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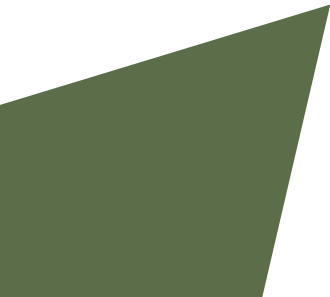
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**A BRAT, A STRUGGLING MODEL, THE LAW & THE MEDIA**

**Trisha Shreyashi**

## STATEMENT OF PURPOSE

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The analysis aims at exploring various facets of the Jessica murder trial, analysis of the observations of the courts w.r.t. the case, socio-cultural factor analysis leading to such outcomes, brief analysis of the media trial, ramifications of the media trial and lesson learnt from the case. The Jessica Lal case reveals several key aspects of the Indian subcontinent in its current stage of development. One of the major aspects is media and the way that social, news, and film media influenced the outcome of the case. The second aspect is the long and ongoing struggle against gender violence and the continually evolving views of women and their position in Indian society. The third aspect takes into account the fragile situation the current Indian Criminal justice system finds itself and the progress that India has made to try to improve its justice system. Witness tampering and public outrage have combined to affect judicial outcomes in a series of high-profile criminal cases in India and not just this case. It is in this case that the phenomenon of these two operating together in a country with extremes of wealth and poverty, but with functioning judicial and political systems, is revealed. Bribes and threats are intricately linked in the strategic interaction between offenders and witnesses. Not only do bribes provide a direct incentive that can suppress testimony, they also signal a greater likelihood of retaliation and hence serve as implicit threats to witnesses. The possibility of public outrage turns out to be an effective constraint on witness tampering. In many situations, greater media effectiveness can improve the administration of justice, even when more obvious improvements in judicial effectiveness cannot.

A significant part of the compilation of this paper has been gathering the resources necessary to identify details of the different topics discussed. Many of those resources have been judgments, online news articles, essays and videos. However, tempting it might be to believe that there is one solid answer to apply to every problem that exists in the world (or at least every problem that exists in India), the purpose of this paper is not to try to find that answer. The purpose of this paper is to help make connections, and to reveal particular tendencies—both explicit and implicit—of specific cultural, societal, legal, justice and political system of India.

*Disclaimer: The article is a compiled study of judgments, articles, essays, news and videos available online. It is an original work in terms of understanding and analysis. However, whatever and wherever necessary, references are provided.*



# SIDDHARTH VASHISHTH ALIAS MANU SHARMA V. THE STATE (NCT OF DELHI)

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Citation: (2010) 6 SCC 1

## BACKGROUND OF THE CASE

**Facts in brief** – Night intervening April 29 1999 & April 30 1999 – Jessica Lal, a model and celebrity bartender-cum-waitress was reported shot dead in early hours of the later date and eventually declared “brought dead” at the Apollo Hospital after being shifted from Ashlok Hospital. Post the shooting, accused and his three friends were spotted absconding from the crime scene.<sup>1</sup>

**Place of Occurrence of the crime** – “Thursday Party” at Tamarind Café (or “Once Upon a Time” Restaurant), owned by Bina Ramani, in Qutub Colonnade in Mehrauli, South West Delhi.<sup>2</sup>

**Murder weapon** – A licensed .22 calibre” P. Berretta pistol, made in Italy.

**Accused** – Siddhart Vashishth (alias Manu Sharma), main accused; Amardeep Singh Gill (alias Tony Khanna), Vikash Yadav, Alok Khanna, Harvinder Chopra, Raja Chopra, Vikas Gill (alias Ruby Gill), Yograj Singh, Shyam Sunder Singh, Amit Jhingan, Ravi Krishan Sudan (alias Titu) & Dhanraj, co-accused.

**Situation at the party** – About three hundred people had reportedly been at the restaurant that night, including the accused who arrived at Tamarind Court along with three friends, at around 11:15pm. There were a lot of high-profile guests in the party at the crime scene during the incident including politicians’ children, business men, elites of the city and even the then Joint Commissioner and Special Commissioner. The drinks got over and the bar was officially closed at midnight, but there were a few who attempted to buy a few more drinks after the bar was closed. Manu Sharma and his friends were the last to attempt to buy drinks. According to information and statements given to the police, there was a heated conversation between Manu Sharma and Jessica, at around 2 AM in the bar of the restaurant, for drinks, even after she denied him the same in open bar. After he was told that the bar was closed, he offered Jessica Lal and Shyam Munshi 1,000 rupees for drinks. It was as alleged that she replied to him “I wouldn’t give you a sip even if

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<sup>1</sup> For date wise and detailed timeline of events in case, Refer Annexure I.

