

been granted benefit of doubt have been explained in Gujarati about the final order stated herein above.

Pronounced in the open Court today on this 29th day of August, 2012.

(Dr. Smt. Jyotsna Yagnik)
Special Judge,
Court for conducting Speedy
Trial of Riot Cases, situated at
SIT Courts, Old High Court
Building, Navrangpura,
Ahmedabad.

Further Final Order

Heard Ld. Spl. P.P. Mr. A.P. Desai with Ld. Asst. Spl. P.P. Ms. Hema Rajput and Ld. Asst. Spl. P.P. Mr. Gaurang Vyas.

Heard Ld. advocates Mr. N.M. Kikani, Mr. R.N. Kikani, Mr. H.S. Rawat, Mr. K.N. Thakur and Mr. G.S. Solanki for the convict accused.

Heard all the convict accused in addition to the submissions of their respective learned advocates.

1. The arguments raised by learned advocates Mr.N.M.Kikani, Mr.R.N.Kikani Mr.K.N.Thakur which were adopted by Ld. advocate Mr.H.S.Rawat and Mr.G.S.Solanki for the accused were mainly to the effect that, this case cannot be termed to be rarest of rare case, it is also mainly on the

premise that the incident had happened in response to Godhra massacre which is the first and foremost cause and that the pre-planning was not there, there is invocation of joint liability, hence, the minimum sentence would suffice the purpose. The convicts are not the habitual offenders and looking to their age, family background, this is a fit case to impose minimum punishment. The riot in the entire Gujarat was widespread on 28/02/2002 in which the people gathered and therefore, there is in fact, nothing which can be termed to be planned murders.

2. Ld. advocate Mr. R.N. Kikani has invited the attention of the Court on a Judgment cited at **G.L.R. XLVII (I) page No.676** to submit that the trial Court has duty to elicit information from the accused and inflict a just punishment keeping in mind age, family background and antecedents of the accused.

It was urged that minimum sentence may only be imposed.

3. As required u/s.235(2) of the Cr.P.C. this Court has also heard each of the convict accused in person. Some of the accused have chosen to submit to the Court on quantum of sentence to be imposed on them for three times within two hours while the Court was in its session which was also heard patiently by the Court. All these submissions have been considered by the Court. All the convict accused have urged for mercy and to impose minimum sentence on them on the grounds submitted by them which have been reproduced herein under :

- A-1 has submitted that he is poor, a married man, having family responsibility including that of mother.
- A-2 has submitted that he is the only breadwinner of his family, his wife is unwell and he himself is patient of B.P.
- A-4 has submitted that he has children, mainly daughters, his family will be in precarious condition and that he himself is a heart patient.
- A-5 and A-10 have made similar submission as where made by A-2.
- A-18 has also made submission like A-2. In addition thereto he submits that he is a businessman and he has never done any crime. A-18 has submitted that he has not even killed an ant which may be considered.
- A-20 submits that he is a cancer patient from the year 2002, he is a corporator, he is a reputed person and has great name and fame coupled with too much of fame in Bharatiya Janata Party to which party he belongs.
- A-21 has submitted that his father has abandoned them, he has daughters, wife, mother and he is a young person.
- A-22 has submitted that he has two children having Muslim wife and he himself is physically challenged person.
- A-25 has submitted that his wife would be all alone who has suffered two attacks.

- A-27 has submitted that his elder brother is a crippled person, mother is widow and he is the only earning person.
- A-28 has made a similar submission as that of A-2.
- A-30 has made a similar submission as that of A-27.
- A-33 has submitted that he has five daughters, his own shop was burnt, his wife is unwell and his shop was burnt in the riot.
- A-34 has submitted that he has three small children, younger brother is suffering from cancer and is on the last stage.
- A-37 has submitted that she and her husband are residing alone, the son is at U.S.A., she herself is a patient and she is victim of politics.
- A-38, A-39, A-42, A-45, A-47, A-62 have made similar submissions like A-2 mainly focusing the facts that they are the only breadwinner for the family and they have the family responsibility. A-62 has made a specific submission that he has no acquaintance, family friend or kith and kin in Gujarat.
- A-41 has submitted that only before two months from today, he has suffered attack of paralysis, he does not keep well and that his daughters are studying.
- A-44 has submitted that he has responsibility towards his

old and unwell parents, he is a businessman, daughter is studying in science faculty and he himself is the victim of the riot.

- A-46 has submitted that he is a rickshaw driver having children and family and is suffering from cancer.

