

20 yrs after Kanishka, both accused 'not guilty'

GURMUKH SINGH

Vancouver

In the jam-packed British Columbia Supreme Court, when Justice Ian Bruce Josephson started reading his verdict in the 20-year-old Air India case last week, nobody expected him to give any startling judgment against the two suspects—57-year-old Canada-based millionaire Ripudaman Singh Malik and 55-year-old mill worker Ajai Singh Bagri—as the prosecution had failed to muster strong evidence against them.

After years of investigation, the two British Columbian men were arrested in October 2000 on charges of first-degree murder and conspiracy to blow up two Air India planes in June 1985.

In the first blast at Tokyo's Narita airport, two baggage handlers were killed when they were loading luggage on to the Air India flight 301 to India. Minutes later, the Air India Kanishka flight 182 was blown up off the Irish coast, killing all 329 passengers on board.

While Malik was accused of financing the bombing plot, Bagri was suspected of carrying out the plot by making and loading the two bombs in suitcases on planes in Vancouver. The ring leader of the plot, according to the Crown and defence, was Talwinder Singh Parmar who was killed in an encounter with police in Punjab in 1992. Parmar, who moved to Canada from Germany in 1984, had founded the Babbar Khalsa.

After accepting the Crown's theory that there was a plot to blow up Air India flights and that the bombs were loaded on planes at Vancouver airport to carry out these "heinous" and "cruel acts of terrorism," Justice Josephson started ripping apart the main witnesses' testimony. Within minutes, Malik was declared innocent. "Despite what appear to have been the best and most earnest of efforts by the police and the Crown, the evidence has fallen markedly short of that standard," the judge said.

The relatives of the victims, who were flown in by the Canadian government from all over Canada, India, and the US, were stunned while the family members of Malik smiled broadly and welcomed the verdict with "Thank God."

The testimony against Bagri met the same treatment and he too was declared innocent.

"Twenty years of wait. Twenty months of trial. More than \$130 millions in costs. And what a verdict! Where was the need for this trial?" reacted an angry Indo-Canadian man.

The main witness against Malik was his former employee and lover who had testified in November 2003 that Malik had confessed to her his role in the Air India bombing. The woman, whom Malik had hired in 1982 and fired in 1997, said he had told her that "we had Air India crash... nobody... can do anything about it." She had also said in her testimony that despite all this she still loved Malik.

And it is this profession of love for Malik which made Justice Josephson disbelieve her testimony. "Either this mature, intelligent and strong-willed person has abandoned all she believes in because of overwhelming and unreasoning emotions of the heart, or she is misleading the court by claiming to be (Malik's) loving confidante in an attempt to blunt the inevitable credibility attack based on animus towards Mr. Malik," the judge said.

On the other hand, the case against Bagri rested on the testimony of a woman friend and an FBI informant. The friend, who had told the Canadian Intelligence Secret Service (CSIS) that she was approached the night before the Air India bombing by Bagri to borrow her car to carry the bomb suitcases to the airport, failed to remember the details and suffered from "memory lapses" during her testimony. The judge dismissed her evidence as mere "hearsay".

The other witness, the American FBI's informant who was paid US\$300,000 by the Royal Canadian Mounted Police, in his testimony said that Bagri had told him about the plot during a conversation at a gas station in New Jersey in 1984.

Dismissing it, the judge said his testimony is full of "evasiveness and internal contradic-

tions, followed by implausible explanations" and the man was motivated solely by self-interest because he was an illegal immigrant in the US and entered in deals with the FBI to get American citizenship.

"The proof of Mr. Bagri's guilt beyond a reasonable doubt rests upon hearsay statements for which there is no reliable confirmatory evidence.... These statements were provided on a confidential basis and not under oath by a person who falsely claimed loss of memory when testifying," the judge remarked.

While Malik was whisked away by his family in their Mercedes, Bagri and his daughter read out a statement to the media in the pouring rain outside the court. "The past four-and-

a-half years have been very difficult for me and my family. I have accused of horrendous crimes, and imprisoned for four years. In 1985, when these terrible events occurred, I was a passionate advocate for an independent homeland for the Sikh people. But I want to repeat publicly what I have told the authorities numerous times since 1985 that I had absolutely no involvement in any of these criminal activities," it read.

"The loss of so many innocent lives resulting from these events is an enormous tragedy. I have brought unspeakable suffering to the families and friends of those who died. It has also caused deep divisions within the Sikh community. It is my hope that the completion of the legal proceedings will now allow healing to begin, and will encourage our community to come together," said Bagri in his statement. When someone asked him whether he still wanted Khalistan and kill 50,000 Hindus as he had vowed in a 1984 New York rally, his lawyers pulled Bagri away. Only Inderjit Singh Reyat, who admitted to manslaughter charges and supplying explosive material to make bombs, has been jailed in the case.



Relatives of the victims, who were flew in from all over Canada, India, and the US, were stunned by the verdict

The two who walked free

AJAIB SINGH BAGRI

HAILING from a village near Amritsar, Ajai Singh Bagri came to Canada as a student in 1970. He became a fundraiser for the now banned Babbar Khalsa which was started by the Air India bombing mastermind Talwinder Singh Parmar. In fact, Parmar had come to Canada from Germany in 1984 to initiate pro-Khalistan activities in British Columbia.

