

भागीदारी नहीं बनाया जाना चाहिये। ये मसले हम आगे भी देशों के साथ बढ़ाएंगे।

सभापति महोदय, मैं समझता हूँ कि मैंने काफी स्पष्टीकरणों का उत्तर देने का प्रयास किया है। थोड़े दिन पहले सदन में विदेश नीति पर पूरी बहस हो चुकी है और सार्क सम्मेलन से हम अधिक शक्ति और प्रभाव लेकर लौटे हैं, इसके बारे में कोई संदेह नहीं होना चाहिये।

MR. CHAIRMAN: We will adjourn till 2.15 now. We will then take up the Government motion of Shri L.K. Advani. The House stands adjourned till 2.15 p.m.

The House then adjourned for lunch at seventeen minutes past one of the clock.

The House reassembled after lunch at eighteen minutes past two of the clock, The Deputy Chairman in the Chair.

THE DEPUTY CHAIRMAN: Now we take up Government Motion. Shri L.K. Advani.

#### DISCUSSION ON FINAL REPORT OF JAIN COMMISSION AND ATR

गृह मंत्री (श्री लाल कृष्ण आडवाणी) : मैं प्रस्ताव करता हूँ कि यह सभा 31.07.1998 को सभा पटल पर रखें गए जैन आयोग के अंतिम प्रतिवेदन और उस पर की गई कार्यवाही संबंधी ज्ञापन पर विचार करें।

SHRI KAPIL SIBAL (Bihar): Madam, as I stand here today, my mind goes back to that fatal night. It was 10.10 p.m. There was a long line of welcoming persons standing with garlands to receive Rajivji. He had his usual innocent mischievous smile, always affectionate but little did he know that he was never to smile again. Madam, it indeed was a national tragedy, a tragedy, which has still not been unravalled. The Jain Commission started on 23rd August, 1991 and submitted its report in March, 1998. But for the fortyone accused, twentysix of whom have been tried and convicted, we are still grouping in the dark. This was not an ordinary assassination. We have witnessed in the sub-continent

assassination of other leaders, in Sri Lanka and in Bangladesh. This was not an assassination by an individual assassin. This was a well-planned, well-organised dastardly murder by an organisation which believes in terrorism. Rajivji was the Prime Minister of this country and campaigning in the run up of that election for which purpose he went to Sriperumbudur. Everyone knew that the Congress party would come back to power. This dastardly act was to prevent him from becoming the Prime Minister once again. It was an act not only directed against Rajivji personally and the members of his family who have already suffered enough, it was also an act to destabilise India. I beseech you, Madam, and request the Government of the day to look upon this tragedy from this standpoint. These are not matters which bear any political postures.

Advaniji knows, in Coimbatore, there was a plan to deal with yet another leader who is sitting in our midst today. These plans, Madam, will be hatched again and again and it is from that point of view that we must approach this issue, no matter what the consequences, no matter what the ramifications. Our only objective must be to get at the truth and nothing but the truth. Having said that, Madam, let me give you an over-view of what the Jain commission says before I come to the Action Taken Report because I must state at the outset that we are—think I am using a mild expression—deeply disappointed. We are deeply disappointed because we feel that with the wealth of material that has come before this House we had the expectation that the Government, instead of adopting certain angular postures, would come forth and state that they accept the entire report and will do as directed by Justice Jain instead of setting up an agency, the role of which is not defined in the Action Taken Report. Madam, I will come to that later. Let me first give an overview of what has transpired ever since that fateful night of May 21, 1991. Madam, you are aware that soon after the

assassination, the Verma Commission was set up. The terms of reference of the Verma Commission did not deal with the criminality aspect of the assassination. It dealt with the security lapses and Justice Verma categorically found that there were lapses in the arrangements made at the spot. He finds this at page 53, paragraph 11.07 of his Report. He also finds that the Tamil Nadu police force was derelict in its duty in protecting Rajivji and in providing adequate security coverage to Rajivji. He also finds, and that is of some significance, that there was a complete failure of the State intelligence agencies. He gives that finding at page 67, paragraph 13.08. He also finds that the Central Government, the IB and the Home Ministry contributed to the lapse which led to the assassination of Rajivji. He finds that at page 56, paragraph 14.29, paragraph 16.02, paragraph 16.03 and paragraph 16.04. I do not want to read these because of paucity of time. He comments upon the withdrawal of the SPG cover; he comments upon the correspondence within the Central Government itself; he comments upon the decision taken in providing inadequate alternative cover to Rajivji; he comments upon the failure of the Government in doing that. He ultimately holds that had that alternative cover been provided to Rajivji, this assassination could have been averted. Now, Madam, it is true that the Justice Verma Commission was not dealing with the criminality aspect of the matter. Madam, as you are aware, if there is a finding of lapses of this magnitude this has to be viewed- in the context of what happened on that day. There is a clear finding of the Justice Verma Commission that Dhanu, the assassin was at the spot just after seven o'clock in the evening; and was roaming about till 10.10 P.M. For over three hours, under the nose of the police officials and the one-eyed Jack was also there. These were the people who were present especially Sivarasan, had already been indicted in the Padamanabha assassination

in 1990. Justice Verma naturally could not go into the criminality aspect.