- A-52 has submitted that he is a convict of life imprisonment, he has widow mother and a daughter aged 6 years and that the time he has passed in the jail needs to be set off though he was bailed out in this offence, but he was in prison because of another offence.

- A-53 has submitted that he has old parent and he looks after and maintains them.

- A-55 has submitted that he has child aged two years, his younger brother is mentally unwell, parents are unwell and that his father is retired.

- A-58 has submitted that he is a businessman, he has a little son, wife is bedridden and operated and he himself is suffering from diabetes.

- A-60 has submitted that he has three daughters, mother is unable to walk, father had passed away and has family responsibility.

4. *Learned Special PP. McA.P. Desai* has mainly submitted that on the date of the occurrence, at the site, the persons were roasted alive, they were killed mercilessly and that the

entire attack was without provocation, hence this being the rarest of rare case, death penalty is must. Victims are not the aggressor of the crime. Lenient view may not be taken. In such cases, life imprisonment is an exception and death penalty is a rule. To fortify his submission to impose death penalty following citations were pressed into service by him :

- (1) 1983 (0) GLHEL S.C. 16254;
In the matter between:
Machhising v. State of Punjab & Haryana
- (2) 2002 (0) GLHEL S.C. 14921;
In the matter between:
Krishna Mochi v. State of Bihar
- (3) (2011) 1 S.C.C. (cri.) 114;
In the matter between:
Sundersing v. State of Uttaranchal
- (4) 2010 (Suppl.) Cri.L.J. (S.C.);
In the matter between:
Muniappan & Others v. State of Tamil Nadu
- (5) (2012) 4 S.C.C. 37;
In the matter between:
Rajendra Prahalad Wasnik v. State of Maharashtra
- (6) (2012) 4 S.C.C. 97;
In the matter between:
Sonu Sardar v. State of Chhattisgarh

To add strength to his alternate submission, he has relied upon following citations and has appealed to the Court that if the Court is not convinced on the submission that this case is the rarest of the rare case then, the principles of the following citations may be considered :

- (1) 2008 (0) GLHEL S.C. 41824;
In the matter between:
Swamy Shraddhanand @ Murali Manohar Mishra v. State of Karnataka
- (2) 2011 (1) S.C.C. (Cri.) 883;
In the matter between:
Rameshbhai Chandubhai Rathod v. State of Gujarat
- (3) 2009 (0) GLHEL S.C. 47881;
In the matter between:
Ramraj @ Nanhoo @ Bihnu v. State of Chhattisgarh
- (4) 2010 (2) GLH 471 (S.C.)
In the matter between:
Mullu & Another v. State of Uttar Pradesh
- (5) (2012) 4 S.C.C. 107;
In the matter between:
Amil v. State of Uttar Pradesh
- (6) (2012) 4 S.C.C. 257;
In the matter between:
Ramnareish & Others v. State of Chhattisgarh

(7) (2012) 4 S.C.C. 289

In the matter between:

Brijendrasing v. State of Madhya Pradesh

5. Ld. advocate Mr.Y.B.Shaikh and Ld. advocate Mr. Samshad Pathan for the victims have submitted that to curb communal riots in future, stringent punishment needs to be imposed and that exemplary punishment can only serve the purpose of punishment.

6. Having perused the citations pressed into service, while appreciating the rival submission and upon consideration of the facts and circumstances of this case, following points have been considered by the Court to opine on the quantum of the sentence.

(a) While dealing with the factual submissions of the accused and of the learned advocates for the defence on the genesis of this communal riot to be Godhra train carnage it needs to be held that, communal riots are cancer for our very cherished constitutional value of secularism. There cannot be justification of crime for doing another crime as nobody can take law in one's own hands. Every citizen of this country must understand, that one lives in the society where rule of law very much survives. On that day of the occurrence the accused by their acts and omissions have brought the situation of total subversion and erosion of rule of law. It was made the blood day on massive onslaught and the day of horrendous carnage. It is true that the predominant feeling among the convicts was to take revenge of the Godhra carnage but, that amounts to taking law into one's own hands which cannot be taken lightly

by this Court.

(a-1) In the opinion of this Court no suffering is potent enough to justify taking law into one's hand. The act and omission of the accused amounts to self judging the cause which is a serious threat to rule of law and that it is for the said reasons such excuses like excitement due to Godhra Carnage are incapable to justify the offences committed by the accused and particularly cannot be accepted as mitigating circumstances.

In light of the above discussion, the submission that the genesis of this communal riot was Godhra Train Carnage, is not accepted as mitigating circumstance, rather it is pointing towards the common motive of the accused.

