



\* IN THE HIGH COURT OF DELHI AT NEW DELHI

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*Reserved on: 24.07.2026*

*Date of decision: 05.10.2026*

# CNR No : DLHC010152292020

+ W.P.(CRL) 665/2020, CRL.M.A. 5109/2020, CRL.M.A. 5330/2020  
CRL.M.A. 5367/2020 & CRL.M.A. 9161/2020

SHAIKH MUJTABA FAROOQ & ORS. ....Petitioners

versus

UNION OF INDIA & ORS. ....Respondents

# CNR No : DLHC010143172020

+ W.P.(CRL) 588/2020, CRL.M.A. 5365/2020, CRL.M.A. 9659/2020  
CRL.M.A. 8160/2022& CRL.M.A. 14970/2022

LAWYERS VOICE ....Petitioner

versus

UNION OF INDIA & ORS. ....Respondents

# CNR No : DLHC010156012020

+ W.P.(CRL) 700/2020  
DEEPAK MADAN

....Petitioner

versus

THE STATE (GOVT. OF NCT OF DELHI) & ORS. ....Respondents

# CNR No: DLHC010142982020

+ W.P.(C) 2296/2020  
AJAY GAUTAM

....Petitioner

versus

GNCT OF DELHI AND ORS. ....Respondents

# CNR No : DLHC010164662020

+ W.P.(C) 3003/2020  
JAMIAT ULAMA-I-HIND THROUGH GENERAL SECRETARY

....Petitioner

versus

UNION OF INDIA & ORS. ....Respondents

# CNR No: DLHC010159852020



+ W.P.(C) 2836/2020 & CM APPL. 9860/2020  
JAMIAT ULAMA-I-HIND .....Petitioner  
versus  
UNION OF INDIA & ORS. ....Respondents  
# **CNR No : DLHC010152572020**  
+ W.P.(CRL) 669/2020, CRL.M.A. 5122/2020, CRL.M.A. 6229/2020  
& CRL.M.A. 26094/2024  
BRINDA KARAT .....Petitioner  
versus  
STATE & ANR. ....Respondents

**MEMO OF APPEARANCE FOR PETITIONER(S)**

Mr. Ajay Gautam, petitioner in-person in W.P.(C)2296/2020.  
Mr. M. Taiyab Khan, Advocate in W.P.(C) 2836/2020 and W.P.(C) 3003/2020.  
Mr. Kirti Uppal, Senior Advocate with Mr. Puneet Dhawan, Adv. & Mr. Neeraj (applicant in-person) in W.P.(CRL) 588/2020 & W.P.(CRL) 665/2020  
Mr. Colin Gonsalves, Sr. Adv. with Mr. Kamran Khwaja, Mr. Mohd. Tanvir Ali. Advocates in W.P.(CRL) 665/2020.  
Ms. Kirti Singh, Ms. Shivangi Sharma, Mr. Harshvardhan Jain, Advs. in W.P.(CRL) 669/2020.

**MEMO OF APPEARANCE FOR RESPONDENT(S)**

Mr. Syed Abdul Haseen (CGSC), Mr. Muhammad Aamir Khan & Mr. Syed Abdur Rahman, Advs. for UOI.  
Mr. S.V. Raju, ASG with Mr. Rajat Nair (SPP), Mr. Dhruv Pande, Mr. Shivanshu Tripathi & Mr. Akshaja Singh, Advs. for State; Mr. K. K. Mishra, Additional Standing Counsel for JMI. in W.P.(CRL) 665/2020, W.P.(C) 2296/2020, W.P.(C) 2836/2020, W.P.(CRL) 588/2020 & W.P.(C) 3003/2020.  
Mr. Prateek K. Chadha, Mr. Sreekar Aechuri, Mr. Aniket Chauhan and Ms. Surbhi Soni, Advs.; Ms. Tarannum Cheema, Adv. for respondent nos.4 & 5; Mr. Zeeshan Ahman, Adv. for respondent nos.12 & 13; Mr. Harsh Prabhakar, Mr. Yash Kotak and Mr. Dhruv Choudhary, Advs. for respondent no.23; Ms. Sanya Kumar & Mr. Sahil Ghai, Advs. for respondent no.15 in W.P.(CRL) 588/2020.  
Mr. S.V. Raju, ASG with Mr. Rajat Nair (SPP), Mr. Dhruv Pande & Mr. Shivanshu Tripathi and Mr. Akshaja Singh, Advs. for State in



W.P.(CRL) 665/2020 & W.P.(CRL) 669/2020 W.P.(CRL) 700/2020.  
Mr. Vedansh Anand (SPC) & Mr. Kush Garg, Advs. for UOI;  
Mr. Ajay Burman, Sr. Adv. with Mr. Varun Seth and Mr. Karan  
Burman, Advs. for Respondent no.7 in W.P.(CRL) 665/2020.

**CORAM:**

**HON'BLE MR. JUSTICE VIVEK CHAUDHARY**

**HON'BLE MR. JUSTICE MANOJ JAIN**

**JUDGMENT**

**INTRODUCTION**

1. These petitions arise from the outbreak of violence occurred in at the North-East District of Delhi in February 2020 consequent to the enactment of CAA<sup>1</sup> and proposed NRC<sup>2</sup>. The petitioners have invoked the writ jurisdiction of this Court seeking various directions against the respondents. Since the petitions arise from the same events and raise common issues, they are being heard and decided together.

2. The present batch consists of seven petitions. The gist of reliefs sought in each petition is tabularized below:

| Sr. No. | Petition Number             | Gist of the Reliefs Sought                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|---------|-----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1       | W.P. (Crl.) No. 665 of 2020 | <p>1. To register FIRs against 1) Kapil Mishra 2) Anurag Thakur 3) Parvesh Verma and 4) Abhay Verma and all those persons who engaged in criminal activities under Sections 147, 148, 149, 153A, 153B, 120B, 295A, 320, 302 and 307 of IPC read with Sections 3 &amp; 4 of Damage of Public Property Act.</p> <p>2. To Constitute an SIT.</p> <p>3. To request Indian Army to maintain law and order in Delhi in the areas concerned.</p> <p>4. For an order directing a retired Judge to enquire into the communal attacks and to identify the</p> |

<sup>1</sup> Citizenship Amendment Act, 2019.