We expected the Government to accept the findings of the Justice Verma Commission in the context of the criminality aspect of the matter and proceed against those or, at least, investigate thoroughly the circumstances from the criminal stand points as to how this human-bomb could have been roaming about untouched, undiscovered, wearing a belt around her waist and standing in that very uncomfortable posture that we have ourselves seen in photographs. This was not just a dereliction of duty. This was deliberate and we expected the Government to investigate into this thoroughly. In the Action Taken Report, there is no reference to the contemplated action against these officers pursuant to the Verma Commission Report. We expected them to look into this matter more thoroughly.

Then came the Interim Report of Justice Jain. In this context, I would like to clarify a doubt that seems to be not only in the public mind but crept into the mind of the Central Government. The Central Government, in the A.T.R., views the Interim Report as a preliminary report, as if it is overtaken by the final report when it comes. That indeed, Madam, is not the case I will demonstrate that by referring to the two Terms of Reference of the Justice Jain Commission: "(a) The sequence of events leading to and the facts and circumstances relating to the assassination of Shri Rajiv Gandhi at Sriperumbudur other than the matters covered by the Terms of Reference for the Commission of Enquiry headed by Justice J.S. Verma; and (b) Whether any person or persons or agencies were responsible for conceiving, preparing and planning the assassination and whether there was any conspiracy in this behalf and, if so, all its ramifications."

Madam, when Justice Jain submitted the Interim Report, he clearly stated that this interim report was submitted in the context of the first part of the first term of reference. In other words, the first

part of the first term of reference referred to the sequence of events leading to the assassination of Shri Rajiv Gandhi. The Interim Report only dealt with that issue. When it came to the Final Report, the Final Report deals with the second part of the first term of reference and the second term of reference. I will demonstrate it here. It deals with: (a) the facts and circumstances relating to the assassination of Shri Rajiv Gandhi; and (b) whether any person or persons or agencies were responsible for conceiving, preparing and planning the assassination. So, the Interim Report is an independent report, independent and final qua the sequence of events leading to the assassination of Shri Rajiv Gandhi. It could neither be superseded nor amended by the Final Report because the Final Report does not deal with that aspect of the matter. Unfortunately, there seems to be some obfuscation in the mind of the Central Government in this regard because in the A.T.R., you will find references made to the Interim Report and then the finding of the Final Report as if one has overtaken the other. Madam, why am I stressing this? I am stressing this because the Interim Report is the report which goes into the nexus responsible for the assassination. It does not just deal with individuals. It deals with the political and the bureaucratic nexus and, therefore, assumes great significance from our point of view. It is my belief. Madam, and that is the belief of my party, that this act could not have been committed but for wanton acts not only of gross negligence, but criminality by those who turned a blind eye to the events that were happening under their nose. It is not for our party to say who these persons were. It is not for us to point out a needle of suspicion at A, B or C. The indictment ultimately has to be done after a thorough investigation. We do not want to raise our fingers against anybody. But the least we do expect from the Government is to at least thoroughly investigate into this matter. And I am not talking of individuals. I am talking about

those who allowed this to happen under their nose.

Madam, if you look at the investigations conducted thus far, you will find that there is not a single name of a bureaucrat involved in this, no police officer, no politician. Now, we do not say that there are politicians involved. No, But, we do say, please investigate and find out who is involved. If it is a politician, so be it and if it is a bureaucrat, so be it. We are concerned with the truth. There is no political agenda here.

Now, let me establish before this House by referring to Volume 7 of the Interim Report, the findings of the Jain Commission about the extent of the links, within the bureaucratic and the political establishment, with the LTTE, which findings have not and cannot be rebutted. I invite the attention of this House to Volume 7 of the Interim Report. I refer to page 719 of the Report. This is what it says at the bottom. "The DMK has been, after it came to power in Tamil Nadu"—it was in power from 1989 to 30 January, 1991, when the Government was dismissed.

"The DMK has been, after it came to power in Tamil Nadu, instrumental in providing a safe sanctuary to the LTTE and also in giving advice, active assistance, finance and providing security cover to its operations in Tamil Nadu which were intended to facilitate the LTTE in fighting Sri Lankan armed forces. At the bureaucratic level it appears that the Home Secretary had been in regular contact with the LTTE and reports suggest that he was advising them with the intention of facilitating easier movement of LTTE consignments."

There is also an IB report which suggests that Shri Gopalsamy who was a member of the Parliamentary Consultative Committee, indicated to LTTE activists that 'while lie DISCUSSu Witi oijrai and George Fernandes the cause of Lankan Tamils, there appeared to be an air of hostility towards LTTE in the Committee. He, therefore, counselled them to

tread cautiously. 'There appeared to be changes in the landing points along the coast which were always effected in consultation with the DMK leaders'. We don't want to name anybody. We just want an investigation. 'Shri Karunanidhi is reported to have suggested the floating of a fake organisation called the Relief Organisation for Sri Lankan Tamils, with Kasi Anandan and Natesan, the LTTE activists, as office-bearers to facilitate diversion of Government funds, in the name of relief.

Now, is this not shocking? Should this not be investigated? 'Defiance of law and scant regard for and fear of security agencies existed among the LTTE activists, thanks to the patronage of the DMK Government'.

