

IN THE COURT OF SESSIONS FOR GREATER BOMBAY

AT MAZGAON

SESSIONS CASE NO. 315 OF 2004

*** CONTRADICTION:**

*** Nasibulla Habibulla Shaikh @ Raju(P.W. no.-30,Exhi. -111)
(Brother of Zahira)**

[1] Page-552, para-3, I could not study further because of the riots. (However, on Page-557, para-11, he has stated that after the death of his father, he stopped going to the school)

[2] Page-554, para-9, I suffered the head injury, while I was on terrace. (However on Page-579, para-27, he has stated that he did state before the Court at Vadodara that he did not know that he had sustained injury on head from behind, and that it was about 11:00 o'clock in the night)

[3] Page-561, para-15,

Ques.- Whether the bakery had caught fire?

Ans.- How could I go there to see it? I learnt it through newspaper 'Gujarat Samachar' (However on page-578, he has replied the Court that, how could one see when fire was caught below? ...Therefore, minor contradiction from what was stated by this witness on page-561, para-15)

[4] Page-568, Ans.- Yasmin was not there; my mother and sister were not injured. (However, as per the evidence of the witnesses namely, Raeeskhani Nankaukhan, Shehzadkhan Hasankhan, Shaikh Yasmin, Sailum Hasankhan, Moh. Ashraf, presence of Yasmin is proved, at the time of incident.)

[5] Page-577, para-25, Nasru Pathan was not there on the terrace. (However, as per the evidence of the witnesses

namely Raeeskhan Nankaukhan, Shehzadkhan Hasankhan pathan, Shaikh Yasmin, Moh. Ashraf, Iabal Ahmed Ali Ahmed presence of Nasru is proved, at the time of the incident.)

[6] Page-578, para-26, on that day, the light of that electricity pole was off since morning. I did state, state before the court at Vadodara that it was dark there. **(However, witness namely Mohd. Ashraf Mohd. Haroon at Page-769, para-20, has stated that the light of electricity pole and the light of his room was also on at the time of incident. Thus, it is clear that there was no darkness)**

* [Nafitulla Habibulla Shaikh @ Guddu \(P.w.no.-31,Exhi.-112\)](#)
(Brother of Zahira)

[1] Page-598, Ans.- for about 1.1/2 months, I was in the hospital only. **(However on Page-588, para-9, he has stated that he was admitted in the hospital for about 8 days)**

[2] Page-603, It is correct that on that day, I stated before the Court that I did not want to stay at 'Visava' because I wanted to stay with my children who were at Santacruz, but my children were not in the house of Teesta, but elsewhere at Santacruz. **(However, on page-592, he stated that the place where we were staying at Santacruz, it was given to him by Teesta)**

[3] Page-606, para-22, - At the press conference, there were press personal and others – whom I do not know. There were no "Leaders". **(However, on page-605, para-21, he has stated that he did not remain present at the time of the press conference. At that time, he was in a small room of that hotel. Therefore, from this statement it is borne out that his presence was not there at the press conference, then how could he know about persons present in the press**

conference i.e., press personal were present and leaders were absent)

Page-609, para-24, It is correct that on behalf of the said organization, necessary food-grains and other articles used to be provided to my family. Additionally, that organization used to give some money, per month, to me.

[4] Page-613, para-27, I left 'Visava' without informing the policemen there, or anybody else present there. **(However, on page-603, 604, Court has asked him a ques.," Is it not correct that the Maharashtra police had given you protection when you were staying at 'Visava'?" In the reply he has stated that, "where is the question of protection? They were not giving anything to eat." Thus, as per the reply of this witness it is clear that police were not there.)**

[5] Page-622, It is true that when we went from Mira Road to Vadodara, we had no protection from anyone- either the Maharashtra police or the Gujarat police. The application for police protection was given by Zahira on the same day on which the press conference was held. **(However, on page-620, para-35, he has stated that it is not correct to say that they demanded the protection from the Gujarat police, only after the press conference was held. They had already given the application for police protection.)**

