

JAIN AGGARWAL REPORT

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CHAPTER - 1

INTRODUCTION

Setting up of Justice Ranganath Misra Commission of Inquiry

1.1. A fierce carnage reminiscent of partition days took place in Delhi and elsewhere following the assassination of the late Prime Minister of India, Smt. Indira Gandhi, allegedly by her personal security guards who happened to be Sikhs, on 31st October, 1984. An orgy of violence, arson and looting raged the metropolis of Delhi for three - four days from 31st October, 1984 (evening) till 2nd/3rd November, 1984. The riotous incidents took a toll of about 2733 lives belonging to Sikh Community in Delhi as per Report of R.K. Ahuja Committee set up by Delhi Administration in 1986. Shops, houses, business establishments, vehicles and other valuable articles worth crores of rupees belonging to the Sikhs were looted and destroyed by the rampaging mobs in various localities of Delhi. Some Gurudwaras of the Sikh community were looted, damaged and set on fire by the violent mobs in various parts of Delhi. Some Hindu business establishments etc. were also looted and set on fire in the process but apparently not deliberately.

1.2. The worst affected areas in the disturbances where killing had taken place on a large scale were Tirokhpuri in Police Station Kalyanpuri & Nand Nagri in East District, Palam Village in Police Station Delhi Cantt., Srinivaspuri in South District, Nangloi, Mangolpuri, Sultanpuri and Anand Parbat in West District, Karol Bagh in Central District and Jahagirpuri in North District.

1.3. On 26th April, 1985, the Central Government announced in Parliament, then in Session, the appointment of Commission under Section 3 of the Commissions of Inquiry Act, 1952 and by Notification in the Gazette of India Extra-Ordinary on the same date the Commission headed by Sh. Justice Ranganath Misra, a sitting Judge of the Supreme Court of India, was duly constituted with the following terms of reference;

- to enquire into the allegations in regard to the incidents of organized violence which took place in Delhi following the assassination of Late Prime Minister of India, Smt. Indira Gandhi.
- to recommend measures which may be adopted for prevention of recurrence of such incidents.

1.4. Subsequently, the Commission's sphere of Inquiry was extended to Kanpur in the State of Uttar Pradesh and Bakaro in the State of Bihar vide Notification dated the 3rd September, 1985.

1.5. On 9th July, 1985, the Commission issued a Notification inviting all persons acquainted with the subject-matter of the inquiry to furnish to the Commission the information in the form of affidavit relating to the allegations in regard to the incidents of organised violence which took place in Delhi

following the assassination of late Prime Minister of India, Smt. Indira Gandhi and suggest measures to be adopted to prevent recurrence of such incidents. The Notification was duly published in the 25 (twenty-five) leading newspapers with wide circulation in which 6 (six) were in English, 7 (seven) in Hindi, 5 (five) in Urdu and 7 (seven) in Punjabi. By 9th August, 1985 which was the last date of receipt of the affidavits by the Commission, a solitary affidavit had been received. The Commission, therefore, extended the time for receipt of the affidavit by one further month and issued fresh Notification in several newspapers including the publicity given on All India Radio and Doordarshan. Within the extended time, 2905 affidavits were received by the Commission in regard to the incidents at Delhi. Similarly such Notifications were also issued by the Commission in respect of Kanpur and Bokaro. As this Committee's Report is confined only to the incidents of Delhi, the Commission's observations / findings so far as they are applicable to Delhi will be discussed briefly hereunder;

1.6. Different groups and parties applied to the Commission for being allowed to participate in the inquiry. The following were the groups and societies which were permitted so far as the inquiry in Delhi is concerned;

- i) Citizens Justice Committee;
- ii) Shiromani Akali Dal (L);
- iii) Delhi Sikh Gurudwara Management Committee;
- iv) Citizen's Committee for Peace and Harmony;
- v) Vidhi Chetna;
- vi) Sikh Citizen's Forum for Truth;
- vii) Arya Samaj (Nagrik Suraksha Samiti);

1.7. The Union of India and the Delhi Administration also informed the Commission that they would participate in the inquiry. The Union of India, however, did not adopt any specific stand and informed the Commission that the question has to be inquired into and decided by the Commission and the Central Government has no views to express. It assured all cooperation in the inquiry. The Delhi Administration denied the allegations of organized violence and stated that all possible steps were taken to quell the riots in the shortest possible time.

1.8. The parties appearing before the Commission in the Delhi inquiry were called by the Commission, to disclose their respective stand in writing in regard to the first aspect referred to it. The Citizen's Justice Committee adopted the following stand ;

“ From the materials available to the Committee prima-facie it appears that the violence in Delhi was premeditated, organized and was perpetrated methodically in a systematic manner so as to lead to the irresistible conclusion of central direction, guidance and control. This task was without doubt performed with the complicity, connivance and active involvement of the administration as well as the members of the ruling party.”

1.9. The Delhi Sikh Gurudwara Management Committee and the Shiromani Akali Dal (L) adopted almost the same stand as that of Citizen's Justice Committee. The Arya Samaj (Nagrik Suraksha Samiti) adopted somewhat different stand mainly emphasizing that the violence following the assassination of the late Prime Minister of India, Smt. Indira Gandhi was sporadic and spontaneous and not the handi-work of any organized group of people. Subsequently, the Citizens Justice Committee through its counsel, Mr. Phoolka, withdrew its participation in the inquiry. The Delhi Sikh Management Committee which was already appearing before the Commission started representing the victims during the remainder of the proceedings.

1.10. The Commission examined some of the public Officers - Civil as also defence personnel who held offices, in the administrative hierarchy, during the riots. In respect of the inquiry at Delhi the following were examined :

- i) Sh. P.G. Gavai former Lt. Governor (upto 03.11.1984)
- ii) Sh. M.M. K. Wali, former Lt. Governor (upto 04.11.1984)
- iii) Sh. S. C. Tandon, former Commissioner of Police.
- iv) Sh. Ved Marwah, present Commissioner of Police.
- v) Sh. Gautam Kaul, Additional Commissioner of Police.
- vi) Sh. H.C. Jatav, former Additional Commissioner of Police.
- vii) Sh. O.P. Yadav, former S.H.O, Police Station Nizamuddin.
- viii) Sh. R.S. Sethi, former District Magistrate.
- ix) Sh. A. S. Vaidya, former Chief of Army Staff.
- x) Maj. Gen J. S. Jamwal, G.O.C., Delhi Area.
- xi) Maj. J. S. Sandhu, Sikh Light Infantry.

1.11 Apart from the above mentioned civil as well as defence personnel the Commission examined 128 deponents out of 2905 affidavits filed by various categories of people. These included;

- i) Affidavits filed by the family members and friends of the victims of violence, loot and arson at the hands of the mob.
- ii) Some freelance journalists and social workers who claimed to have visited the various localities during the period of riots " 31.10.1984 to 03.11.1984" and saw ghastly incidents of loot, arson and murders mainly of the male members of the Sikh families in various localities especially a large number of dead bodies which had been burnt by the mob.
- iii) Quite a number of affidavits were filed by the residents of various localities to canvass that the violence erupted in the city was spontaneous/sporadic and was not the handi-work of any political party especially Congress(I) leaders as was being made out. It would appear that some of the Congress (I) leaders of Delhi who were apprehensive of being implicated for their alleged (direct or indirect) complicity also manoeuvred to obtain quite a large number of affidavits commending their excellent role in helping the Sikh community against the acts of violence and affording them protection wherever possible.

1.12 The Commission submitted its Report to the Government of India in August, 1986 which was tabled on the floor of the Lok Sabha in January, 1987. The Report of the Commission was accepted by the Government. The Commission in its Report made extensive observation on the law and order situation then prevailing following the assassination of the late Prime Minister of India, Smt. Indira Gandhi; the role of Police in Delhi in controlling the riotous situation; their failure to register cases involving heinous crimes and investigation as prescribed under the Law. It would be worthwhile to quote important observations of the Commission to indicate the magnitude and seriousness of the disturbances and the follow up action needed to punish the guilty:-

On the law & order situation in Delhi and the role of Delhi Police in controlling the situation following the assassination of late Prime Minister, Smt. Indira Gandhi the Commission observed;

“ The incidents of October 31st, 1984 appear to have been by way of involuntary reaction of a deep sense of grief, anguish and hatred for the assassins. There can be no scope to contend and much less to accept that at the initial stage on 31st October, 1984 the violence that took place was organized..... These, therefore, appear to the Commission to be spontaneous reaction of the people to the then prevailing situation at the commencement but as the Police did not attend to the situation and failed to make proper assessment of what was brewing, what began as an innocent reaction to Smt. Indira Gandhi's assassination developed into one of the darkest tragedies in independent India's history.”

Referring to the incidents of violence on 1st November, 1984 the Commission observed;

“ There was no proper assessment by the Police of the grave situation in the city. The Commission is satisfied from the material placed on record that on 1st November, 1984 law and order situation in Delhi had been left in the hands of the riotous mobs and the Police failed to discharge its duty of maintaining law and order.”

Referring to the violent incidents which occurred on 2nd and 3rd November, 1984 the Commission observed;

“ With the arrival of adequate force and army moving around, about in almost every area, the situation showed signs of improvement. Notwithstanding the availability of the army and round the clock movement of it in affected areas many incidents occurred during the day (2nd November, 1984). By the evening of 3rd November, 1984 there was further improvement in the situation.”

Referring to the role of Delhi Police, the Commission observed;

“ There is an independent evidence before the Commission that the Police on the whole, did not behave properly and failed to act as a professional force..... At one stage the Commission was inclined to go into the lapses, issue notices under section 8 (B) of the Commissions of Inquiry Act and record findings of lapses but in view of the evidence later available that the lapses were rampant and several officers of different ranks would be involved if such an inquiry is undertaken the Commission changed its approach to the matter. Such an Inquiry would have protracted. The proceedings and un-usual delay in submission of the report on the issues referred to the Commission was not considered expedient The Commission is of definite opinion that a proper Inquiry should be undertaken Since a lot of time has been lost and delayed Inquiry may not be very effective and useful the Commission recommends that an Inquiry be undertaken without delay and preferably the inquiry to handled by a Committee of two persons - an experienced retired Judge of a High Court and an experienced Civilian.”

Regarding the recording of first information reports of the offences committed during the October- November, 1984 riots and their investigation by the Delhi Police, the Commission observed as follows: -

“ Elsewhere the Commission has dealt with the number of incidents in a classified way. The Commission has also held that during the period of riots, the rioters had their way and the administration had failed to exercise adequate control. Such a tense and panicky situation prevailed that it became difficult for the victims to approach the police for lodging first information reports. It is a fact and the Commission on the basis of satisfaction records a finding that first information reports were not received if they implicated police or any person in authority and the informants were required to delete such allegations from written reports.

When oral reports were recorded they were not taken down verbatim and brief statements dropping out allegations against police or other officials and men in position were written. Several instances have come to the notice of the Commission where a combined F.I.R. has been recorded in regard to several separate incidents. For instance, where a large mob came got divided into groups and simultaneously attacked different houses and carried on different types of operations in the different premises, they as a fact did not constitute one incident; yet only one common F.I.R. has been drawn up. Recording in brief narrative the incident in a common F.I.R. would not provide a sound basis for proper prosecution. Tagging of so many different incidents into one F.I.R. was bound to prejudice the trial, if any, as also the accused persons if called upon to defend themselves in due course. The Commission has

noticed on several occasions that while recording F.I.Rs serious allegations have been dropped out and though the case was in fact a serious one, in view of the dropping of the major allegations, a minor offence was said to have been committed. The Commission was shocked to find that there were incidents where the police wanted clear and definite allegations against the anti-social elements in different localities to be dropped out while recording F.I.Rs. Unless the police were hand in glove with the anti-social elements in their respective localities they would not have behaved that way.”

“The sum total effect of this has been that proper F.I.Rs. have not been recorded. There has been initially some delay in lodging / recording of F.I.Rs. on account of the fact that during the period of riots what was primary important for the victims was to run away from the scene and conceal from notice of the rioters so as to escape certain death. In several instances those who had not been massacred were picked up either by police or Army personnel or through other agencies or by their own efforts and shifted to Relief Camps where they were maintained for some time. Semi-normal conditions returned in different localities within three-four days but confidence took time to get restored and, therefore, until the victims returned to their localities quite some time after, in most of the cases they did not know what exactly had happened, so as to make a full report; nor did they know as to who exactly had died or got assaulted. There have been several instances where the lady went one way and found herself in one Camp while the children went elsewhere and ultimately got lodged in a different Camp. Being terror- stricken each one ran for his or her life oblivious of what happened to others of the family. When they reached Relief Camps there was no scope for renewing contacts unless by chance they were in one common Camp and until they met or re-assembled under a common roof each one was unaware of the continued existence of the other. Only when they came back to their respective localities, scope for lodging of F.I.Rs. came. The Commission did come across instances where some F.I.Rs. were recorded in a Relief Camp but these were comparatively few. The delay in lodging of F.I.Rs. could, therefore, be reasonably explained. If properly explained, many of the lapses in the F.I.Rs. may also become acceptable.”

X	X	X	X
X	X	X	X

“The criminal activity in Delhi apart from being widespread and in greater intensity exhibited a varied spectrum of human conduct. This requires thorough investigation and careful handling. The same police who remained ineffective during the riots and against whom several allegations were advanced, whether recorded or not, were the investigating agency in respect of the F.I.Rs. The Commission finds it not difficult at all to appreciate and accept the contention of the victims that in such circumstances proper investigation could not be expected. Since the number of deaths is considerably great and there have been number of other grave offences committed, it is necessary that the allegations should be properly looked into and investigations suitably monitored. This will mean fresh or further investigation and review of all actions subsequent thereof. For this purpose

since the volume of work is quite heavy, a Committee of at least two officers - one judicial and one administrative, preferably a high ranking police officer from outside Delhi - should be appointed immediately with full authority to look into the papers and give such directions to the prosecuting agency as the facts of each case would warrant. Since there has been a lot of delay in attending to these prosecutions and as further delay would prejudice proper trial and also the prospect of justice being done, it is necessary that expeditious step should be taken to implement these aspects.”

CHAPTER - 2

Setting up of two committees as a follow - up of the recommendations of Justice Ranganath Misra Commission of Inquiry

2.1. As a follow up of the recommendations of Justice Ranganath Misra Commission of Inquiry, the Administration of the Union Territory of Delhi with the approval of the Ministry of Home Affairs, Government of India, constituted two committees viz. (i) Committee consisting of Justice Dalip Kapur, a retired Chief Justice of Delhi High Court and Ms. Kusum Lata Mittal, a retired Secretary to the Government of India - to enquire into the conduct of Delhi Police during the October- November, 1984 riots and (ii) Committee consisting of Justice M.L. Jain, a retired Judge of Delhi High Court and Sh. E.N. Renison, a retired IPS officer (later on replaced with Sh. A.K. Banerji, a retired IPS officer) - to examine cases relating to riots in Delhi during October-November, 1984 vide Orders/ Notification No. F./P.S/H.S./87/1127-1244 dated the 23rd February, 1987.

2.2 These two Committees started functioning with effect from 23rd February, 1987. The committee consisting of Justice Dalip K Kapur and Ms. Kusum Lata Mital submitted their reports to the Administrator of the Union Territory of Delhi in February, 1990. The functioning of the other Committee consisting of Justice M.L. Jain - Sh. A.K. Banerji, which is relevant for the purpose of this Report, needs to be described in some greater detail. The terms of reference of this committee, as laid down in the foresaid Notification, reads as under:-

Whereas a number of deaths occurred and a number of grave offences were committed in various incidents of rioting following the assassination of late Prime Minister, Smt. Indira Gandhi on 31st October, 1984.