(b) This Court is in agreement with the submission that the Court is required to keep in mind the age, family circumstances and antecedents of the accused while imposing just punishment. But, while doing so, the Court has also to keep in mind the facts and circumstances in which the crime was committed, the outcome of the crime, the role played by the accused, the impact of crime on the victims and ultimate concept of penology, etc.

(c) This Court humbly but firmly opines that the grounds advanced through the submissions by the accused are such which can be considered for certain accused but, the role played by some of the accused is such that grant of prayed sympathy would be thoroughly misplaced, unwarranted and amounts to ignore the agonies, sufferings, grief and overall plight of the victims and their families.

6. The points in favour of death penalty and the points to oppose death penalty are the subject of jurists. But, still however, so as to clarify as to what has weighed in the mind of the Court, following points have been noted.

(a) It is said and perceived by a common man that the Judges are sent on earth as God's civil servant to protect its citizens and to punish those who harm them. The Judge has to shoulder a great responsibility while trying any accused. The maxim of the equity that 'Justice not only should be done but, it must also appear to have been done' has to be saluted.

(b) Death penalty brings justice to those who have suffered and helps in reducing the crime, it mainly serves the purpose of deterrence. It is also important to keep the brightness of justice and public safety shining brightly on our society.

(c) At the end of 2009, about 139 countries had abolished the death penalty.

(d) There is a momentum of general suspension of capital punishment through out the world. To respect the right of those who are on the death row, the movement of active human right and moratorium on the use of death penalty in under serious consideration at United Nation.

(e) The progressive society restricts the use of the death penalty.

(f) Article 5 of Universal Declaration Of Human Rights

popularly known as International Bill For Human Rights, guides to respect the human dignity, and it also says that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

(g) Use of death penalty undermines human dignity. Moratorium on the use of the death penalty contributes to the enhancement and progressive development of human rights.

In nutshell these two dimensions on the use of death penalty emerged from the popular debate on death penalty shows that there are two dimensions for imposing this punishment.

7. The Facts Of This Case :

(a) The assault and the attack made by the aggressor accused was extremely brutal, gruesome, condemnable, inhuman, clearly violative of human rights and Constitutional rights of victims of this case.

(b) The 96 persons were killed mercilessly in a day and were reduced to grilled meat without any stimuli or provocation on their part. Among the deceased victims, there were women, old persons, helpless kids and even crippled person.

About 125 victims have been found to have been victims of crime of hurt, grievous hurt, attempt to murder, etc. Among these helpless 125 persons there was even an infant aged 20 days.

(c) The killings of 96 persons was certainly targeted killing. It is proved to be a systematic campaign. It was to display the sparkling displeasure and total disapproval to the Godhra Carnage which, in fact, was the motive of the accused.

(d) The murders committed in this communal riot that too, of 96 Muslims in a day, cannot be termed to be usual set of murders, it is a case of race multiple murders which has marked a black dot on the secular salient feature of the Constitution of India.

(e) Throughout the day the massacre went on, but the worst part of the massacre was the gruesome and ghastly murders of 58 victims in the evening occurrence at one place itself.

(f) 28/02/2002 became the day of cyclone of violence, one of the black chapters in the history of democratic India where, violation of human rights and Constitutional rights were publicly done by the assaulters on the victims.

(g) Offences u/s. 354, 376 and 376 (2)(g) of I.P.C. have also been found to have been committed. It is different that except in case of A-22 no other accused could be held guilty for the commission of this offence. But still, the fact remains that such commission of offences against women were also committed in the public place, shamelessly and fearlessly by the tormentors.

(h) Thousands of the persons have attacked on weaponless, helpless and frightened victims with intention, pre-planning and while sharing their common objects.

(i) The incident was horrifying and that tremendous loss of properties and human lives were suffered by them.

(j) About 57 occurrence PW, the three occurrences went on throughout the day, damages of lakhs of rupees, disturbance, damages to household and business places, deaths, injuries violent disorder, outraging modesty, rapes, gang rapes, mass torching including of women, children, crippled, old, attack on dwelling houses, shops, cabins, carts by burning and destroying, which reduced the properties to ashes.

Atmosphere was surchilled with fear, anxiety, tension, and cries for help and mercy by the victims of bestial violence since mass extermination took place on that day where, free use of inflammable, lethal and deadly weapons was common by the accused.

(k) There are certain accused who have been proved to have remained present and have participated in all the three occurrences viz. morning, noon and evening occurrences. This reveals their commitment, their priority of the life, that tremendous bias and their throughout involvement in the crime which went on for the entire day.