Justice Jain describes an incident that happened on 25th July, 1990. He says that there was a Maruti van which was carrying 28 rounds of ammunition and three magazines, which was caught. When the LTTE activists who were sitting in the car were taken to the police station, they said that they had the patronage of the establishment. Advocates were bailing them out.

Madam, I invite your attention to yet another part of this report—page 728, where, the militants belonging to the LTTE were said to be hand-in-glove with certain persons. There are "any number of instances in this document which talk of this nexus. This nexus continued throughout, even after the DMK went out of power, after it was dismissed, i.e., on 30th January, 1991.

You will remember that in June, 1990, Padmanabha, who was the President of the EPRLF, I think, was assassinated by the LTTE activists. I would like to inform this House that six of the accused in the Padmanabha assassination case are common to the Rajiv Gandhi assassination. The main accused, Sivarasan, was a co-accused in the Padmanabha case. I might inform this House that this Sivarasan, involved in the assassination of I

Padmanabha, in June, 1990, went to Sri Lanka. After that he was back in India in September, 1990. He was shuttling between Sri Lanka and India many times. He was at large. The Tamil Nadu Police had spotted him at various places. But he was not arrested! Can it be said, that some individuals were not aware of this? There was no progress in the Padmanabha assassination case.

Therefore, Madam, the point I am making is, there were several assassins at large, to the knowledge of the Government, to the knowledge of the police authorities, even to the knowledge of the then Central Government, yet, they were not arrested!

This is not all. There are very serious issues that arise for consideration. But before I leave this topic, I would like to refer to a statement on page 785, by Shri J.N. Dixit, who had been our High Commissioner in Colombo. This was his perception. He made a statement before the Commission. I quote:

"This is my general perception on reading reports that the Government was supporter of the LTTE, and the cross sections of the political leaders of Tamil Nadu gave assistance to LTTE as parties even after the operations of the IPKF commenced."

Shri Chidambaram who intervened in the debate in the Lok Sabha in respect of the Padmanabha murder issue which is at page 803 of this document, states the following:

"When Padmanabha came to Madras on the 1st or the 2nd of June, his arrival in Madras was notified to the LTTE. The location of the EPRLF house was conveyed to the LTTE, and on 19th June the most dastardly crime to have been committed in recent times in the city of Madras, was committed. Almost 16 or 17 EPRLF cadres, including Padmanabha, were killed by the LTTE. Not only did they kill them, but they traversed 350 kms. from Madras to Tanjavor coast, and

this wonderful Central Government and this great Tamil Nadu police of Karunanidhi could not intercept them or stop them when they traversed 350 kms. from Madras to Tanjavor and escaped by boat via Palk Strait. The Chief Minister met two chosen emissaries of the LTTE, Kasi Anandan and Natesan."

I do not say anybody is involved. No. Far be it. It is not for us to say, but it is for us to know it. We must know who is involved. It is your duty to find it out. It is the duty of any Government in power to find it out.

Madam, that is not the end of the matter. In fact, there was advance information available with the IB regarding the movement of the LTTE cadres. I invite your attention to page 843 of the Report. I am referring to two messages intercepted on the 21st and the 22nd of March, 1991. Members of this House know that the assassination took place on the 21st of May, 1991. There was a message which was intercepted on the 21st of March, just a couple of months before. I am referring to page 844. The first message stated, and I quote:

"Rajiv Gandhi is coming to Madras on this 30th."

The second message says, and I quote:

"Should attempt at Madras or at the capital? If at the capital, it requires strenuous efforts and sufficient time. If to attempt on date give reply."

These are the messages which were intercepted on the 21st of March, yet, the explanation given is that they were not decoded. The explanation given is that they were decoded only in June. When were these documents supplied to the Commission? In 1995, four years after the event. There is no explanation for not decoding these. There is no investigation in that regard. Nobody has looked into the matter. Nobody has been saddled with the responsibility for dereliction of duty. Nobody has looked into the criminality of the matter. Everybody is silent.

Let me candidly say that we are all responsible for not being able to get at the truth. When I say all, I mean all, whichever Government was in power.

SHRI M. VENKAIAH NAIDU (Karnataka): We are not responsible for it.

SHRI KAPIL SIBAL: I will tell you why you are responsible. I will come to the ATR. I will show it to you. You know of these facts. You have not even adverted to them. ...*(Interruptions)*...

THE DEPUTY CHAIRMAN: Let him make his speech.

SHRI KAPIL SIBAL: These are all there. They are on the record.

THE DEPUTY CHAIRMAN: I have all the names from different political parties. Let him finish his speech. Then other parties will have their say. So, please don't interrupt him.

SHRI M. VENKAIAH NAIDU: No question of interruption, Madam. ...*(Interruptions)*...

THE DEPUTY CHAIRMAN: Never mind. Your time will come. So, you can say then whatever you want to say. ...*(Interruptions)*...

THE DEPUTY CHAIRMAN: I will ask him to look at the Chair.

SHRI SATISHCHANDRA SITARAM PRADHAN (Maharashtra): We people were nowhere in the picture. You were in power. ...*(Interruptions)*...