<sup>2</sup> National Register of Citizens.



|   |                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|---|------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   |                              | <p><i>police persons Involved in rioting and criminal conduct and appropriate action against them</i></p> <p>5. <i>Compensation to those who are killed or injured in the violence.</i></p> <p>6. <i>Direction to Respondents to declare on their website the full list with names of those who were detained with all the details.</i></p> <p>7. <i>To provide such detained persons access to their family members and to legal counsel.</i></p> <p>8. <i>To preserve the evidence and CCTV footage of all cameras in and around the protest sites.</i></p> <p>9. <i>Direction to provide the families of the affected persons with post mortem reports and medical records etc.</i></p> <p>10. <i>To conduct DNA test where unidentifiable parts of the body of the deceased persons are available and to keep the bodies of the deceased in a dignified manner.</i></p> <p>11. <i>To provide adequate cooked food to all the affected families</i></p> <p>12. <i>To ensure safety and protection of all the protest sites, especially women and children.</i></p> |
| 2 | W.P. (Crl.) No. 588 of 2020  | <p>1. <i>To constitute SIT to look into the hate speeches and take appropriate action.</i></p> <p>2. <i>To register FIR against those named in the petition i.e. Smt. Sonia Gandhi, Sh. Rahul Gandhi, Smt. Priyanka Gandhi Vadra, Sh. Manish Sisodia, Md. Amanatullah Khan, Waris Pathan, Akbaruddin Owaisi and Mehmood Pracha.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 3 | W.P. (Crl.) No. 700 of 2020. | <p>1. <i>To register case against all the persons involved in giving hate speeches and provoking riots.</i></p> <p>2. <i>To constitute a SIT and compute the damage caused to the public property as well as to the property of the public persons and then attach and sell the properties of (1) WARIS PATHAN (2) MOHD TAAHIR HUSSAIN (3) SALMAN KHURSHID (4) FAIZUL HASSAN (5) AKBARUDDIN OWAISI (6) SONIA GANDHI (7) KAPIL MISHRA (8) ANURAG THAKUR (9) ISHRAT JAHAN (10) SARJEEL IMAM and disburse the amount to the victims affected by the riots in the interest of justice.</i></p> <p>3. <i>To direct the respondent to restrain any political party or person from giving any speech and</i></p>                                                                                                                                                                                                                                                                                                                                                             |



|   |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|---|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   |                           | <i>organize any rally until the peace and situation within Delhi is under control and normal.”</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 4 | W.P. (C) No. 2296 of 2020 | <ol style="list-style-type: none"> <li>1. To evacuate so-called protestors from the protest sites.</li> <li>2. To investigate the matter to find out anti national forces behind these protests.</li> <li>3. To identify Anti-India Forces who are funding and sponsoring these Anti-India protests and are openly threatening to kill Prime Minister and Home Minister of India.</li> <li>4. To depute/deploy appropriate force at North East Delhi.</li> <li>5. To register case against the Waris Pathan, Assuaddin Owashi, Salman Khurshid and other persons for provoking citizens / protesters.</li> </ol>                                                                                                                                                                                                                                      |
| 5 | W.P. (C) No. 3003 of 2020 | <ol style="list-style-type: none"> <li>1. To restrain police from picking or arresting the Delhi riots-2020 victims/ protestors.</li> <li>2. To put on hold the investigation till report is given by SIT headed by retired Judge of Delhi High Court or Supreme Court.</li> <li>3. To take departmental action against concerned police officials.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 6 | W.P. (C) No. 2836 of 2020 | <ol style="list-style-type: none"> <li>1. To register FIRs against the culprits/rioters and the same may be investigated by constituting SIT headed by a judicial member, a retired judge of the Hon'ble Supreme Court or Delhi High Court.</li> <li>2. To take criminal legal action and disciplinary action against the erring Delhi police personnel.</li> <li>3. To preserve the video footage of the riots affected areas.</li> <li>4. To provide adequate compensation in accordance with the scheme as commensurate with the scheme of providing compensation to Sikh riots victims of 1984 Delhi riots.</li> <li>5. To insert new section 153C (Prohibiting incitement to hatred) and section 505A (Causing fear, alarm, or provocation of violence in certain cases) as per the 267th Report of Law Commission of India of India.</li> </ol> |
| 7 | W.P. (Crl.) No.           | <ol style="list-style-type: none"> <li>1. To display the names of arrested persons in</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |



|  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|--|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | 669 of 2020 | <p><i>terms of Section 41-C of Cr.P.C.</i></p> <p>2. <i>To send information by the police to the Executive magistrate in terms of the mandate of Section 174(1) Cr.P.C.</i></p> <p>3. <i>To call for a status report disclosing the names of persons detained</i></p> <p>4. <i>To upload the so-called 500+ FIRs registered by them on website and make the same available immediately to accused and victims alike</i></p> <p>5. <i>To depute nodal officers in the relief camps and to guide the victims in accessing relief and compensation.</i></p> <p>6. <i>To direct investigation by an independent investigating agency</i></p> <p>7. <i>To direct the probe into police atrocities to be monitored by Jurisdictional Magistrates.</i></p> |
|--|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

3. The perusal of the aforesaid reliefs makes it evident that certain reliefs have become stale with the efflux of time. Realizing the same, the learned counsels for the petitioners, at the outset, in all fairness, submitted that they confine their arguments to the surviving reliefs, which are prayers concerning (i) registration of criminal cases against persons alleged to have delivered inflammatory speeches; (ii) transfer of investigation to an independent agency or constitution of a Special Investigation Team (SIT), against the allegations of police inaction, complicity and misconduct during the riots; (iii) preservation of evidence, including CCTV footage and other electronic records (iv) compensation and rehabilitation of victims.

4. It is imperative to note that except the aforesaid, no other relief is sought or arguments are raised on behalf of the petitioners.

5. Before examining the surviving prayers, we may take note of the factual backdrop in which the aforesaid reliefs are sought.



6. The CAA was passed by both Houses of Parliament and received assent of the President of India on 12.12.2019. Its enactment led to demonstrations and protests at several places across the country. While many of these protests remained peaceful, certain incidents escalated into violence resulting in damage to public and private property and disruption of law and order.

7. According to the petitioners, protests were held across universities, public spaces and residential neighbourhoods, etc. As the Delhi Assembly elections approached, the discourse surrounding the CAA became increasingly polarized. The petitioners allege that certain inflammatory statements were made by various political leaders during this period, which aggravated the atmosphere surrounding the protests. The immediate trigger for the violence were the events that took place on 23.02.2020, when women protesters assembled near Jaffrabad Metro Station, wherein Counter-mobilizations took place leading to widespread communal violence. The petitioners also claim that the statements made in the vicinity of the protest-sites further aggravated the situation and contributed to the escalation of tensions.

8. Over the next several days, large parts of North-East Delhi including Jaffrabad, Maujpur, Chand Bagh, Bhajanpura, Gokulpuri, Mustafabad, Shiv Vihar, Karawal Nagar and neighbouring areas witnessed incidents of arson, vandalism, stone-pelting and communal violence. Homes, shops, vehicles and places of worship were damaged or destroyed. Families were forced to take shelter in relief camps, schools and community centres, while others depended upon the support of volunteers, charitable organizations and local residents. The petitioners claim to have approached competent police



authorities seeking registration of criminal cases against the individuals concerned for offences punishable under Sections 153A, 153B, 295A, 298, 504, 505 and allied provisions of Indian Penal Code.

9. Against the aforesaid, the present batch of petitions came to be instituted before this Court in the year 2020. Quite clearly, these petitions have remained pending for a considerable period. In the interregnum significant factual developments have taken place.