And whereas allegations have been made that cases relating to criminal offences were either not registered or were not properly investigated and followed up by the Police and Government agencies concerned.

Now, therefore, in order to have such cases properly registered, investigated and followed up the Administrator hereby appoints a Committee consisting of Justice M.L. Jain, a former Judge of Delhi High Court and Sh. E. N. Renison, a retired IPS Officer with the following terms of reference;

- To examine whether there were cases of omission to register or properly investigate offences committed in Delhi during the period of riots from 31st October, 1984 to 7th November, 1984.
- To recommend the registration of cases where necessary and to monitor the investigation thereof.
- To monitor the conduct of investigation and the follow up of cases already registered by the police and to suggest steps for effective action including fresh and further investigation, where necessary.
- To perform any other function in addition to the above

The Administration hereby authorizes the Committee to look into any papers related thereto and to give such instructions or advice as it deems necessary to the Police and the Prosecution Agency relating to registration, investigation and Prosecution of such cases.

The Administration is further pleased to direct that the Committee will give a monthly report of the progress of its work to the Administrator. The Committee will function for a period of six months.

By order and in the name of the
Administrator of the Union Territory of Delhi
Sd/-
(K.K. Bhasin)
Joint Secretary (Home)

2.3. The Committee started functioning from Vigyan Bhawan Annexe in March, 1987 but had to make way for Justice Thakkar Commission of Inquiry and consequently shifted its office to an accommodation provided under the Orders of the Lt. Governor of Delhi, in D.D.A. Building, Vikas Minar, New Delhi - 110 002 in June, 1987

2.4. The Committee relied mainly on the affidavits filed before Justice Ranganath Misra Commission of Inquiry and picked up 669 affidavits which were relevant for the purpose of inquiry. The Committee through a Public Notice published in the leading National Dailies of Delhi in 1987 invited affidavits from the persons acquainted with the subject matter of the Inquiry. 415 affidavits were received by the Committee from the affected persons and their family members.

2.5. On the basis of one such affidavit filed by Smt. Anwar Kaur, a victim of October-November, 1984 riots the Committee wrote a letter No. JJC/F.8/(67)/789 dated the 14 October, 1987 to the Additional Commissioner of Police, Delhi. It was pointed out that the contents of the affidavit disclosed the Commission of cognizable offences against Sh. Sajjan Kumar, Sh. Nathu Pardhan, Sh. Brahma Nand Gupta, Sh. Udel, Sh. Rajinder, Sh. Pearia, Sh. Hanuman and Sh. Sis Ram Halwai under Section 143, 147, 148, 149, 320, 435, 436, 455, 201 & 114 I.P.C. and requested him that the F.I.R. in this regard may be registered at Police Station Sultanpuri and cases investigated immediately, and the copy of the F.I.Rs. may be sent to this Committee. The Additional Commissioner of Police, Delhi wrote a reply dated the 16th October, 1987 in which it was stated that the letter dated the 14th October, 1987 of this Committee should be routed through the Delhi Administration, Delhi. To this letter a reply dated the 19th July October, 1987 was sent by the Secretary to the Commission. It was stated therein that by virtue of the Notification appointing the Committee, the Administrator of the Union Territory of Delhi had authorized the Committee to give instructions/ advice to the Police and the Prosecuting Agencies relating to registration/investigation and prosecution of such like cases. In view thereof there was no need to write the said letter through Delhi Administration as it would only delay the process of registration and investigation of such serious offences. After the aforesaid communication was sent by the Committee, a Writ Petition (C.W.P 3337 of

1987) was filed in November/December, 1987 by Braham Nand Gupta and Others in the High Court of Delhi. Vide order dated 24th November, 1987 Rule Nisi was issued and by an Interim Injunction, the Respondents No. 4 & 5 (Justice M.L. Jain and Sh. A.K. Banerji) were restrained from making recommendations for registration of fresh cases and it was further directed that no further case should be registered on the directions/ orders of the said Respondents No '4' & '5'.

2.6. After receipt of the Interim Injunction, directions/orders of the Hon'ble High Court of Delhi, the work of the Committee virtually came to a stand-still. The Committee, however pursued the matter with the Delhi Administration to contest the Writ Petition and get the Interim Injunction vacated as early as possible. However, the Interim Injunction continued for about two years i.e. from 24th November, 1987 to 4th October, 1989 till the final order / Judgment was delivered by Justice B.N. Kirpal and C.L. Choudhary on 4th October, 1989.

CHAPTER - 3

Re-constitution of the Committee with the appointment of Sh. Justice P. Subramanian Poti and Sh. P. A. Rosha as, Chairman and Member respectively

3.1. As a result of the quashing of the Notification dated the 23rd February, 1987 appointing Justice M. L. Jain - Sh. A. K. Banerji committee, the Delhi Administration, Delhi issued an order No. F.10/(65)/87/Home Police-II dated the 22nd March 1990 wherein the Administrator of the Union Territory of Delhi appointed a fresh Committee consisting of Justice P. Subramanian Poti, a retired Chief Justice of Gujarat High Court as Chairman and Sh. P. A. Rosha, a retired Officer of the Indian Police Service as Member in replacement of Justice M. L. Jain - Sh. A. K. Banerji with the following terms of reference;

- To examine whether there were cases of omission to register or properly investigate offences committed in Delhi during the period of riots from 31st October 1984 to 7th November 1984.
- To recommend to the Administrator, where necessary, the registration of cases and their investigation.
- To make suggestions to the Administrator, where necessary, for the conduct of investigation and prosecution of cases.

3.2. The Administrator hereby authorizes the Committee to look into the papers relating to its terms of reference and to obtain such information as it deems necessary from the Police and the Prosecution Agency in order to carry out its functions.

The Administrator is further pleased to direct that the Committee will give a monthly report of the progress of its work to the Administrator. The Committee will function for a period of six months.

By Order and in the name of the
Administrator of the Union Territory of Delhi
Sd/-

3.3. Justice P. Subramonian Poti - Sh. P. A. Rosha assumed charge as Chairman and Member of the Committee on 22nd March 1990 and 27th March 1990 respectively.

3.4. To begin with the Committee considered the implications of the Judgment dated the 4th October 1989 of the Hon'ble High Court of Delhi, which had struck down the Notification appointing Justice M. L. Jain - Sh. A. K. Banerji Committee. Justice P. Subramonian Poti, Chairman of the Committee succinctly summarized the Judgment as under: -

- i) Powers conferred on the Committee could not have been so conferred under law.
- ii) The Court finds it difficult to accept the contention that the Committee did not have jurisdiction to record statements of persons.

- iii) The Committee could seek information through affidavits.
- iv) Even though the terms of reference do not refer to any power to receive any fresh material or information, without someone informing the Committee, the Committee could not have been aware of omissions or improper investigation.
- v) To restrict the Committee to documents, which already existed would have hampered the Committee in carrying out its duties.
- vi) However, the Committee was not authorized to accept or act on any fresh allegations against individuals pertaining to the said incidents of rioting. In other words, whereas it was open to the Committee to seek information where there has been omission to register or properly investigate offences, the Committee has no jurisdiction to accept affidavits in which fresh allegations were levelled for the first time, which allegation was not sought to be levelled at the time of or soon after the riots has taken place.

3.5. We are, by and large, in agreement with the above synopsis. However, we would like to extract some of the observations made by the High Court in the aforesaid Judgement for proper comprehension of the scope and ambit of powers of the re-constituted Committee.

“ It is Clear that the Lt. Governor has the power of super intendance under Section 4 of the Delhi Police Act, but he can only ask another police officer to discharge the duties as an investigator, if he is otherwise competent to investigate.”

“ The decision whether to register an F.I.R., how to proceed with the investigation, are different steps in the course of investigation. The power of monitoring which has been conferred on the Committee by the impugned Notification is, in fact, a power of investigating and this power cannot be vested in anyone who is not otherwise, in law, entitled to investigate. The Lt. Governor therefore, could have conferred the power contained in the Notification on any superior police officer, but this power could not be conferred on an authority or a body, which is otherwise not entitled either under the Cr. P. C. or under the Delhi Police Act to carry out investigation. “

“ It is well settled that a Commission appointed under the Commissions of Inquiry Act can only make recommendations to the Government. The findings or recommendations to the Commission cannot be enforced. In the present case, what the Administrator has sought to do is not to give recommendatory powers to the Committee. The Committee has been empowered to give directions to the police and to the prosecuting agency. Such powers could not have been conferred on the Committee, if it had been constituted under the Commissions of Inquiry Act. “

“ It is true that the Committee was not a Court and it is also correct that evidence is presented before a Court, we, however, are unable to subscribe to the view that the recording of evidence or taking an affidavit amounts to recording of evidence, which the Committee was prohibited to do. The

Committee was seeking information with regard to the various incidents, which had taken place during the riots. A public notice has been issued asking for the information to be supplied, inter-alia by affidavits. The statement was sought in the form of an affidavit so that the deponent was made aware of the seriousness of the situation and it was expected that a person would not state falsehood when he swears an affidavit on oath. We find no provision of law which, in any way, prohibits a Committee or a person requiring information to be given by way of an affidavit.

The impugned Notification does not expressly give the power to the Committee to receive any fresh material or information or allegations with regard to the incidents of rioting. The Committee was, nevertheless, required to examine whether there were cases of omission to register or properly investigate offences.”

“ It was necessary, in order to perform functions enumerated in Clause 3, for the Committee to seek information as to whether there have been instances of omission to register cases or instances of improper investigation. This information could be supplied either by the persons who had sought to register the cases or by someone else who knew about such instances. To restrict the Committee to the documents which already existed would have hampered the Committee in carrying out its duties. We are, however, in agreement with Mr. Gupta that the Committee was not authorized to accept or act on any fresh allegations against individuals pertaining to the said incidents of rioting. In other words, whereas it was open to the Committee to get information where there has been omission to register or properly investigate offences, the Committee had no jurisdiction to accept any affidavits in which fresh allegations were levelled for the first time, which allegations were not sought to be levelled at the time of or soon after riots had taken pace.”

3.6. Keeping in view the letter and spirit the judgment of the Hon'ble High Court of Delhi, the Committee took up the examination of affidavits of 669 affidavits received from Justice Ranganath Misra Commission of Inquiry and 415 affidavits filed before Justice M. L. Jain - Sh. A. K. Banerji Committee in 1987. Scrutiny and tabulation of the affidavits were undertaken with a view to ascertain whether these cases registered by the Delhi Police were in respect of offences disclosed in those affidavits and whether these cases were properly investigated. The Committee, therefore, needed all the relevant police records from Delhi Administration / Delhi Police pertaining to the October - November 1984 riots.

3.7. For this purpose the Committee's Secretary wrote a D. O. letter No. F.9/(1)/Committee/P.R./90/221 dated the 12th April 1990 to Sh. R. Badrinath, Secretary (Home), Delhi Administration drawing his attention to Volume 'II' of Justice Ranganath Misra Commission of Inquiry and requested him to make available copies of all the 403 F.I.Rs. registered by the Delhi Police in respect of riots cases to the Committee urgently with their up-to-date position. The Committee also pointed out (quoting from pages 63 - 65 of Volume 'I' of the report of Justice Ranganath Misra Commission of Inquiry) that several instances had come to its notice where a combined F.I.R. had been recorded

in regard to various separate incidents. The Committee desired that it would like to be specifically informed where more than one separate incidents were lumped together in the F.I.Rs. or where such incidents were mentioned in subsequent case diaries and investigation taken up without recording a separate F.I.R. The information sought by the Committee was further explained in detail vide Committee's letter of even No. dated the 18th May 1990 addressed to the Secretary (Home), Delhi Administration. The Committee re-iterated that it had come to their notice that there were a large number of cases where common F.I.Rs. were drawn up covering several separate incidents. The complaints received by the Delhi Police were mentioned in the subsequent case diaries without recording separate F.I.R. and were treated as investigated or dealt with. Therefore, copies of the case diaries and complaints received by the Delhi Police were required as also the charge-sheets sent up by the Delhi Police in order to ascertain the specific occurrence and allegations for which the persons were challaned even though the occurrence and allegations did not find mention in the F.I.Rs. In its monthly progress report for the month of May, 1990 sent to Lt. Governor of Delhi on 6th June 1990, the Committee pointed out that unless these records were made available no further progress could be possible.

3.8. The urgency of the availability of the relevant police records was further emphasised by the Chairman of the Committee, Justice P. Subramonian Poti in the meeting, convened at his request (contained in his letter dated the 18th April 1990 addressed to the Lt. Governor of Delhi) by the Lt. Governor of Delhi on 8th May 1990. This meeting which was attended, besides the Chairman and Member of the Committee, by the Chief Secretary, Secretary (Home), Commissioner of Police and other senior officers of the Delhi Administration as also senior officers of the Committee, took up certain decisions, re-produced below;

- i) The Additional Commissioner of Police, Delhi would ensure that all the relevant police records / information is made available to the Chairman at the earliest.
- ii) The Commissioner of Police, Delhi should nominate a senior Officer to liaise with the Committee on a continuing basis.
- iii) Delhi Police would constitute about six - eight investigation teams immediately consisting of persons known for honesty and integrity and who had not come in any adverse light during October - November 1984 riots. These investigation teams would deal exclusively with the cases recommended by the Committee for registration and investigation to the Lt. Governor of Delhi, and will operate under the Crime Branch of Delhi Police under one or two Deputy Commissioners of Police who would also deal with this matter exclusively. An Additional Commissioner of Police, Delhi would be the incharge of the entire operations and it would be considered whether for this purpose an Officer could be taken on deputation from the Central Bureau of Investigation.
- iv) It was noted that whenever the Committee felt its examination revealed direct complicity of the Police or where the

matter was serious enough, on a selective basis, they could recommend handing over of such cases to the Central Bureau of Investigation for direct investigation. The Lt. Governor of Delhi agreed to bring this to the notice of the Home Minister so that Central Bureau of Investigation would be in readiness for taking up such cases as and when they were referred to them.

v) Creation of an additional post of one D.I.G. (Police) and one Legal Advisor.

3.9. As a result of the decisions taken in the meeting, Sh. R. Tewari, Deputy Commissioner of Police (Crime & Railways), Delhi Police was assigned to liaise with the Committee and he had a meeting with the Member of the Committee on 22nd June 1990 and assured to make available all the relevant police records by the first week of July 1990.

3.10. After protracted correspondence with the Delhi Administration, and personal contacts with the Chief Secretary, Secretary (Home), Delhi Administration and the Commissioner of Police, Delhi and other concerned officials, the Committee was able to procure by the end of July - August 1990 most of the records required to be examined in co-relation with the affidavits. By the end of August 1990, the Committee completed its first track of tabulation of the affidavits filed before Justice Ranganath Misra Commission of Inquiry and most of these filed before erstwhile Justice M. L. Jain - Sh. A. K. Banerji Committee. The process of cross-checking of the affidavits with the police records and their examination to ascertain whether firstly, the cases were registered by the Delhi Police with regard to offences alleged in these affidavits and secondly, whether these cases were properly investigated was taken up. As a result of the exercise, the Committee sent first batch of its recommendations in respect of 11 (eleven) affidavits to the Administrator of the Union Territory of Delhi on 9th August 1990. The second batch of the recommendations of the Committee, consisting of 19 (nineteen) affidavits was sent to the Administrator of the Union Territory of Delhi on 11th September 1990. Thus, a total number of 30 (thirty) cases (affidavits) were sent to the Administrator of the Union Territory of Delhi during the months of August and September 1990.