SHRI KAPIL SIBAL: Madam, I am referring to page 846. ...*(Interruptions)*...

I am sorry. If I have hurt your feelings, I am really sorry.

MR. CHAIRMAN: You better address the Chair.

SHRI KAPIL SIBAL: Madam, I was addressing the Chair. When he gets up, I look at him. If he does not get up, I will not look at him. *(Interruptions)*

Madam, even the information regarding the presence of Sivarasan, the accused in the assassination case, was

available in fax messages on February 22, 1991 and February 23, 1991. These are referred to at pages 846 and 847 of the Interim Report. Madam, there are messages at page 848, 849 and 850, which were also intercepted. Soon before the assassination, the authorities had intercepted messages, clearly suggesting that there was going to be an attempt on the life of Rajiv Gandhi; and the assassins, who ultimately made the attempt, were at large in the State of Tamil Nadu. That is my point. Now, this aspect has attained finality in the Interim Report.

When we come to the Final Report, Justice Jain says, that the Final Report deals with the second part of the reference. This he says in Volume I at page 31 of the Final Report, the second part of the reference relating to the circumstances leading to the assassination of Rajiv Gandhi and the conspiracy which led to his assassination. In this context I would like to invite the attention of this House to page 43 of Volume I, which has a very significant piece of evidence. On May 7-8, 1991, there was a rehearsal conducted in respect of Rajiv's assassination, it so happened that Shri V.P. Singh was in Madras on that day. This referred to in the Final Report in Volume I, page 43, paragraph 8, as a dry run. This is what it says. "While Shri Rajiv Gandhi was in the midst of his hectic scheduled of electioneering, the accused belonging to the L.T.T.E. hit squad: Sevarasan, Dhanu, Subha, Hari Babu, Nalini, Aribu and Murugan carried out a dry-run, a rehearsal of the assassination on the night of May 7-8, 1991 at the public meeting in Madras, which was being addressed by Shri V.P. Singh. During this meeting, Sivarasan had managed to position himself in the row of seat close to the dais, while Dhanu, accompanied by Nalini, managed to garland Shri V.P. Singh at the feet of the dais. Now, can it be believed that on the 7th-8th May, these people who are accused in the Padmanabha case, were conducting a dry run without the

knowledge of the authorities. This is something to be investigated. It cannot be believed that a dry-run was being conducted, that the accused were freely coming from Sri Lanka to the coastal areas in Tamil Nadu, that ammunitions and arms were brought, that ships were being bought, that moneys were being transferred into accounts, that wireless sets were set up in houses, that houses were being rented, that motor bikes were being bought, a whole plethora of commercial activities were being conducted without the knowledge of anybody. Madam, this is unbelievable.

Madam, there is also a reference to a wireless message, as I had indicated earlier, on 21st March, 1991 in Volume I at page 37.

Then, four years after the event, it was filed with the Commission on the 29th July, 1995. As far as Rajivji was concerned, the threat perception was not just available with the authorities in 1990 or 1991. The first threat perception in this regard became available to the authorities in 1988. In this context, I refer to volume six, page one. The first sentence says, "The Commission received a very important piece of evidence in the form of LTTE intercept by the Navy for the year 1988 on 2nd of February, 1998." An intercept by the Navy was produced before the Commission only on the 2nd February, 1998. Why is there no explanation for it? Somebody obviously was not cooperating. I am glad that the attempt had failed. At least we have the decoded messages before this House. At least we have a Government who is responsive—I am sure—to our request to set up a proper agency to which I will come a little later for the purposes of looking into this matter and prosecuting the concerned people.

In fact, there is another message on 18th June, 1988 which said, "We are preparing garlands with bullets for the reception of Rajiv Gandhi" Madam, I dare say this was something known to the

authorities, *bo*, in the overall context, the threat perception to Rajiv's life had not decreased. In fact, it had increased. The SPG cover had been withdrawn. The three PSOs who were required to be there, were not there on the spot because of an alleged technical snag in the aircraft.

The roaming about of assassins right at the site right from 7.30 onwards, the assassins being at large in the State of Tamil Nadu right from 1990 to 1991, similarities between the assassination of Padmanabha case and the Rajiv Gandhi case, apart from the common accused, similarity of pellets being used, all these things go to show that the accused are not limited to forty-one persons against whom charge-sheets were filed. That there are many more accused. The truth has to be unearthed. This is what Justice Jain Commission says, on page 5, "when the intercept has been communicated to the IB and also to the IB Headquarters in the Ministry of Defence though the intercept ought to have been produced before the Commission long back with whatever action that was taken by the IB on the intercept." The intercept clearly established the plan to assassinate. In fact, on page 16 of this volume there is a reference to a very significant letter. I am reading the letter of an advocate here. It says, "Dear friend, brother Kittu", Kittu is an accused who is dead now, but he is an accused in the case. This is a letter by an advocate to Kittu. This is what he says. This letter is dated 26th June, 1990. I am reading only a part of the letter. It says, "The news about the happenings at Tamil Eelam are present in newspapers, T.V., radio which are broadcasting only Sri Lankan Government views and the news about the genocide in Eelam should be released by the LTTE to the T.V. Apart from the above, kindly keep contact with the Chief Minister and discuss with him about the murder that is taking place in Tamil Eelam. Like the kindly contact author. Honourable K.V. Veeramani, M.A.,

L.L.B., and speak to him. I am anxious to know about your welfare. Convey my Namaskar to Sandhya. If possible, please come to Tamil Nadu. If possible, please keep contact with the Home Secretary Mr. R. Nagarajan, IAS. You can use my name while contacting office." My God! This is the extent to which the tentacles spread. We, Madam, would like to know the truth.