10. In relation to the allegations concerning inflammatory speeches, Ms. Brinda Karat (petitioner in W.P. (Crl.) 669 of 2020) preferred a Complaint dated 29.01.2020 to the Commissioner of Police, Delhi against Mr. Anurag Thakur and Mr. Parvesh Verma alleging, *inter alia*, incitement of communal enmity, extending threats and making statements, prejudicial to national integration. She sent another communication on 31.01.2020, alleging inaction and seeking registration of FIR. Thereafter, she filed an application under Section 156 (3) of the Cr.P.C., seeking registration of FIR for commission of offences under, *inter alia*, Sections 153A, 153B, 295A, 298, 504, 505, 506 of the Indian Penal Code, 1860. Such application was dismissed by the learned magisterial court *vide* Order dated 26.08.2020, on the ground that no sanction under Section 197 of Cr.P.C had been obtained by the petitioner. Said order dated 26.08.2020 was challenged by filing W.P. (Crl.) No. 1624/2020, which was dismissed by this Court *vide* Judgment 13.06.2022, holding that where the alleged offences were covered by Section 197 of the Cr.P.C., prior sanction was required, before a Magistrate could direct registration of an FIR or investigation under Section 156(3). Aggrieved, SLP (Crl.) No. 5107/2023 was preferred before the Supreme Court, which was disposed of by way of judgment dated 29.04.2026 titled as



**“Ashwini Kumar Upadhyay v. Union of India & Ors.”.**

11. Investigations into the incidents have also progressed. A total of 757 criminal cases were registered, of these, as on 19.02.2026, 65 cases stood transferred to the Crime Branch for investigation. Charge-sheets were filed in 369 cases, of which proceedings in 212 cases were pending before the competent criminal courts, while investigation in 249 cases continued to remain in progress. The criminal courts had, in the meantime, rendered judgments which have resulted in 22 convictions, 108 acquittals and 16 orders of discharge, apart from disposal of other proceedings in accordance with law.

12. A further development concerns the claims of compensation. During the pendency of these petitions, GNCTD appointed a retired Judge of this Court as Claim Commissioner to investigate the extent of damages and to award compensation in relation to the riots that shook North-East District of Delhi. Taking note of the same, this Court *vide* Order dated 31.01.2023 passed in ***Hinu Mahajan and Anr. Vs. Union of India and Ors. W.P. (C) 2893 of 2020***, found that since the Government had already appointed Claim Commissioner to inquire into the damage caused during the CAA protests and to determine the compensation payable, and the Delhi Police had also registered the necessary FIRs and initiated criminal proceedings in respect of the damage to public and private property, the principal grievances raised in said petition stood adequately addressed and thus the writ petition was disposed of finding that no further directions were required.

### **SUBMISSIONS AND DISCUSSION**

13. We have heard the learned counsel for the parties and perused the record.



14. The surviving prayers have to be examined within the scope of the jurisdiction exercised by this Court under Article 226 of the Constitution. The jurisdiction of the High Courts under Article 226 is undoubtedly wide, however, it is invoked primarily for protection of legal and fundamental rights. Such exercise of writ jurisdiction is also subject to some inherent limitations which are well-recognized and it cannot be exercised on mere asking. It is extraordinary, equitable and discretionary in nature and is not intended to supplant or displace the established statutory procedures. The scope of the jurisdiction, therefore, does not imply that every grievance, however serious, must necessarily be adjudicated by the High Court in exercise of Article 226, particularly where the law provides an effective mechanism for its examination by the competent statutory or judicial authority.

15. In ***State of West Bengal & Ors. v. Committee for Protection of Democratic Rights, West Bengal & Ors., (2010) 3 SCC 571***, the Constitution Bench held as under:

*“70. Before parting with the case, we deem it necessary to emphasise that despite wide powers conferred by Articles 32 and 226 of the Constitution, while passing any order, the Courts must bear in mind certain self-imposed limitations on the exercise of these constitutional powers. The very plenitude of the power under the said articles requires great caution in its exercise. Insofar as the question of issuing a direction to CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or*



*where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations.”*

*(emphasis supplied)*

16. Further, with respect to power of court to transfer investigation, in **K.V. Rajendran v. Superintendent of Police, CBCID South Zone, Chennai & Ors. (2013) 12 SCC 480**, the Supreme Court held as under:

*17. In view of the above, the law can be summarised to the effect that the Court could exercise its constitutional powers for transferring an investigation from the State investigating agency to any other independent investigating agency like CBI only in rare and exceptional cases. Such as where high officials of State authorities are involved, or the accusation itself is against the top officials of the investigating agency thereby allowing them to influence the investigation, and further that it is so necessary to do justice and to instil confidence in the investigation or where the investigation is prima facie found to be tainted/biased.”*

17. It is equally trite that such constitutional power has to be exercised keeping in view the nature of the proceedings in which such relief is sought. Where the proceedings are instituted in the nature of public interest litigation and the relief sought concerns criminal investigation or prosecution, the Court must be cautious in converting its extraordinary jurisdiction into a mechanism for supervising or controlling the ordinary criminal process.

18. In **Janata Dal v. H.S. Chowdhary & Ors., (1992) 4 SCC 305**, the Supreme Court emphasised that public interest litigation cannot be allowed to become a vehicle for pursuing matters that belong within the domain of



criminal law. Likewise, in ***Simranjit Singh Mann v. Union of India & Anr.***, (1992) 4 SCC 653, the Supreme Court held as below:

*“7. ....On first principles we find it difficult to accept Mr Sodhi's contention that such a public interest litigation commenced by a leader of a recognised political party who has a genuine interest in the future of the convicts should be entertained. In S.P. Gupta v. Union of India [1981 Supp SCC 87] , Bhagwati, J. observed : (SCC p. 219, para 24)*

*“But we must be careful to see that the member of the public, who approaches the court in cases of this kind, is acting bona fide and not for personal gain or private profit or political motivation or other oblique consideration. The court must not allow its process to be abused by politicians and others ....”*

*These observations were made while discussing the question of ‘locus standi’ in public interest litigation. These words of caution were uttered while expanding the scope of the ‘locus standi’ rule. These words should deter us from entertaining this petition. This accords with the view expressed by this Court in Krishna Swami v. Union of India [(1992) 4 SCC 605 : JT 1992 (5) SC 92].”*

19. The same principle was reiterated by the Supreme Court in ***Rajiv Ranjan Singh ‘Lalan’ (VIII) & Anr. v. Union of India & Ors.***, (2006) 6 SCC 613, wherein the Court cautioned against unnecessary interference in pending criminal proceedings through public interest litigation. Referring to the settled position that, upon filing of the charge-sheet before the competent court, the process of monitoring by a constitutional court comes to an end, the Court found that *“monitoring of pending trial is subversion of criminal law”*, as it would amount to the Court entering into a dialogue with the investigating agency behind the back of the accused. The Court further held



that intervention by persons having no connection with the criminal proceedings could damage the prosecution case, cause prejudice to the accused and, ultimately, deny the accused a fair trial. The decision, thus, reiterates that PIL jurisdiction cannot ordinarily be invoked to have supervisory control over pending criminal proceedings or to interfere with the statutory procedure governing investigation and trial.