These accused are such who have not spared a single minute of that day for any other task of their lives and that right from 9:30 a.m. to at least upto 7:30 to 8:00 p.m. they were very much on the site unceasingly and continuously doing different offences for which, they have been held guilty.

(k-1) It is fitting to take note of the fact that A-1, A-2, A-10, A-

22, A-25, A-41 and A-44 were among these accused who have been undoubtedly implicated in the crime committed for the entire day by different reliable prosecution witnesses. Not only that, these 7 accused were also the leading conspirators of the entire conspiracy. Some of them were also close aide of A-37.

(k-2)A-18 is one of the principal conspirators, active overt actor of the communal riot on that day, leader and instigator for the co-accused as far as Naroda massacre is concerned. Over and above this, he was also an active member of the unlawful assembly in atleast two of the occurrences including the ghastly evening occurrence.

(k-3)A-37 has been proved to be the kingpin of the entire communal riot and one of the principal conspirators who has actively instigated the rioters and has abetted them to form unlawful assembly to execute the conspiracy hatched under her leadership with other co-conspirators.

(k-4)Even A-21 was also one of such accused who has been inferred to have been present and to have participated in the crime for the entire day. But then, his involvement is mainly based on the sting operation and it is a matter of record that as such, any of the victim PW has not involved him. As against that, the above referred 7 leading accused have been involved by numerous prosecution witnesses. A-21 deserves a little different treatment than which can be given to the 8 leading accused who took vigorous part in the entire conspiracy. These accused should not be given similar treatment as is given to the accused other than these accused.

(l) The gruesome and barbaric act of the accused and more particularly those seven accused who have been mentioned herein above, have crossed all limits of inhumanity. Their dastardly acts by killing as many as 96 victims by burning them alive at the site of the Muslim chawls itself is horrifying and terrifying commission of offences by these accused. At the khancha where alone 58 deceased were done away by reducing them to grilled meat can be visualized as ghastly site where, maximum number of victims died, human limbs were found scattered here and there, those who could fortunately survive, tried to save the unfortunate severely injured victims from the flames of fire, some of whom ultimately, succumbed to death even before getting the treatment.

(m) The submission of A-22 that he married to Muslim woman is not matter of consideration for this Court as no evidence is putforth for that, in any case, it is personal affairs of A-22. Moreover, picking up the clue from the sting operation of A-21 the co-accused, it is clear that he has nurtured tremendous hatred and enmity for Muslims and he being or staying with Muslim woman is only on some tussle with some Muslim.

He is guilty of maximum number of offences including his overt act in the highest number of murders, who does not deserve any sympathy as prayed.

There is nothing on record even to show that A-22 is lame and even if it is accepted to be hard reality, than also as is well known, the deep seated commitment, interest and involvement enable even the lame to climb up Himalayans then, why these commission of crimes by him cannot be believed.

(n) The submission of A-52 is supported by Sec.427(2) of Cr.P.C. hence, needs to be considered but, since over and above the principle of invocation of joint liability against A-52, he is also proved to be a merciless murderer of deceased Rabiabibi. In his case, he can be treated at par with other accused other than the eight accused. Even according to him, he is convict for life in another case. This shows another serious offence to have been proved against him which all cannot be totally ignored by the Court. However, his statutory right shall be protected. He is however, not entitled for any set off as far as sentence of life imprisonment is concerned.

(o) The submission of A-37 that she is a victim of politics has been pleaded for the first time without any background created in the cross-examination of the PW and even through submission before this Court.

As a matter of fact, this Court has observed in its judgment that A-37 was tremendously favoured by the then investigating agencies. All care, at the cost of the duty of I.O. and even the interest of the victims of crime, was taken to see to it that, the involvement of A-37 does not come on the books. This fact, in fact, comes in the way to believe that A-37 was ever a victim of any politics.

(p) Sickness of the accused shall be taken care of by the jail authority hence, the same needs no consideration by this Court.

7. Before opining it is useful to bare in judicial mind certain.

principles propounded by Hon'ble the Apex Court which are guiding principles to be taken as a watchword in such kind of cases.

[a] In the matter between of **Amit v. State of Uttar Pradesh reported in (2012) 4 Supreme Court Cases 107**, it has been held that :

"There is nothing on evidence to suggest that he is likely to repeat similar crimes in future - On the other hand, given a chance he may reform over a period of years..... The offence under Sec.302, with further directions that life imprisonment shall extend to the full life of appellant, but subject to any remission or commutation at the instance of Government for good and sufficient reasons - Penal Code, 1860, Ss.302, 364, 376, 377 and 201." seems to be proper, adequate and sufficient punishment.