<sup>2</sup> See generally,

<https://timesofindia.indiatimes.com/life-style/spotlight/Qutub-Colonnade-reopening/articleshow/10401136.cms>,  
<https://www.indiatoday.in/magazine/your-week/story/20011105-post-jessica-lal-murder-delhi-lifestyle-complex-qutub-colonnade-returns-as-style-mile-774547-2001-11-05>,  
<https://www.thehindubusinessline.com/news/variety/memoir-of-a-murder-most-foul/article23029725.ece>.



you gave me a thousand bucks.” It might be prudent to note that some sources, including then-Joint Commissioner Amod Kanth, proclaimed that the two had exchanged more provocative dialogue at the bar. The word “sip”, in this case, could have been a double entendre, and when Jessica refused Sharma’s advances so sharply he felt more inclined to draw his revolver. He fired two shots, one at the ceiling and the other at Jessica Lal. She was hit around her temple, near the left eye and collapsed. An ambulance was called and she was rushed to the hospital, where she was pronounced dead a few hours later. Sharma and his friends left the scene during the confusion immediately after the gun was fired.<sup>3</sup>

Who is Siddhart Vashishth – He is the son of former Cabinet Minister and Haryana Indian National Congress leader, Venod Sharma and the brother of media tycoon, Kartikeya Sharma. He himself was the owner of Piccadily Hotel chain & Director of Piccadily Agro Industries.

Other high profile accused – Vikas Yadav, prime accused in Nitish Katara murder case & the son of DP Yadav who is a former cabinet minister and UP politician; Yograj Singh, father of cricketer Yuvraj Singh; Others were business elites, industrialists, NRI business men etc.

**Situation post the murder of Jessica Lal** – The accused and two of his other friends were spotted fleeing from the crime scene after the gun shot was heard in a white TATA Sierra. At around 3:00 AM the black TATA SAFARI, which belonged to Piccadily Agro Industries, was moved from the crime scene by one of the accomplices of the accused. Post the absconding of the accused from the crime scene, it was reported that contact could not be made with family of the accused too. Manu Sharma was fingered as the culprit by numerous witnesses, including Jessica Lal’s fellow bartender Shayan Munshi, Bini Ramani’s husband, and a handful of others. He was not apprehended for another week following the incident, and in that time he was helped by friends to hide and to dispose of the weapon responsible for the attack. During police interrogation, Sharma initially confessed to the murder. However, the confession was later dismissed as evidence due to a procedural technicality committed by the police and such testimony given in front of a police officer, is anyway deemed not admissible in the courts of law. And, by the end of the hearings of the trials commenced in August 1999, all four witnesses who said to have been present at the party, turned hostile. More than a hundred other guests at the party claimed to either not have attended the party or to have left before the incident occurred. The murder weapon was not recovered and was thought to have been passed on to a friend who had been visiting from the US and who may subsequently have returned there, Ravi Krishan (alias Titu), who was a US based businessman was said to be a close confidante of Venod Sharma (father of Manu Sharma). Amit

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<sup>3</sup> Id.

Jhingan, another accomplice and a co-accused was believed to have conspired to destroy evidence by retrieving the pistol from its original hiding place near the bar. Other physical evidences like the ballistic report, the forensic report of the crime scene, the disputed presence of Black TATA Safari were equally perplexing. Even the telephone call records among the accused was rendered discredited as it was not established that they were using the same numbers at the relevant time nor were there conversations recorded. Ramani's family was also under the microscope of investigation as it was clear by then that the party was hosted to bid farewell to Bina Ramani's husband, George Mailhot. They were arrested along with their daughter on the same day Jhingan was arrested and were charged with operating an illegal bar and, although released on bail, had to surrender their passports. There were several lines of inquiry regarding the family, including whether or not Ramani — a UK national — had the necessary permits to operate a business in India. Another concern was to establish whether or not she had concealed evidence by ordering the cleaning up of blood at the premises, although by the 19<sup>th</sup> of May it had been announced that charges relating to this alleged destruction of evidence could not be brought.<sup>4</sup>