20. The said position was also considered by the Supreme Court in ***Tehseen Poonawalla v. Union of India & Anr.*, (2018) 6 SCC 72**, wherein the Court held:

*“98. The misuse of public interest litigation is a serious matter of concern for the judicial process. Both this Court and the High Courts are flooded with litigations and are burdened by arrears. Frivolous or motivated petitions, ostensibly invoking the public interest detract from the time and attention which courts must devote to genuine causes. This Court has a long list of pending cases where the personal liberty of citizens is involved. Those who await trial or the resolution of appeals against orders of conviction have a legitimate expectation of early justice. It is a travesty of justice for the resources of the legal system to be consumed by an avalanche of misdirected petitions purportedly filed in the public interest which, upon due scrutiny, are found to promote a personal, business or political agenda. This has spawned an industry of vested interests in litigation. There is a grave danger that if this state of affairs is allowed to continue, it would seriously denude the efficacy of the judicial system by detracting from the ability of the court to devote its time and resources to cases which legitimately require attention. Worse still, such petitions pose a grave danger to the credibility of the judicial process. This has the propensity of endangering the credibility of other institutions and undermining public faith in democracy and the rule of law. This will happen when the agency of the court is utilised to settle extra-judicial scores. Business rivalries have to be resolved in a competitive market for goods and services. Political rivalries have to be resolved in the great hall of democracy when the electorate votes its representatives in and out of*



*office. Courts resolve disputes about legal rights and entitlements. Courts protect the rule of law. There is a danger that the judicial process will be reduced to a charade, if disputes beyond the ken of legal parameters occupy the judicial space.”*

21. Having noticed the aforesaid, we now proceed to examine the prayers that survive for determination.

**PRAYER FOR REGISTRATION OF CRIMINAL CASES AGAINST PERSONS ALLEGED TO HAVE DELIVERED INFLAMMATORY SPEECHES**

22. One of the principal reliefs sought in the present batch of petitions is direction to Delhi Police to register FIRs against named individuals who are alleged to have delivered inflammatory speeches. It is contended that the speeches, transcripts and video recordings disclose *prima facie* commission of offences punishable under Sections 153A, 153B, 295A, 298, 504, 505 etc of the IPC.

23. Mr. Colin Gonsalves and Mr. Kirti Uppal, learned senior counsels, submitted that the petitions seek registration of criminal cases against certain public functionaries who were specifically named in the pleadings and whose speeches had incited communal hatred and contributed to the violence. It was contended that the continued failure of the investigating agency to initiate criminal proceedings against such persons reflected a selective and discriminatory approach in discharge of its statutory duties.

24. They submitted that the material placed on record, including contemporaneous video recordings, photographs, transcripts of speeches and other documentary material, establish a clear nexus between the said speeches and the communal violence in question. It is further submitted that



repeated complaints seeking registration of FIRs had been addressed to the competent authorities and despite the availability of material disclosing cognizable offences, no effective action has been taken yet.

25. Mr. M. Taiyab Khan, Mr. Kirti Singh and other counsels adopted the aforesaid submissions.

26. Mr. S. V. Raju, learned ASG, opposed such prayer and submitted that prayers are directed against identified political and public figures of different parties/groups in selective manner. According to him, the petitions are politically motivated and seek to invoke the jurisdiction of this Court against particular individuals while overlooking the larger factual and legal context in which the incidents occurred. He further submitted that the abovesaid issue also stands comprehensively covered by the judgment of **Ashwini Kumar Upadhyay (supra)**, wherein the Supreme Court has examined the issues arising out of the very same factual backdrop and has laid down the governing principles. Therefore, the prayers in the present petitions must necessarily be examined in light of the said judgment.

27. We have considered the rival submissions advanced.

28. The record before us does indicate an element of political selectivity in the manner in which certain individuals and particular speeches have been targeted for action by respective petitioners. The Court, however, does not find it necessary to record any finding on the subjective motive of the petitioners at this stage.

29. The legal principles governing registration of FIRs, where information discloses commission of a cognizable offence, are well-settled. These principles have been repeatedly explained and re-stated by the Supreme Court. More importantly they have been reconsidered in the



context of alleged hate speeches in *Ashwini Kumar Upadhyay (supra)*. Though, it may not be required for this Court to revisit the entire jurisprudence, we may in brief refer to *Lalita Kumari vs. Government of Uttar Pradesh & Ors.*, (2014) 2 SCC 1 and *Sakiri Vasu v. State of Uttar Pradesh & Ors.*, (2008) 2 SCC 409.

30. *Lalita Kumari (supra)* continues to hold the field and lays down the governing principle that registration of an FIR is mandatory where the information received by the police discloses commission of a cognizable offence. There can be no quarrel with the said proposition. The question before this Court is whether, in the facts of the present case, a further direction for registration of criminal cases against the persons named in these petitions is warranted.

31. The obligation recognised in *Lalita Kumari (supra)* operates at the stage of receipt of information by the police. Where the police is alleged to have failed to discharge that obligation, or where a person remains aggrieved by the manner in which the investigation is being conducted thereafter, the criminal procedure itself provides remedies for redressal of such grievance.

32. *Sakiri Vasu (supra)* specifies such complete and efficacious statutory framework where a person is, eventually, aggrieved by non-registration of an FIR or by the manner in which an investigation is being conducted. The Court held as under:

*“25. We have elaborated on the above matter because we often find that when someone has a grievance that his FIR has not been registered at the police station and/or a proper investigation is not being done by the police, he rushes to the High Court to file a writ petition or a petition under Section 482 CrPC. We are of the opinion that the*



*High Court should not encourage this practice and should ordinarily refuse to interfere in such matters and relegate the petitioner to his alternating remedy, first under Section 154(3) and Section 36 CrPC before the police officers concerned, and if that is of no avail, by approaching the Magistrate concerned under Section 156(3).*

*26. If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under Section 154(3) CrPC or other police officer referred to in Section 36 CrPC. If despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under Section 156(3) CrPC instead of rushing to the High Court by way of a writ petition or a petition under Section 482 CrPC. Moreover, he has a further remedy of filing a criminal complaint under Section 200 CrPC. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?*

*27. As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot investigate himself). The High Court should discourage the practice of filing a writ petition or petition under Section 482 CrPC simply because a person has a grievance that his FIR has not been registered by the police, or after being registered, proper investigation has not been done by the police. For this grievance, the remedy lies under Sections 36 and 154(3) before the police officers concerned, and if that is of no avail, under Section 156(3) CrPC before the Magistrate or by filing a criminal complaint under Section 200 CrPC and not by filing a writ petition or a petition under Section 482 CrPC.*

*28. It is true that alternative remedy is not an absolute bar to a writ petition, but it is equally well settled that if there is an alternative remedy the High Court should not ordinarily interfere.”*



33. The statutory remedies contemplated in ***Sakiri Vasu (supra)*** were, in fact, not invoked before the competent courts by most of the petitioners, but, by one. The petitioner in W.P.(Crl.) No. 669 of 2020 had submitted a complaint seeking registration of an FIR against certain individuals alleging commission of offences under Sections 153A, 153B, 295A, 504, 505 and 506 of the IPC. Aggrieved by non-registration of FIR, the petitioner invoked the jurisdiction of the Magistrate under Section 156(3) Cr.P.C., however, such application came to be dismissed and the challenge thereto before this Court also failed, whereafter the matter reached the Supreme Court in SLP (Crl.) No. 5107 of 2023 and culminated in judgment of ***Ashwini Kumar Upadhyay (supra)***.

