now coming to the convicts *Kulwinder S/o Ram Mehar*, *Ramphal S/o Prithvi* and *Rajender S/o Pale* who have been held guilty of the offence under *Sections 147, 323/427/436/304 (II) r/w 149 IPC & Section 3 (2) (iv) of SC/ST (POA) Act, 1989* and the provisions of *Section 3 (2) (v) of the SC/ST (POA) Act, 1989* would technically apply in default in view of the fact that the provisions of *Section 436* and *Section 304 IPC* provide for a punishment of imprisonment more than ten years and as already observed herein above the provisions of the Special Legislation would prevail over the General Legislation.

The convict *Kulwinder S/o Ram Mehar*, aged about 30 years with a family comprising of wife and two daughters is an agriculturist by profession with no previous involvement being a first time offender who is in custody since 5.9.2010. The convict *Ramphal S/o Prithvi*, aged about 35 years is unmarried and has a family comprising of aged parents and is an agriculturist by profession with no previous involvements being a first time offender who is in custody since 14.5.2010. The convict *Rajender S/o Pale*, aged about 30 years with a family comprising of aged widow mother, wife and two daughters is a milk supplier by profession and has no previous involvements being a first time offender who is in custody since 19.5.2010.

I hereby award the following sentences to the convicts *Kulwinder S/o Ram Mehar*, *Ramphal S/o Prithvi* and *Rajender S/o Pale*:

1. For the offence under *Section 147 IPC* they are sentenced to *Rigorous Imprisonment* for a period of *Two years*.
2. For the offence under *Section 323* read with *149 IPC* they are sentenced to *Rigorous Imprisonment* for a period of *Two years*.
3. For the offence under *Section 427* read with *149 IPC* they are sentenced to *Rigorous Imprisonment* for a period of *Two years*.
4. For the offence under *Section 3 (2) (iv) & (v) of the SC/ST (POA) Act, 1989* (which would prevail over *Section 436* and *Section 304 (2) IPC*) they are sentenced to *Rigorous Imprisonment for Life* and fine to the tune of *Rs.20,000/- each*. The entire fine amount, if recovered, shall be given as compensation to the victims. In default of payment of fine the convicts shall under go *Simple Imprisonment* for a period of *one month* each.

All the sentences shall run concurrently. Benefit of *Section 428 Cr.P.C.* shall be given to all the convicts for the period already undergone by them during the trial. Further, the amount of fine so deposited shall be placed at the disposal of the Member Secretary, State Legal Services Authority for disbursement to the victims for purposes of their rehabilitation.

The convicts are informed that they have a right to prefer an appeal against this judgement. They have been apprised that in case they cannot afford to engage an advocate, they can approach the Legal Aid Cell, functioning in Tihar Jail or write to the Secretary, Delhi High Court Legal Services Committee, 34-37, Lawyers Chamber Block, High Court of Delhi, New Delhi.

Before ending, I may observe that Social and Legislative Audit of every Welfare Legislation is imperative to enable the legislatures to evaluate and analyse the efficacy and effectiveness of such legislation so enacted by them and judicial pronouncements are an important source of such Audit. The *SC/ST (POA) Act, 1989* is one such Legislation which came into existence almost two decades ago whose efficacy and effectiveness needs to be evaluated in the changing socioeconomic scenario. I

also say this, in view of some of the aspects so highlighted during the trial of this case relating to the various provisions of this legislation which in my view require a re-look and an effective debate. Atrocity is the wrong of the grossest kind and all atrocities are crime against humanity. The SC/ST (POA) Act, 1989 deals with atrocities but restricts its operation to the particular groups based upon caste. Instances are not rare where powerful members of a clan commit atrocity over less fortunate members of the same clan/ caste/ community. Atrocities which deals with crimes/ offences against humanity should not, in my view, be restricted to particular caste or groups. Just as an offender or a violator of law has no caste, creed, race, sex or religion and so does the victim. *Section 3* of the SC/ST (POA) Act, 1989 is inclusive and not exhaustive. An exhaustive definition is required to be given so as to cover all atrocities inflicted on any citizen of this Country irrelevant of caste, creed, race, sex or religion. I may further observe that community and caste based violence can be prevented by inclusive and interactive political process to subdue the poisonings fanaticism of divisive communal thinking. Caste distinctions are often exploited by those wanting to cultivate discontent and instigate violence and the only effective safeguard is the bonds developed by National democracies and the vigour of the democratic politics in generating tolerant values. Formulation of tolerant values is centric to functioning of smooth democratic system. (Ref.: *"Idea of Justice"* by Amartya Sen). Tagore had dreamed of a nation not broken into fragments by narrow thinking with its citizens and with citizens having clear stream of reason. Indian values of liberty, sovereignty, freedom and equality for all have to be cherished and established. It is the obligation of the Courts to bring about the social change through social engineering by proper implementation of Welfare Legislations. This country governed by Rule of Law treats all equally and knows no distinction. Any person or community who take law into its hands has to be legally dealt with at par as any other violators of law. Any legislative distinction in the implementation of Penal provisions on the basis of religion, race, caste, sex or place of birth (as provided under *Article 15* of the Constitution of India) weakens the secular democratic fiber leading to polarization based on religion, race, caste, sex or place of birth and results into division of the Country. The SC/ST (POA) Act, 1989 is one such legislation whose provisions create a distinction on the ground of caste in matters of imposition of sentence in case of certain offences [Section 3 (2) (iv) and (v)] thereby creating an anomalous situation, where on the one hand it provides a stringent punishment for imprisonment for life in case if the victim of atrocity is member of Scheduled Caste/ Scheduled Tribe and the violator is a not a member of Scheduled Caste/ Scheduled Tribe but would let goes a violator who is a member of Scheduled Caste/ Scheduled Tribe (irrespective of whether the victim is a member of the Scheduled Caste/ Scheduled Tribe or not). Similarly in a case where the victim is not a member of Scheduled Caste/ Scheduled Tribe, the punishment provided for the same offence to the violator would be under the General Legislation [IPC which provides for judicial discretion in matters of imposition of punishment which could be lesser than that provided under the SC/ST (POA) Act]. *Why this distinction when the crime committed is the same and the victim suffers as much?* Further, the provisions of Section 4 of the SC/ST (POA) Act, 1989 which provide for a punishment with imprisonment for a term not