3.11. The Committee held a second meeting with the Lt. Governor of Delhi on 31st August 1990 and had detailed discussion regarding the conduct of investigation and prosecution in respect of the offences committed during October - November, 1984 riots in Delhi and also the question of earmarking the Courts exclusively for trial of these cases.

3.12. The Chairman of the Committee, Sh. Justice P. Subramonian Poti and member, Sh. P. A. Roshia of the Committee relinquished their office on 22nd September 1990, after completion of their tenure of six months.

3.13. It would be thus seen that Justice Poti - Sh. Roshia Committee had to do a lot of spade work to procure all relevant records from various Police Stations relating to October - November, 1984 riots cases and streamline the procedure for detailed scrutiny thereof by the team of police officials under the

supervision and guidance of a D.I.G. (Police) attached to the Committee. Of Course, the chairman and the member of the Committee had to issue necessary instructions and lay guidelines from time to time. The whole process was indeed so laborious and time-consuming because the scrutiny teams had to minutely examine each and every police case diary in order to find out whether the incident narrated in an affidavit had been dealt with by the Investigating Officer or not. If so, to what extent and with what result. The task was rendered formidable because of non-registration of cases in respect of each information relating to Commission of cognizable offences and various complainants having been simply examined in the omnibus F.I.R. of a general and vague nature under Section 161 Cr. P. C. Yet another factor which enormously increased the work was incorrect information received from the various Deputy Commissioners of Police / S. H. Os. as to how the particular complaints relating to October - November, 1984 riots cases were dealt with by police officers of the concerned Police Station. In a large number of cases it was found on scrutiny that the F.I.R. number mentioned by the Deputy Commissioner of Police / S. H. O. in their replies to the question made by the Committee did not contain any case diary in that F.I.R. with the inevitable consequence that all the case diaries relating to October - November, 1984 riots cases registered at a Police Station had to be scanned in order to ascertain whether the grievance of the deponent had at all been dealt with or not and if so, how.

3.14. A sample list of cases, wherein local police reported linking of the complaints in particular F.I.Rs. which information on check made in the Committee has been found to be incorrect, is enclosed as Annexure '1'.

CHAPTER - 4

Appointment of Justice J. D. Jain Shri D. K. Agrawal Committee Appointment of Justice J. D. Jain Shri D. K. Agrawal Committee

4.1. The Delhi Administration re-constituted the Committee second time with the appointment of Sh. D. K. Agrawal, a retired officer of the Indian Police Service and formerly D.G. (Police), Uttar Pradesh as Member in place of Sh. P. A. Rosha (who had since relinquished office) vide order no. F.10/(65)/87/Home Police-II dated 1st October 1990 and Sh. Justice J. D. Jain, a retired Judge of Delhi High Court, as Chairman of the Committee vide Order of even No., dated the 30th November 1990 in place of Justice P. Subramonian Poti. The Committee started functioning from the first week of December, 1990.

4.2. To start with, the Committee reviewed the progress of work done so far. The Committee noted that out of the total number of 1084 affidavits taken over from its predecessor Committee i.e. Justice Poti - Sh. Rosha Committee, recommendations in respect of 30 (thirty) affidavits had already been sent to the Lt. Governor of Delhi in August and September 1990. The remaining 1054 affidavits were sorted out keeping in view the judgement of the Hon'ble High Court of Delhi in Sh. Brahma Nand Gupta & Others Vs Delhi Administration & Others (Civil Writ Petition No. 3337/87) Supra. The Committee took a decision informally that top priority would be given to cases involving heinous crimes like murders and less serious offences involving loot, arson etc. would be taken up at later stages.

4.3. The Committee kept in view the procedure followed by its predecessor Committee i.e. Justice Poti - Sh. Rosha Committee regarding tabulation, scrutiny and analysis of the affidavits which formed basis of recommendations sent to the Administrator of the Union Territory of Delhi. The Committee found that bulk of the affidavits filed before Justice Ranganath Misra Commission of Inquiry were in Punjabi script and many of them had already been translated into English and remaining affidavits of its nature were translated in the Committee's Office.

4.4. The case files relating to 403 F.I.Rs. registered and investigated by the respective Police Stations, as reported by the Delhi Police to Justice Ranganath Misra Commission of Inquiry and indicated in the Report of the Commission at page 17 of Volume 'II', were collected and examined in order to know as to whether they were complete in all respects. It transpired that by and large these case files did not contain copies of the charge sheets and their enclosures e.g. list of witnesses etc. where cases were sent up for trial. Such charge sheets and enclosures were required to be obtained from the Director of Prosecution, Delhi Administration and the Trial Courts concerned as well as the Record Rooms of the District Police / Sessions Courts. For this purpose, Secretary (Home), Delhi Administration was requested vide D. O. Letter No. F.9/(1)/Committee/P.R./90/436 dated the 23rd April 1990 to supply certified copies of the charge sheets put up in the Court, in respect of these

403 cases. This was followed by a D.O. letter dated the 1st October 1990 from the Member of the Committee Sh. D. K. Agrawal addressed to the Chief Secretary, Delhi Administration, for expediting the supply of the charge-sheets. It was later decided by the Delhi Administration that the Director of Prosecution should obtain certified copies of the charge sheets either from the Investigating Officers or the Courts concerned and supply the same to the Committee. It took considerable time for the Director of Prosecution to supply certified copies of the charge sheets to this Committee.

4.5. The case files received from the Delhi Police showed that they were either maintained in Urdu or Hindi. The detailed scrutiny was taken up to find out the particulars of investigation done, witnesses examined and nature of finalisation etc. This process had to be done with meticulous care as it was found that large number of incidents had been clubbed together in a particular F.I.R. This data was compiled alphabetically in order to link those affidavits.

4.6. A detailed scrutiny was then taken up in respect of each affidavit Police Station-wise in order to find out;

i) Whether allegations contained in a particular affidavit were taken up for investigation in any of the cases registered at a particular Police Station and, if so, whether such an investigation was conducted in a proper manner and, if not, whether to suggest further investigation to be taken up in order to bring that particular case to its logical conclusion.

ii) In case a particular allegation contained in an affidavit was not taken up at all for investigation in any of the cases registered at a particular Police Station, fresh registration and investigation by a competent investigating agency was suggested.

iii) It was noticed that in a large number of affidavits the deponents although examined under Section 161 Cr. P. C., their grievances were not reflected in the charge- sheets and even the deponents were not cited as Prosecution Witnesses. Consequently such cases ended in acquittal in order to find out as to whether such acquittal. The Committee sought copies of judgement of acquittal was just and proper or whether it was a result of faulty investigation or a lack of interest on the part of the investigating agency or prosecuting agency. The Committee examined such cases carefully and made their recommendations in the light of the judgement to the Administrator of the Union Territory of Delhi.

iv) The Committee came across a large number of cases, mostly relating to loot and arson, in which the police did not register F.I.Rs. despite the victims having lodged their written reports with them. In such cases, the Committee tried to ascertain if there was any evidence or clue to identify the culprits involved in the incidents. In cases where there was no such

evidence or clue in sight, the Committee took note of the lapse of long time and refrained from recommending registration of fresh cases and their investigation. Such cases were, however, sent to the Lt. Governor of Delhi for taking such disciplinary action against the delinquent police officials as deemed proper.

4.7. The scrutiny, tabulation and the analysis of the various affidavits in the manner described above was taken up at the level of the Superintendent of Police and other police personnel attached with him who submitted their reports to the D.I.G. (Police). The D.I.G. (Police) in turn, after recording his comments submitted the files to the Member / Chairman of the Committee for final orders of the Committee.

4.8. It would be worthwhile to mention here that the Committee held two meetings with the Lt. Governor of Delhi during the year 1991 at their request. One meeting was held on 5th February 1991 in which certain ways & measures were suggested to speed up investigation and trial of the cases relating to October - November 1984 riots in Delhi. The Committee also suggested setting up of two - three Special Investigating Teams in the Delhi Police under a Deputy Commissioner of Police and the overall supervision by the Additional Commissioner of Police, In-charge - CID and also to review the work-load of the three Special Courts set up to deal with October - November, 1984 riots cases exclusively so that these cases could be taken up on day-to-day basis. The question of appointment of Special Prosecutors to deal with October - November 1984 riots cases exclusively was also discussed. The Committee, however, did not receive the minutes of the meeting. In the second meeting held on 9th August 1991 under the Chairmanship of the Lt. Governor of Delhi following decisions were taken;

i) The cases in which the police officials of the level of S.H.O. and Sub-Inspector etc. were allegedly involved should be investigated by an officer of the rank of Deputy Superintendent of Police of the Special Investigating Team.

ii) The cases relating to the same incidents should be clubbed together to quicken and facilitate the investigation.

iii) In order to ensure that recommendations were made only in such cases where deponents owned their affidavits, a decision was taken to call the deponents to verify their affidavits only to the extent of finding out whether the deponent had made that particular affidavit or not.

iv) It was brought out by the Commissioner of Police and his Officers that the people were not forthcoming with the evidence / information at the time of investigation. The Lt. Governor of Delhi directed that all efforts should be made to gain the confidence of the people at the time of investigation.

4.9. In pursuance of the decision taken in the meeting referred to in Sub para (iii) above, the Committee drafted special measures for service of notices on the deponents requesting them to appear before the Committee for recording their statements in confirmation of the affidavits filed by them. In a number of affidavits, it was noted that the deponents were not available at their given addresses and had moved to other places. Efforts were made to locate their present addresses. It is gratifying to note that in most such cases our efforts bore fruit and the deponents were located and examined in the Committee. The Committee also deputed its secretary to Chandigarh to record statements of four deponents who had gone and settled in Punjab after October - November, 1984 riots and were not coming forward to appear before the Committee in Delhi despite notices issued to them earlier. All the four deponents appeared before the Secretary and confirmed their depositions made by them in the affidavits filed before Justice Ranganath Misra Commission of Inquiry.

4.10. The Committee considers that the above procedure of calling the deponents and examining them to enlist confirmation / clarification in respect of their respective affidavits proved quite useful and helpful in arriving at the eventual decision as regards action / recommendations to be made to the Lt. Governor of Delhi. So the effort made was worthwhile.

CHAPTER - 5

Observation of the Committee with regard to Registration / non-registration of cases of cognizable offences relating to October - November 1984 riots and their comments as regards improper, faulty and perfunctory investigation with reasons noticed therefore

5.1. While examining the scrutiny reports prepared by the Superintendent of Police and duly checked by the D.I.G. (Police) attached to this Committee, the Committee was astounded and deeply perturbed to notice that in a very large number of riots cases registered at various Police Stations of Delhi, a novel pattern of registration / non-registration of cases with regard to Commission of cognizable offences had been evolved, viz., instead of registering a separate / distinct first information report with regard to each and every cognizable offence reported at the Police Stations by the aggrieved persons/ complainants, a general, vague and omnibus type of F.I.R. was recorded at the concerned Police Station on the basis of a vague report couched in general terms and signed by some police official say S.H.O. or Sub-Inspector or even Assistant Sub-Inspector of Police to the effect that during his visit to a particular locality falling within the jurisdiction of his Police Station he noticed that the law & order situation was worsening and that violent mobs duly armed with lathis, spears etc., were attacking and the business establishments / residential houses of the Sikhs and were indulging in loot and arson of their property and even committing murders of Sikhs in the locality. On the basis of such reports which were bereft of any details or particulars about any specific incident of murder, loot or arson, an omnibus F.I.R. was registered and all other subsequent reports of individual or separate incidents lodged by the aggrieved persons/complainants were linked with that omnibus F.I.R. with the result that the circumstances attending upon each and every such incident, heinous crime or gruesome murder were not incorporated in any duly registered first information report; instead such cases were linked with the omnibus F.I.R. for purpose of investigation by examining the aggrieved persons/ complainants under Section 161 Cr. P. C.

5.2. Section 154 Cr. P. C. mandates that every information relating to the Commission of cognizable offence, whether given in writing or orally, shall be reduced to writing and shall be signed by the person giving the same. It further requires that the substance of the same shall be entered in a book to be kept by the concerned police officer in a prescribed form.

5.3. The importance of the first information report as has been pointed out by the various High Courts as well apex

Court, lies in the fact that it is the most immediate first version of incident and has great value in ascertaining the truth. It is not a piece of substantive evidence but it is nevertheless of immense importance as it furnishes in writing the earliest information regarding the occurrence and can be used before there is time for distortion or embellishment to corroborate or contradict its maker under Section 157 or 145 of the Evidence Act as the case may be. It is equally well settled law that once the investigation of the case starts, any subsequent / further statement of a witness will fall under Section 161 Cr. P. C. and will be inadmissible in evidence except for the purpose of contradicting the witness when examined in Court. In a large number of cases relating to the loot and arson of the properties of the Sikhs and gruesome murders of the Sikhs who had been burnt alive in a large number of cases at the hands of the violent mob, this rather ingenious procedure which is obviously not merely irregular but even illegal was resorted to by the concerned police officers with the result that at the stage of trial no corroborative evidence to the deposition of the witness was available which could have been available had a proper F.I.R. been recorded. The Courts were thus deprived of valuable material, which could undoubtedly be of great help in ascertaining the veracity of deposition of the first informant. The non-registration of F.I.Rs as provided for in Section 154 Cr. P. C. thus undermined the very foundation of the prosecution cases. Hence, a large number of cases in which the charge-sheets were filed in Court ended in acquittal mainly because of this serious lacuna and intrinsic infirmity in the investigation. The Committee will presently advert to the observations made by various Courts in this behalf.

5.4. The Committee was also distressed to notice that apart from the above mentioned illegality / infraction of statutory provision committed by the local police of various riot-affected Police Stations, the investigation carried out was itself absolutely casual, perfunctory and faulty. For instance, somehow a practice grew up with the Investigating Officers to examine only complainant, widow or son or father of the deceased as the case may be, under Section 161 Cr. P. C. The Statements so recorded were laconic, cryptic and sketchy running over just three or four lines barely covering the narration of the incident. In most of the cases such statements would end up with the concluding sentence that the maker of the statement was not able to identify anyone from amongst the culprits / mob. The Investigating Officer would thus make a short shrift of the matter and throttle the grievance of victim of violence regarding murder of kith & kin or loot and arson of his / her property as the case may be at the very thresh-hold.

5.5. Since a number of incidents of mob violence took place on a particular day in a particular locality at about the same time during 31st October, 1984 to 4th November, 1984 only it should have been possible for the local police to co-relate the various incidents and find out corroborative evidence but nothing of the kind was done and the solitary witness to the crime even when a charge sheet was filed in the Court would by and large be the complainant alone irrespective of whether he / she had witnessed the occurrence. Indeed the whole investigation was done in such a perfunctory, casual and mechanical manner that no attempts were made even to find out the ocular witnesses to the occurrence, if any, much less corroborative evidence in any shape or form. To crown all, no attempts were made to examine even the family members of the deceased, other than the complainant, inmates of the house and neighbours of the deceased. No attempt was made to ascertain even from the complainant if he or she had witnessed any other killing or incident of loot or arson. Such was the colossal indifference towards loss of human life and properties of Sikhs. Even Hindus who incidentally suffered in loss of life or property during the riots were no exception, so far as investigation of their grievance was concerned.