34. The said judgment has a direct bearing upon the legal framework within which the present relief is required to be considered. The Supreme Court in the ***Ashwini Kumar Upadhyay (supra)***, after analysing the reliefs sought therein, framed issues for consideration, which are as under:

*“4. Upon glancing the prayers made, we find that qua some of the prayers, the matter has become infructuous as they pertained to the pandemic and directions to the respondent-Union to that effect. Therefore, largely the present batch of petitions give rise to the following issues:-*

*I. Whether this Court can create or expand criminal offences in the absence of legislative action?*

*II. Whether the existing field of substantive criminal law adequately deals with offences relating to hate speech, or the field is legislatively unoccupied?*

*III. Whether the existing framework of criminal procedural law provides adequate and efficacious remedies to address the grievances raised by the petitioners, particularly in cases of nonregistration of a First Information Report?*



IV. Whether continuing mandamus should be issued in the present case?”

After examining the aforesaid issues, Supreme Court held as under:

*“98.1. On the first issue, we hold that this Court, in exercise of its constitutional jurisdiction, cannot create or expand criminal offences or prescribe punishments in the absence of legislative sanction. Any such exercise would transgress the settled doctrine of separation of powers and encroach upon the legislative domain.*

*98.2. On the second issue, we find that the field of substantive criminal law governing hate speech is not unoccupied. The existing statutory framework contains adequate provisions to address acts that promote enmity, hatred, or disturb public order. The grievance projected before us pertains not to any legislative vacuum, but to issues of enforcement.*

*98.3. On the third issue, we hold that the procedural framework under the CrPC (now Bharatiya Nagarik Suraksha Sanhita, 2023) provides a comprehensive and multi-tiered mechanism to address grievances arising from non-registration of FIRs. The remedies available under Sections 154(3), 156(3) and 200 of the CrPC, coupled with the supervisory jurisdiction of the Magistrate, constitute an efficacious statutory scheme.*

*98.4. We further clarify that while constitutional remedies under Articles 32 and 226 remain available as a safeguard against failure of statutory authorities, such jurisdiction is extraordinary in nature and ought not to be invoked in a routine manner so as to bypass the remedies provided under the statutory framework.*

*98.5. On the fourth issue, we are not inclined to issue a writ of continuing mandamus. In the absence of any legislative vacuum or systemic failure of such magnitude as would warrant continuous judicial monitoring, such a course would be neither justified nor consistent with the principle of judicial restraint.”*

35. The Supreme Court also partly allowed the criminal appeal and set aside the judgment of this Court dated 13.06.2022, to the limited extent that



prior sanction was a pre-condition for a Magistrate to direct registration of an FIR under Section 156(3) of the Cr.P.C. The Supreme Court did not itself direct registration of any FIR or order any continuing judicial supervision of any investigation.

36. The aforesaid pronouncement in ***Ashwini Kumar Upadhyay (supra)*** leaves little scope for this Court to independently revisit the legal principles governing the relief sought before us. The issue sought to be projected before us substantially overlaps, in every which way- legal, factual and/or procedural, with the one in ***Ashwini Kumar Upadhyay (supra)***. The complaints concerning inflammatory speeches, the grievance of police inaction and the recourse to statutory remedies constitute important features of the proceedings which ultimately travelled to the Supreme Court. No subsequent development has been brought to our notice which may warrant issuance of direction for registration of FIRs in exercise of the extraordinary jurisdiction of this Court.

37. Furthermore, the material relied upon by the petitioners consists, *inter alia*, of transcripts, video recordings, newspaper clippings and reports or recordings circulated through print and electronic media. In several instances, only portions or excerpts of the purported speeches have been placed on record. The completeness and authenticity of those speeches have not been established before us, and the context in which such statements have made is also disputed. We, therefore, cannot proceed on the assumption that the material placed before us represents complete and accurate versions of the speeches or record a definitive finding of fact as to their contents or context. The evidentiary value and authenticity of such material are matters which can appropriately be examined by the competent



investigating or criminal forum, in accordance with law. The limited question is whether the material placed before us, considered in its entirety and in the context of the statutory remedies available/already pursued, discloses circumstances warranting a further direction under Article 226.

38. It also cannot be overlooked that the present petitions are pending for more than six years. During this period, the criminal justice process has significantly progressed as noticed earlier. The criminal law has, thus, taken its own course and continues to operate through the ordinary judicial process.

39. It must equally be borne in mind that the jurisdiction under Article 226 is discretionary. The mere existence of power does not invariably warrant its exercise. As explained in ***Sakiri Vasu (supra)*** and reaffirmed in ***Ashwini Kumar Upadhyay (supra)***, where the legislature has provided a comprehensive statutory mechanism for redressal of grievances relating to non-registration of FIRs and investigation, constitutional courts should ordinarily insist upon recourse to those remedies unless exceptional circumstances are shown to exist. The present case, in our considered view, does not disclose any such exceptional circumstance warranting a further direction for registration of criminal cases.

40. For all the aforesaid reasons, we are of the considered opinion that no case is made out for issuance of a writ directing registration of criminal cases against any particular individual or for issuance of any further direction in relation thereto. This conclusion, however, shall not be construed as expressing any opinion upon the merits of any individual complaint or as precluding the competent authorities or the jurisdictional



courts from taking such action as may be permissible in accordance with law, if the facts and circumstances of any particular case so warrant.

**PRAYER FOR TRANSFER OF INVESTIGATION TO AN INDEPENDENT AGENCY OR CONSTITUTION OF A SPECIAL INVESTIGATION TEAM, INCLUDING THE ALLEGATIONS OF POLICE INACTION, COMPLICITY AND MISCONDUCT DURING THE RIOTS**

41. The next surviving prayer is for transfer of the investigation relating to the North-East Delhi riots to an independent agency or for constitution of a Special Investigation Team comprising officers unconnected with the Delhi Police. The prayer is founded principally on allegations of police inaction, failure to register complaints, improper investigation and, in some cases, active participation of police personnel in the violence.

42. Mr. Colin Gonsalves, learned Senior counsel, submitted that contemporaneous video recordings, photographs, victim testimonies and various fact-finding reports disclose instances where police personnel allegedly failed to intervene, declined to register complaints, delayed investigations or participated in unlawful acts. Reliance was also placed on the Report of the *Delhi Minorities Commission* and other reports to contend that the investigation proceeded in a selective manner and that the complaints against members of the police or by members of the minority community were not dealt with in a fair manner. It was further submitted that statutory safeguards relating to arrest, detention, production before the Magistrate, maintenance of arrest records and inquest proceedings were not complied with. Particular reliance was placed on Sections 41B, 41C, 41D and 174 of the Cr.P.C. It was contended that, where allegations themselves



are directed against the police, the investigation ought not to remain with the same agency.