His speech at a Madison Square Garden rally, New York, in 1984 after Operation Bluestar, calling for murder of 50,000 'hell dweller' Hindus in revenge, was one of the reasons Bagri became a major suspect in the Air India case.

It is this preacher who had allegedly arranged to assemble, test and load the two bombs on planes in Vancouver. And it was CSIS's destruction of tapes of his conversation with Parmar that led to the collapse of the case against him.

Father of five children—four daughters and one son, Bagri once worked as a carpenter. Settled in Kamloops, British Columbia, he has worked at Tolko Industries sawmill in Hefley Creek near Kamloops for about 20 years.

"On leave" as one union leader at the sawmill described him during his incarceration in the Air India case, Bagri is not rich like Malik. He just owns a house worth over \$350,000, and was defended at the state's expenses in the case. Doesn't he still believe in Khalistan ideology? Well, he didn't say anything at the brief conference after his acquittal.



RIPUDAMAN SINGH MALIK

HE came to Canada from Ferozepur in the early 1970s, and started out by selling books, tapes and trinkets on pavements in Gas Town in downtown Vancouver and at gurdwaras on Sundays.

As an acquaintance recalls, Malik used to wear "a pony tail and western clothes" in those days.

He started wearing Sikh symbols in about 1984, and was baptised by Bhai Jiwan Singh of the Akhand Kirtani Jatha. This Jatha became famous when its leader Fauja Singh was killed in confrontation with Nirankaris. It was this bloody confrontation that sowed the seeds of the Punjab problem.

A soft-spoken man who is also an avid reader of biographies, Malik established an import business in clothes. Today, this is known as Papillon Eastern Imports Company doing business worth millions. Malik's brother owns a supply factory in Okhla in New Delhi. As he established himself in his business, Malik went on to establish the Khalsa Credit Union whose worth is in millions today.

His Khalsa School in Surrey was the first Indian minority institution in British Columbia. During the mid-90s, he also presided over the Satnam Education Trust and the Satnam Trust. Malik owns a resort hotel in Harrison Hot Springs, a fleet of Land Rovers and Mercedes and a huge mansion in the upscale Shaughnessy area of Vancouver. His son Jaspreet Malik, who is one of his five children, is a lawyer. During his detention, wife Raminder ran much of his business. He is known as a fundraiser for the federal Liberal Party and the provincial New Democratic Party.



We share outrage over Kanishka verdict: India

AFTER a Canadian court let off the two accused in the 1985 bombing of Air India's Kanishka, New Delhi made it clear that it shared the sense of outrage among relatives and friends of the 329 on board who were killed in India's first real brush with international terrorism.

"At this difficult moment, we can only share the hopes of all those affected by this tragedy that one day, justice may yet be done," said the spokesperson for Ministry of External Affairs (MEA) on the acquittal of Ripudaman Singh Malik and Ajai Singh Bagri.

Both were found not guilty on all eight charges, including first-degree murder and conspiracy to commit murder.

"The Kanishka bombing has been the most heinous terrorist attack in civil aviation history. We share the sense of outrage among the relatives and friends of those who lost their lives in that attack that after almost two decades, the culprits have not been brought to account," the spokesperson said.

—Express News Service

Minutes after the verdict, stunned relatives of the victims met the media to give vent to their anger against the Canadian judicial system. Calling the judgment yet another tragedy for them, they demanded a public inquiry into the case and vowed not to give up the fight till the guilty were punished.

The verdict, they said, would have been different if the case would have been tried by a five or six-member jury.

Slamming deputy prime minister Anne McLellan for ruling out a public inquiry, Lata Pada, who lost her husband and two daughters in the bombing, said, "It was premature for the deputy prime minister to so say without reading the verdict. This government needs to be held accountable. Canada would have responded differently if the victims were the mainstream white community."

Montreal lawyer Sushil Gupta, who lost his mother, said, "When we went to Ireland to find my mother's body, there was no Canadian official on the scene. There were no grief counsellors. It was a Canadian tragedy, but they took a very inappropriate view. Prime Minister Brian Mulroney sent a message of condolence to his Indian counterpart Rajiv Gandhi as if it were Indian tragedy. It was a terrorist conspiracy conceived and executed in Canada against Canadians. Our fight doesn't end with today's verdict. Only a public inquiry can investigate the failures of the systems."

Dave Hayer, an MLA whose editor father Tara Singh Hayer was killed in 1998 before he could testify against the accused, said, "This verdict says terrorists can come to Canada, blow up planes and walk away free. Special powers for police and special courts are needed to deal with terrorists," he said.

For its part, RCMP representative John Ward tried to console people by saying that the investigation was not over yet. "We have 15 officers still working on the case, and we are pursuing all the leads," he said.

Speaking for the Crown (prosecution), Geoff Gaul said they tried their best but the evidence was not adequate for nail the culprits. "Senior Crown prosecutors will review the 600-odd pages of the verdict and decide on appeal within the next 30 days," he said.

A spokesman for the prosecution said it had not decided whether to appeal. Prosecutors have 30 days to make a decision.



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