[b] In the judgment reported at **G.L.R. XLVII (I) page No.114 in the matter of Mohammad Munna v. Union of India** and Others wherein, it has been held that imprisonment for life must be treated as imprisonment for the whole of the remaining period of the natural life of the convicted person subject to remission by appropriate Government.

[c] In the matter between **Sandeep v. State of Uttar Pradesh reported at (2012) 6 Supreme Court Cases 107**, it has been held that, ".....Death sentence imposed by Courts below commuted to life imprisonment with condition that main culprit would serve minimum imprisonment for 30 years - Remission not to be granted during this period - His

companion too serve imprisonment for minimum of 20 years without remission - Criminal Procedure Code, 1973 - Ss. 433-A and 432 - Penal Code, 1860 - Ss.302 and 316 r/w. S.34 - Sentence warranted - Sentence to main culprit and sentence to accessory in crime - Sentences of imprisonment of minimum non-remittable terms commensurate with heinousness of murder, imposed..... the manner in which the life of the deceased was snatched away by causing multiple injuries all over the body with all kinds of weapons, no leniency can be shown to the said appellant. While holding that the imposition of death sentence to the accused S was not warranted and while awarding life imprisonment, it is held that the appellant - accused must serve a minimum of 30 years in jail without remissions before consideration of his case for premature release. His companion will also serve life sentence for a minimum period of 20 years."

[d] In the matter of **C. Muniappan & Others v. State of Tamil Nadu, etc.** reported in 2010 (Suppl.) Cr.L.R. (Supreme Court) 373, what has been observed by the Hon'ble Supreme Court at paragraphs No.72 and 73 needs to be borne in mind before opinion on the subject.

8. Opinion :

(a) This Court is conscious that no two cases can ever be similar on the facts, hence, no similar treatment can be offered for the purpose of imposing adequate and proper sentence. In light of the settled legal norms, to impose sentence, the Court has principally to keep in the mind, facts and circumstances and special features, if any, prevalent in the case to enable the

companion too serve imprisonment for minimum of 20 years without remission - Criminal Procedure Code, 1973 - Ss. 433-A and 432 - Penal Code, 1860 - Ss. 302 and 316 r/w. S.34 - Sentence warranted - Sentence to main culprit and sentence to accessory in crime - Sentences of imprisonment of minimum non-remittable terms commensurate with heinousness of murder, imposed..... the manner in which the life of the deceased was snatched away by causing multiple injuries all over the body with all kinds of weapons, no leniency can be shown to the said appellant. While holding that the imposition of death sentence to the accused S was not warranted and while awarding life imprisonment, it is held that the appellant - accused must serve a minimum of 30 years in jail without remissions before consideration of his case for premature release. His companion will also serve life sentence for a minimum period of 20 years."

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Court to decide just, proper and adequate sentence as it is the basic philosophy of penology.

(b) It is most useful to reproduce the opening of an important judgement by the full bench of the Hon'ble Supreme Court in the matter of **Mohd. Khalid V/s. State of West Bengal - 2002 Law Suit (SC) 826** that, "No religion propagates terrorism or hatred. Love for all is the basic foundation on which almost all religion are founded. Unfortunately, some fanatics who have distorted views of religion spread messages of terror and hatred. They do not understand and realize what amount of damage they do to the society. Sometimes people belonging to their community or religion also become victims. As a result of this fanatic acts of some misguided people, innocent lives are lost, distrust in the minds of community replaces love and affection for others. The devastating effect of such dastardly acts is the matrix on which the present case rests." This discussion is the foundation on which the entire case is based.

(c) In the facts of this case, what the convict accused have done on that day was based on their personal enmity, bias and hatred for the people having faith in different religion and for those who belonged to a different community.

(d) It needs to be noted that at that time, A-37 has played a role of one of the principal conspirators and a kingpin of the communal riot. India is a secular state and such offence by the elected member of the constitutional body needs to be viewed by the Courts very seriously where disharmony, hatred and enmity based on religion was created by investigation and

where such commission of the crimes were abetted by A-37.

(e) Some of the accused are young, some are having health problems and some of them have their ailing family members whose submissions normally need to be considered by justice delivery system but, while doing so, the Court has to use its discretion very carefully and keeping in mind several factors. One such factor is also applicable in case of A-1, A-2, A-10, A-18, A-22, A-25, A-41, A-44 and A-37 that they have shown no consideration for human lives. These accused have played leading role in entire massacre of Naroda Patiya. They deserve different treatment than others for their peculiar contribution in the crime, hence, as far as their request for sympathetic treatment to them is concerned, it is opined that the submission should not be accepted without deciding the principle issue as to whether the Court should impose death penalty or not?