**Charges against the accused** – Manu Sharma was charged u/s – 302/201/120-B of the Indian Penal Code (IPC) and s – 27 of the Arms Act. Co-accused Vikas Yadav, Tony Gill & Alok Khanna were booked u/s – 201/120-B of IPC. Accomplices Harvinder Chopra, Raja Chopra, Ruby Gill, Yograj Singh, Shyam Sunder Sharma, Amit Jhingan, Ravinder krishan Sudan & Dhanraj were booked u/s – 201/212 of IPC.<sup>5</sup>

**The court observed:** It was proved beyond reasonable doubt that:

- Manu Sharma was the owner and possessed Italian made .22” P. Berretta Pistol.
- Two empty cartridges cases of the .22” with ‘C’ mark were recuperated from the spot.
- The mutilated lead recovered from the skull of deceased was of .22” and was fired from a standard .22” caliber firearm.
- The live cartridge of .22” with mark ‘C’ in the seizure list was recuperated from the TATA Safari on 02.05.1999.
- The two .22” cartridge cases from the spot and the .22” cartridge recovered from Tata Safari have similar head stamp of ‘C’ indicating that they are of the same make.

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<sup>4</sup> For timeline of events in case, Supra Note 1.

<sup>5</sup> For charges, Refer Annexure II.

- The two .22" cartridge cases recuperated from the spot were rim fired, rimmed steel cartridge cases.
- Both the .22" cartridge cases of 'C' mark were lying next to each other on the counter and apparently could not have been fired by 2 different persons.

**Sentence** – The accomplices Amit Jhingan, Ravi Krishan Sudan & Dhanraj were discharged later of all charges and other accomplices later acquitted. The co-accused Alok Khanna was also discharged of all offences. The High Court of Delhi, reversing the acquittal of Additional Sessions Judge, Delhi dated 21.02.2006, sentenced Tony Gill<sup>6</sup> and Vikas Yadav<sup>7</sup> to undergo rigorous imprisonment for four years and a fine of Rs.2000/- each and, in default of payment of fine, to further undergo imprisonment for three months under Section 201/120B IPC. The main accused Manu Sharma<sup>8</sup> was convicted u/s – 302, 201/120B IPC and Section 27 of the Arms Act and sentenced him to undergo imprisonment for life for the offence under Section 302 IPC together with a fine of Rs.50,000/- to be paid to the family of the victim and in default of payment of fine, to undergo further imprisonment for three years and also sentenced him to undergo imprisonment for four years for the offence under Section 27 of the Arms Act with a fine of Rs.2000/- and in default to further undergo imprisonment for three months. He was further sentenced to undergo imprisonment for four years for the offence under Section 201/120B IPC together with a fine of Rs. 2,000 and, in default, to further undergo imprisonment for three months.

In May, 2013 the High Court ordered perjury proceedings against Shyan Munshi (complainant and eye witness in the case) and ballistic expert P.S. Manocha.

**Matter of law** – There is formidable application of circumstantial evidence to the facts and events of the case. The reasoning and the precedents, both establish that charges against the accused are proven beyond reasonable doubt.

*The judgement of Crl. Appeal No.179/2007 was delivered by a two judge bench of SC headed by Justice P Sathasivam and Justice Swatanter Kumar.<sup>9</sup> The apex court upheld the judgement of the Delhi High Court and the judgment of the two-Judge Bench and held that the presence of accused at the crime scene had been proven through ocular testimonies of other witnesses. The circumstantial evidence that connects the vehicles and*

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<sup>6</sup> Appellant in Crl.A. No. 157/2007

<sup>7</sup> Appellant in Crl. A.No.224/2007

<sup>8</sup> Appellant in Crl. A. No. 179/2007

<sup>9</sup> For Judgment dated April 19 2010, Refer, <https://main.sci.gov.in/jonew/judis/36237.pdf>.