5.6. The Committee was equally concerned to notice that in most of the cases of mob violence, no attempts were made to trace out the culprits and effect recovery of weapons of offence or stolen / looted property. Strangely enough, in some cases even announcements were made by intimating the culprits to deposit the looted property quietly on the road-side and they would not be harmed. Such property was later taken to the Police Stations and restored to the concerned claimants. The Courts have deprecated such poor investigation and resort to such methods on the ground that in law such recoveries had no evidential value. It was pointed out that no disclosure statements of the accused under Section 27 of the Evidence Act were recorded, no independent witnesses, other than the local police officials were even joined to witness such recoveries. In quite a large number of cases the Courts have observed that such recoveries had been planted on the accused persons whose names were collected long after the happening of the incidents for reasons best known to the police.

5.7. It may be pertinent to mention here that in a large number of cases the grievance of the deponents is that written reports of the incidents lodged by them were not recorded by the police officers on duty even in respect of heinous crime and gruesome murders when the names of the culprits were mentioned therein and still worse if the names of the culprits included some police officials, influential persons of the town

or political big-wigs. Such allegations were repeated by the deponents when examined by the Committee for eliciting some clarification or confirmation of the affidavit.

5.8. Yet another malpractice, which came to light was that kind of format had been prepared at some police stations for the aggrieved persons to submit their complaints. The form contained various columns, including names and addresses of the complainants, the damage to the persons, the kind and description of the looted / burnt properties and the quantum of loss suffered by them etc. Unfortunately, however, there was no column therein under which the complainant could write the facts attending on the incidents of murder, the name of the deceased and the names of the culprits if any known to them. Such pieces of information when produced in Court were bound to recoil on the prosecution on the ground that the same were bereft of the details of the incident, the names of the witnesses and the names of the accused persons, if any. Evidently this illegal procedure caused incalculable harm to the aggrieved persons / complainants and many a murder was not even reported to the police. A copy of such a format is annexed as Annexure '2' of the Report.

5.9. The Committee also noticed with deep concern that in a large number of cases the incidents reported by the aggrieved persons were not reflected in the charge-sheets even though such aggrieved persons had been examined under Section 161 Cr. P. C. and were cited as Prosecution Witnesses with the result that no distinct / separate charges were framed by the Court in respect of each and every offence as required by the provisions contained in Section 212 and 218 Cr. P. C. The charge-sheets filed in Court were mostly couched in general terms without specifically referring to particular incidents. Under Section 218 Cr. P. C., for every distinct offence of which a person is accused there has to be a separate charge and every such charge has to be tried separately. Of course, the Code has provided that certain charges may be framed and tried together under certain contingencies. In other words, in certain cases the Court permits the joinder of charges and those contingencies contemplated by the Code are given in Section 219, 220, 221 & 223 Cr. P. C. Section 211 & 217 deal with the form of charges while Sections 219 to 224 deal with the joinder of charges and they must be read together and not in isolation. The general principle under Section 218 with regard to there being a separate charge and separate trial in respect of each distinct offence of which any person is accused is mandatory. The other provisions relating to joinder of charges are merely discretionary and empower the Court to allow joinder of

charges and try them together keeping in view the provisions mentioned above.

5.10. Section 223 Cr. P. C. is the only provision, which permits several accused persons to be charged and tried together under certain circumstances where accusation prima-facie justifies a joint trial of more persons than one. It enables joint trial of several accused persons when persons are accused of the same offences committed in the course of the same transaction or even persons accused of different offences committed in the course of the same transaction. Section 223 is merely an enabling provision and its object to avoid multiplicity of trials under certain contingencies. However, the Committee was astounded to notice that in a large number of charge-sheets filed in Court several accused persons numbering even 100 and more were arraigned to stand trial together even though allegations against them or some of them were totally distinct and the offences were not co-related to each other in the sense that they did not form part of the same transaction or series of transactions. The obvious result was that such cases ended in acquittal of the accused persons due to utter confusion caused by the indiscriminate mixing of charges and want of marshalling the evidence.

5.11. Still worse it was noticed that although a large number of Prosecution Witnesses had been cited in the list attached to the charge sheet, only a few of them were actually examined at the trial on some pretext or the other. In quite a large number of cases even the solitary ocular witnesses were not examined even though a number of adjournments had been granted by the Court on the pretext that they were not traceable with the result that they inevitably culminated in acquittal. It may be pertinent to mention here that several such witnesses who happened to be widows etc., of the deceased could be successfully traced out by the concerned staff of the Committee for examination by the Committee.

5.12. The last but not the least the Committee records with a sense of deep anguish that the cases of loot and arson committed by the riotous mobs on a large scale resulting in immense damage to and loss of the business establishments, vehicles and other valuable assets of the Sikhs were by and large shelved in cold storage and no heed was paid or concern shown by the Investigating Officers of various Police Stations to probe such cases except recording the laconic and cryptic statements under Section 161 Cr. P. C. of the aggrieved persons/ complainants. Type page 58 till end of para 5 – 12 here.

5.13. The Committee although of the opinion that fresh cases ought to be got registered and duly investigated, in cases of virtually no investigation took a rather pragmatic and realistic view of the matter and thought that no useful purpose may be served in getting such cases registered and investigated now after lapse of nearly eight years of the events. If the Investigating Officer lacked the necessary will and sense of duty/propriety to discharge their duty at the appropriate time when the investigation could have yielded desired result, it would be just an exercise in futility to expect the police officers to do such a Herculean task and achieve the desired results after lapse of eight years when vital clues/evidence would/might have vanished and recovery of looted property would be highly improbable. Hence the Committee was constrained not to recommend any action in such cases except bringing the same to the notice of the Lt. Governor, National Capital Territory of Delhi, for taking such disciplinary action against the delinquent police officials for serious lapses and dereliction of duty on their part as he deemed fit.

5.14. The Committee assumes, and justifiably so, that police officers of the level of Station House Officers, Inspectors of Police and Sub-Inspectors of Police attached to the Police Station who had lot of experience of investigating intricate and complex criminal cases relating to heinous crimes, like dacoities and gruesome murders etc., must be conversant with the various provisions embodied in Code of Criminal Procedure etc. having bearing on the concept and requirements of investigation of criminal cases/heinous crimes. The Committee is, therefore, of the view, that had the S.H.Os., Inspectors of Police and other senior police officers attached to a Police Station supervised and guided the investigation of the riot cases, there would have been hardly any scope for acts of omission and Commission of the colossal magnitude as brought about by the Committee. Even the Deputy Commissioners of Police and Assistant Commissioners of Police owed it to the mass of humanity who had suffered immensely at the hands of the violent and unruly mobs that the investigation and probe into their grievances was properly conducted and the guilty brought to book. The case diaries etc., which have come to the notice of the Committee, however, belie our expectation and an impression is created that even some senior Police officers simply abdicated their responsibility and control over investigation of riots cases. It was their bounded duty to ensure that there was proper and meticulous investigation into the same in accordance with the various provisions of law on the subject. The Committee wish and hope that the senior and experienced Police Officers will acquit themselves in a highly

responsible and conscientious manner should any such eventuality, God forbid, arise in future.

5.15. In the following pages the Committee has adverted to some such cases rather briefly to high-light and illustrate the serious and grave lapses and dereliction of duty on the part of some Police Officers who failed to perform their statutory duty of proper and fair investigation, rather they simply tried to hush up the cases by examining only the complainants without any attempt to find corroborative evidence and co-relate the statements of various complainants even though the incidents had taken place at about the same time, place and date as noticed above.

5.16. Following are the illustrative cases high-lighting the irregularities, illegalities committed by the local police of various Police Stations during the course of investigation of various riots cases which will show very casual and perfunctory nature of investigation: -

P O L I C E S T A T I O N : S R I N I V A S P U R I

A-1 File No 572/96/95 JPRC/SP/90 Sh. Harjit Singh s/o Sh Charan Singh

A-2 File No. 22/48/JJC/87/JPRC/SP/90/ Sh. Paramjit Singh s/o Gurbachan Singh

A-3 File No. 23/90/ JJC/87/JPRC/SP/90/ Dr. Dalbir Singh Saluja & 4 other connected cases.

FIR No. 369/84 dated the 1st November, 1984 Police Station Srinivaspuri, New Delhi furnishes a glaring example of how faulty, illegal and slipshod was the procedure adopted by Srinivaspuri Police in the registration and investigation of riots cases pertaining to the area falling under their jurisdiction. It also provides an insight into very casual, perfunctory and defective investigation conducted by Srinivaspuri Police into various cases reported to it by the aggrieved parties/victims of the riots.

The aforesaid F.I.R. was registered at Police Station Srinivaspuri towards the Commission of offences under Sections 147, 148, 149, 395, 435, 436 427 & 295 I.P.C. on the basis of an omnibus report of a general nature lodged by Sub-Inspector Ved Prakash stating that large scale looting and burning of the properties of Sikhs was taking place in the area. However, no specific incidents of loot and arson were mentioned in the F.I.R. All the complaints/reports received from various aggrieved persons/victims of violence received by Srinivaspuri Police were tagged to this F.I.R. instead of

recording any F.I.R. in respect of specific allegations contained in the reports and the various complainant/aggrieved persons were later on examined under Section 161 Cr.P.C. i.e. during the course of investigation of the case F.I.R. No. 369/84, the total number of such cases being 32 (thirty-two) as per list of the recommendations made by this Committee in the abovementioned cases (See Annexure '3' of the Report).

The Committee was perturbed to notice that even though the F.I.R. had been registered towards Commission of various offences under the Indian Penal Code as stated above, only 7 (seven) charge-sheets were eventually filed by the Srinivaspuri Police in court and that too under Section 412 I.P.C. by showing that some stolen articles have been recovered from the accused persons. No charge was framed under sections 147, 148, 149, 395 & 437 I.P.C. even though the report on which the said F.I.R. is based emanated from Sub-Inspector Ved Prakash. The gist of 7 (seven) charge sheets is also attached with the above mentioned Annexure (File No. 3/242/JJC/87/JPRC/SP/90). All the aforesaid charge-sheets ended in acquittal. Although a large number of Prosecution Witnesses had been cited yet only a few of them were actually examined.

A perusal of the judgements in the aforesaid charge-sheets would show that all the cases culminated in acquittal primarily on two grounds (i) that the identification of the accused persons by the Prosecution Witnesses was done at the Police Station and there being no judicial identification, no value could be attached to their evidence in identifying the accused persons in Court, (ii) that either no stolen property was recovered in such cases or no property was duly identified by the Prosecution Witnesses and seized as per procedure and (iii) that the F.I.R. did not contain details of the incidents in respect of which charge-sheets had been filed and as such it was of no avail to the prosecution.

It was further noticed that in several cases no investigation was done except recording the statements of the complainant under Section 161 Cr.P.C. In other words the accused persons were not traced out and connected with the looted property. Even the nature of looted property was not established. While some of the complainant were cited as Prosecution Witnesses, they were not examined at the trial. Quite a large number of complaints were not reflected in any of the charges filed in the Court.

In File No. 572/96/85/JPRC/SP/90, although the deponent Harjit Singh son of Charan Singh, Tailor Master

resident of 13-Private Colony, Srinivaspuri, New Delhi had cited even his two Hindu tenants as witnesses to the occurrence, they were not examined either under Section 161 Cr.P.C. or at the trial and only one son of the deponent namely Arjan Singh was examined. Since he was not present at the time of occurrence, he could not name or identify any of the culprits. The said case was not covered by any of the charge-sheets.

It may be pertinent to notice here that the number of cases of this type in which the local police did not record any separate F.I.R. in respect of the specific incidents of violence, loot, arson and murders etc. but they were tagged on to an omnibus F.I.R. registered on the basis of a report of a local police officer which was quite vague and general in nature runs into hundreds as pointed out by the Committee in separate recommendations sent to the Lt. Governor, National Capital Territory of Delhi. Such omnibus F.I.Rs. simply narrated the worsening law & order situation on account of eruption of violent riots in Delhi in the wake of the assassination of late Prime Minister of India, Shrimati Indira Gandhi but did not specify separate incidents or the members of the riotous mobs indulging in such violence, loot, arson and killing of the male Sikhs. With few exceptions, no miscreants were apprehended on the spot even though the violent incidents occurred under the very nose of police.

POLICE STATION : NIZAMUDDIN

B-1 File No. 90/169/JJC/87/JPRC/SP/90/ and 8 connected cases

The grievance of the deponents Sh. Beant Singh son of Sh. Nand Singh resident of A-14, Church Lane, Bhogal and others were that their trucks bearing registration No. DLL-9211, DHG-8224, DLL-3013 etc., had been burnt by the rioters on 1st November, 1984 and in consequence they suffered huge losses. The complaints of some of them also were that their business establishments had been looted and burnt. Most of them have alleged that the looting and burning of their vehicles and establishments went under the very nose of Sub-Inspector Shakti Singh who was Incharge Police Post Jangpura.

The scrutiny of the above cases revealed that most of the deponents had been examined by the Investigating Officer Sub-Inspector Shakti Singh under Section 161 Cr.P.C. However, no recoveries were effected in their cases. A charge-sheet was filed in Court in F.I.R. No. 412/84 on 12th March, 1985 against 8 (eight) accused persons and as many

as 231 Prosecution Witnesses had been cited. Some of the deponents too were cited as Prosecution Witnesses. Eventually, however, the case ended in acquittal vide Judgement dated 30th November, 1991 of Sh. S.S. Bal, Additional Session Judge, Delhi.

A perusal of the Judgement dated 30th November, 1991 of Sh. S.S. Bal, Additional Sessions Judge, Delhi, makes astounding revelations. It would appear that about of 231 Prosecution Witnesses cited in the charge-sheet as many as 88 Prosecution Witnesses were examined at the trial. The learned Additional Sessions Judge, Delhi has observed that barring Prosecution Witnesses 5, 6, 27, 28 & 88, the evidence of the rest of the witnesses was not at all material because they had simply stated that their respective vehicles and establishments etc., were looted and burnt in their absence and they could not identify any of the accused persons. It would indeed appear that the cases of about 200 complainant/aggrieved persons who were victims of the riots had been clubbed with the F.I.R. No. 412/84 although only 88 out of 231 Prosecution Witnesses examined.

Gurcharan Singh Prosecution Witness 6 was one of the owners of M/s. Texla TV Centre, situated at Plot No. 6, Mathura Road, New Delhi, which had been looted and burnt in the riots. Some TV parts etc. were alleged to have been recovered from some of the accused persons, in the presence of Gurcharan Singh and some other witnesses of recovery who were mostly police officials. However, their evidence was found to be wanting to bring home the guilt to the accused and therefore they were eventually acquitted.

The testimony of Prosecution Witness 88 viz., Sub Inspector Shakti Singh who was Investigating Officer and was the author of the F.I.R. No. 412/84 (Supra) makes an interesting reading. According to him he was patrolling the area when a crowd of 1400 to 1500 persons strong armed with lathis etc., came there and started setting the trucks and establishments of Sikhs on fire at about 2.00 P.M. when they i.e. Sub-Inspector Shakti Singh etc., were on Church Lane, Bhogal. He further stated that the two groups, one of Sikhs and the other of non-Sikhs were about to clash with each other but the police fired 13 (thirteen) rounds to disperse them. He even saw some of the accused persons named by him as being members of the unlawful assembly and present at Texla TV Centre. However, they managed to escape and could not be arrested.