(f) In the facts and circumstances of the case, even not imposing death penalty can also be safely termed to be grant of the prayer of sympathetic consideration, looking to their lion share in the entire massacre at Naroda Patiya.

(g) Their submission for their family responsibilities, small kids, health of their spouse, they being the only bread winner, etc. cannot be considered in absence of accessing their role based on the proved facts of the case. How it can out of the mind that the loud cries of the victims for the help and mercy if have not appealed to the heart, mind and soul of the accused, then, it itself is an important consideration. The proved fact reveals of throwing children in the flames of fire was the most

shocking part where, except A-37 every accused has played his overt act as member of unlawful assembly. This fact has to be kept in judicial mind as the most vital consideration which squarely covers the case of the eight accused except A-37 mentioned at point (e) herein above.

(h) The communal hatred displayed by communally surcharged mob on account of instigation of accused like A-37, A-18 and or on account of some vested interest who wants division of society on communal bases.

(i) In light of the above discussion, as far as the other guilty accused are concerned, this Court can certainly consider their submission on humanitarian aspect and can certainly ponder over the effect on their family members, their age, etc. since some of them were present and have participated in one or two occurrences, and not for the entire day. Moreover, they were not the leading conspirators, were the one who were instigated and abetted by the principal conspirators who would have perhaps not mustered the courage to break the law and order situation as, they have broken. Even some of them were not at all conspirators but, were members of the unlawful assembly which jointly committed the crimes.

(j) Even though this can be considered as rarest of the rare case on the face of it, considering the fact of 96 murders and 125 serious hurt to attempt to murders, but while considering the fact that long time has elapsed to the communal riot of 28/02/2002 during which period they have also to face the trial, the accused have also undergone the agonies of the trial for 3 years in which, on about 400 days, this case was conducted.

Noticing the fact that the sword has been kept hanging for ten long years on the accused who were implicated in the crime, the purpose of deterrence has already been partly served in this duration hence, death sentence should not be awarded. Principally, death sentence should be imposed only when life imprisonment appears to be an altogether inadequate punishment having regard to the relevant circumstances of the crime.

(k) A fact cannot miss the site that, it is no doubt a gruesome offence and the biggest massacre of post Godhra riot case, but the interest of justice would be served if it is kept in mind that the accused had undergone agony and the hanging sword for about 10 long years.

The object of punishment is to deter the accused and since the crime committed by the accused is more serious and grave in nature, it should be appropriately handled, so as to set an example in the society.

(l) The punishment imposed should be fit to the crime committed and that it is the duty of the Court to impose proper punishment depending on the degree of criminality. Improper and insufficient punishment can seriously undermine respect for law.

(m) In paragraph No.7 herein above, from the celebrated judgments on the subject under discussion, it is clear that the principles propounded in the judgments, guide the Court that application of these principles would enable the Court to strike

balance between needs to be addressed by the Court between concepts of victimology and penology. In the humble opinion of this Court, this can be achieved by imposing life imprisonment for the whole of the natural life of some of the convict persons of this case, subject to, remission by appropriate Government. As is clear in the matter of *Amit v. State of Uttar Pradesh* (supra) that the further direction by the Court that, "life imprisonment shall extend to the full life" would serve the purpose of imposing punishment in particular kind of cases.

Another guideline is also available from the judgment of *Sandeep* (supra) that the Court in the given circumstances to impose just, proper and adequate punishment can also impose life imprisonment with a condition that main culprit would serve atleast minimum imprisonment for stipulated years, during which period no remission can be granted. The proper and adequate punishment in the case is only life imprisonment with the conditions that the accused should not be remitted under any circumstances at least before 20 years.

(n) As far as case of A-1, A-2, A-10, A-22, A-25, A-41 and A-44 are concerned, this Court strongly feels that, a sentence of life imprisonment for remaining period of their natural life subject to remission, would be right response to the loud cry of justice, of the victims of these ghastly crime, it would be in the interest of justice and would also be just, proper and adequate as normally the usual life imprisonment has a term of 14 years which would be grossly disproportionate and inadequate.

In the peculiar facts and circumstances of the case, a more reasonable and just punishment would be imprisonment

for life with direction that they shall not be released for remaining period of their natural life, but subject to any remission or commutation at the instance of the Government for good and sufficient reasons. But, in any case, the said should not be applied to A-37. In case she can be treated at par with the remaining accused as that would disproportionate punishment. Remission or commutation should not be exercised by the Government atleast upto the specified term to be imposed by this Court by way of imposition of sentence on the day, in the operative part of this order. However, at this juncture, it is fitting to note that A-37 is a woman and was not proved to be member of unlawful assembly needs consideration which consideration can be reflected by specifying her term to be of 18 years until which remission or commutation shall not be effected by the appropriate Government.