[6] Page-631, Nasru Pathan was not residing in our bakery. **(However, as per the evidence of the witnesses namely Raeeskhan Nankaukhan, Shehzadkhan Hasankhan pathan, Shaikh Yasmin, Moh. Ashraf, Iabal Ahmed Ali Ahmed, presence of Nasru is proved, at the time of the incident.)**

[7] Page-632, para-40, - The mob was shouting, "Jalao, Jalao", the mob was shouting as "Bakery Jalao" **(However, on page-634, para-42, he has stated that they were shouting**

and he could not hear what they were shouting. He did not hear what the persons in mob were shouting)

[8] Page-633, para-41, My Nani was not with us on 1/3/2002. (However, as per the evidence of the witnesses namely, Taufel Ahmed, Shehzadkhan Hasankhan, Shaikh Yasmin, Sailum Hasankhan, Moh. Ashraf, Iqbalahmed Aliahmed, presence of "Nani" is proved, at the time of incident.)

[9] Page-663, para-63, I and/or my family had *not* gone to Silver Oak Resort at Gandhinagar, after Zaheera had held the press conference in Vadodara, in Hotel Surya Palace. (However as per the evidence of Zaheera on Page-1190, she has stated in her reply that her brother –i.e. Nafitulla was there [at Gandhinagar] with her.)

[10] Page-671, para-80, It is correct that there is no electricity pole at all in that area. (However, witness Nasibulla has stated on Page-578, para-26, that on that day, the light of that electricity pole was off since morning. And the witness namely Mohd. Ashraf Mohd. Haroon at Page-769, para-20, has also stated that the light of electricity pole and the light of his room was also on at the time of incident. Thus, it is clear that there was an electricity pole at the scene of the offence at the time of commission of the offence.)

[11] Page-676, Court Note, my father, who had received the notice, got it read over to him by someone and on the next day, he suffered a heart attack and died. (However, on page-679, para-83, he stated that his father died two days after the receipt of the notice, sent by Yasmin, to him, through her advocate)

[12] Page-681, para-87, Yasmin did not come to the hospital at any time during the period of 13 days, in which I was admitted in the hospital. **(However, witness Yasmin has stated on page-498, para-28, that she was in the hospital during the period of 13 days, and it is also proved from the deposition of the said witness at page-514, para-51 that her statement was recorded on 4/3/2002, marked as X-22.)**

*** Smt. Saherabanu Habibulla Shaikh (P.w.no. -35, Exh.121)
(Sister of Zaheera)**

[1] Page-795, para-5, Ques.- Where was Kausarali working?

Ans.- He was not working with us. He was working elsewhere. **(However, as per the evidence of Nasibulla at Page-551, para-3, and Habibulla at Page-586, para-7, brothers of above witness, they both have stated that Kausarali was there at the time of incident.)**

[2] Page-798, para-9, Que.- Who was residing in the house that was built by the side of the Best Bakery?

Ans.- Nobody. **(However, in the next Ques. put by the Court, she replied that they had come to reside in that house about six months prior to the death of her father. Therefore, it is unbelievable that after passing of such a long period she does not know anything about her neighbor.)**

[2] Page-799, para-11, Ques.- How did Sabira die?

Ans.- That I do not know.

Ques.- Do you know what had happened to her?

Ans.- I do not know. **(However, at page-800, para-12, she has stated in her reply that Sabira's death occurred in the riots that had taken place. Therefore, her evidence about not knowing what happened to Sabira is false.)**

[3] Page-803, para-15, I did not sustain any injury.

[4] Page-805, Ans.- When we were taken to the hospital, we were together and then we were separated. **(However, in her reply on page-806, she has stated that the injured were taken to the hospital in different vehicles. Nafitulla and Nasibulla were also taken to the hospital in a different vehicle.)**

[5] Page-809, para-19, It is correct that my younger sister- Sabira died on account of burning, in the fire, which our building had caught. **(However, on page-799, in reply of the Court query, she stated that she does not know how her sister dies?)**

[6] Page-819, para-31, Ever since after reaching Vadodara, we all residing together only.