The foregoing facts do support to a great extent the grievance of the deponents in the nine cases that the looting

and burning of their vehicles and shops etc., took place under the very nose of Sub-Inspector Shakti Singh and they were ready to confront the riotous mob to protect their vehicles and shops etc. but for the intervention of Sub-Inspector Shakti Singh. The Committee thinks that while the act of Sub-Inspector Shakti Singh in preventing the clash between the two groups was quite praise-worthy, his total failure to save the properties of the Sikhs from being looted and burnt at the hands of the mob must be deprecated. It does not stand to reason that while he was able to suppress the Sikh owners of the vehicles and shops, which were under attack by the mob why he could not firmly handle the situation and save the vehicles and other properties of the Sikh from loot and arson. It is further deplorable that barring one or two stray cases no efforts seem to have been made to effect recoveries of the looted properties and send up the miscreants for trial in a Court of law. That besides, the very act of the clubbing nearly 200 cases in one F.I.R. is totally illegal, being violative of provisions of Cr. P.C. adverted to above. It is no wonder that in the absence of any follow-up action by Sub-Inspector Shakti Singh, the evidence of most of the witnesses who happened to be owners of the vehicles and business establishments and had simply deposed that their vehicles and the shops etc. had been looted and burnt was of no value in bringing home the guilt to the accused persons. It bears repetition that only the case of loot and burning of the business establishment "Texla TV Centre" was apparently investigated although the investigation suffered from may a lacuna as pointed out by the Court. In the above cases, too, even though the investigation conducted was found to be faulty, casual and perfunctory, no further investigation or registration of fresh cases where the deponents had not even been examined as witnesses at the trial, was recommended taking a pragmatic and realistic view of the matter that such a course may just be an exercise in futility in view of the fact that eight long years had elapsed since then and the deponents were not in a position to name or identify any of the culprits. However, all such cases were directed to be brought to the notice of Lt. Governor, National Capital Territory of Delhi for taking such disciplinary action as the Lt. Governor may deem fit against the delinquent police officials for serious dereliction of duty.

B-2- File N. 453/2381/85/JPRC/SP/90

B-3- File N. 363/2429/85/JPRC/SP/90

B-4- File N. 4/2432/85/JPRC/SP/90

All the three deponents namely; Sh. Balbir singh son of Sh. Charat Singh resident of 58-Church Road, Bhogal, New Delhi, Sh. Kanwar Jeet Singh son of Sh. Kehar Singh resident of 32-Church Road, Bhogal, New Delhi and Sh. J.S. Gandhi

son of Sh. Lochan Singh resident of 43-Masjid Road, Bhogal, New Delhi filed their respective affidavits before Justice Ranganath Misra Commission of Inquiry in September, 1985. The allegations made by Sh. Kanwar Jeet Singh in brief are that on 1st November, 1984 a violent mob raising provocative slogans against Sikhs came to their locality and started setting the trucks, belonging to the Sikhs, on fire near Lahorian-Di-Hatti Chowk. He saw Hari Chand Saini and Vijay Chaudhary amongst the mob as they were leading the mob. Some members of the Sikh community also reached there to wards off the attack. However, in the meantime Sub-Inspector Shakti Singh arrived there along with some policemen and asked the Sikhs to go to their homes. He also fired shots from his revolver to scare them away. There upon Sikhs went to their homes but the mob set some vehicles on fire. On 2nd November, 1984 again the mob attacked and set the trucks belonging to Sikhs, parked near Gurdwara, on fire. However, the police did not allow the Sikhs to go near trucks to defend themselves. The same thing was repeated on 3rd November, 1984 when some shops were looted and set on fire.

Almost similar allegations have been made by Sh. J.S. Gandhi, deponent. Balbir Singh, deponent has narrated the same story but without naming Hari Chand Saini and Vijay Chaudhary.

The scrutiny reports revealed startling facts. It was noticed that initially the complaints of all the three deponents were linked with FIR No. 412/84 of Police Station Nizamuddin (Supra.). All three of them were examined by the Investigating Officer during the course of investigation of case F.I.R. No. 412/84 dated the 1st November, 1984 on different dates under section 161 Cr. P.C. However, while their statements referred to the looting and burning of their respective trucks shops etc. none of them mentioned the names or identified any of the culprits. It was quite surprising to notice that the case diary of F.I.R. No. 412/84 also contained statements under section 161 Cr. P.C of Hari Chand Saini and Vijay Chaudhary dated 3rd November, 1984 and 14th November, 1984 about the burning of their trucks and shops by the rioters on 1st November, 1984. All the three deponents as well as Hari Chand Saini and Vijay Chaudhary were, therefore, cited as Prosecution Witnesses in the charge sheet filed in case FIR No, 412/84. However, none of them was examined at the trial and as noticed above the said case culminated in acquittal of all the accused persons.

In the meantime, however, a fresh case F.I.R. No. 44/87 was registered on 18th February, 1987 under Sections 147, 148, 148, 341, 342, 427, & 436 I.P.C. on the basis of written

report made by Sub-Inspector Ishwar Singh of Crime Branch, Delhi that Vijay Chaudhary, Youth Congress (I) worker (listed as Prosecution Witness in F.I.R. No. 412/84) had been identified by five persons including the three deponents mentioned above, as being amongst the mob which had indulged in loot and arson of properties of Sikhs on 1st November, 1984. Likewise, the name of Hari Chand Saini was also included in the said F.I.R. No. 44/87. During the course of investigation thereof all the deponents were examined under Section 161 Cr.P.C. on different dates and while narrating the incidents of violent attack by the mob Balbir Singh, Kanwar Jeet Singh stated that they did not know any of the rioters but J.S. Gandhi did state that Vijay Chaudhary and Hari Chand Saini were present in the mob during riots. Another startling fact which came to light was that investigation of the said case was kept in abeyance from 18th December, 1987 to 15th November, 1989 as per orders of senior officers of Delhi Police and the last case diary made available to the Committee, showed that the case was still under investigation. So the remaining case diaries were requisitioned from Delhi Police i.e. onward to Case Diary No. 36 dated the 17th July, 1990. From perusal thereof it transpired that Balbir Singh and J.S. Gandhi, deponents were again examined by the Investigating Officer on 24th September, 1990 and 16th October, 1990 respectively when they simply stated that they could not identify anyone from the mob. J.S. Gandhi further stated that he had heard that the mob was led by Vijay Chaudhary and Hari Chand Saini, Congress (I) workers. The case was eventually closed as un-traced on 14th August, 1991. It is pertinent to mention here that the investigation had been entrusted to the Crime Branch before it was closed as un-traced.

The Committee suspects that subsequent case diaries were manouvered to give a decent burial to the case F.I.R. No. 44/87 under pressure of some influential elements. It may well be that the deponents were got at and subdued by some influential persons and the police lacked the will to charge-sheet S/Sh. Vijay Chaudhary and Hari Chand Saini. Anyhow, the whole matter is shrouded in mystery and it is for the Lt. Governor, National Capital Territory of Delhi, to get it unravelled or not, as he may deem fit.

Copies of the case diaries No. 12 dated the 18th December, 1987, No. 14 dated the 28th November, 1988, No. 16 dated the 2nd March, 1988, No. 19 dated the 30th July, 1988, No. 22 dated the 3rd December, 1988, No. 27 dated the 18th June, 1989, No. 36 dated the 17th July, 1990 and copies of the statements dated the 24th September, 1990 and 16th October, 1990 of Sh. Balbir Singh and Sh. J.S. Gandhi

deponents respectively are annexed at Annexure '4' of the Report.

The foregoing facts reinforce the view expressed by the Committee earlier that there has been distortion, twisting and even fabrication of statements recorded under Section 161 Cr.P.C. in many riot cases of 1984.

B-5- File No. 36/22-A/JJC/87/JPRC/SP/90/

B-6- File No. 544/2484/85/JPRC/SP/90/

The abovementioned two cases reveal the same pattern of faulty, perfunctory and casual investigation on the part of that the police. The grievance of the deponents Ranjit Singh Chadha and Prithvi Singh was that their shops had been looted and burnt by the rioters. They lodged a report with the police but there was virtually no investigation.

The scrutiny of the police record revealed that both the deponents were examined under Section 161 Cr.P.C. in the case F.I.R. No. 415/84 dated the 3rd November, 1984 of Police Station Jangpura and a charge-sheet was eventually filed by the local police against 17 (seventeen) accused persons. However, the same ended in acquittal vide judgement dated the 30th September of Sh. J. D. Kapur, Additional Sessions Judge, Delhi. A perusal of the said judgement would show that as many as 34 (thirty-four) witnesses were cited in the charge-sheet but only 22 (twenty-two) of them were examined at the trial. The deponents were however, not examined in the Court.

The learned Additional Sessions Judge, Delhi has noticed some very serious flaws and short-comings in the investigation of the case which was more of an eye-wash than real investigation as per procedure laid down by law. Some of the Prosecution Witnesses were owners of the shops which had been looted and burnt and they all lodged reports with the police on the next following day of occurrence. However, neither any goods were recovered in their presence nor the disclosure statements of any accused were recorded in their presence, nor did they see any of the culprits breaking open their shops or looting away their goods or burning their trucks. The deponents although not examined at the trial, were unaware of the culprits like other Prosecution Witnesses. The learned Additional Sessions Judge, Delhi has rightly observed that their statements were laconic and were only meant to prove the stolen articles found with some of the accused person were those in which the aforesaid witnesses were dealing. It was further noticed that Constable Nirmal Singh was the only witness to the recovery of stolen property from the various accused persons. The learned Additional Sessions

Judge, Delhi observed that the owners of the said articles were not contacted either before the recovery of the articles nor were they called to identify those articles at the spot. However, they were later on called at the Police Station and shown the articles recovered from various accused persons which they claimed as belonging to them. Significantly the testimony of the said witness about the recovery of the articles from the houses of the above accused persons remained uncorroborated even though he had accompanied Sub-Inspector Hans Raj and Head Constable Raghbir Singh when the recovery of stolen property was allegedly made. The trial Court further pointed out that the recovered property was not sealed at the spot nor any independent or public witness was joined as a witness of recovery or asked to sign recovery memos. Hence, no reliance could be placed on the police witnesses. Since these articles were easily available in the market, no inference could be drawn regarding the same being stolen property. Court has further pointed out that the recoveries had not been effected pursuant to any disclosure statements under Section 27 of the Evidence Act so as to lend assurance about the complicity of the accused persons in the Commission of crime. These and many other short-comings pointed out by the Additional Sessions Judge, speak volumes for the inefficient and faulty handling of the investigation by the concerned Investigating Officer. In the absence of any legal evidence to connect the accused persons with the Commission of crime, acquittal was the only course left. It is noteworthy that the charge-sheet did not cover the case of the deponents as such nor were they examined as Prosecution Witnesses at the trial.

This case too was brought to the notice of the Lt. Governor, National Capital Territory of Delhi, for taking such disciplinary action against the delinquent police officials as he may deem fit. A copy of the judgement dated the 30th September, 1989 of the learned Additional Sessions Judge, Delhi is annexed to the Report at Annexure '5'.

P O L I C E S T A T I O N : L A J P A T N A G A R

C-1- File No. 288/2682/85/JPRC/SP/90

C-2- File No. 545/2581/85/JPRC/SP/90

These two files relate to the affidavits, one by Madan Singh Chawla and the other by Mohinder Singh Chawla both of whom are real brothers and were residing at Lajpat Nagar at the relevant time. In the separate affidavits filed by them they have alleged that their respective houses and shops had

been looted and burnt by the violent mobs on 1st November, 1984 but nothing was done by the local police despite a complaint having been duly lodged at the concerned Police Stations.

The scrutiny of the police records revealed that the incident of loot and burning of their house had been linked with the case F.I.R. No. 689/84 dated the 1st November, 1984 registered at Police Station Lajpat Nagar towards the Commission of offences under sections 147, 148, 149, 435, 436, 395 & 295 I.P.C. on the basis of an omnibus report made by Sub-Inspector Ved Prakash with regard to the violent mobs looting and burning the Gurudwars and shops etc., of the Sikhs in the area. It is significant to note that no separate F.I.R. was recorded on the basis of the report lodged by Madan Singh Chawla and his brother Mohinder Singh Chawla.

Madan Singh Chawla was examined during the course of the investigation of the aforesaid case on 4th November, 1984 and 12th November, 1984. On the second day he repeated his complaint and furnished details of the looted goods. Mohinder Singh Chawla too was examined under Section 161 Cr.P.C. on 8th November, 1984. Not only that, Manjit Singh Chawla and Jagmohan Singh Chawla who are apparently brothers of the deponents abovenamed were also examined in the course of investigation of the case F.I.R. No. 689/84 on 8th November, 1984.

A charge-sheet was eventually filed by Lajpat Nagar Police in Court on 14th March, 1985. However, the charge-sheet neither covered the incidents narrated by both the deponents nor were they cited as Prosecution Witnesses in support of the charge-sheet. Even their brothers Manjit Singh Chawla and Jagmohan Singh Chawla were not cited as Prosecution Witnesses.

It is thus crystal clear that apart from examining the deponents under Section 161 Cr.P.C. the local police did precious little to investigate the case further. It may be that the deponents were not able to identify or name any of the culprits during their examination under Section 161 Cr.P.C. However, the Committee feels that their inability to identify any of the culprits did not absolve the Investigating Officer from discharging his statutory duty of conducting a fair and proper investigation, especially when the offences were committed in broad day light by several persons.

Normally the Committee would have recommended registration of a fresh case and investigation thereof by an independent agency but keeping in view that eight long years

have elapsed, it considered that no useful purpose was likely to be served by adopting that course at this late stage especially when the deponents were not in a position to identify any of the culprits. Needless to say that taking this pragmatic and realistic approach to the matter would not in any way dilute the delinquency/dereliction of duty on the part of the local police. Hence the case was brought to the notice of the Lt. Governor, National Capital Territory of Delhi to take such disciplinary action against delinquent police officials as he deemed fit.

As regards the second incident of looting and burning of the shop of the deponent Madan Singh Chawla located at Prithvi Raj Market and styled as "Chawla Auto Stores" the same has been linked to case F.I.R. No. 242/84 registered at Police Station Tughlak Road. In that case too, the deponent Madan Singh Chawla was examined on 5th November 1984 and again on 8th November, 1984 under Section 161 Cr.P.C. A charge-sheet was filed in that case against three accused persons, namely, Raj Kumar, Rakesh Kumar and one person of Nepali origin on 15th January, 1985 under Section 411 I.P.C. only (Nothing about unlawful assembly, rioting, loot and arson). While Janak Bahadur Nepali pleaded guilty to the charge on 7th June, 1985 and was convicted of an offence under Section 411 I.P.C., he was sentenced to imprisonment for the period already undergone while in judicial custody. As for the other two accused persons, namely Raj Kumar and Rakesh Kumar, they were eventually acquitted by the Court of Ms. Sangita Dhingra, Metropolitan Magistrate vide her judgement dated the 16th November, 1989.

It is pertinent to notice that the Court of Metropolitan Magistrate passed strictures about the casual and perfunctory nature of the investigation conducted by the Investigating Officer (Sub-Inspector Kanwar Lal, Prosecution Witness-'9'). The Court pointed out that the Investigating Officer did not get the articles (motor parts) recovered from the accused persons duly identified by the complainant or by any other witness. Further the goods so recovered were not sealed at the time of seizure. The Court also took notice of the fact that even though according to the complainant (Prosecution Witness-'2') he had lodged a written complaint but the same was not on record and such the stolen nature of the articles recovered from the accused persons was not established. It is thus obvious that the acquittal of the accused persons was almost writ large in view of the serious lapses on the part of the local police. This case too was, therefore, directed to be brought to the notice of the Lt. Governor, National Capital Territory of Delhi, for taking such disciplinary action against the delinquent police officials as he may deem fit.