I have, thus far, established or tried to establish the linkages within the State itself. As far as the theory of conspiracy is concerned, I will come to that a little later. But there is one aspect of the matter that I would like to advert to presently and that relates to the role of 21 other suspects. The Government has chosen not to take any action against 19 of these suspects. Madam, as I have said earlier, 41 accused have been tried and 26 stand convicted. We have nothing to say about that. But if you look at the evidence that is before the Jain Commission, you will find that the activities of several other persons, both in Sri Lanka and in India, establish a much wider nexus than discovered so far. I am referring you, Madam, to Volume V of the Jain Commission Report. At page 191 of the report, this is what Justice Jain says about the role of suspects in the assassination: "Many of these suspects...". These are not the 41 who stand tried. These are in addition, 21 of them. "Many of these suspects are important and senior cadres in the hierarchy of the LTTE and continue to operate." He says, "In the case of others...". That is the 21. "...while their involvement in the assassination clearly emerges from available evidence, further investigations were required to be conducted by SIT, CBI and wherever necessary, a supplementary charge-sheet shall require to be laid." And the present Government, in the ATR, says, "We will not proceed against them." They say, "We are satisfied. Since the Judge, under section 319 of the Code of Criminal Procedure, has not given notice to any of these accused in the course of the trial,

we will not take any further action." When the Justice Jain Commission says that a supplementary charge-sheet should be filed, this Government says 'no'! The ATR does not reject the findings of the Justice Jain Commission. No. So, how can the Government, on the one hand, not reject the findings, say, on the other, "We will not proceed against them"? We expect this Government to do justice.

Paragraph 3 of Volume V, at page 190, says, "From the records of the SIT, CBI, it becomes evident...."—this is important. Madam—that several gaps remained in the investigation". This is what Justice Jain says: "Several gaps remained in the investigation and many areas, were left uninvestigated or half-investigated." And now, you want to leave it as it is, not investigated or half-investigated. You do not want a further investigation. We would like to know why. Investigation into the source, the origin of the bomb, that is, the explosive device, which has been dealt with in a separate chapter, is one such example. This chapter deals with the involvement of suspects whose roles were not fully investigated or appreciated by the SIT, CBI. I can understand why? Had the SIT, CBI, fully investigated them, much more would have come to light. Therefore they did not investigate. That is what Justice Jain has said. How can this Government say that we will not proceed against them or at least investigate into the matter further? We do not say that you indict them. We are nobody to say that. Till you have enough evidence, you cannot indict anybody. But surely, we are entitled to an investigation, we are entitled to a thorough inquiry, we are entitled to find out who all are involved, no matter, who they may be. I give you just one small example of one KP, *alias* Kumaran Padmanabhan. He is a man with several passports and faces. This is what the Jain Commission says. He is a procurer of arms, ammunition, explosives, wireless equipment and other supplies for the LTTE. He is not an accused in this case. In the ATR, the

Government says: "We will now decide how we are to proceed further in the matter." He decided to finish off the Indian leadership in October 1990 itself. This was on the basis of a telephonic conversation that he had with one vakil Kandaswamy, which has been referred to by the Commission and the Commission has said that KP has emerged as a major suspect in the assassination, as per the evidence available with the Commission.

On this finding, this Government should have said that we are going to investigate it further and file a supplementary chargesheet. The Commission has found that he is a major suspect in the assassination of Rajiv Ji. I might mention to you, Madam, that this KP was involved in the purchase of ships. He is no ordinary person. He travels all over the world from Amsterdam, from Belgium to Singapore and buys ships all along the way the then supplies arms and ammunition to the coastal areas and gives fillip to terrorism. I am sure that the Home Minister, who has decided to have a pro-active policy in Kashmir, will do likewise in this particular case. Then some of these people have bank accounts in the BCCI. That has been referred to by the Commission at page 198. It was found that KP had a Savings Bank Account with the BCCI Bombay which had been opened on 31.10.1986. The report also talks about the links with other organisations. I don't want to go into those details. Unfortunately, the time is short. So, I want to broadly deal with the issue. What is stated in the report at page 206 is that this KP had been instrumental in funding and purchasing material through gold and drug smuggling. KP's area of operation is the international market, mainly the Far East, Hongkong, Singapore, Thailand, Burma, Europe, France, Switzerland, Belgium, Greece, U.K., America, Panama and the Caribbean. He must be having links with many people. We want to find that out. KP, being the sole procurer—I am referring to page 209, the transporter and supplier of arms,



explosives, communication equipment for the LITE—appears to be a prime suspect in this case who would have supplied the explosives used for the assassination, the AK-47 and the 9 mm pistol used by Sivarasan and the wireless sets used so far by Sivarasan, Dixon and others. No evidence has come to suggest any alternative method of programme and supply. After this finding, where is the question of not prosecuting this man? I don't understand. Where is the question of just looking into this matter? At page 206, is the conclusion of Justice Jain. He said:

"The above information further strengthens the statement of Vakil Kandaswamy and indicates that accused Dixon who was prosecuted in the case relating to the assassination of Shri Rajiv Gandhi was having association with K.P. and, after coming to Tamil Nadu, during the crucial period of March, 1991, was attempting to establish wireless communication with him."