Page-858, She stated that her husband and she are residing with her mother, sister and brother, since the time when they went to Vadodara from Bhayander. **(However, in the para-31 at page-819-820, she voluntarily stated that she and her husband went to Panigate, the others did not come to Panigate. Her husband had asked her mother to drop them at Panigate and accordingly, they were dropped at Panigate.)**

[7] Page-825, Ans.- I do not know that Nafitulla and Nasibulla, both had come to the Court for giving evidence. **(However, on the next page in Para. -34, she stated that, it is correct that they got police protection since the time Nafitulla came to this Court for giving evidence.)**

[8] Page-832, para-38, While my mother, sister and brother – Nasibulla were staying at Shilpa Apartment and while I was staying in a hut at Bhayander, I had no occasion to talk to my mother, sister or brother any time. **(However, on page-797, para. -8, she has stated that she came to meet her mother at**

Bhayander, with her husband. She also stated that she did not stay with her mother for a long period.)

[9] Page-841, para-44, I did not see my 'Nani' on that day. (However, as per the evidence of the witnesses namely, Taufel Ahmed, Shehzadkhan Hasankhan, Shaikh Yasmin, Sailum Hasankhan, Mohd. Ashraf, Iqbalahmed Aliahmed, presence of "Nani" is proved, at the time of incident.)

[10] Page-850, Ultimately, we did not get the compensation. (However, as per the evidence of the witness namely Zaheera at page-1206, she has stated in her reply that she had got the compensation for the damage to the house property and also the money for the death of her sister.)

[11] Page-854, para-48, I do not know, I do not remember when I met Zaheera last, before coming to this Court. (However, in the same para she stated that it is true that she had met Zaheera one day prior to her coming to this Court. She also stated that at present, they all –i.e. she, her mother, Zaheera and her brothers are staying together at Vadodara.)

[12] Page-854, I never used to meet Zaheera when I was residing at Bhayander. (However, as per the evidence of witness namely Sahehrunissa at Page-1018, Para-19, she has stated that she came to know that Zaheera was residing at Yari Road, from Sahera. Sahera had gone to meet Zaheera at Yari Road.)

[13] Page-861, para-52, Ques.- When did you learnt about the acquittal of the accused in that case?

Ans.- I learnt about it after about 4 to 5 months. When I learnt this, I was at the native place of my father, in U.P. (However, on page-862, she has stated that she learnt about it after coming to Vadodara from the native place.)

[14] Page-871, I had not filed any case or proceedings in the High Court at Ahmedabad, for obtaining any compensation, in connection with the damage caused to the Best Bakery. **(However, on page-810, Para. –22, she has stated that she did file an affidavit in the High Court at Ahmedabad, and she also replied the Court that it was only about the damage caused.)**

[15] Page-881, Ans.- The people from **Zee News** were telling by taking her name and then I remembered the name. **(However, on page-884, in reply of the Court's query she has stated that when she heard the name of Teesta, the screen of the T.V. showed 'Star News' symbol.)**

*** [Smt. Saherunnisa Habibulla Shaikh \(P.w.no.-40, Exh.-132\)](#)
(Mother of Zahira)**

[1] Page-995, Para. –1, I do not know any Heena. The name of the other wife of Nafitulla is Heena but I do not know her. **(However, the witness namely Zaheera on page-1149 has stated that Heena and her children came to our house at Shilpa Apartment and my mother was also residing with them. She also stated on page-1180, para-25, that her mother did take Heena in our house.)**

[2] Page-1002, Para.-8, My mother was not there at that time. **(However, as per the evidence of the witnesses namely, Taufel Ahmed, Shehzadkhan Hasankhan, Shaikh Yasmin, Sailum Hasankhan, Mohd. Ashraf, Iqbalahmed Aliahmed, presence of mother of the said witness is proved, at the time of incident.)**

[3] Page-1003, I was in the hospital for about one month. Sahera stayed there for two days and then went to the camp.

(However, as per the evidence of Sahera at page- 806 she has replied the Court that on the next day, her uncle took her to their house. Therefore, it is clear that she did not stay at hospital for two days and not went to the camp.)

[4] Page-1011, Para.-16, Heena was not with us. I do not know whether it happened that the police from Mumbai dropped Heena and her children at my house through Mira Road Police Station, but they were not dropped at my house. (However, the witness namely Zaheera on page-1149 has stated that Heena and her children came to our house at Shilpa Apartment and her mother was also residing with them. She also stated on page-1180, para-25, that her mother did take Heena in our house.)

