

**THREE ACQUITTALS WHERE NO APPEAL BY THE GUJARAT GOVERNMENT UNTIL SC INTERVENTION**

FRESH INVESTIGATION & RE-TRIAL NEEDS to be ORDERED in these as in BEST BAKery CASE

(Affirmed Affidavit of Teesta Setalvad filed in SC on October 16, 2003 after taking permission from the Court has placed these details on record)

1. Three major cases where acquittals have taken place as far back October 2002 and in which the Gujarat government has not filed appeals are:
  - I. Limabadiya Chowky case also known as the Kidiad massacre. 87 Burnt Alive; All Accused Acquitted October 2002.  
Details:  
2-3-2002: Date of offence. Registered as CR No. 13/2002 with Khanpur Police Station. Offences: IPC 302, 120-B, 143, 147, 148, 149, 435, 436 S.C. NO 120/02  
27-5-2002: Charge sheet filed in the court of Ld Magistrate, Lunawada, Panchmahals.  
9 accused were shown to have been arrested and other 9 accused were shown to be absconding.  
15-7-2002: Charges framed against 9 accused by the sessions court Panchmahals.  
11-10-2002: Sessions Court acquitted all the accused. (Viral Y. Desai) Additional Sessions Judge, Panchmahal, Godhra.  
In para 30 of the judgment the Ld. Judge has observed that proper investigation has not taken place. No further investigation was carried out despite the requests of the eye witnesses. The No steps were initiated by the police against the accused specifically named by the witnesses. The court observed "Thus, considering the depositions of all the witnesses if the DSP considers it fit for further investigation in accordance with the Cr. P. C, it should do so."

**NOTE on KIDIAD**

A. 87 persons burnt alive in two tempos in this incident.

One woman, Arzoo Bibi Ayub Mian Sindhi, sitting in the driver's cabin was also attacked when she jumped off but she survived, albeit with severe injuries, by pretending to be dead. She is an eyewitness but has not been examined.

Of the 87 dead, the police has declared only 18 dead and for the rest, despite orders from the Sessions Court and later High Court, to date not

established that the remainder are dead. Despite directions by the Judge that Investigations were shoddy and needed to be conducted by an officer of the rank of DYSP or SP this has not been done. Complaints have been given to all the authorities by the survivors and also to the Khanpur PSI investigating the case. The driver of the tempo, Ayubhai Subha Mian Sindhi, is the main complainant. The tempos that were burnt down with all persons within except a few that escaped had the numbers (GJ 17 T 9283) and (no. GJ 9T 6439)

B. The sitting MLA Kalubhai Hirabhai Maliwad is the main accused here. He belongs to the ruling Bharatiya Janata Party. His name figures in many of the carnages related to the Panchmahals district particularly those under the jurisdiction of the Khanpur police station. I say and submit that given the influence and power wielded by the accused, it is unlikely that justice will be done when the state government has not even filed an appeal of an acquittal order of October 2002.

2. Two More Cases Related to the PANDHARWADA village massacre that in TWO separate incidents claimed over 70 lives is a in KHANPUR taluka of PANCHMAHALS district, a similar case of a shocking miscarriage of justice and malafide on part of the State Government is clear. In both cases, after acquittals, the State has not gone in appeal.

Details:

The Acquittal Order, was declared on this day of 29<sup>th</sup> October 2002. Godhra on Dt: 29/10/2002;Sd/- by Shri Viral Y. Desai, Honorable, Additional Sessions Judge, Panchmahal, Godhra.

Nearly 70 members of the Muslim community were butchered on March 1, after a mob of local Patels, Panchals and Harijans (2-2,500) and some 3-4,000 tribal *bhai bandh* attacked this village. Fourteen members of one family were killed. Eyewitnesses are alive who can testify to two separate incidents in this village that also falls under the Khanpur police station. One incident in which 25-30 persons were killed was in the house of one Mahendra Vakil and the other in the field belonging to Jaswant Patel (Taluka Panchayat Pramukh of the BJP.)

Both these names of key accused do not figure in the chargesheet.

The TWO CASES referred to are CR No 11/2002 and S.C.No 132/2002 in which the complainant is PSI H.V. Rathod and the second is CR No 10/2002 and S.C.No 127/2002 in which the complaint is in the name of PSI Rathwa.

3. BEST BAKERY CASE

**Note VI**

**DETAILS of OTHER TRIALS -TWO**

**PENDING TRIALS where INVESTIGATIONS FAULTY and TRIALS NEED to be STAYED**

**I. Gulberg Society/Chamanpura: Case No 1007 of 2003**

Over 70 persons massacred in the city of Ahmedabad including former Member of Parliament Shri Ahsan Jaffri. Investigations faulty; Chetan Shah pp partisan as well as his junior now appointed; Objections on all these points already raised by witnesses and their lawyer, Shri Dawood Desai including the following yesterday:

**Dt: 16/10/2003**

**THE TIMES OF INDIA (ENGLISH NEWSPAPER-AHMEDABAD)**

***Gulbarg witnesses allege irregularities.***

***Times News Network:***

***Ahmedabad:*** An application was filed before a sessions court here on Wednesday by seven witnesses of the Gulbarg Society carnage case stating that their statements were not properly registered by the police. Moving the application on behalf of the witnesses before additional sessions judge V. Ahuja, advocate Dawood Desai alleged that the investigating officer of the case did not record the statements of the witnesses properly and they had even omitted the names of some of the accused.