43. Placing reliance upon *Committee for Protection of Democratic Rights (supra)*, *Rubabbuddin Sheikh v. State of Gujarat & Ors.*, (2010) 2 SCC 200, and the decision of this Court in W.P. (CRL) 2349/2015 titled as *Rabia @ Mamta & Anr. v. NCT of Delhi & Ors.*, learned senior counsel submitted that where serious allegations are made against the local police and the investigation does not inspire confidence, an independent investigation ought to be ordered. It was, therefore, urged that an independent investigative mechanism be constituted and that appropriate criminal and departmental proceedings be initiated against such police officials as may, upon investigation, be found to have acted in dereliction of their duties or in violation of law.

44. *Per contra*, learned ASG submitted that the investigation into the incidents occurred in North-East Delhi has substantially progressed over the last several years and that the criminal justice process has moved far beyond the stage at which the present petitions were instituted. Constitution of a Special Investigation Team or transfer of investigation would not only duplicate the investigative exercise already undertaken but would also have the potential of unsettling the proceedings which have already culminated into judgments or filing of chargesheet and pending adjudication. Mere dissatisfaction on the part of certain complainants with the manner of investigation or the conclusions drawn by the investigating agency cannot, by itself, constitute a ground for directing *en bloc* transfer of investigation or constituting any SIT.

45. We have considered the rival submissions advanced.



46. The principles governing transfer of investigation to an independent agency are well settled. As already noted above, the Constitution Bench of the Supreme Court in ***Committee for Protection of Democratic Rights (supra)***, while affirming the power of the constitutional courts to direct investigation by an independent agency, cautioned that such jurisdiction itself demands great circumspection in its exercise. This principle has consistently been reiterated by the Supreme Court. In ***Rubabbuddin Sheikh (supra)*** the Supreme Court found that transfer of investigation is warranted only where it becomes necessary to ensure a fair, honest and impartial investigation capable of inspiring public confidence. In ***K.V. Rajendran (supra)***, it was held that transfer of investigation to an independent agency is justified only in “*rare and exceptional cases*”, where it becomes necessary to provide credibility and instil confidence in the investigation or where such transfer is otherwise necessary to secure complete justice. The decision in ***Rubabbuddin Sheikh (supra)*** illustrates the circumstances in which such intervention may become necessary. There, the allegations were directed against senior police officials themselves and the Supreme Court found that the State police could not satisfactorily continue with the investigation. The transfer was directed to do justice and to install confidence in the minds of the victims and the public. The principle emerging from these decisions is, therefore, clear that the mere making of allegations against the police is not sufficient and there must be material indicating that the existing investigation is so compromised, tainted or lacking in credibility that intervention of a constitutional court becomes necessary.



47. The legal position has undergone further crystallisation during the pendency of these proceedings as evident from findings recorded in ***Ashwini Kumar Upadhyay (supra)***. The Supreme Court, while considering prayers concerning registration of cases and investigation into alleged hate speeches, declined to create a continuing court-monitored mechanism or an independent investigative arrangement in the absence of circumstances warranting such extraordinary intervention. The Court found that the existing statutory framework provides remedies for grievances concerning registration and investigation of criminal cases. The decision reinforces the principle that extraordinary constitutional jurisdiction is to be exercised on the basis of the circumstances of the particular case and not as a substitute for the ordinary criminal process.

48. We have also examined the material relied upon by the petitioners. The material placed before us includes video recordings, newspaper reports, affidavits, victim accounts and fact-finding reports. Much of this material, however, is disputed by the respondents. In several instances, the authenticity, completeness, context or interpretation of the material is itself in question.

49. The Report of the *Delhi Minorities Commission*, in particular, has been relied upon by the petitioners at length. We have considered the report with due regard to the fact that the Committee was constituted by a statutory body and had undertaken a fact-finding exercise, including by recording the victim statements and undertaking field visits and surveys. It cannot be disregarded merely because it is a fact-finding report. At the same time, the nature and scope of the exercise undertaken by the Commission must be kept in view. The report principally records the accounts of persons affected



by the violence and the material gathered during its fact-finding exercise; it does not constitute an investigation into the entirety of the incidents, the competing versions of the parties, the evidence collected in the individual criminal cases or the manner in which those investigations were subsequently conducted. The report, therefore, cannot by itself be treated as a conclusive determination of the culpability of any individual police officer or as establishing that the investigations conducted by the Delhi Police, as a whole, were tainted. A fact-finding report may undoubtedly constitute material warranting consideration by the investigating agency, however, the Court must be satisfied that the investigation is demonstrably tainted, biased or incapable of inspiring confidence. Tested against that standard, we are unable to treat the findings contained in the report, either independently or in conjunction with the other material placed before us, as sufficient to establish such pervasive or institutional infirmity in the investigation as would justify its displacement.

50. The other material relied upon consists of various reports, victim testimonies, contemporaneous video recordings, affidavits and other material. However, as already noted above, much of the material placed before us consists of unauthenticated video recordings, newspaper clippings and excerpts from the print and electronic media. Equally, the respondents have disputed each of allegations and have maintained that the investigations have been conducted in accordance with law. These competing assertions necessarily involve disputed questions of fact which cannot be adjudicated in proceedings under Article 226 of the Constitution, particularly where investigations have culminated in charge-sheets and the



matters are presently pending before competent criminal courts and appropriately fall for determination by such courts.

51. The allegations regarding non-compliance with Sections 41B, 41C, 41D and 174 of the Cr.P.C. also do not justify the relief sought in their present form. The safeguards contained in these provisions are mandatory and protect personal liberty and accountability in the exercise of police powers. Any violation in an individual case can be examined in the proceedings relating to that case. The respondents, however, have disputed any systemic or deliberate disregard of these requirements and have submitted that the exceptional and highly sensitive circumstances prevailing during the riots necessitated a degree of caution in dealing with information relating to arrests, persons involved in the investigation and other investigative material.

52. Furthermore, more than six years have elapsed since the incidents in question. During this period, no fresh material has been placed before us, subsequent to the institution of these petitions, demonstrating any continuing or systemic violation of the aforesaid statutory safeguards. Nor have the petitioners brought to our notice any subsequent application or proceeding before the competent criminal courts in which such alleged violations have been specifically raised on the basis of fresh material or evidence.

53. Having considered the material placed before us, we are unable to hold that the alleged instances of non-compliance with Sections 41B, 41C, 41D and 174 of the Cr.P.C., or the other procedural safeguards relied upon by the petitioners, establish a systemic violation of the statutory framework or of Articles 21 and 22 of the Constitution so as to warrant transfer of the entire investigation or constitution of an independent investigative



mechanism. Individual allegations concerning the legality of a particular arrest, failure to afford an individual statutory safeguard, non-production or delay in production before the Magistrate, or non-compliance with the requirements relating to inquest are matters which can be examined in the proceedings concerning the individual case and on the basis of evidence adduced therein.

54. There is another aspect which assumes significance in considering the prayer for transfer of investigation. The allegations made by the petitioners are principally directed against the conduct of police personnel who were deployed and performing duties during the riots. Significantly, there is no specific allegation against any senior police officer or supervisory officer that he directed, facilitated or participated in such acts, or that any such officer exercised influence over the subsequent investigation.