[5] Page-1013, Ques.- Who paid for the expenses of the taxi journey up to Vadodara?

Ans.- I paid from my earnings. I was not sitting idle. I was also working. (However, on page-1073, in the reply to the Court she stated that the expenses for our traveling from Vadodara to Mumbai and back, are borne by 'Jan Adhikari')

[6] Page-1017, Para. -19, I did not see Nafitulla and/or his children and/or his wife at Teesta's place any time. (However, on page-1028 she voluntarily said that on coming to Mumbai, Nafitulla and Zaheera both were residing together at Yari Road.)

[7] Page-1018, Para.-19, I had gone to meet Zaheera twice, Nasibulla had gone once and Sahera once. However, none of us was allowed to meet Zaheera. (However, in the same para she has stated that she came to know that Zaheera was residing at Yari Road, from Sahera. Sahera had gone to meet Zaheera at Yari Road.)

[8] Page-1031, She stated that the rioters were from outside. **(If she were observing 'iddat' then how do she know that the rioters were from outside?)**

[9] Page-1042, para-25, After coming to Mumbai, I was residing with Zaheera at Yari Road for about 5 to 6 days. **(However, on page-1027 she has replied to the Court that she stayed with Zaheera only for 2 to 3 days.)**

[10] Page-1059, Para-30, It is not correct to suggest that we all were residing, for a period of about one month, in the house of Iqbal Ansari. **(However, as per the evidence of witness namely Iqbal Ahmed Ali Ahmed Ansari at Page-983, Para. – 10, he has stated that he allowed them[Zaheera, her mother, her 'Nani' her sister and her brothers] to stay with him in his house for about one month.)**

[11] Page-1063, Ans.- We have changed the testimony in the Court at Vadodara. **(However, on page-1081, she stated in reply to the Court's query that she did not actually change her testimony at any time.)**

[12] Page-1079, Para-37, Nobody from my family had lodged the F.I.R. in respect of the case that was tried in the Court at Vadodara. It is not true that Zaheera had lodged the F.I.R. in that case. **(However, in the evidence of witness Nafitulla on Page-652, para-58, he has stated that the F.I.R. was lodged by Zaheera. It is also proved from the reply of Zaheera on page 1186, that F.I.R. was lodged by Zaheera.)**

[13] Page-1092, Para-46, Neither my daughters nor I suffered any injury on account of stone and bottle hurling **(However, as per the evidence of witness namely Yasmin at Page-494, para-22 she has stated that Zahira was injured on**

her face- i.e. forehead. Therefore, the version of the above witness that her daughter did not sustain any injury is false.)

[14] Page-1093, Ans.- I have seen injury not in the night but in the morning. I learnt about they having sustained the injuries, in the morning at 10:00 a.m. **(However, in the same reply she stated that about the burn injury suffered by Nasibulla, she learnt in the night only.)**

[15] Page-1101, Para-51, Witness voluntarily states that when Zaheera had gone to Vadodara for selling the house, Teesta, Raees, Mohammad Vora and Munna Malik were giving threats to her on telephone. **(However, on page-1113, in reply to the Court she has stated that prior to last "Navratri" neither Raees nor Teesta, nor anybody on their behalf, threatened them at any time.)**

[16] Page-1117, Ques.- Why you would not make Zaheera marry with Sanaulla?

Ans.- Why should we? We would marry her in a family of our choice. He is already married. **(However, on page-1021, para-20, she has stated that she do not know Sanaulla.)**

* [Miss Zahirabibi Habibulla Shaikh \(P.w.no. -41, Exh. -135\)](#)

[1] Page-1130, Para-1, I can read and write Hindi, Urdu, Pharsi, Sanskrit and Gujarati. **(However, on page-1210, she has replied to the Court that she never stated that she can read and write those languages.)**

[2] Page-1133, Para-3, There were two entrances to our house – one from the front and one from the rear.**(Then also, they did not try to escape from there.)**

[3] Page-1137, Ans.- I do not know what happened to Sabira. (However, on page-1140, para-10, she stated that she saw Sabira's dead body in the hospital)

[4] Page-1137, Ans.- I did not sustain any injury on account of the stone and/or bottle throwing. (However, on page 1165, she has replied to the Court that they were injured, therefore throughout the night, they were on the terrace only. And it is also proved from the evidence of the witness namely Yasmin at Page-494, para-22, wherein she has stated that Zahira was injured on her face- i.e. forehead. Therefore, the version of the above witness that she did not sustain any injury is false.)