*the cartridges used at the site of the crime, to the accused and the conduct post the incident proves his guilt beyond reasonable doubt.*

## ANALYSIS

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### REASONING

Inductive reasoning involved in this case stems from the information and statements provided by PW 1,<sup>10</sup> PW 2<sup>11</sup> and PW 6<sup>12</sup> about dress and appearance of the accused, which do not negate with each. The circumstances such as accused asking for the drink and his dire need for drink, his act of absconding post Jessica's murder, his conduct with all those he encountered with after the gun shots were heard (emphasis to encounter with PW6) and possession of pistol with the accused. This led to court drawing inference that the accused had killed Jessica. The statement made by PW-1 is relevant for a limited purpose of proving the identity of Manu Sharma, his presence and his desire for liquor in the party which has been corroborated by other witnesses. It is inductive because the third party is determining the worthiness and credibility of argument. The statements of PW 6 and PW 70 that relate to Shyan Munshi rushing towards PW 6, informing her and thereafter her reaction helped court to draw a chain of connection of event. In this way, the Court drew the conclusions through certain facts and the information given by the witnesses which is an important characteristic of inductive reasoning. Therefore, this inference drawn from corroboration of circumstances with the chain of events was on basis of inductive reasoning.

In this case, inquest papers, request of post-mortem, inquest report, copy of FIR, facts of the case, were submitted along with the dead body. He informed that the cause of death was head injury due to firearm; injury was *ante-mortem* in nature and was sufficient to cause death in the ordinary course of nature. So, it was proven beyond reasonable doubt that such injury was caused by the accused with the very Italian .22 caliber Berretta Pistol he possessed. The Court deductively held the accused liable for the crime as the evidences were proved beyond reasonable doubt. The evidences passed through proper verification and that the evidences cannot be changed because they were supported with the Ballistic report and Post – mortem report. Another aspect of deduction can be seen when the accused surrendered at Patiala Guest House, Chandigarh in the presence of his advocate, after extensive searches were made and it clearly establishes, beyond

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<sup>10</sup> For relevant witnesses, Refer, Annexure III

<sup>11</sup> Id.

<sup>12</sup> Id.

reasonable doubt that the accused tried to abscond from the crime scene. Thus, these conclusions were based on facts and laws stemming out of deductive reasoning.

### **PRECEDENTS**

In this case the decision of H.N. Rishbud & Inder Singh v. The State of Delhi<sup>13</sup> was cited as the rule laid down in this case was that the investigation usually starts on information relating to commission of an offence given to an officer in-charge of a police station and recorded under Section 154 of the Code. The judges applied this rule on the question raised by the Counsel for the accused and held that investigation started only after receipt of the information given by PW2. This is declaratory precedent; i.e.:- application of already existent rule of law.

The duty of disclosure was to be fulfilled by supplying the copies of witness statements to the defense and complete disclosure of all relevant experiments and tests. The case of R. v. Ward (Judith Theresa)<sup>14</sup> was cited which is a persuasive precedent<sup>15</sup>. In the said case, the Court of Appeal held that it was the duty of the prosecution to ensure fair trial for both the prosecution and the accused. It was held that the common law duty to disclose would cover anything which might assist the defense. Non-compliance with this duty would amount to "irregularity in the course of the trial" under Section 2(1) (a) of the Criminal Appeal Act, 1988. This authority was raised in regard to fair trial. Another case was also cited which is Mer Vas Deva v. State of Gujarat<sup>16</sup> and it is persuasive because it is the decision of lower Court but still it may assist in decision making. This case was cited to prove that the statement of one of the witnesses which was taken during investigation and signed by him and must be treated as a statement.

In the case of A.E.G. Carapiet v. A.Y. Derderian,<sup>17</sup> it was held that every witness must be cross-examined before being discredited. The prosecution cannot challenge the expert at the stage of appeal when his testimony went unchallenged at the stage of the trial. It has been argued that the Court must lay down in clear terms the duties of a public prosecutor i.e., to tell the truth even if the same is in favor of the accused. This precedent was binding w.r.t. the question dealing with the issue that every witness must and should be cross-examined before being discredited. Although the facts of the two cases might differ but the legal point involved is same thus rendering the decision binding.

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<sup>13</sup> (1955) 1 SCR 1150

<sup>14</sup> 199312 All ER 577; (1993) 96 CrApp R1 (CA).

<sup>15</sup> "Persuasive precedent" means precedent which a judge is not obliged to follow, but is of importance in reaching a judgment, as opposed to a binding precedent.

