



February 10, 2013 - Wasn't it? Yesterday I mean. Spring announced itself in Delhi. The sun was out, and the Law took its Course. Just before breakfast, Afzal Guru, prime accused in the 2001 Parliament Attack was secretly hanged, and his body was interred in Tihar Jail. Was he buried next to Maqbool Butt? (The other Kashmiri who was hanged in Tihar in 1984. Kashmiris will mark that anniversary tomorrow.) Afzal's wife and son were not informed. "The Authorities intimidated the family through Speed Post and Registered Post," the Home Secretary told the press, "the Director General of J&K Police has been told to check whether they got it or not." No big deal, they're only the family of a Kashmiri terrorist.

In a moment of rare unity the Nation, or at least its major political parties, the Congress, the BJP and the CPM came together as one (barring a few squabbles about 'delay' and 'timing') to celebrate the triumph of the Rule of Law. The Conscience of the Nation, which broadcasts live from TV studios these days, unleashed its collective intellect on us — the usual cocktail of papal passion and a delicate grip on facts. Even though the man was dead and gone, like cowards that hunt in packs, they seemed to need each other to keep their courage up. Perhaps because deep inside themselves they know that they all colluded to do something terribly wrong.

What are the facts?

On the 13th of December 2001 five armed men drove through the gates of the Parliament House in a white Ambassador fitted out with an Improvised Explosive Device. When they were challenged they jumped out of the car and opened fire. They killed eight security personnel and a gardener. In the gun battle that followed, all five attackers were killed. In one of the many

versions of confessions he made in police custody, Afzal Guru identified the men as Mohammed, Rana, Raja, Hamza and Haider. That's all we know about them even today. L.K. Advani, the then Home Minister, said they 'looked like Pakistanis.' (He should know what Pakistanis look like right? Being a Sindhi himself.) Based only on Afzal's confession (which the Supreme Court subsequently set aside citing 'lapses' and 'violations of procedural safeguards') the Government of India recalled its Ambassador from Pakistan and mobilised half a million soldiers to the Pakistan border. There was talk of nuclear war. Foreign embassies issued Travel Advisories and evacuated their staff from Delhi. The standoff lasted for months and cost India thousands of crores.



On the 14th of December 2001 the Delhi Police Special Cell claimed it had cracked the case. On the 15th of December it arrested the 'master mind' Professor S.A.R Geelani in Delhi and Showkat Guru and Afzal Guru in a fruit market in Srinagar. Subsequently they arrested Afsan Guru, Showkat's wife. The media enthusiastically disseminated the Special Cell's version. These were some of the headlines: 'DU Lecturer was Terror Plan Hub', 'Varsity Don Guided Fidayeen', 'Don Lectured on Terror in Free Time.' Zee TV broadcast a 'docudrama' called December 13th, a recreation that claimed to be the 'Truth Based on the Police Charge Sheet.' (If the police version is the truth, then why have courts?) Then Prime Minister Vajpayee and L.K. Advani publicly appreciated the film. The Supreme Court refused to stay the screening saying that the media would not influence judges. The film was broadcast only a few days before the fast track court sentenced Afzal, Showkat and Geelani to death. Subsequently the High Court acquitted the 'mastermind', Professor S.A.R Geelani, and Afsan Guru. The Supreme Court upheld the acquittal. But in its 5th August 2005 judgment it gave Mohammed Afzal three life sentences and a double death sentence.

Contrary to the lies that have been put about by some senior journalists who would have known better, Afzal Guru was not one of "the terrorists who stormed Parliament House on December 13th 2001" nor was he among those who "opened fire on security personnel, apparently killing three of the six who died." (That was the BJP Rajya Sabha MP, Chandan Mitra, in The Pioneer, October 7th 2006). Even the police charge sheet does not accuse him of that. The Supreme Court judgment says the evidence is circumstantial: "As is the case with most conspiracies, there is and could be no direct evidence amounting to criminal conspiracy." But then it goes on

to say: “The incident, which resulted in heavy casualties had shaken the entire nation, and the collective conscience of society will only be satisfied if capital punishment is awarded to the offender.”

Who crafted our collective conscience on the Parliament Attack case? Could it have been the facts we gleaned from the papers? The films we saw on TV?

There are those who will argue that the very fact that the courts acquitted S.A.R Geelani and convicted Afzal proves that the trial was free and fair. Was it?

The trial in the fast-track court began in May 2002. The world was still convulsed by post 9/11 frenzy. The US government was gloating prematurely over its ‘victory’ in Afghanistan. The Gujarat pogrom was ongoing. And in the Parliament Attack case, the Law was indeed taking its own course. At the most crucial stage of a criminal case, when evidence is presented, when witnesses are cross-examined, when the foundations of the argument are laid — in the High Court and the Supreme Court you can only argue points of law, you cannot introduce new evidence — Afzal Guru, locked in a high security solitary cell, had no lawyer. The court-appointed junior lawyer did not visit his client even once in jail, he did not summon any witnesses in Afzal’s defence and did not cross examine the prosecution witnesses. The judge expressed his inability to do anything about the situation.

Even still, from the word go, the case fell apart. A few examples out of many:

How did the police get to Afzal? They said that S.A.R Geelani led them to him. But the court records show that the message to arrest Afzal went out before they picked up Geelani. The High Court called this a ‘material contradiction’ but left it at that.

The two most incriminating pieces of evidence against Afzal were a cellphone and a laptop confiscated at the time of arrest. The Arrest Memos were signed by Bismillah, Geelani’s brother, in Delhi. The Seizure Memos were signed by two men of the J&K Police, one of them an old tormentor from Afzal’s past as a surrendered ‘militant’. The computer and cellphone were not sealed, as evidence is required to be. During the trial it emerged that the hard disc of the laptop had been accessed after the arrest. It only contained the fake home ministry passes and the fake identity cards that the terrorists used to access Parliament. And a Zee TV video clip of

Parliament House. So according to the police, Afzal had deleted all the information except the most incriminating bits, and he was speeding off to hand it over to Ghazi Baba, who the charge sheet described as the Chief of Operations.

A witness for the prosecution, Kamal Kishore, identified Afzal and told the court he had sold him the crucial SIM card that connected all the accused in the case to each other on the 4th of December 2001. But the prosecution's own call records showed that the SIM was actually operational from November 6th 2001.

It goes on and on, this pile up of lies and fabricated evidence. The courts note them, but for their pains the police get no more than a gentle rap on their knuckles. Nothing more.

Then there's the back story. Like most surrendered militants Afzal was easy meat in Kashmir — a victim of torture, blackmail, extortion. In the larger scheme of things he was a nobody. Anyone who was really interested in solving the mystery of the Parliament Attack would have followed the dense trail of evidence that was on offer. No one did, thereby ensuring that the real authors of conspiracy will remain unidentified and uninvestigated.

But now that Afzal Guru has been hanged, I hope our collective conscience has been satisfied. Or is our cup of blood still only half full

Courtesy: <http://www.thehindu.com/opinion/lead/a-perfect-day-for-democracy/article4397705.ace>