[5] Page-1140, Para-8, Kausarmama stayed with us till 'Teeja' ceremony of my father. (However, as per the evidence of Sharjahan Kausarali at Page-786, para-3, she has stated that Zaheera telephoned to her on a P.C.O. at her place and told her that her husband was put in the 'bhatti' and was killed by burning. She also stated at Page-788, para-7, that Zaheera was specifically telling that Kausarmama was put in a 'bhatti')

[6] Page-1140, Para-9, The police took my signature only once – i.e. in the hospital, on the paper brought by them.

Page-1142, Ans.- When I was in the hospital, one policeman came after 2-3 days and took my signature on a paper. Thereafter the police did not come to me at any time. (However, Court asked her a question on page-1186 that "The vehicles were burnt, whether was told by you to anyone?" in her reply on page-1186 she has stated to Court that "Fariyad mei police ko..." Therefore, her version of police did not come to her and that the police took her signature only once is totally false.)

[7] Page-1140, Para-10, I did not see or was not shown any other dead bodies except dead bodies of Sabira's and their servants. **(However, as per the evidence of the witness namely Iqbal Ahmed Ansari who had performed the last rites of the deceased, he has stated in his evidence on page-982, para-8 and page-984, para-10 that Zaheera had identified the dead bodies of 12 persons including 3 women and 4 children at hospital.)**

[8] Page-1146, Para-14, Whatever I have stated in the Court at Vadodara as my evidence, was noted down by the Judge. It was accurately recorded. **(However, in the same para she has stated that she did not state before that Court that she had informed police about the incident. This portion is not correctly recorded.)**

[9] Page-1148, Para-17, - When I was residing in Shilpa Apartment, Nasibulla was residing with me. Nafitulla is residing with me since the day on which my press conference was held in Vadodara. **(However, on page-1149, she has stated that Nafitulla had been residing with her prior to 12 to 13 days of her holding the press conference)**

[10] Page-1175, Para-22, Before 'Dasara' and after 'Dasara', Raees Khan and Teesta came to our house. They started quarreling with my mother. **(However, as per the evidence of witnesses namely Nasibulla {page-572, in his reply}, Nafitulla {page-602, para-20} and Shehrunissa {page-1009, para-14, in her reply} name of Teesta is not reflected.)**

[11] Page-1177, Nafitulla and I met 'Vakeelsaab'. It was in the Court. The name of that 'Vakeelsaab' is Atul Mistry.

Page-1182, Para-26, I met Advocate Atul Mistry after 4 days from our going to Vadodara. It was about 5 to 6 days prior to the holding of the press conference on 3/11/2004. **(However, as per the evidence of the witness namely Nafitulla at page-623, he has stated that they met Advocate Atul Mistry and Advocate Jal Saheb only on the day on which the press conference was held and not before that. They had met Atul Mistry on the same day, in the morning.)**

[12] Page-1189, Ans.- I had gone to Gandhinagar, my family had not gone to Gandhinagar after the press conference. My brother Nafitulla was there with me. **(However, Nafitulla has stated in his evidence at Page-663, para-63 that he and/or his family had not gone to Silver Oak Resort at Gandhinagar, after Zaheera had held the press conference in Vadodara, in Hotel Surya Palace.)**

[13] Page-1206, Ans.- I had got the compensation for the damage to the house property and also the money for the death of my sister. **(However, as per the evidence of the witness namely Sahera at Page-850, she has stated that they did not get the compensation.)**

[14] Page-1171, Ans.- the police and fire brigade made us get down. They took us to the hospital. **(However, on Page-1386, Para-106, she has stated that it did not happen that the police rescued them and took her brothers and all the persons who were burnt, to the hospital, in the ambulance.)**

[15] Page-1172, Ans.- Mohammad Vora, Arif Malik and Munna Malik came to our house and forcibly took us – i.e. I and Nafitulla – to Mumbai. **(However, on Page-1425 and Page-1413, in her reply she has stated that It is correct that after having made the statement before the media to the effect that she did not speak truth in the Court at Vadodara due to fear, neither she nor any member of her family had gone to their house at**

Vadodara till after the last 'Dasara') (...doest not say that she had to leave forcibly...)