<sup>16</sup> AIR 1965 Guj 143,

<sup>17</sup> AIR 1961 Cal 359

## RULE OF LAW

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Section 25 of Indian Evidence Act – “No confession made to a police officer shall be proved as against a person accused of any offense.” This provision was specifically exploited by the defense counsel as an escape clause in favour of accused during the trial. While Manu Sharma at first admitted to shooting Jessica Lal while in police custody, the arraignment was unfit to neither acquire it as proof court nor put it on record. A confession can be admitted as guilt only on the off chance that it is recorded by Judicial Magistrate under Section 164 of the CrPC, in the wake of complying with a lot of prudent conditions to guarantee that it is willful, voluntary and without any influence or coercion, after which the accused would not be sent back to police custody after making such confession. In spite of the fact that the law was enacted to shield maltreatment and injustice, this law obstructed equity because of understaffed, exhausted, overworked, and overburdened with procedures and modalities, the police, who likely were compelled to go around this law regardless of the impacts and consequences.



## ROLE OF MEDIA & JUSTICE FOR JESSICA

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The role of free press has now and then played a pivotal role in protecting the sovereignty, secularity and democracy of the Republic of India and in upholding the tenets of the Constitution of India; viz:- Liberty, Freedom, Equality and above all, Justice. Media, be it print media, news media, or electronic media, it has helped sustain and protect human rights and has always acted as a watchdog of the human rights, interests and welfare of the society. In the matter of murder of Jessica Lal, the press wound up being more beneficial than the legal framework in drawing out reality behind bits of gossip, forgery, lies and corruption about pay offs, influence and coercion by

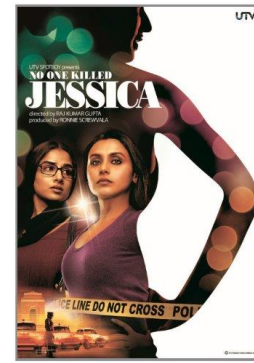
accused and his family. By taking the responsibility themselves to gather evidence, the magazines and TV channels started straight forwardly refocusing. The press at that point fanned the blazes of intensity against what was seen as unfairness in that society and legitimately called upon people in general to carry on against what they uncovered as a defective and hazardous framework. NDTV, for instance, supported its watchers to send messages and messages to the station about their assessments of the trial court. They too advanced the Indian Gate vigil and different fights across the country with respect to the preliminary. The police and judiciary were not able to take paths like the Tehelka magazine took in its sting operation. On lower levels of administration there can be political barriers like bribery, corruption, threats, manipulation and influence (as in this matter), that keep police from exploring crimes and cover ups thoroughly.



News media have been to a great extent transformed enormously in India, since the economic reforms of 1992, which started the huge free market expansion in response to extreme financial emergency during that period. Since then most of the media houses are owned by private entities and free from government scrutiny. This ownership is beneficial for Indian journalism's capacity to work beyond government control and influence, in spite of the fact that such freedom is subject to certain restrictions. Instances of government control during the ban of Iran's state run station, in Islam dominated areas and where violence was more likely. However, at the same time, there is a threat of leading a "preliminary trial by media" so as to assuage the enthusiastic and passionate public in general. To state that melodrama isn't phenomenal in the free press would be a modest representation of the truth, an understatement. In this sense, sooner or later the legal framework must act in a reasonable manner and fairly, which implies that lawmakers, legislators, administrators and judges may need to overlook the assessment of the majority and focus on evidence without being swayed by emotions. Broadcasting deceptions and misrepresentations of facts and events so as to increase the TRP and viewership is a major issue with news media. Inciting specific reactions, particularly fierce and violent ones, takes into account the "story" to proceed while that media house can receive the rewards of the attention of masses. Manu Sharma's defense counsel and many other such advocates in comparatively prominent cases consider such activities



by the media as unlawful, uncalled for and out of line in a trial (NDTV), particularly when it seems like the situation of the media is one that impacts the Judge and jury. In this sense, people are answerable for considering news media responsible and legitimate. Demanding precise reporting and objective suppositions is the obligation of the public in a free society, on the grounds that the only alternative is Government scrutiny, which may prompt regrettable conditions in the media.