At page 219—I am referring to Volume V—there is a reference to an area which is not being investigated at all. This was got through an affidavit filed by Shri Joginder Singh. This is with reference to the investigation into KP's activities with regard to arms procurement for the assassination of Rajivji. The Commission says:

"A crucial area which has not been investigated by the SIT/CBI during the investigations has been the source of procurement of the arms and explosives which were used by the accused during assassination. It may be recollected that one AK-47 rifle and one 9 MM pistol was recovered from Konankunte, Bangalore, after the operation in which Sivarasan and his associates had committed suicide. The following information indicates that the 9 MM pistol could have been procured from Lebanon."

And then the links with KP and Lebanon are set out at page 219. So, this is the extent of information that is already on record that we have, this is regarding KP. There are several other such suspects, viz. Baby Subramaniam, Kannan, Chokkan Lingam, Aruna, Nixon, Kasi Anandan, Kittu (deceased), Nixon, Mathuraja, Subbulakshmi Jagadeesan, T.S. Mani—<sup>^</sup>all these persons are suspects. Madam, if you look into volume V, and if you look into the discussion in respect of each of these suspects, you will find at the end of it a conclusion. I request the Government to look into it because it demonstrates without doubt that each of them is directly involved in the assassination. I won't start reading that out because it will take too much time of the House.

There is another aspect I would like to advert to and that is the very suspicious circumstances in which Sivarasan, Shanmugam and Shubha died. This House knows that Sivarasan "was one of the main accused, so also Shanmugam. Shanmugam was a professional. He was no ordinary person. He was arrested. After his arrest, he was handcuffed. He was asked to inform the CBI the place where the arms had been dumped. So, he was taken there, or rather he took the CBI officials to that place. The explosives were and recovered. After the recovery, for some inexplicable reasons, his handcuffs were removed. He was taken to a room to feed him. This happened at 9.30 at night. When he went to wash his hands after taking food, when there was pitch darkness outside, he ran away almost 500 yards from that place from where he was discovered the next morning at 5.30 A.M. hanging from a tree with his feet touching the ground.

In the process of his running away he lost his lungi. But on the spot at his feet, it was another lungi. He did not commit suicide before his arrest. He committed suicide after his arrest. This is extremely suspicious. He hung himself from the branch of a tree. But his vertebra was not

broken. The whole night the police was looking for him or trying to find where he was. They could not find him. He was only 500 yards away.

Now the Action Taken Report talks about setting up of a Multi-Disciplinary Monitoring Agency (MDMA) in the CBI. We don't accept it. We will not accept such an agency. We have a genuine grievance that this matter has not been properly investigated and we want this Government to take care of that grievance. This is not the only thing. I was talking about Shanmugam so far. As far as Sivarasam and Subha are concerned, just look at their activities. The assassination took place on May 21. They were at large. Nobody caught them. They reached Bangalore on June 29, 1991. So, they travelled from Chennai to Bangalore and then they stayed at Bangalore from June 29, 1991 to August, 1991. For four months. May, June, July and August, no body could catch them and just when they were about to be caught they committed suicide by consuming cyanide. So, Justice Jain says that the three vital persons involved in the assassination, who could have and would have given leads as to the involvement of many other persons those who are the conspirators in this case, were lost in very suspicious circumstance. Madam, we will not rest in peace till the truth is discovered. We pledge today in this House that we shall discover the truth. They will help us in discovering the truth. I am sure they will help us. This is not a political issue. I am sure Advaniji is going to help us in this. I have no doubt about it. The whole House will help us in this.

Then, of course, there is the question of a larger conspiracy. Till this moment I concentrated on the 21 suspects and the nexus within Tamil Nadu itself. There is a lot of evidence on the larger conspiracy. *(Interruptions)*...

SHRI S. VIDUTHALAI VIRUMBI (Tamilnadu): Why didn't you mention

about the period 1983 to 1990 which is lifted out? *(Interruptions)*...

SHRI KAPIL SIBAL :Will you kindly permit me to continue? *(Interruptions)*... we will reply to it *(Interruptions)*..we will reply to it I know you are a little disturbed I understand that we will reply to it I understand that *(Interruptions)*

THE DEPUTY CHAIRMAN: Are you going to take more time?

SHRI KAPIL SIBAL: No, I am not going to take much time.

THE DEPUTY CHAIRMAN: You have taken more than one hour.

SHRI KAPIL SIBAL: My colleagues and other Members will also speak it. So, I don't want to touch in details in the aspect of conspiracy. There is also a reference to the other suspects. *(Interruptions)*...

SHRI C.P. THIRUNAVUKKARASU (Pondichery): I am sorry. When he is indulging in this, let him discuss about 1983. *(Interruptions)*...