(o) In the facts of the case, when alternative to death penalty is available, it is better to embrace the same. There are ways to address this violent crime in a more constructive way in which precious lives were lost in a barbarous attack launched by the assailants.

(p) It is true that communal mind set is unfortunate and unhappy situation. Unfortunate deep rooted bias is the misfortune for any democratic country.

On account of the lapse of time of then years and half the agony of impending trial by the accused and suffering of their families, the case just falls short of the rarest of the rare category and this Court feels some what reluctant in imposing the death sentence.

(q) As far as the accused other than the 8 accused are concerned viz. A-4, A-5, A-20, A-21, A-27, A-28, A-30, A-33, A-34, A-38, A-39, A-40, A-42, A-45, A-46, A-47, A-52, A-53, A-55, A-58, A-60 and A-62 (the 22 accused are concerned, needs to be considered. Moreover, it is necessary at the same time to consider the age of most of the accused, the family background of the accused, the submission of they being the only breadwinners of the family, considering that by afflux of time circumstances and socio political reasons must have changed, this Court should also balance between reformatory and punitive objects of the punishment as far as these more or less forlorn accused are concerned.

(r) In case of these twenty two accused, this Court opines that the usual life sentence to them being minimum punishment for offence u/s.302 of I.P.C. would meet with ends of justice and that would also meet with the need of propriety and adequateness of the punishment.

(s) A-18 is the one who was proved to have remained present and participated in the worst occurrence of the entire day where, highest death toll has been reported viz. the evening occurrence. A-18 was not present in the noon occurrence. But then, he is one of the principal conspirators as well as a convict accused against whom numerous commission of overt acts have been proved. Hence, he is an accused who should not be awarded similar sentence as has been awarded to the 8 accused and to A-37; the circumstance being different.

(t) In the facts of the case, to avoid duplication no

separate sentence needs to be recorded under S.135(1) of the Bombay Police Act and for the offence u/s. 120-B of the I.P.C. While appreciating the settled position of law principle of criminology, penology and growing international concern for human rights, and further viewing the above factual position, the sympathy prayed for by the defence, if granted to A-18 and nine others who have been dealt separately, would term as misplaced and unwarranted sympathy when the accused have been held guilty for the offences threatening the very important and vital feature of the Constitution of India viz. secularism. The accused have hatched criminal conspiracy of a very serious nature who all were found in conscious possession of deadly and lethal weapons.

(u) In a country like ours, discrimination on the ground of religion or enmity or hatred for any religion is a taboo. Taking lives of persons just because those persons are having faith in another religion is bound to be dangerous and it strikes at the very root of the orderly secular society which the founding fathers of our Constitution dreamt of.

(v) There is conviction on S.120-B but it is since covered under the conspiracy r/w. the other offences committed, no separate conviction needs to be recorded for abetment. Even if the 26 conspirators accused, other than Dr. Mayaben Kodnani, no separate sentence is to be recorded in view of the fact that the sentence u/s. 149 has been recorded whereas the Kingpin Dr. Mayaben Kodnani has been convicted for the offences r/w. S.120B of I.P.C. She needs to be sentenced accordingly.

(w) Since Sec.120-B and Sec.149 of I.P.C. are based on

principle of joint liability, sentence in either has been awarded in case of each of the accused who are held guilty of those crimes to avoid duplication.

Atleast three of the accused shown in charge EXH.65 are absconding, hence the muddamal collected by the investigating agency in this case.

All the muddamal articles collected by the I.A. during their investigation shown in the muddamal list produced on record in any of these 8 sessions cases shall be preserved as three of the accused persons are still absconding.

All the substantive sentences, except the sentences of imprisonment for life, shall run concurrently.

The accused shall be entitled for set off as per Sec.248 of the Code of Criminal Procedure.

The sentences of imprisonment for life shall run after the expiration of the concurrent sentences for imprisonment for terms.

As the case against the original accused No.26 is pending who has been arraigned in Sessions Case No.236/2009, the same has been kept pending till N.B.W. issued on him stands served.

Considering the seriousness and gravity of the occurrence, it would not be in the interest of justice and equity to impose similar sentence on all the accused when there is a

clearcut difference between the degree of seriousness in the offence committed.