POLICE STATION : DELHI CANTT

D-1 – File No. 30/2482/85/JPRC/SP/90/

This file relates to an affidavit filed by Smt. Nirmal Kaur widow of Sh. Harbans Singh resident of RZ-269, Gali No. 5, Sagarpur, Nangal Raya, Delhi Cantt. Her grievance was that on 1st November, 1984 a violent mob attacked her house, gave beating to her husband with iron rods, sprinkled kerosene oil on him and burnt him alive. One Raj Bania was leading the mob, who belonged to the same locality. On 2nd November, 1984 her neighbours cremated her husband.

The scrutiny revealed that the grievance of Smt. Nirmal Kaur had been linked with the case F.I.R. No. 410/84 dated the 1st November, 1984 Police Station Delhi Cantt which had been registered on the basis of a report of a general type regarding law & order situation by Sub-Inspector Ramesh Rana of that Police Station when he was on patrol duty in the ilaqua in Sagarpur. He inter-alia stated that several shops and houses of Sikhs were burning and the mobs in groups of 50 each were roaming in the area and causing damage to the property and persons of Sikhs. He tried to find out some eye-witnesses but none could be available.

The scrutiny further revealed that a charge-sheet was filed in the said case in the Court against Rajinder Prasad alias Raj Bania being Sessions Case No. 112 of 1985 (F.I.R. No. 410/84 Police Station Delhi Cantt under Sections 147, 148, 149, 427, 436, 380, 302 & 201 I.P.C.). However, the charge-sheet ended in acquittal vide judgement dated the 21st March, 1986 of Sh. S.P. Singh Chaudhari, Additional Sessions Judge, Delhi.

A perusal of the judgement is indeed astounding. The learned Additional Sessions Judge, Delhi has noticed that no action whatsoever in the matter was taken by Sub-Inspector Ramesh Rana up-till 11th November, 1984 on which date the investigation of the said case was transferred to Inspector Om Prakash of Special Investigation Team (Prosecution Witness 5 in the Court Case) when he was handed over a complaint dated the 8th November, 1984 lodged by Smt. Nirmal Kaur and which was lying with the Reader to the S.H.O., Police Station Delhi Cantt. It was only on 20th November, 1984 that statement of Smt. Nirmal Kaur was recorded under Section 161 Cr.P.C.

During the course of the judgement the learned Additional Sessions Judge, Delhi made several observation which may be summarized as under:

i) The F.I.R. No. 410/84 Police Station Delhi Cantt was of a general nature and was not with respect to any particular incident. Hence for the purpose of this case it was of no help to the prosecution being vague, confusing and misleading. Regarding this incident the details are not at all mentioned in the F.I.R.

ii) Even though the F.I.R. was registered on 1st November, 1984 but Sub-Inspector Ramesh Rana, who was the Investigating Officer, did nothing about this particular incident.

iii) Even Prosecution Witness 5, Inspector Om Prakash recorded statement of Smt. Nirmal Kaur for the first time on 20th November, 1984.

iv) From the prosecution evidence especially from deposition of Smt. Nirmal Kaur, who was the solitary eye witness to the occurrence, it transpires that the body of her deceased husband was cremated by mohallawalas on 2nd November, 1984. Moreover, her four daughters were present at the time of the occurrence, eldest one being Karamjit Kaur aged about 17 years and the second daughter Gurpreet Kaur being aged 12 years. However, her two daughters referred to above although very material witnesses were not examined by the Investigating Officer under Section 161 Cr.P.C. and they were also not cited as witnesses in the case nor had they been produced in the Court.

v) Since the only witness to the occurrence, Smt. Nirmal Kaur, was an interested witness and her evidence had not been corroborated by any independent witness of the locality, it is difficult to place reliance on her uncorroborated evidence.

Such are the short-comings and lapses on the part of the Investigating Officers which have been noticed by this Committee in a very large number of cases relating to heinous crimes of murder of the male Sikhs, loot and arson of their properties. While making its recommendations to the Lt. Governor, National Capital Territory of Delhi, the Committee specifically pointed out that no attempt has been made by the Investigating Officer of various Police Stations to collect corroborative evidence of the widows/sons of the deceased persons even though most of the incidents of violence in a locality had taken place on the same date, at about the same time and by the same mob/groups of mob and as such it should not have been difficult for the Investigating Officer to check up and find out if some persons other than the complainant (widow or son of the deceased) too had

witnessed the occurrence but unfortunately that was not done and that was the biggest and most serious lapse on the part of the Investigating Officer, who as pointed out in several cases were casual and perfunctory in the investigation of riots cases.

D-2 – File No. 114/2421/85/JPRC/SP/90/

This file relates to an affidavit filed by Sh. Sudershan Singh son of Sh. Harchand Singh resident of RZ-258/D-2, Raj Nagar, New Delhi before Justice Ranganath Misra Commission of Inquiry on 9th September, 1985. He narrated an incident in which a mob attacked their house at mid-night of 2nd and 3rd November, 1984 and inter-alia killed his father Sh. Harchand Singh, brother Darshan Singh @ Hardarshan Singh besides his neighbour Sh. Nirmal Singh etc. He has also named some of the culprits including S/Sh. Sajjan Kumar M.P., Balwan Khokhar, Mohinder Singh Yadav, Ram Niwas, Brij Mohan Gupta as being amongst the mob.

The scrutiny of the police record revealed some astounding facts showing not only callous indifference but also discernible interest on the part of the local police in shielding the culprits. This case had a bearing on the case F.I.R. No. 418/84, Police Station Delhi Cantt. dated the 6th November, 1984 which had been registered on the written statement of Smt. Surjit Kaur widow of Sh. Harchand Singh (mother of the deponent) in which she has reported about the murder of her husband and son on the night of 2nd and 3rd November, 1984. It was also recorded that she could not name any one amongst the assailants but she could recognize the assailants if produced before her but no effort was made to apprehend the accused and hold an identification parade. She was not even contacted by the Investigating Officer after registering the F.I.R. The charge-sheet was filed in Court in the said case on 24th March, 1985 for various offences. The charge-sheet shows that Bobby, daughter of Smt. Surjit Kaur, was also present at the time of the occurrence at her residence. However, none of the two charge-sheets covered her grievance and she was not even cited as a Prosecution Witness. The deponent and Bobby were not even examined by the Investigating Officer under Section 161 Cr.P.C.

The two charge-sheets filed by Delhi Cantt. Police in Court related to the murders of Karnail Singh resident of RZ-261, Raj Nagar, Palam Colony, being sessions cases No. 71/85 and 111/85 (both in F.I.R. No. 418/84 Police Station Delhi Cantt.). In both the cases the learned Additional Sessions Judge, Delhi viz., Sh. V.B. Bansal and Sh. S.P. Singh Chaudhary respectively noticed that the F.I.R. had been lodged by Smt. Surjit Kaur widow of Sh. Harchand Singh

resident of 258/D-2, Raj Nagar, Delhi and she had stated that her husband and son were murdered before her very eyes by the mob. However, she could not identify any of the culprits.

In sessions case No. 71/85 the prosecution had cited only six witnesses out of whom five were police officers while Smt. Surinder Kaur widow the deceased Karnail Singh, was the only eye-witness to the occurrence. Balwan Singh Khokhar alone had been challaned in that case. However, Smt. Surinder Kaur was not examined on the facile plea that she was not residing at the given address and her whereabouts are not known. The Court observed that the statements of other witnesses were of no avail to the prosecution because they were only formal witnesses. The Court also observed that the complainant Smt. Surjit Kaur widow of Harchand Singh was not in a position to identify the assailants as per challan sheet.

In the second Sessions Case No. 111/85 the charge sheet had been filed against one Hukam Chand. It was with respect to the murders of Chhatar Singh, Niranjana Singh etc. Smt. Somwati, widow of Chhatar Singh, who had been examined under Section 161 Cr.P.C. on 7th December, 1984 was the only eye-witness but she was not produced in the Court on the ground that she was no longer available at the given address. There being no other evidence to connect the accused with the crime he was acquitted. The Court also observed that as a matter of fact the F.I.R. No. 418/84 had nothing to do with the incident in question as the same contained allegation regarding some other incident which related to Smt. Surjit Kaur and nothing had been mentioned about the murders of Chhatar Singh, Niranjana Singh etc. in the said F.I.R. The Court observed that a separate F.I.R. should have been lodged and registered in respect of murders of Chhatar Singh, Niranjana Singh and Pal Singh but that was not done by the police.

It is also noteworthy that the murder of Nirmal Singh was subject-matter of case F.I.R. No 416/84 which was registered on the complaint of Smt. Baljit Kaur, daughter of Avtar Singh. She had named four accused persons namely: Balwan Singh Khokhar, Mohinder Singh Yadav, Dhanraj and Mohinder Singh son of Pal Singh etc. Smt. Sampuran Kaur widow of Nirmal Singh and her daughter Nirpreet Kaur were also examined on 18th November, 1984 in the said F.I.R. No. 416/84 under Section 161 Cr.P.C. Smt. Sampuran Kaur was the deponent in case No. 509/2543/85/JPRC/SP/90/. Both were beaten up by the mob and her two sons had also witnessed the occurrence but they were not examined by the police. Both, Sampuran Kaur and Nirpreet Kaur were cited as

Prosecution Witnesses in the challan. However, all the four accused persons were eventually acquitted by the Court on 7th February, 1986, the principal ground for acquittal being that neither Sampuran Kaur nor Nirpreet Kaur, who were star witnesses of the prosecution, were produced at the trial as they were reported to be untraceable. The rest of the witnesses were formal.

D-3 File No. 139/2673/85/JPRC/SP/90/

File No. 139/2673/85/JPRC/SP/90/ Police Station Delhi Cantt. which relates to an affidavit filed by Smt. Jagdish Kaur w/o Sh. Mohan Singh resident of WZ-53, Raj Nagar, Palam Colony, is yet another case in which Balwan Khokhar had been mentioned as a leader of the mob in connection with the murder of her two sons on 2nd November, 1984. She was examined in the case F.I.R. No. 416/84 Police Station Delhi Cantt. (Supra) under Section 161 Cr.P.C. on 20th January, 1985 on which date she confirmed the murders of her two sons and stated that her third son Gurvinder Singh (9 years old) was also present. No separate F.I.R. was registered in connection with the said murders and five charge-sheets filed in the Court did not reflect the said incident at all. She was not cited even as a Prosecution Witness. Having regard to the aforesaid fact this Committee had to recommend registration of a fresh case regarding the murders of her two sons Balwinder Singh and Kulwinder Singh which amply illustrates how casual and perfunctory was the investigation by the Delhi Cantt. Police in cases of heinous crimes like murder during the riots in November, 1984.

D-4 - File No. 540/2802/85/JPRC/SP/90/

D-5 - File No. 629/2690/85/JPRC/SP/90/

The above mentioned files relate to affidavits filed by various deponents who had mentioned more than a score of murders of male Sikhs on 1st November, 1984 at the hands of a violent mob in Sagarpur area of Delhi Cantt. We need not dwell on the details of the relevant cases but would like to refer to a couple of aspects which have come to light in the judgements of the Additional Sessions Judge, Delhi in Sessions Case No. 115/85 State Vs. Satpal Vig and two other, F.I.R. No. 410/84, Delhi Cantt. and Sessions Case No. 72/89 State Vs. Satpal Vig and seven others also relating to F.I.R. No. 410/84 of Delhi Cantt.

The aforesaid cases cover quite a large number of murders of Sikhs. F.I.R. No. 410/84 dated the 1st. November, 1984 had been registered on the basis of a report made by Sub-Inspector Ramesh Rana of Police Station Delhi Cantt

which was general and vague in nature. He simply stated that a large crowd comprising several groups of fifty persons each armed with lathis having tied cloth soaked in kerosene oil etc., were indulging in lawlessness and causing damage to the properties of Sikhs. He challenged the members of the crowd but they managed to escape. He also tried to find out public persons who had witnessed the occurrence but he could not find anyone.

A large number of witnesses mostly widows of the deceased persons were examined in these two cases but both ended in acquittal (i) vide judgement in the Sessions Case No. 115/85 rendered by Sh. S.P. Singh Chaudhary, Additional Sessions Judge, Delhi on 31st January, 1986 and (ii) judgement in Sessions Case No. 72/89 rendered by Sh. S.S. Bal, Additional Sessions Judge, Delhi on 30th April, 1992. The observations in the former judgement are very pertinent to note. The deceased persons were Jaswant Singh, Amrik Singh, Avtar Singh and Jaspal Singh resident of RZ-11 to RZ-14, West Sagarpur, Delhi Cantt. while Smt. Saroj Kaur widow of Jaswant Singh, Surinder Kaur widow of Amrik Singh and Smt. Narinder Kaur were the only eye-witnesses to the occurrence. However, none of these ladies were examined at the trial on the facile plea that they were not traceable at their given addresses. Strangely enough even Sub-Inspector Ramesh Rana on whose report the aforesaid F.I.R. was registered too did not appear in the Court as the summons issued by the Court were not served on him. As an inevitable corollary the cases ended in acquittal.

The learned Additional Sessions Judge, Delhi observed that the F.I.R. which had been relied upon by the prosecution in the said case was vague and did not connect the accused persons with the alleged offences. Indeed the F.I.R. was of no help to the prosecution as it was totally vague F.I.R. and did not contain the names of the deceased persons, details of the looting and burning and the names of the witnesses etc. The F.I.R. was also silent regarding the names of the accused persons. So, it could not be said to be F.I.R. (specific) relating to the alleged offences. Pertinently, this Committee tried to trace out Smt. Saroj Kaur widow of Jaswant Singh and she was available at Faridkot (Punjab). Prabhcharan Singh deponent in File No. 540/2802/85/JPRC/SP/90/ is son of deceased Jaswant Singh. He was not even examined though in his affidavit he claims to have witnessed the murder of his father Jaswant Singh.

It was also noticed that the murders of S/Sh Mohalla Singh, Manjeet Singh, Dashmesh Singh and the Granthi of Gurudwara Sagarpur West, mentioned by Prabhcharan Singh

in his affidavit were not at all covered by any of the F.I.R.s registered at Police Station Delhi Cantt. Likewise, the murders of Jasbir Singh son of Ram Singh, Joginder Singh son of Charanjit Singh, Charanjit Singh son of Bhagwan Singh and Joginder Singh son of Udham Singh too had not been covered by any of the charge-sheets, perhaps for the reasons that those had deposed to the said murders had failed to identify or name the culprits. For one thing the Committee was of the view that such serious offences ought to have been properly investigated with due diligence by the concerned Investigating Officer but he absolutely failed to discharge his statutory duty. The Committee has commented upon such cases of grave and serious delinquency on the part of the investigation/prosecution agency in not ensuring service on the aforesaid witnesses etc. Needless to say that clubbing of more than a score of murders of Sikhs in one F.I.R. and that too of general nature was totally against the statutory provisions of Criminal Procedure Code and as an inevitable corollary there was no corroborative evidence in the shape of separate F.I.Rs. available at the trial.