SHRI S. VIDUTHALAI VIRUMBI: Between 1983 and 1990 who was giving the arms, ammunitions, training, etc.? *(Interruptions)*...

SHRI V.P. DURAISAMY (Tamilnadu): Madam, ...*(Interruptions)*...

SHRI S. VIDUTHALAI VIRUMBI: Who had given permission? *(Interruptions)*. Who had given arms, ammunition and training; *(Interruptions)*.

THE DEPUTY CHAIRMAN: I am not allowing. *(Interruptions)*.

SHRI S. VIDUTHALAI VIRUMBI : Madam even in Uttar Pradesh ...*(Interruptions)*.

THE DEPUTY CHAIRMAN: Please sit down. *(Interruptions)*. Mr. Virumbi, please sit down. *(Interruptions)*. Please take your seat. *(Interruptions)*. Please sit down. *(Interruptions)*. Just a minute. *(Interruptions)*. Please don't interrupt. *(Interruptions)*. Just a minute. Your

names are before me. If he is speaking what he wants to speak, you are also free to speak what you want to speak. You cannot ask somebody to speak what you want.

He cannot ask you to speak what he wants. I have your names before me. Eight hours have been allotted for the discussion. You will have ample time to put forward your viewpoint. I think it will be in the fitness of things that we all discuss this matter in all seriousness so that the Home Minister can come to some conclusion out of the debate. (*Interruptions*). No more comments please.

श्री सी.एम.इब्राहीम (कर्णाटक) : इन आठ घंटों में दोनों भाइयों का कितना-कितना समय है, यह सेटल कर दीजिएगा।

SHRI KAPIL SIBAL: I have purposely not mentioned any name. This is not a political matter. We don't want to politicise it. Politics is not our concern when we are investigating into the assassination of Shri Rajiv Gandhi. I will request this House to look at the issue from the same standpoint. No political party should try to take any advantage of it. We are referring to the Jain Commission. I have, therefore, been very careful. Whenever I have made a statement, I have pointed out the page and the line in the Jain Commission Report with respect to that statement. I have not made any statement outside the record.

Madam, what I was referring to was that there was also a lot of evidence on the international ramifications of this conspiracy. ATR, in fact, mentions that some steps would be taken in that regard. I am sure, when that aspect is investigated, a lot more evidence would come to light. I will leave that to my colleagues. They will deal with that aspect of the matter in greater detail. There is also some evidence that we had also been lax in this regard. We accept it. That is a fact. We should not have been.

It is unfortunate. But luckily that attempt has not succeeded and we are standing here today in the hope that a full and thorough investigation would be conducted.

Now I quickly come to ATR. I invite the attention of this House to page 20 of ATR—it is in regard to the Verma Commission Report—which says:

"These observations relate to the security arrangements for Shri Rajiv Gandhi, which have already been gone into by the Verma Commission of Inquiry. The Report of the Verma Commission of Inquiry and the Memorandum of Action taken thereon have already been placed in the Parliament..."

The Report along with the Memorandum was discussed in the Lok Sabha. But this is not the issue. It is not whether you have taken action under the Verma Commission Report *qua* the security lapses. It is the criminality aspect that Justice Jain is referring to for which this is not an adequate response.

Then at the bottom of page 20 the ATR says:

"The Multi Disciplinary Monitoring Agency, referred to earlier in this Memorandum, will make an independent evaluation of the story of Mahant Sewa Dass Singh for further necessary action in the matter."

Madam, may I refer to page 19? I would like to know the understanding of the Government on this aspect. We would like to know what the scope of the Multi Disciplinary Monitoring Agency is? To us it seems to be an eye-wash. To us it seems like further delaying the matter. To us it is a way of not investigating into anything. Exactly so. Where is the question of discipline in a criminal matter? It says: "Considering the Report of the Commission, in its totality, the Government have decided to set up a multi-disciplinary monitoring agency in CBI"—We have demonstrated before this

House what the CBI was all up to, shielding the accused. And what is this multi-disciplinary monitoring agency to do? It is to monitor movements of all accused in the Rajiv Gandhi assassination case who are still absconding and to bring them to trial—not the 19 that I mentioned to you. You are not going to monitor any of their movements. Then it says: "Undertake further probe into the role and activities of those individuals." What does this mean? What does the concept 'further probe' mean? Is the multi-disciplinary monitoring agency to have police powers? Does this probe mean investigation or is this any kind of an in-house probe that you are going to have for your own satisfaction? Madam, this is unacceptable. We want the Government to set up an independent investigating agency with powers of investigation to look into all aspects of the Jain Commission Report because we accept the findings of the Jain Commission Report in totality. That is our position. Unless the Government has some very sound, unimpeachable reasons for rejecting some of the findings, the findings have to be accepted. Justice Jain is a retired Chief Justice of the Delhi High Court. He was a Judge in the Rajasthan High Court. He has long years of judicial experience. There is no reason not to accept any of his findings. So, we would like to know from the Government what their categorical stand is. Do they accept the findings or don't they? In the ATR they don't seem to reject any of the findings. So we take it that they accept the findings. And if they accept the findings, why is it that further investigation and prosecution is not going to be conducted *qua* 19 others and many more who may be involved? Then what does this phrase 'undertake further probe into the role and activities of those individuals against whom it has to be decided' mean? Has it been so decided in the Memorandum of Action Taken? In the Memorandum of Action Taken, there is a decision only *qua* three persons or rather four persons out of the 21

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accused—two suspects, radmanabha and Jagadeesan, two out of the 21 accused. Regarding the extent of the action that they have decided to taken, I am not dealing with it now. As far as the two others are concerned, they are well known to the House. But what about an inquiry to really find out who is involved?