### **LIFE IMITATING ART: “NO ONE KILLED JESSICA” AND “JUSTICE FOR JESSICA”**

January 7 2011, stirred a new dawn in the matter of Jessica Lal murder. “No One Killed Jessica”, a semi-fictional bollywood film, directed by Raj Kumar Gupta, starring popular actors of the time like- Rani Mukherjee and Vidya Balan among others, retelling the incident of that fateful night, when an inebriated pleasure monger brat shot a struggling model and celebrity barmaid, dead, for denying him a drink. The film focused majorly on the issues of transparency, corruption, accountability and concentration of power in the hands of the elite. It chronicled the socio-political factors leading to such ghastly heinous crimes, the loopholes in the law, the deeply engraved status of powerful people getting way with crimes, the shortcomings in the administration, judiciary and most importantly the absence of witness protection regime in India which had led to grave miscarriage of justice in the trial stage of Manu Sharma V. The State (NCT of Delhi). The film emboldened the importance of Media Activism in such cases where the conflict is between a privileged criminal and a powerless victim and family. The film portrays how the whole trial became a debacle of useless testimonies by discredited and hostile witnesses, owing to the power and influence by accused and his family’s political connections. It then goes on to depict the sting operations on the witnesses who went hostile during the trial thus swaying the public’s opinion against the accused and stirring India Gate vigil and candle marches in support of Justice for Jessica. It is indeed commendable that Bollywood, self-proclaimedly and proudly churning out escapist fare, could help effect such impressive social justice. Even so, with regard to the Jessica Lal case, it is heartening to note that the murderer remains in jail. It is also interesting to witness life imitating art: in 2011, five years after the release of Rand De Basanti, another Bollywood film



was released depicting the murder, the trial, the Rang De Basanti intervention, and the candlelight protest.<sup>18</sup> This film was also a critical and commercial success, and while it didn't engender any flash activism (and wasn't expected to), two months after its release the trials of witnesses in the Lall case who were accused of perjury for withdrawing their testimony during the 2006 trial, were reopened. The film was named after the headline on the *Times of India's* report of Manu Sharma's initial acquittal: *No One Killed Jessica*.<sup>19</sup>

## EPILOGUE

### **LESSONS TO BE LEARNT:<sup>20</sup> WITNESS PROTECTION REGIME, A PHILANTHROPY?**

Even with elaborate provisions of a transparent investigation, there are loopholes in the system that hampers investigation process. A case like Jessica's murder, which on the outset seemed like any other open and shut case and conviction seemed dead surely the only fate, but owing to intimidation and bribery of witnesses by the influential accused and his accomplices, the witnesses turned hostile leading to their acquittal. The country watched, for seven long years, exploitation of "Innocent until proven guilty" by the corrupt powerful, and watched, justice crumble all along. This case happened to be merely one of many in which the statement of witnesses turned the fate of trial. There is a indeed lot of room for improvement and lot of work needs to be done in Criminal Justice system of India. Witness protection has been a major issue in the Indian Criminal Justice System and has now and then attracted attention of discussion panels and law commission. A landmark judgment highlighting the case of a hostile witness in Gujarat HC's ruling on the Best bakery case in 2004 outlines the need for protection of witnesses against intimidation, threats, bribery, corruption or any other sort of influence.<sup>21</sup> Similarly in the BMW hit and run case of 2015, the main witness and the friend of accused retracted his statement and turned hostile.<sup>22</sup> Such cases where the accused is in a position to influence the witness, highlights the difficulty of prosecution in convicting such criminals. The 198<sup>th</sup> Law Commission Report provides for Witness and identity protection and recommends for the anonymity of witnesses and amendments to the law for addition of witness protection laws.<sup>23</sup> The Criminal Law (Amendment) Act, 2005 (No. 2 of 2006)

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<sup>18</sup> Dilip, Meghana. 2008. "*Rang De Basanti*: Consumption, Citizenship and the Public Sphere." MA thesis, University of Massachusetts, Amherst; See, Chaudhury, Shoma. 2007. "Is This Only Protest Theatre?" *Tehelka*, January

13. [http://www.tehelka.com/story\\_main25.asp?filename=essay01132007\\_p14-17PF.asp](http://www.tehelka.com/story_main25.asp?filename=essay01132007_p14-17PF.asp).

<sup>19</sup> See, <https://timesofindia.indiatimes.com/city/delhi/No-one-killed-Jessica/articleshow/1423393.cms>.

<sup>20</sup> Frontline, Volume 23 - Issue 05, Mar. 11 - 24, 2006, titled "Lessons from Jessica Lal" by R.K. Raghavan.

<sup>21</sup> 2006 3 SCC 374, 2004 5 SCC 353.

<sup>22</sup> R/CR.MA/13488/2015.