P O L I C E S T A T I O N : M A N G O L P U R I

E1 File No. 381/2431/85/JPRC/SP/90/

A perusal of File No. 381/2431/85/JPRC/SP/90/ Police Station Mangolpuri makes startling revelations. The said file relates to an affidavit filed by Gurmukh Singh son of Narain Singh resident of B/48-49, Vatika Rohini Police Station Mangolpuri. The grievance of the deponent was two-fold;

- That on 1st November 1984 violent mobs attacked his house looted and set the same on fire. They also set ablaze a scooter belonging to him;
- That on the next following day he violent mob led by Bhool and Ram Chander Singh looted trucks bearing Nos. DEG 5760 and DED 2874. The mob looted deponent's cloth worth Rs. 9 lacs and set those trucks on fire. He further pointed out that a report was lodged and the police arrested ten persons but after keeping them in custody for three days, they were let off.

The scrutiny reveals that the case regarding the loot and burning of his house on 1st November, 1984 was linked with the case F.I.R. No. 174/84 dated the 1st November, 1984 Police Station Mangolpuri which had been registered on the basis of a general report regarding the law and order situation made by Sub-Inspector Ram Chander. The case diary contains a reference to a complaint made by Smt. Pyar Kaur

wife of the deponent to the Investigating Officer on 16th November 1984 to the effect that the above mentioned house had been looted and set on fire by the violent mob on 1st November 1984. However, she did not know anybody in the mob.

A challan was filed in Court against 30 (Thirty) accused persons on the 13th March 1985 but there was no reference whatsoever to the incident of loot and burning of the house of the deponent. The latter was not even examined during the course of investigation. Obviously apart from the above-mentioned statement under Section 161 Cr. P. C. of Smt. Pyar Kaur there was no further investigation in the said case. As pointed out by this Committee in a large number of similar cases, the investigation consisted of only statement under Section 161 Cr. P. C. of the complainant and that too with the rider that the complainant did not know any of the culprits.

As for the second grievance, the scrutiny reveals that the case was linked with F.I.R. No. 519/84 dated 10th November 1984 registered at Police Station Punjabi Bagh towards the Commission of offence under Section 412 I.P.C. on the basis of a report made by Sub-Inspector Sham Lal, Police Station Punjabi Bagh to the effect that on 2nd November 1984 bales of cloth loaded in truck no. DEG 5760 were looted by a mob near Pitampura and on 10th November 1984, Sub-Inspector Sham Lal recovered a few of them from accused Wali Ram alias Bhool. The F.I.R. was recorded on the basis of a complaint lodged by Raval Singh son of the deponent who was owner of truck no. DEG-5760.

The scrutiny report further reveals that looted bales of cloth were recovered from the residential places of the following persons:

- i. 2 Thans Surinder s/o Ram Chander
House No. 58, Pitampura.
- ii. 23 Thans Wali Ram @ Bhool s/o Risal Singh
House No. 56, Pitampura.
- iii. 5 Thans Nafe Singh s/o Rampal.
- iv. 4 Thans Dayanand s/o Hoshiar Singh.
- v. 1 Than Mangeram s/o Dharam Singh
- vi. 4 Than Inder s/o Ram Chander.
- vii. Some Thans Kartare s/o Rattan Singh.
- viii. 1 Than Balwan s/o Prabhu.
- ix. 20 Thans Joginder s/o Devi Singh.

A charge-sheet was filed in the said case against Wali Ram @ Bhool under section 412 I.P.C. only and Raval Singh and some other witnesses were examined. However, the charge sheet ended in acquittal vide judgment dated the 10th March 1987 of Sh. P. S. Sharma, Additional Sessions Judge, Delhi. The observations of the court are worth reading. It pointed out that Kuldip Sharma, Prosecution Witness had inter-alia stated that on 10th November, 1984 house of the accused had been searched and some cloth lengths kept in the refrigerator iron box etc., had been recovered vide recovery memo. Ex-Prosecution Witness 4/A. He further stated that some recoveries were also affected from different persons but he could not tell their names. During cross-examination he stated that the cloth pieces recovered from various places were being collected at a crossing and police was guarding the spot. The cloth pieces recovered from the house of the accused were also placed in the bundles lying at the crossing. Sub-Inspector Sham Lal deposed to the recovery of 23 rolls of cloth (Thans) from the house of the accused but during his cross-examination he admitted that the cloth recovered from the accused was commonly available in the market and had no special mark of identification and that no identification was got done from a Magistrate. In view of these facts the learned Additional Sessions Judge, Delhi observed that:

- no cloth was produced in the Court to connect the accused with the crime;
- if any cloth was recovered it was mixed up with other cloth recovered from different places like roof tops, streets and crossing etc.;
- Sub-Inspector Sham Lal also could not say the exact place from where the cloth lengths were recovered from the house of the accused and whether he was in exclusive possession of that house. So it appears that after cloth was recovered from different sources some of them was planted on the accused.

The observations made by the Court appear to be quite apt having regard to the evidence available on the judicial file. Even the police case diaries show that recoveries had been affected from ten persons but only one of them had been charge-sheeted. Certainly the case of this style calls for a thorough probe against the delinquent police officials.

P O L I C E S T A T I O N : N A N A G L O I

F-1 File No. 163/2538/85/JPRC/SP/90/
F-2 File No. 551/2582/85/JPRC/SP/90/
F-3 File No. 603/2307/85/JPRC/SP/90/

The above-mentioned three files relate to the affidavits filed by 1) Smt. Kuldip Kaur widow of Sh. Bawa Singh resident of A-82, Amar Colony, Nangloi Smt. Surinder Kaur widow of Sh. Kulwant Singh resident of D-52, Amar Colony, Nangloi and Smt. Gurdeep Kaur widow of Sh. Avtar Singh resident of D-54, Amar Colony, Nangloi respectively which they had filed before Justice Ranganath Misra Commission of Inquiry in September 1985. Since the three affidavits apparently pertain to the same incident of violence, loot and arson of the properties belonging to them and murders of male Sikhs, they have been dealt with together by the Committee.

A perusal of the above mentioned files would clearly demonstrate how an Investigating Officer entrusted with the investigation of a heinous crime like gruesome murder etc., can play havoc with the investigation by indulging in distortion, twisting and even fabricating false statements under Section 161 Cr.P.C. so as to shield an alleged culprit, accused of committing murders during the riots which had broken out in the wake of the assassination of Smt. Indira Gandhi, the then Indian Prime Minister of the country.

The factual background of these cases is that as per allegations contained in the affidavits of Smt. Kuldip Kaur widow of Sh. Bawa Singh and other deponents, on 1st November 1984, Bawa Singh husband of Kuldip Kaur, Avtar Singh husband of Gurdeep Kaur and Kulwant Singh husband of Surinder Kaur and some of their relatives were done to death by a violent mob which was led by Rajinder Singh, Pradhan of Amar Colony. They went to the Police Station Nanagloi to lodge a report but their report as such was not recorded. However, both Surinder Kaur widow of Kulwant Singh and Gurdeep Kaur widow of Avtar Singh were examined during the course of investigation into the case F.I.R. No. 365/84 Police Station Nangloi that had been registered at the instance of one J. S. Tuli resident of 25/18 Punjabi Bagh Extension No. 1, Delhi, reporting murders of Kashmir Singh, Anokh Singh, Hardeep Singh, Bhagat Singh and Davinder Singh besides some other Sikhs during the riots of November 1984 and also loot and arson etc. In their 161 Cr. P. C. statements, they did not name any of the culprits involved in the Commission of crime. Eventually, the case was closed as un-traced.

However, both Smt. Gurdeep Kaur and Kuldip Kaur were also examined during the investigation of another F.I.R. No.

351/84 Police Station Nangloi, which had been registered on the basis of an omnibus report made by Sh. Ram Pal Rana, S.H.O., Police Station Nangloi regarding large scale incidents of loot, arson and killings of the Sikhs in the area during the riots which had erupted on 1st November, 1984. Kuldip Kaur's statement under section 161 Cr. P. C. was recorded on 7th April 1985 and she inter-alia stated that she could identify one of the rioters by the name of Rajinder Singh, Pradhan of Amar Colony. She specifically alleged that it was he who had dragged out her husband from her house and thereafter he i.e. her husband was killed with saria blows. She could not even get the dead-body of her husband and she was not aware when and how he was cremated. Likewise, Smt. Gurdeep Kaur too stated that in her examination under section 161 Cr. P. C. dated 7th April, 1985 that she could only identify Rajinder Singh whom she had known from amongst the rioters and who was Pradhan of Amar Colony.

After the completion of the investigation a charge sheet was filed in court in the case F.I.R. No. 351/84 dated the 1st November, 1984 on 29th November, 1985, against 11 (eleven) accused persons, including Rajinder Singh, Pradhan of Amar Colony. The charge-sheet inter-alia mentioned about the recovery of the looted property from some of the accused persons. However, the charge sheet did not cover specifically the deaths of Bawa Singh and Avtar Singh etc., although both Kuldip Kaur and Gurdeep Kaur had been cited as Prosecution Witnesses. It appears that the charge sheet was eventually split up into 11 (eleven) separate trials and as many as 11 (eleven) judgments were rendered by the Court of an Additional Sessions Judge, Delhi. All the judgments culminated in the acquittal of various accused persons.

It is noteworthy that Rajinder Singh son of Abhey Singh had been sent up for trial towards Commission of offences under sections 147, 148, 149, 302, 307, 395, 427, 436 & 412 I.P.C. and 25/27 Arms Act. However, he was charge-sheeted only under sections 147, 149, 436 and 395 I.P.C. Eventually, he was acquitted vide judgment dated the 15th December, 1988 of Additional Sessions Judge, Delhi, Sh. S. P. Singh Chaudhari on the ground that the two star witnesses of the Prosecution who had witnessed the occurrence, namely, Kuldip Kaur, and Gurdeep Kaur, deponents, had not been produced in the Court and they were reported to be not traceable. The learned Judge also observed that there was delay in reporting the incidents by the aforesaid ladies to the police.

The Committee noticed that none of the persons mentioned by the deponents, namely, Kali Charan, Ram

Kumar Gupta, Ram Bhaj and Goel etc., had been sent up for trial probably because their names did not figure in the statement under section 161 Cr. P. C. of Kuldip Kaur or Gurdeep Kaur although they had been named specifically in their affidavits before Justice Ranganath Misra Commission of Inquiry. Further, no charge was framed against Rajinder Singh under Section 302 I.P.C. despite his having been named specifically by both the ladies in their statements dated the 7th April 1985 under section 161 Cr. P. C. Hence the matter was taken up with the Director of Prosecution, Delhi, who clarified in his reply that there was no allegation in statements recorded under Section 161 Cr. P. C. of Smt. Gurdeep Kaur and Kuldip Kaur on 9th April, 1985 that they had identified the accused Rajinder Singh or any other member of unlawful assembly committing murders of their husbands and their other relations on 1st November 1984. That necessitated deeper scrutiny by the team headed by the D.I.G. (Police) attached to the Committee and it revealed that both Kuldip Kaur and Gurdeep Kaur had been examined by the Investigating Officer on 7th April 1985 and not on 9th April 1985 as was pointed out by the Director of Prosecution. Hence certified copies of their statements dated the 9th April 1985 alleged to have been recorded under Section 161 Cr. P. C. and tendered in Court as Exhibits Prosecution Witnesses 2-B and 'C' were obtained. The said statements were totally different from the ones dated the 7th April 1985 in as much as according to Kuldip Kaur she could identify Rajinder Singh from amongst rioters besides a property dealer and man Kali Charan who had burnt the house and looted the properties of the Sikhs. Strangely enough there was not a whisper about the murder of her husband or anyone else in her statement dated the 9th April 1985 alleged to have been recorded under Section 161 Cr. P. C. So was the case with statement under Section 161 Cr. P. C. of even date of Smt. Gurdeep Kaur. On a closer scrutiny of the case diaries it further transpired that there was no mention whatsoever of statements dated the 9th April 1985 of either Kuldip Kaur or Gurdeep Kaur under Section 161 Cr. P. C. and no such statements formed part of the case diary. It was noticed that the statement of Kuldip Kaur widow of Bawa Singh dated the 9th April 1985 had been recorded on a plain sheet of paper whereas the statement of Gurdeep Kaur had been recorded on a continuation sheet bearing printed No. 83550. The Committee was at loss to comprehend as to what necessitated recording of fresh statements under Section 161 Cr. P. C. on 9th April 1985 i.e. just two days after their statements under Section 161 Cr. P. C. had been recorded on 7th April 1985. Having regard to all the facts, the Committee is of the view that the statements dated 9th April 1985 of Kuldip Kaur and Gurdeep Kaur are

false and fabricated and were designed to shield the accused Rajinder Singh etc.

In view of these startling facts and bearing in mind that both Kuldip Kaur and Gudeep Kaur were eye-witnesses to the occurrence an effort was made to trace out both of them and the efforts proved fruitful as both of them were very much available at Delhi itself. When examined by the Committee they owned and confirmed the contents of the affidavits filed by them.

It is significant to note here that in the charge-sheet the name of Bawa Singh husband of the deponent Smt. Kuldeep Kaur and their relatives did not find place as such and all that was stated was that 16 (sixteen) dead bodies were found out of which only 5 (five) could be identified.

Yet another fact which came to light was that eventually 11 (eleven) separate trials were held against the 11 (eleven) accused persons out of which 10 (ten) of them had been charged under Section 412 I.P.C. only whereas Rajinder Singh who had been named by the deponents was charged under Sections 147, 149, 436 and 395 I.P.C. and not 302 I.P.S. It may not be out of place to mention here that only two Inspectors of Police, one Sub-Inspector of Police and one Head Constable of Police were examined as Prosecution Witnesses at the trial and the only two eye-witnesses were not produced in Court lest they should divulge the factum of the murders of their husbands and other relatives at the hands of the accused persons.

The Committee, therefore, recommended registration of a fresh case on the basis of the affidavits filed by the deponents mentioned above and investigation thereof by a wholly independent agency. Although, the recommendation was accepted by the Lt. Governor, National Capital Territory of Delhi, the Committee has serious doubts if fresh cases have been actually registered and investigated on proper lines. May be that Rajinder Singh being the Pradhan of the village wielded some influence in the area but it is really deplorable that the Investigating Officer should stoop so low as to indulge in fabrication and distortion of facts as well as police record. The Committee feels that hitherto statements under Section 161 Cr. P.C. of witnesses recorded during the course of investigation were considered to reflect the prosecution version, perhaps, a note of caution to the Courts will be necessary that they should not blindly accept statements of witnesses under Section 161 Cr. P.C. and reject their depositions in Court which are substantive pieces of evidence merely because of certain discrepancies in the two and that

there was an omission of certain allegations in statements under Section 161 Cr. P.C. of the witnesses. In other words its is high time that the statements under Section 161 Cr. P.C. are not taken as gospel truth or the foundation of the prosecution case as the possibility of dishonest investigation in some cases cannot be ruled out.