[16] Page-1291, Ans. I might have given the names of persons before 'Nanavati Panch'. Persons from my community had tutored me. ***(However, the said witness does not give name of Teesta. Therefore, it is clear that Teesta did not tutor her for giving the name of accused persons)***

[17] Page-1295, Para-57, I used to go to meet my brothers once in a week. During this period, my mother and my sister – Sahera- were in the hospital only. ***(However, as per the evidence of Shehrunissa at Page-1003, she has stated that Sahera had stayed at hospital for two days and then went to the camp.)***

[18] Page-1312, Ans. After the case in the Court at Vadodara was over, I had gone to my native village and after coming back from there, I had gone to reside with Teesta Madam. ***(However, on page-1411, Para-134, she has stated that she learnt that the case was over while she was at her native place.)***

[19] Page-1325, Ans. When dead bodies were shown to me, at that time Iqbal Ansari was not there. ***(However, as per the evidence of Iqbalbhai Ansari at Page - 982, Para. – 8, he was very much there with Zaheera at the time of identification of dead bodies)***

[20] Page-1345, Para-82, I did state that, in the hospital, persons from my community told me, that some more dead bodies were also received at the hospital. I did not see the said dead bodies. I did not try to ascertain as to of which persons, the said additional dead bodies were. ***(However, as per the evidence of Iqbalbhai Ansari at Page-984, Para. –12, he has stated that he received a telephone call from P.I. Baria that 2 more bodies were found and that they were stated to be of one Firoz and one Nasru. – This time also, Zaheera was taken to the hospital for identification of the said bodies.)***

[21] **Page-1348, Para-84,** I do not know any person by name 'Dilipkumar Ramchandra Mehta'. Even after giving the address.

Page-1349, If it is claimed that one Dilipkumar Ramchandra Mehta gave the introduction to the said account, then it will not be correct. *(However, on Page-1368, Para-89, of her evidence she has specifically stated that person to whom she has referred to as 'person acquainted with me' had been called by her. she had called him at her residence. Therefore, her version of not knowing him is totally unbelievable)*

[22] **Page-1350, Ans.** I do not remember whether the amount of Rs.10,000/- was credited in same account on 27/5/2002. I do not remember, whether a week prior to my evidence in Vadodara court, an amount of Rs.35,000/- in cash, was deposited in the said account by me. *(However, on Page-1370, she herself stated in her reply that on 27 of the 5th month, year 2002, an amount of Rs.10,000/- and on 10th of the 5th month, year 2003, Rs. 35,000/- were deposited. On both these occasions i.e. at the time of depositing the said amounts in bank, her brother Nafitulla was with her.)*

[23] **Page-1403, Para-125,** It did not happen that I saw that the mob dragged and took away my maternal uncle- Kausarbhai and Lulla – brother of Aslambhai – and threw them in the burning 'bhatti' of our bakery. *(However, as per the evidence of Sharjanhan Kausarali, who is the wife of Kausarali, at Page-786, para-3, she had reply that in the riots, her husband was burnt and killed. She learned this from Zaheera, who telephoned to her on a P.C.O. at her place and told her that her husband was put in the 'bhatti' and was killed by burning. On Page-788, para-7, she voluntarily state that Zaheera was specifically telling that Kausarmama was put in a 'bhatti')*

[24] **Page-1410, Para-133,** It did not happen that in the Court at Vadodara, we- i.e. my family members- and I changed our statements. *(However, as per the evidence of Shehrunissa at*

page- 1064, in her reply she has stated that they have change the testimony in the Court at Vadodara)