<sup>23</sup> See, LAW COMMISSION OF INDIA 198TH REPORT ON WITNESS IDENTITY PROTECTION AND WITNESS PROTECTION PROGRAMMES, AUGUST 2006, Available on

<http://lawcommissionofindia.nic.in/reports/rep198.pdf>; See also, Witness protection Scheme 2018, 14<sup>th</sup> January 2019, Available on [https://www.mha.gov.in/sites/default/files/CSDiv\\_WPS\\_12122019.pdf](https://www.mha.gov.in/sites/default/files/CSDiv_WPS_12122019.pdf).

also provides for provisions of punishment for perjury. Several other countries like US, UK, Israel, Canada, and Italy among others have highly effective and secure witness protection programs. The Indian Govt. has made a step in right direction with the introduction of Delhi Witness Protection Scheme, 2015.<sup>24</sup> However a lot more needs to be done. It has become critical to introduce such schemes and witness protection programs across the country to ensure reduction in witnesses turning hostile and restore the common faith in the Judiciary.

## **CONCLUSION**

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This case of Jessica Lal's murder has been an ordinary case with extraordinary ramifications. It has been the narrative of a youthful fiery lady meeting a tragic end for the carelessness of a couple of rash and savage privileged brats. Be that as it may, through this case has developed consuming splinters which have flagged the pulverization of the until now existent criminal justice system of India. The country has wakened up to encounter the torment and anguish of the kins of Jessica, which had been perpetrated by the accused and developed by the system of Criminal Justice. Radical and revolutionary changes have been called for in all arenas be it with regard to threatening witnesses or investigation or overhauling legal framework. What has been surprisingly better has been the intrigue of the State to the High Court under the pressure surmounting from a defiant nation that denies accepting injustice. The result is obscure at this present crossroads, yet the underlying message is crystal clear that the law must react to this injustice with amendments revisions, changes, systematic overhauls, foundational upgrades, as may be needed; this is an ideal opportunity to act, and if not now, so when?

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<sup>24</sup> See, Delhi Witness Protection Scheme, 2015, Gazette Notified on 30th July, 2015, Available on <http://dlsia.org/wp-content/uploads/2015/12/Delhi-Witness-Protection-Scheme-2015.pdf>.

## ANNEXURES

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### ANNEXURE I

#### TIMELINE

April 29-30 1999: Jessica shot at a party in Qutub Colonnade restaurant in south Delhi.

April 30, 1999: Doctors at Apollo Hospital declare Jessica brought dead.

May 2, 1999: Delhi Police recover Tata Safari car belonging to the accused.

May 6, 1999: Manu surrenders before a court in Chandigarh. Subsequently, ten other co-accused including Vikas Yadav, arrested.

August 3, 1999: Charge sheet filed against accused for killing Jessica under various sections of IPC.

January 31, 2000: Magistrate court commits the case to a Sessions court for trial.

November 23, 2000: Sessions court frames charges for murder against nine persons and discharges one accused Amit Jhingan while declaring Ravinder Sudan alias Titu as proclaimed offender.

May 2, 2001: Court starts recording of prosecution evidence. Deepak Bhojwani, an eye witness deposes before the trial court.

May 3, 2001: Complainant and eye witness Shyan Munshi turns hostile and fails to identify Manu in court.

May 5, 2001: Another eye witness Shiv Das, an electrician at Qutub Colonnade, turns hostile.

May 16, 2001: Third key witness Karan Rajput turns hostile.

July 6, 2001: Malini Ramani, eyewitness, identifies Manu.

October 12, 2001: Socialite Bina Ramani, owner of the restaurant and bar, identifies Manu.

October 17, 2001: George Mailhot, Ramani's Canadian husband, deposes and identifies Manu.

July 20, 2004: Surinder Sharma, controversial investigating officer in the case, deposes after returning from U.N. assignment in Kosovo.

February 21, 2006: Trial court acquits all nine accused on basis of lack of evidence against them.

March 13, 2006: Delhi Police file appeal in the high court.

October 3, 2006: High Court begins hearing on appeal on a day-to-day basis.

November 29, 2006: High Court reserves its verdict.

December 18, 2006: High Court convicts Manu, Vikas Yadav and Amardeep Singh Gill alias Tony and acquits Alok Khanna, Vikas Gill, Harvinder Singh Chopra, Raja Chopra, Shyam Sunder Sharma and Yograj Singh.