Copies of the statements dated the 7th April 1985 as well as 9th April 1985 recorded under Section 161 Cr.P.C. of the deponents as well as the copies of the judgments of the Additional Sessions Judge, Delhi in two cases viz. (i) State Vs Rajinder Singh, F.I.R. No. 351/84, Police Station Nangloi delivered on 15th December, 1988 and (ii) State Vs Ram Singh, F.I.R. No. 351/84 delivered on 3rd February, 1989 are also annexed as Annexure '6' to show that Rajinder Singh accused was acquitted because of non-production of Smt. Kuldeep Kaur and Gurdeep Kaur. There is a reference in the said judgement to their statements under Section 161 Cr. P. C. dated the 7th April 1985. In the other two cases the Court observed that the F.I.R. No. 351/84 on which reliance had been placed in those cases was of no avail to the prosecution because it was not based on any eyewitness account about the incidents covered by the Court cases by the S.H.O. on whose report the said F.I.R. had been recorded. The Court also observed that the stolen goods were never got identified and the recoveries had not been affected in the presence of any public witness either. Further, the property alleged to be stolen was not sealed at the spot at the time of recovery and identification was also done at the Police Station and not judicially as per procedure.

**P O L I C E S T A T I O N : K A L Y A N P U R I / T R I
L O K P U R I (E a s t D e l h i)**

- G-1 File No. 67/2514/85/JPRC/SP/90
- G-2 File No. 202/2625/85/JPRC/SP/90
- G-3 File No. 207/2685/85/JPRC/SP/90
- G-4 File No. 654/2650/85/JPRC/SP/90
- G-5 File No. 575/2710/85/JPRC/SP/90

Apparently a heavy toll of life was taken by the rioters in Kalyanpuri during 31st October 1984 to the 4th November 1984 and as many as 1084 affidavits were received by Justice Ranganath Misra Commission of Inquiry as well as the erstwhile Justice M. L. Jain – Sh. A. K. Banerji Committee.

It is pertinent to notice here that the incidents covered as many as 29 (twenty nine) affidavits received from various

deponents were found to have been clubbed by the local police with the F.I.R. No. 426/84 dated the 3rd November, 1984 of Police Station Kalyanpuri. The said F.I.R. had been registered under Sections 147, 148, 149, 323, 427, 436 & 302 I.P.C. on the basis of the information given by one Riju Singh son of Jaimal Singh resident of 32/124, Trilokpuri, Delhi. As shall be presently seen investigation in most of these cases was found to be absolutely casual, perfunctory and even faulty. Strangely enough F.I.R. No. 426/84 had no bearing on the incidents reflected in the said affidavits and vice versa. Still worse the said F.I.R. was apparently recorded on 3rd of November 1984, but even then the incidents of mob violence, which had taken place on 1st and 2nd of November 1984, resulting in several murders, were attached to the said F.I.R. No. 426/84. To say the least, their linkage was absolutely unwarranted by law and procedure. Certainly incidents, which had taken place prior to the registration of the said F.I.R., could by no stretch of imagination or reasoning be clubbed with such an F.I.R. especially when there was nothing in common between the two. The following are some of the cases which amply illustrate the perfunctory and casual nature of investigation on the part of the local police.

G-1 File No. 67/2514/85/JPRC/SP/90

This file relates to an affidavit fled by Smt. Harbai widow of Sh. Honda Singh. She complained of her two sons, namely Lachman Singh and Hoshiar Singh having been killed by the mob on 2nd November, 1984. She was examined by the Investigating Officer under Section 161 Cr. P. C. during the course of investigation on 17th November, 1984. It would appear that two charge-sheets were eventually filed by Police Station Kalyanpuri in the case F.I.R. No. 426/84 and as many as 196 persons had been arraigned as accused while about 84 persons were cited as Prosecution Witnesses. Harbai's case too was reflected in charge-sheet No. 1 dated the 28th August 1985. Strangely enough, however, no other ocular witnesses, not even the in-mates of the house were examined by the Investigation Officer to corroborate her testimony. Still worse even though the name of Harbai appears in the charge-sheet but the same did not specifically cover the murders of her two sons Lachman Singh and Hoshiar Singh. She was not cited even as a Prosecution Witness, not to speak of seeking any corroboration for any other ocular witness. Likewise Shanti Bai whose husband Darshan Singh had also been killed by the mob too was not cited as a Prosecution Witness although her name figured in the final case diary and charge-sheet No. 1 dated the 28th August 1985. There was, however, no specific reference to the murder of her husband Darshan Singh. It was under these circumstances that the Committee

had to recommend registration of fresh case to the Administrator, Union Territory of Delhi.

G-2 File No. 202/2625/85/JPRC/SP/90

Similar position was noticed in File No. 202/2625/85/JPRC/SP/90/. The grievance of the deponent, Smt. Bhoji Bai w/o Sh. Jeevan Singh was that her husband and three sons were burnt alive and killed by a violent mob. While Smt. Bhoji Bai was examined under Section 161 Cr.P.C. on 17th November, 1984, no effort was made to seek corroboration of the evidence of Smt. Bhoji Bai. No attempt was made even to elicit information from her if anyone else had witnessed the occurrence at the time of examining her under Section 161 Cr.P.C.

G-3 File No. 207/2685/85/JPRC/SP/90

Deponent, Smt. Shammi Bai widow of Sh. Inder Singh complained of her husband, her son Manohar Singh and brother Lachu Singh having been dragged out of her house and killed by the mob with sarais (iron rods) etc. She was examined under Section 161 Cr. P. C. and the murders of her deceased husband and son etc., were covered by the charge-sheet file in the Court. However, no effort was made by the Investigating Officer to examine the other members of the family and close relatives of the deponent Harbai who according to the deponent were present at the house and had witnessed the occurrence. Of course, Smt. Bhagwan Kaur widow of Lachu Singh was cited as Prosecution Witness.

G-4 File No. 654/2650/85/JPRC/SP/90

Similarly in file no. 654/2650/85/JPRC/SP/90/ the grievance of the deponent Smt. Satnam Kaur widow of Mohan Singh was that on 2nd November, 1984 her husband Mohan Singh was killed and burnt alive by the mob. Their entire property was also looted. However, excepting the examination of Satnam Kaur under Section 161 Cr. P. C. no further investigation into the allegations made by her was conducted. No attempt was made even to elicit information from her as to who else had witnessed the occurrence and find corroboration of her evidence. No attempt was made to recover the looted property either.

G-5 File No. 575/2710/85/JPRC/SP/90

Deponent Smt. Bhakti Bai widow of Sh. Sajjan Singh complained of her husband Sajjan Singh having been killed on 1st November, 1984 by a riotous mob who were indulging in

loot, arson of the properties of the Sikhs and killing of Sikhs. She further mentioned that her husband's younger brother too had been killed on 2nd November, 1984.

The scrutiny revealed that only she was examined under Section 161 Cr. P. C. by the Investigating Officer and no effort was made to collect any corroborative evidence even though according to her, her children including her daughter Vidya Kaur, aged 12 years and her son Hari Singh aged 10 years, were present in the house at the time of the occurrence. A list of cases clubbed with F.I.R. No. 426/84 dated the 3rd November 1984 Police Station Kalyanpuri is attached as an annexure '7' of the Report.

It may be pertinent to notice that most of the deponents mentioned in the list of cases, which were clubbed with F.I.R. No. 426/84 of 1984 were residents of Block No. 32, Trilokpuri, Police Station Kalyanpuri and the incidents of loot, arson and murders were committed by the rioters on 1st November 1984 and 2nd November 1984. So, it should not have been at all difficult for the Investigating Officer to co-relate the various incidents of violence which had taken place in that locality during 31st October 1984 to 4th November 1984 and collect corroborative evidence to support the aggrieved persons / complainants who as stated above were mostly widows of the deceased persons killed during riots.

P O L I C E S T A T I O N : A L I P O R E

H – 1 File No. 469/2632/85/JPRC/SP/90/

File No. 469/2632/85/JPRC/SP/90/ Police Station Alipore furnishes a glaring example to what extent some police officials can stoop low and act dishonestly apparently to favour the rioters of November 1984 riots. Whether they were actuated by anti-Sikh feelings or they were acting at the behest of some powers that be is a matter better known to them but we are shocked to notice how unscrupulous illegal and dishonest was the investigation conducted by Police Station Alipore police in the case F.I.R. No. 315/84.

The relevant facts shorn of details are that the deponent Smt. Ajmer Kaur had alleged that on 1st November 1984 five male Sikhs, namely her husband Ujagar Singh, her neighbours, Avtar Singh, Joginder Singh, Santokh Singh, Scooter Driver and one Gurdeep Singh who had just reached their house at Karachi Garden, Sindhi Colony, Karnal Road from Alpana Cinema, Kingsway Camp, were done to death

and burnt alive before her very eyes. It was further alleged that the mob snatched their ornaments and looted their houses.

The scrutiny of the police records of Police Station Alipore revealed that the aforesaid incident was covered by the case F.I.R. No. 315/84 of Police Station Alipore which had been registered on the basis of a report lodged by Inspector Raj Mahinder Singh, S.H.O., Police Station Alipore with regard to the general condition of law & order and riotous mob indulging in loot and arson of the vehicles and houses of the Sikhs and also killings the Sikhs in the locality.

Even though the aforesaid murder had been committed on 1st November 1984 the investigation regarding the same was initiated on 8th November 1984 when Head Constable Gurcharan Singh was examined under Section 161 Cr. P. C. Smt. Ajmer Kaur, deponent, Smt Harbans Kaur, widow of Santokh Singh, Smt. Harjeet Kaur widow of Joginder Singh, Smt. Amarjit Kaur w/o Sewa Singh and Head Constable Gurcharan Singh No. 200, D.A.P., 1st Battalion, Delhi and father of Jagdeep Singh were examined by the Investigating Officer who was none other than the S.H.O. himself under Section 161 Cr. P. C. Chowkidar Sita Ram and a son of a sweeper of Village Samaypur were named by the various witnesses as having been identified among the assailants. No F.I.R. was recorded on the complaint of any specific complainant. However, a charge sheet was filed against five persons, who had been arrested by Inspector Raj Mohinder Singh at the spot on 1st November 1984, in Court on 6th December 1984 under Section 147 and 148 I.P.C. only in which seven police officials were cited as Prosecution Witnesses. None of the persons mentioned above, namely Ajmer Kaur and other ladies whose husbands had been killed, Head Constable Gurcharan Singh and Bahadur Singh was (sic) cited as Prosecution Witnesses. There was no whisper about the gruesome murders mentioned above. Eventually, the five accused were acquitted by the Court of Sh. J. B. Goel, Additional Sessions Judge, Delhi on 21st November 1991.

The Committee has noticed with grave concern the crude manner in which the heinous crime of gruesome murders of five persons was suppressed by the Investigating Officer. Not only that no F.I.R. was recorded on the basis of the statement / report made by any of the complainants but even the aggrieved persons who had been examined under Section 161 Cr. P. C. had not been cited as Prosecution Witness. The factum of the gruesome murders of their male members was totally suppressed. Under these circumstances the Committee recommended registration of a fresh case

under Sections 147, 148, 149, 395, 327, & 302 I.P.C. However, we are not yet aware of the ultimate outcome of the investigation conducted by the investigating agency to whom the case has been entrusted.

It is with a sense of (sic) profound distress and deep concern that the Committee have highlighted the callous indifference and grave delinquency on the part of the concerned officers of local police in not discharging their statutory duty to investigate the riots cases properly and diligently.

P O L I C E S T A T I O N : A D A R S H N A G A R

I-1 File No. 573/135/85/JPRC/SP/90/

This file relates to an affidavit filed by Smt. Mandodri Devi widow of A.S.I. Hari Singh resident of B-166, Jahangirpuri. Her grievance is that on 1st November 1984 a violent mob visited their locality time and again to assault and beat up the Sikhs who were residing in her neighbourhood. Both she and her husband were present at their house. Being a police officer her husband (a Hindu and not a Sikh) tried to protect his Sikh neighbours and he even fired shots in the air to scare away the crowd from his personal licensed gun. However, someone from the mob attacked from behind and snatched his gun. He was severely beaten with iron rods and fell down at about 8:30 p.m. However, he was brought to his house by the deponent with the help of Ganga Prasad, brother of the deceased Hari Singh and some Hindu neighbours. He remained in the hospital from 1st November, 1984 to 13th November, 1984 for medical treatment when he was discharged. He was examined by Sub-Inspector Jai Bhagwan during the course of investigation in the case F.I.R. No. 910/84 Police Station Adarsh Nagar on 16th November, 1984. He told the police that he was injured when he tried to save his Sikh neighbours from the mob attack. He added that he had opened fire with a view to scare away the mob but someone from the mob snatched away his gun and attacked him from behind.

A.S.I. Hari Singh was again admitted to Lok Nayak Jai Prakash Narain Hospital on 15th December 1984. However, he succumbed to his injuries on the very next following day viz., 16th December 1984. Even though the deponent and her brother-in-law informed Sub-Inspector Jai Bhagwan about the death of A.S.I. Hari Singh, no action was taken thereon.

It was noticed by this Committee that during the investigation of the case F.I.R. No. 910/84 registered at Police Station Adarsh Nagar on 1st November 1984 Sub-Inspector Jai Bhagwan did mention about the injuries received by A.S.I. Hari Singh during the riots and his admission in Hindu Rao Hospital. Not only that the Investigating Officer further recorded that A.S.I. Hari Singh was unconscious and not fit to make statement.

Strangely enough a charge sheet was filed in the aforesaid case against four accused persons but that was only under Section 411 & 412 Indian Penal Code for having been found in possession of looted property. The charge sheet was absolutely silent about the injuries sustained by A.S.I. Hari Singh during the riots.

The Committee noted with concern that even though a police officer (he being a Hindu) had been killed / beaten up while discharging his noble duty of saving his Sikh neighbours from the onslaught of the rioters, the local police failed to register a case regarding his death or revive the investigation in the case F.I.R. No. 910/84 Police Station Adarsh Nagar so as to trace out the culprits and bring them to book. No doubt A.S.I. Hari Singh had died instantaneously on sustaining injuries at hands of the violent mob but the fact remains that he was hospitalized for a considerable time and his injuries eventually supervened and proved fatal. The Committee commended the role played by A.S.I. Hari Singh, which was in the highest traditions of a brave police officer. Unfortunately, however, his death was not even investigated and was overlooked by his own colleagues at Police Station Adarsh Nagar.

CHAPTER - 6

EPILOGUE

6.1) The preceding paragraphs amply demonstrate that the investigations undertaken by the Delhi Police into the cases arising out of the 1984 riots were sadly lacking in efficiency, purposefulness and even in compliance of various provisions of the Criminal Procedure Code and Indian Evidence Act. While in some cases the integrity of the Investigating Officers appeared suspect, in others they appeared keen on merely going through the motion of investigation rather than pursuing the matter in a methodical manner with a view to identifying the perpetrators of the crime, collecting adequate evidence against them and bringing them to book in an effective manner.

6.2) Still worse, the Committee found no evidence of superior Police Officers having provided leadership and guidance to the investigating staff. It appeared that the Investigating Officers usually of the rank of Assistant Sub-Inspectors / Sub-Inspectors were free to handle the cases with them in whatever manner they liked. In several cases, the investigations had abruptly stopped for no good reason; in some cases, the accused persons even though named in the F.I.R. and their involvement confirmed by several witnesses had been left out without any convincing grounds; and in many cases various mandatory provisions of law pertaining to recovery of stolen property etc. were violated. Yet not a little finger appeared to have been raised by any supervisory officer.

6.3) Proper and honest investigation is one of the important pillars on which our system of criminal administration rests. The need for a devoted and dedicated machinery to investigate into the criminal cases in accordance with the provisions of law, rules and regulations, needs no emphasis. Since the Committee has observed some serious shortcomings on the part of the Investigating Officers of the Delhi Police, it ventures to make the following recommendations;