55. Equally, there is no allegation that any senior or Investigating officer interfered with, influenced or otherwise sought to impede the course of investigation in any of the criminal cases. Nor is there any specific allegation or material to indicate that the Investigating Officers were acting under the influence of, or in concert with, the police personnel against whom the allegations of misconduct have been made, or that the conduct of the investigation was thereby rendered unfair, biased or incapable of inspiring confidence.

56. This distinction is material. An allegation that police personnel committed misconduct in the course of the riots is not, by itself, an allegation that the subsequent investigation into the incidents was conducted improperly. The prayer for transfer of investigation can be justified only if there is material connecting the alleged misconduct to the investigative



process in such a manner as to give rise to a reasonable apprehension that a fair investigation cannot be undertaken by the existing authority.

57. The present material does not establish such a connection. No specific material has been placed before us to demonstrate that an Investigating Officer, senior police officer or supervisory authority entrusted with the investigation was himself implicated in the alleged acts complained of, had a personal interest in shielding any police personnel, or had acted so as to compromise the investigation. The allegations against some police personnel being engaged in the riots, even if assumed to be correct, cannot automatically lead to the conclusion that the entire investigative machinery of the Delhi Police is institutionally incapable of conducting a fair investigation.

58. This is materially different from a case such as ***Rubabbuddin Sheikh (supra)***, where the allegations were directed against senior police officials themselves and the circumstances gave rise to a serious apprehension regarding the ability of the State police to conduct an impartial investigation. The principle emerging from that decision is not that every allegation of police misconduct necessitates transfer of investigation, but that such transfer may become necessary where the allegations and surrounding circumstances demonstrate that the existing investigative agency itself stands compromised.

59. We are also conscious of the fact that the investigations are not at the stage where they were when these petitions were instituted. As noticed earlier, 757 criminal cases stood registered. As on 19.02.2026, investigation stood entrusted to the Crime Branch in 65 cases and charge-sheets had been filed in 369 cases. Proceedings in 212 cases were pending before the



criminal courts and investigation was continuing in 249 cases. There were convictions, acquittals and discharges. The criminal justice process has substantially progressed and a direction for wholesale transfer of investigation at this stage would necessarily affect investigations already completed, charge-sheets already filed and trials pending before competent courts. The question, therefore, is whether the material before us establishes such a circumstance in the present case. For the reasons noticed above, we are unable to hold that it does.

60. The reliefs sought also extends beyond criminal investigation and includes a prayer for initiation of departmental and disciplinary proceedings against police officials. Such proceedings are governed by the applicable statutory and service framework and ordinarily fall within the jurisdiction of the competent disciplinary authority. The extraordinary jurisdiction of this Court is not intended to supplant those statutory mechanisms by directing initiation of disciplinary proceedings in the absence of exceptional circumstances. This is not to suggest that police personnel enjoy immunity from criminal prosecution or departmental action. Wherever credible material discloses misconduct, dereliction of duty or commission of any criminal offence, it remains open to the competent authorities to proceed in accordance with law and for individuals, including the petitioners, to file appropriate application under Section 156(3) of the Cr.P.C.

61. Directing a wholesale transfer of investigations or a roving enquiry into the conduct of police officials at this stage would inevitably affect numerous criminal proceedings presently pending before different jurisdictional courts. Such a course would not only unsettle investigations and prosecutions that have substantially progressed over the last several



years but may also prejudice victims, witnesses and accused persons alike. The extraordinary jurisdiction under Article 226 cannot be exercised in a manner that disrupts an ongoing criminal process in the absence of compelling constitutional necessity. In the facts presented before us, we do not find any such compelling necessity.

62. Having regard to the totality of the circumstances, the substantial progress of the criminal investigations and prosecutions, the law declared by the Supreme Court in *Ashwini Kumar Upadhyay (supra)*, and the settled principles governing transfer of investigation by constitutional courts, we are of the considered opinion that now at this stage no case is made out for constituting a Special Investigation Team, directing a court-monitored investigation or transferring the investigation to any independent agency.

63. For the same aforesaid reasons, prayer seeking direction for a general investigation into allegations of police inaction, complicity or misconduct or for initiation of roving departmental or disciplinary proceedings against police officials is rejected. This conclusion, however, shall not preclude the petitioner or the competent authorities from taking such action as may otherwise be permissible in law in any individual case where the facts and material so warrant.

**PRAYER FOR PRESERVATION OF EVIDENCE, INCLUDING  
CCTV FOOTAGE AND OTHER ELECTRONIC RECORDS**

64. With regards to preservation of electronic evidences, learned senior counsels submitted that CCTV footage, mobile phone recordings, photographs and other electronic material constituted the most reliable evidence regarding the sequence of events that led to the riots. It was,



therefore, submitted that all such electronic evidence ought to be preserved and protected from alteration, deletion or destruction.

65. In this regard, learned ASG contended that the requisite CCTV footage, digital recordings and other electronic material relevant to the investigations were preserved and forms part of the records collected during investigation. It was, therefore, asserted that no further direction in that regard was needed.

66. We have considered the rival submissions made.

67. There can be no dispute that electronic evidence, including CCTV footage, mobile phone recordings and other digital material may constitute valuable evidence in criminal investigations. Preservation of such material assumes particular significance where the events in question were contemporaneously recorded. The preservation, production and proof of electronic evidence are governed by the applicable procedural and evidentiary law.

68. The question, however, is not whether electronic evidence ought to be preserved, but whether any further direction in that regard survives for consideration in the present case.

69. As already noticed while dealing with the preceding prayers, the investigations in the incidents have substantially progressed and have culminated in the filing of charge-sheets in a large number of cases and numerous prosecutions are presently pending before the competent criminal courts, while several have culminated in judgments. Once investigation culminates in the filing of the police report, issues relating to custody, preservation and production of such material fall within the province of the criminal court, before which the prosecution is pending, as they also form



part thereof. It would neither be appropriate nor necessary for this Court, in exercise of its jurisdiction under Article 226 of the Constitution, to issue any general directions regulating matters pending before competent courts. The statutory framework also provides remedies to the prosecution and the accused to seek appropriate directions concerning such evidence.

70. Significantly, the petitioners have not drawn our attention to any specific instance demonstrating that any CCTV footage or other electronic record, relevant to the prosecutions presently pending before the criminal courts, has been destroyed, tampered with or deliberately withheld. The apprehension expressed by the petitioners is, therefore, of a general and vague nature and cannot in absence of any concrete material in any particular case furnish the basis for issuance of a general direction.

71. We are, therefore, of the considered view that no general direction for preservation of CCTV footage or other electronic records is called for in the given circumstances. This conclusion shall not, however, preclude the competent criminal courts from passing such orders as may be considered necessary in any individual case concerning preservation, production or summoning of electronic evidence in accordance with law.

### **PRAYER FOR COMPENSATION AND REHABILITATION OF VICTIMS**

72. Learned senior counsels submitted that the riots resulted in large-scale loss of human life, destruction public and private properties, displacement of families and physical injuries. It was contended that the compensation awarded in several cases was inadequate and further directions regarding compensation and rehabilitation were warranted for the affected persons.



73. *Per Contra*, learned ASG submitted that the grievance regarding compensation and rehabilitation has already been addressed. It is submitted that the Government appointed a Claims Commissioner to assess the damage and determine the compensation payable. Claims were thereafter invited and processed, compensation and *ex gratia* assistance were provided.