December 20, 2006: High Court awards life imprisonment term to main convict Manu Sharma with a fine of Rs. 50,000 and also sentences co-convicts Amardeep Singh Gill and Vikas Yadav to four years' prison term with Rs. 3,000 fine each.

February 2, 2007: Manu Sharma appeals in the Supreme Court.

March 8, 2007: Supreme Court admits Manu Sharma's appeal.

November 27, 2007: Supreme Court rejects Manu Sharma's bail plea.

May 12, 2008: Supreme Court again rejects Manu Sharma's bail plea.

January 19, 2010: Supreme Court commences hearing on Manu Sharma's appeal.

February 18, 2010: Supreme Court reserves verdict on the appeal of Manu Sharma.

April 19, 2010: Supreme Court upholds conviction and life term of Manu.<sup>25</sup>

## **ANNEXURE II**

### **RELEVANT SECTIONS (CHARGES)**

Indian Penal Code (IPC)

Section 302: Punishment for murder — Whoever commits murder shall be punished with death, or imprisonment for life, and shall also be liable to fine.

Section 201: Causing disappearance of evidence of offence, or giving false information to screen offender —Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false; if a capital offence.—shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be

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<sup>25</sup> For a collection of contemporaneous news reports from the earliest stages of the case to the present day, see <http://www.rediff.com/news/jessica.html>. The Delhi High Court decision is available online as Criminal Appeal No. 193 of 2006 at <http://delhihighcourt.nic.in/.2>.

liable to fine; if punishable with imprisonment for life.—and if the offence is punishable with 1[imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; if punishable with less than ten years' imprisonment.—and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both. Illustration A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

Section 120B: Punishment of criminal conspiracy —

1. Whoever is a party to a criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.
2. Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.

Section 212: Harboursing offender — Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment; if a capital offence — shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; if punishable with imprisonment for life, or with imprisonment — and if the offence is punishable with imprisonment for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment which may extend to one year, and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both. “Offence” in this section includes any act committed at any place out of India, which, if committed in India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and

460; and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in India.

Exception: This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender. Illustration A, knowing that B has committed dacoity, knowingly conceals B in order to screen him from legal punishment. Here, as B is liable to imprisonment for life, A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

The Arms Act

Section 27: Punishment for using arms, etc.—

1. Whoever uses any arms or ammunition in contravention of section 5 shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.
2. Whoever uses any prohibited arms or prohibited ammunition in contravention of section 7 shall be punishable with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and shall also be liable to fine.
3. Whoever uses any prohibited arms or prohibited ammunition or does any act in contravention of section 7 and such use or act results in the death of any other person, shall be punishable with death.

### ANNEXURE III

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**LIST OF WITNESSES, RELEVANT [WHERE, “PW”- “PROSECUTION WITNESS”]**

PW-1: Deepak Bhojwani

PW-2: Shyan Munshi

PW-3: Shiv Dass Yadav

PW-4: Karan Rajput

PW-5 Parikshat Sagar

PW-6: Malini Ramani

PW-7: Naveen Chopra

PW-9: Dr. R.K. Sharma

PW-10: Dr. Jasvinder Singh

PW-15: Sumitabh Bhatnagar

PW-19: Andleep Sehgal

PW-20: Beena Ramani

PW-21: ASI Madan Pal

PW-23: Rouble Dunglay

PW-24: George Mailhot

PW-25: Manoj Kumar

PW-26: Balbir Singh

PW-30: Sarvan Kumar

PW-44: Shankar Mukhia

PW-46: Madan Kumar

PW-47: Jatender Raj

PW-52: Chander Prakash Chopra

PW-53: Abhijit Ghosal

PW-54: Varun Shah

PW-55: Mukesh Saini

PW-57: Ashok Dutt

PW-63: Ram Avtar

PW-64: Ravinder Singh Gill

PW-65: Kulvinder Singh

PW-70: Rohit Bal

PW- 72: Lal Singh

PW-73: Sabrina Lal

PW-77: Gajender Singh

PW- 78: Sarad Kumar Bishoi

PW-79: Rajneesh Kumar Gupta

PW-86: Jagannath Jha

PW-95: Prem Sagar Minocha

PW-98: Babu Lal

PW-99: Dr. Deepak Vats

PW-100: SI Sunil Kumar

PW-101: Inspector Surender Kumar



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