less than six months which may extend to one year if any public servant, who is not a member of Schedule Caste or Scheduled Tribes, willfully neglects his duties required to be performed under this Act. Non-performance/ willful neglect in performance of public duty is directly linked to an Office and can under no circumstances be linked to the Caste of such public servant. All public servants are under an obligation to perform their public duties and any non-performance of duties required to be performed under the SC/ST (POA) Act, 1989 cannot under any circumstances be tolerated or overlooked which is imperative for one and all. The provisions of Section 4 of the SC/ST (POA) Act, 1989 on the one hand let goes a member of the Scheduled Caste/ Scheduled Tribe who commits the same crime of non-performance/ neglect in the performance of duties in relation to the provisions of the Act but punishes a person who is not a member of Scheduled Caste/ Scheduled Tribe. *Why so? Is it not a palpable discrimination?* To my mind the provisions of Section 4 of SC/ST (POA) Act when subjected to Judicial scrutiny and tested on the touch stone of Constitutional validity and objective/ purpose sought to be attained by the Special Legislation, does not fulfill the constitutional test and object sought to be attained by this Special Legislation there being no rational or logic in creating this exception and it is for this reason that above issues which came up for consideration during trial were left open by this Court for scrutiny by competent authorities. It is this, what has made me ponder if it was not time that the “Atrocities Act” be made *Caste Neutral* with a provision for uniform punishment for all violators irrespective of Caste Distinctions.

It is with this note that I end by placing on record special appreciation for all the Counsels i.e. Special Public Prosecutors and the defence counsels, Sh. Satish Tamta, Sh. S. P. Ahluwalia, Sh. Rakesh Kumar, Sh. Taufique Ahmed, Sh. B.S. Rana, Sh. P.K. Sandhir, the team of junior Advocates particularly Ms. Anubha Rastogi, Sh. Shreeji Bhavsar, Sh. Rajat Kalsan, Sh. Puneet Ahluwalia, Sh. Tarun Gehlot, Sh. Pradeep Singh Sh. Yashwinder Rathi, Sh. Deepak Lohchab, Sh. Jitender Sharma, Sh. Pankaj Gupta and Sh. Mukesh Kuhar who have all tirelessly worked and assisted this Court and made it possible to ensure the conclusion of the trial in a time bound manner. Above all, the Court staff Shailendra Vashisth, Pramod Kumar, Yougal Kishore, Monika Rawal, Ghanshyam, Praveen Bhatt, Praveen Kumar, Abhimanyu and Dinesh and the police authorities, particularly Inspector Ram Avtar, SI Puran Chand and many others for making necessary arrangements to ensure the conduct of the trial in a peaceful manner despite huge number of persons involved in the litigation and administrative constraints. Lastly I also place my appreciation on record for the members of the Non Government Organization – Human Rights Law Network (HRLN) for tirelessly working for securing justice to the victims of atrocity.

I direct that a copy of the judgement and order on sentence be given to the convicts free of costs and another copy of sentence be attached with their jail warrants. Copy of the judgement along with the sentence be also sent to the Chief Secretary, Government of Haryana for information and compliance and one copy be sent to the Secretary General, Rajya Sabha to be placed before the concerned committee dealing with Legislative matters.

File be consigned to Record Room to be taken up on the arrest of accused *Jasbir @ Leelu* who is a Proclaimed Offender.

Announced in the open court

(Dr. KAMINI LAU)

Dated: 31.10.2011

ASJ-II(NW)/ Spl. Judge (SC/ST Cases)  
Rohini Courts, Delhi



ISBN 81-89479-79-8



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In April 2010, dominant caste persons collected in a mob and brutally attacked the Dalits (Balmikis) of Mirchpur village, Hisar district in the state of Haryana. They set fire to the houses after looting them. 70-year old Tarachand and his disabled daughter, 17-year old Suman were burnt alive in their home. More than 50 people sustained injuries. The entire Dalit community fled the village and have remained away to this day. The assailants received the full support of the state of Haryana as the dominant community is politically powerful. After committing the most brutal crimes, the dominant community has managed to pressure the victims to withdraw cases and not give evidence in Court against their assailants. It is this inability of the criminal justice system to prosecute offenders that has resulted in a sense of invincibility on the part of the dominant community... Now, the most important issue that survives in the Supreme Court petition relates to rehabilitation of the victim community. Ever since they fled Mirchpur, they have been living at the Tanwar Farm House, Hisar. For over two years now, these families have been destitute without food, medical attention and employment. Their children have been out of school. Their lives are insecure and the dominant community may attack them at any time. Accordingly, they seek from the Supreme Court orders directing the state of Haryana to provide them adequate alternative land so that they may build a new village where the Balmikis may stay... The story is far from over...Lawyers and social activists, who champion such causes and take up such cases, are reconciled to facing such threats and attacks. But it makes the journey for the emancipation and protection of Dalits all the more difficult and protracted.