Also, the advocate submitted that the credentials of most of the public prosecutors involved

in the riot related cases, including the Gulbarg Society case, should be checked by the court

as most of them have political backing. Alleging large-scale irregularities in recording of statements, which may have serious implications on the case, the advocate urged that the statements of these witnesses must be recorded again by the state crime branch.

The court decided to take up the arguments in the matter on October 17, the next date of hearing.

More than 35 people, including women and children, were slain at Gulbarg Society by a mob on February 28, 2002, the day after the Godhra massacre. Among those killed also

included former MP Ehsan Jafri.

**THE INDIAN EXPRESS (ENGLISH NEWSPAPER-AHMEDABAD)**

**Dt: 16/10/2003.**

**Court admits applications of seven Gulbarg witnesses.**

***Express News Service:***

***Ahmedabad, Oct, 15:*** The city sessions court on Wednesday admitted the application filed by seven eyewitnesses, who have contended that the investigating agencies have failed to record their statements completely, in the Gulbarg massacre case. Appearing on behalf of the applicants advocate Dawood Desai, who had moved the application under Section 173(8) of CrPC, contended before the court that several facts were not recorded by the investigating agencies and even submission made before the Commissioner of Police to investigate the issue in details is not being done.

Urging the court that the Crime Branch of police should record the witnesses' statements, Desai stated that at any stage copies of statements were not provided. The statements of eyewitnesses of the Gulbarg massacre, in which 42 people were hacked to death were recorded by Meghaninagar police.

Desai submitted before Judge S. Ahuja that while recording the names mentioned by witnesses, the investigating officers had not mentioned it in the FIR and it clearly revealed the malafide intention of the concerned officials.

The advocate has further requested to check the role of public prosecutors, who have been appointed for handling the communal carnage case. He said that of the advocates from the bar council, who have been made special public prosecutors, some have political leanings.

Further hearing in the case has been scheduled for October 17.

## **II. Naroda Patiya and Naroda Gaon**

110 persons massacred; BJP Mla Mayabehn Kotdani named in FIR and Dr Jaideep Patel

state president Vishwa Hindu Parishad have been named; Trial Not Begun; Investigations

Incomplete and Inadequate; Witnesses being terrorised

## **III. SARDARPURA town, MEHSANA DISTRICT**

**TWO SEPARATE incidents in which 33 persons BURNT ALIVE and 11 persons hacked to death.**

**Both incidents took place on February 28, 2002. In the first incident, in which 33 burnt alive on Feb 28**

all 46 accused out on bail. (VHP District President Dilip TRIVEDI the public prosecutor, who for them released on bail; a day after they were released, some of them allegedly attacked a mosque.

Another FIR was registered, Both cases yet to come to trial.

The same day at DEEPLA DARWAZA in Sardarpura, 11 persons were hacked. Of the 45 accused,

38 are out on bail. This trial is going on in a fast-track court AND NEEDS to be STAYED and TRANSFERRED.

#### **IV. PANCHMAHALS DISTRICT**

Apart from the SHOCKING THREE AQUITTALS DETAILED by me in NOTE VI, there are TWO MORE

TRIALS RELATED to PANCHMAHALS DISTRICT wherein 11 persons and 1 person were hacked to death

mercilessly that NEED to BE STAYED and TRANSFERRED for PROPER INVESTIGATION and RE-TRIAL

SC NO 143/02 sessions Court Panchmahals (11 dead) and the other is SC No 142/02 sessions court 1 dead

Total Figures of Panchmahals: 121 riot FIRs, Trial on in 26 cases, not one conviction yet.

ALL these trials need to be transferred but at least the ones listed

#### **V. SESAN, BANASKANTHA DISTRICT in which 14 persons massacred SC No 141/02 sessions court trial on NEEDS to be STAYED and TRANSFERRED**

#### **VI. ABASANA, 6 persons killed on EVE of PM's VISIT on April 4-5, 2002 Abasana CR No I-22/2002; Application for Special PP is pending since last year**

**NEEDS to be STAYED and TRANSFERRED**

#### **VII. ODE, ANAND District**

**Over 26 persons butchered and massacred. Trial not over.**

**NEEDS to be STAYED and TRANSFERRED**

#### **TRIAL NEAR COMPLETION:**

**Ghodasar, Kheda District on March 1, 2002:**

**16 persons massacred; JUDGEMENT PENDING DUE on  
OCTOBER 17, 2002**

Teesta Setalvad