The investigation was both inchoate and incomplete. In certain areas there was no investigation. If we look at the Action Taken Report, with reference to the 21 suspects, this is what the Government says on Page 28 and I quote: "It had come out during the investigations of the SIT/CBI that KP was an arms procurer and that he had an account in the BCCI branch, Bombay branch. However, these transactions were not found to have any relevance to the conspiracy to assassinate Rajiv Gandhi." I have shown to this House the material that is on record. Can this conclusion ever be accepted? It is unfortunate that the Government is taking this position. I will read further. In the context of the 21 accused, the ATR states the following. I refer to Page 39 of the ATR. This is what the Remarks section says. I quote: "The role of these 21 persons was fully investigated by SIT. They were not prosecuted due to paucity of evidence." But Justice Jain says there is ample evidence. And you say they are not prosecuted due to paucity of evidence! The records the say were placed before the designated court. But, Madam, in the designated court they were not suspected accused. So, which records were placed before the designated court? Their names did not find mention in column 2 of the FIR. The Government obviously does not want to investigate into this matter and we want to know why, despite the evidence of the Jain Commission. The court accepted the SIT findings and did not invoke the provisions of 319. I am surprised. First of all, 319 applies to a situation when a witness in the course of a trial names a third person who is not an accused and then, if the judge...

AN HON. MEMBER: When the evidence comes on record.

SHRI KAPIL SIBAL: When the evidence comes on record and then if the judge finds that he should proceed with the matter, he may. That also is the discretion of the judge. The prosecuting agency and the investigating agency can always proceed against a person. So, 319 cannot be an answer to not to proceed against these 19 suspects.

Then, at page 40, in the Remarks section, the ATR says:

"Therefore, no action is called for except in the case of KP, Kumaran Padmanabhan and Subalakshmi Jagdisan. In these cases, in view of the strong observations of the Commission"—there are strong observations in every case—the Government have decided"—now, this is what is really surprising—"to entrust the multi-disciplinary monitoring agency with the responsibility"—to do what—"to decide how to proceed further in the matter—as if they don't know.

They have decided to decide. After this evidence after Justice Jain's strong findings. After they accept that there are strong observations of the Commission, they have decided to decide! It is a camouflage. Madam. They don't want to probe any, further in the matter.

It is our request, it is our demand that an investigating agency, independent in nature, be set up, the personnel of which should be appointed in consultation with us, so that we have confidence in the independence of this agency now that we have seen the records of the Jain Commission. Nothing short of this will be acceptable to us.

**RE. FURTHER KILLINGS AT CHAMBA, BEAR DODA**

श्री गुलाम नबी आजाद (जम्मू और कश्मीर) : मैडम, ये बोल रहे थे इसलिए मैंने बीच में डिस्टर्ब नहीं

किया लेकिन अभी इतिला मिली है कि डोडा के पास चम्बा में जो एडजेंसेट हैं वहां 23 आदमी आज फिर दोपहर को मिलिटेट्रस द्वारा मारे गए हैं। मेरे ख्याल में हमको इस बारे में अभी नहीं लेकिन हाऊस एडर्जा होने से पहले अगर होम मिनिस्टर साहब इतिला दे देंग तो हमें इस बारे में पूरी जानकारी हो सकेगी।

गृह मंत्री (श्री लाल कृष्ण आडवाणी) : महोदया, थोड़ी देर पहले जब यह खबर मिली थी तो उसी समय मैंने कहा कि सारी जानकारी इकट्ठी करके शाम तक मैं दोनों सदनों को सूचना दे सकूंगा, वह जानकारी इकट्ठी हो रही है।

THE DEPUTY CHAIRMAN: This is the third or the fourth time that it has happened in Doda.

SHRI L.K. ADVANI: This is in Himachal. Of course, Chamba is adjoining Doda.

दोनों साथ-साथ हैं।

THE DEPUTY CHAIRMAN: It is spreading.

SHRI L.K. ADVANI: It is extremely disturbing.

THE DEPUTY CHAIRMAN: It is spreading from Doda to Himachal. It is a very serious matter.

**DISCUSSION ON FINAL REPORT OF JAIN COMMISSION AND ATR—CONTD.**

SHRI K.R. MALKANI (Delhi): Madam Chairperson, What happened at Seriperumbudur on 21st May, 1991 was utterly serious. It was not only a murderous assault on Mr. Jajiv Gandhi who had been the Prime Minister before, I view it as an assault on India. ...*(Interruptions)*... it is good that the Jain Commission's Report is at last in our hands. I wish the Government had not delayed the functioning of the Commission by withdrawing documents etc., and the report had been with us much before this. It is also a matter of satisfaction that the Government has decided to appoint a Multi-Disciplinary Monitoring Agency to probe further into