74. We find considerable merit in the aforesaid submission, advanced on behalf of the State. As already noted above, the record shows that a specific mechanism was constituted for assessment of claims arising from the riots and claims were invited and processed under the mechanism so constituted.

75. It is not in dispute that compensation may be granted in exercise of the writ jurisdiction where proven violation of a fundamental right warrants such relief. In ***Rudul Sah v. State of Bihar & Anr.*, (1983) 4 SCC 141**, the Supreme Court recognised monetary compensation as a public law remedy for violation of fundamental rights. Subsequently in ***Nilabati Behera (SMT) Alias Lalita Behera (Through the Supreme Court legal & Committee v. State of Orissa & Ors.*, (1993) 2 SCC 746**, the Supreme Court, while elaborately explaining the propounded principle found as under:

*“34. The public law proceedings serve a different purpose than the private law proceedings. The relief of monetary compensation, as exemplary damages, in proceedings under Article 32 by this Court or under Article 226 by the High Courts, for established infringement of the indefeasible right guaranteed under Article 21 of the Constitution is a remedy available in public law and is based on the strict liability for contravention of the guaranteed basic and indefeasible rights of the citizen. The purpose of public law is not only to civilize public power but also to assure the citizen that they live under a legal system which aims to protect their interests and preserve their rights. Therefore, when the court moulds the relief by granting “compensation” in proceedings under Article 32 or 226 of the Constitution seeking enforcement or*



protection of fundamental rights, it does so under the public law by way of penalising the wrongdoer and fixing the liability for the public wrong on the State which has failed in its public duty to protect the fundamental rights of the citizen. The payment of compensation in such cases is not to be understood, as it is generally understood in a civil action for damages under the private law but in the broader sense of providing relief by an order of making 'monetary amends' under the public law for the wrong done due to breach of public duty, of not protecting the fundamental rights of the citizen. The compensation is in the nature of 'exemplary damages' awarded against the wrongdoer for the breach of its public law duty and is independent of the rights available to the aggrieved party to claim compensation under the private law in an action based on tort, through a suit instituted in a court of competent jurisdiction or/and prosecute the offender under the penal law.

35. This Court and the High Courts, being the protectors of the civil liberties of the citizen, have not only the power and jurisdiction but also an obligation to grant relief in exercise of its jurisdiction under Articles 32 and 226 of the Constitution to the victim or the heir of the victim whose fundamental rights under Article 21 of the Constitution of India are established to have been flagrantly infringed by calling upon the State to repair the damage done by its officers to the fundamental rights of the citizen, notwithstanding the right of the citizen to the remedy by way of a civil suit or criminal proceedings. The State, of course has the right to be indemnified by and take such action as may be available to it against the wrongdoer in accordance with law — through appropriate proceedings. Of course, relief in exercise of the power under Article 32 or 226 would be granted only once it is established that there has been an infringement of the fundamental rights of the citizen and no other form of appropriate redressal by the court in the facts and circumstances of the case, is possible. The decisions of this Court in the line of cases starting with *Rudul Sah v. State of Bihar* [(1983) 4 SCC 141 : 1983 SCC (Cri) 798 : (1983) 3 SCR 508] granted monetary relief to the victims for deprivation of their fundamental rights in proceedings through petitions filed under Article 32 or 226 of the Constitution of India, notwithstanding the rights available under the civil law to



*the aggrieved party where the courts found that grant of such relief was warranted. It is a sound policy to punish the wrongdoer and it is in that spirit that the courts have moulded the relief by granting compensation to the victims in exercise of their writ jurisdiction. In doing so the courts take into account not only the interest of the applicant and the respondent but also the interests of the public as a whole with a view to ensure that public bodies or officials do not act unlawfully and do perform their public duties properly particularly where the fundamental right of a citizen under Article 21 is concerned. Law is in the process of development and the process necessitates developing separate public law procedures as also public law principles. It may be necessary to identify the situations to which separate proceedings and principles apply and the courts have to act firmly but with certain amount of circumspection and self-restraint, lest proceedings under Article 32 or 226 are misused as a disguised substitute for civil action in private law. Some of those situations have been identified by this Court in the cases referred to by Brother Verma, J.”*

76. The question before us, however, is not whether this Court has the power to grant compensation in an appropriate case. The question is whether, in the facts of the present cases, a further general direction for compensation or rehabilitation is required.

77. In our view, no such general direction is warranted. A mechanism for assessment of individual claims was already put in place and stood substantially acted upon as claims were received and processed and that compensation was awarded in large number of cases. Moreso, the petitioners have not demonstrated any systemic failure of the institutional mechanism so constituted, or that the absence of an effective legal framework has left any class of victims without a remedy.

78. The determination of the extent of loss suffered by an individual claimant and the compensation payable would necessarily depend upon the



facts and material relating to that particular claim. Such individual claims cannot appropriately be adjudicated in the present batch on the basis of a general assessment. The same applies to the prayer for rehabilitation. Rehabilitation involves assessment of individual circumstances and implementation of the applicable governmental measures. No material has been placed before us to demonstrate that the existing mechanism has failed in a manner requiring this Court to issue any further directions at this stage.

79. What is further significant is that more than six years have elapsed since the riots. During this period, the claims process has substantially progressed, compensation stands disbursed, and the statutory remedies available to victims continue to subsist. In these circumstances, we are unable to hold that any surviving issue remains requiring the issuance of further general directions by this Court in the present batch of petitions.

80. We accordingly hold that no further directions with respect to compensation or rehabilitation are warranted in exercise of the writ jurisdiction of this Court. This, however, shall be without prejudice to the rights of any individual claimant, having a grievance relating to compensation or rehabilitation, to pursue such statutory or other remedies as may be available in law.

### **CONCLUSION**

81. Before parting, we consider it appropriate to reiterate that the events which form the subject matter of the present batch of petitions were undoubtedly of grave concern. The violence that engulfed North-East Delhi resulted in the loss of precious human lives, displacement of families, destruction of public and private property and, therefore, there is legitimate



public concern. However, exercise of extraordinary jurisdiction is necessarily circumscribed by well-settled constitutional principles. This Court is required to determine whether the reliefs sought warrant judicial intervention in the light of the subsequent developments that have taken place during the pendency of these proceedings or otherwise. The answers have already been given in the preceding part, with no real requirement of reiterating the same. To sum up, as on date, we find no exceptional circumstance warranting exercise of the extraordinary jurisdiction of this Court to direct registration of further FIRs, constitute an independent investigative mechanism, order wholesale further investigation into allegations against police officials, issue additional blanket directions regarding preservation of evidence, or grant further general directions relating to compensation and rehabilitation. We clarify again that despite the above conclusions, any individual, in the facts of his case, would always be at liberty to avail such remedy as may be available under law.

82. Accordingly, the writ petitions, together with all pending applications, stand dismissed.

83. There shall be no order as to costs.

**VIVEK CHAUDHARY**  
(JUDGE)

**MANOJ JAIN**  
(JUDGE)

**OCTOBER 05, 2026/kp**