(x) As has been orally submitted by Learned Special P.P. under the instruction of the I.O. / representative of the I.O., this Court has been informed that the N.B.W. issued against A-26 has yet not been served. This Court is of the humble opinion that the statutory requirement under Sec.235(2) of Cr.P.C. is to afford a fresh opportunity to the accused and that being a valuable right of A-26 to address the Court on the quantum of the sentence, it would be just, fair and proper to adjourn the Sessions Case No.236/2009 in which he has been arraigned as an accused to another suitable date which as is suggested by the investigating agency is 03/09/2012. The case only qua him shall remain pending in the file of this Court whereas the Session Cases of all other 60 accused qua them shall stand disposed of in light of the necessary orders passed on 29/08/2012 for the conviction and passed today by this Court for the sentence to the accused held guilty.

Considering all the above points and giving cumulative effects to the above points following final order is necessitated.

Further Final Operative Order :

[1] The following named and numbered accused have been held guilty by this Court on 29/08/2012 for commission of different offences.

Accused

No.

A-1

Name of Accused

Naresh Agarsinh Chhara

A-2	Morlibhai Naranbhai Sindhi @ Murli
A-4	Ganpat Chhanaji Didawala (Chhara)
A-5	Vikrambhai Maneklal Rathod (Chhara) @Tiniyo
A-10	Haresh @ Hariyo Son of Jivanlal @ Agarsing Rathod (Chhara)
A-18	Babubhai @ Babu Bajrangi Son of Rajabhai Patel
A-20	Kishan Khubchand Korani
A-21	Prakash Sureshbhai Rathod (Chhara)
A-22	Suresh @ Richard @ Suresh Langado Son of Kantibhai Didawala (Chhara)
A-25	Premchand @ Tiwari Conductor Son of Yagnanarayan Tiwari
A-26	Suresh @ Sehjad Dalubhai Netlekar (Marathi Chharo)
A-27	Navab @ Kalu Bhaiyo Harisinh Rathod
A-28	Manubhai Keshabhai Maruda
A-30	Shashikant @ Tiniyo Marathi Son of Yuvraj Patil
A-33	Babubhai @ Babu Vanzara Son of Jethabhai Salat (Marvadi)
A-34	Laxmanbhai @ Lakho Son of Budhaji Thakor
A-37	Dr.Mayaben Surendrabhai Kodnani
A-38	Ashok Hundaldas Sindhi
A-39	Harshad @ Mungda Jilagovind Chhara Parmar
A-40	Mukesh @ Vakil Ratilal Rathod Son of Jaybhavani
A-41	Manojbhai @ Manoj Sindhi Son of Renumal Kukrani
A-42	Hiraji @ Hiro Marvadi @ Sonaji Son of Danaji Meghval (Marvadi)
A-44	Bipinbhai @ Bipin Autowala Son of Umedrai Panchal
A-45	Ashokbhai Uttamchand Korani (Sindhi)
A-46	Vijaykumar Takhubhai Parmar
A-47	Ramesh Keshavlal Didawala (Chhara)

A-52	Sachin Nagindas Modi
A-53	Vilas @ Viliyo Prakashbhai Sonar
A-55	Dinesh @ Tiniyo Govindbhai Barge (Marathi)
A-58	Santoshkumar Kodumal Mulchandani, known as Santosh Dudhwala
A-60	Pintu Dalpatbhai Jadeja (Chhara)
A-62	Kirpalsing Jangbahadursing Chhabda

Note : Here onwards, the accused shall be referred only by their numbers for the sake of brevity.

[2] Accused No.1, 2, 4, 5, 10, 18, 20, 21, 22, 25, 27, 28, 30, 33, 34, 38, 39, 40, 41, 42, 44, 45, 46, 47, 52, 53, 55, 58, 60 and 62 (in all 30 accused) are convicted of the offence u/s.143 r/w. Sec.149 of I.P.C. wherein, each of them is sentenced to suffer rigorous imprisonment for 6 (six) months, and shall also pay a fine of Rs.200/- (Rupees Two Hundred only) each, in default, to suffer further rigorous imprisonment for 7 days.

[3] Accused No.1, 2, 4, 5, 10, 18, 20, 21, 22, 25, 27, 28, 30, 33, 34, 38, 39, 40, 41, 42, 44, 45, 46, 47, 52, 53, 55, 58, 60 and 62 (in all 30 accused) are convicted of the offence u/s.144 r/w. Sec.149 of I.P.C. wherein, each of them is sentenced to suffer rigorous imprisonment for 2 (two) years, and shall also pay a fine of Rs.200/- (Rupees Two Hundred only) each, in default, to suffer further rigorous imprisonment for 15 days.

[4] Accused No.1, 2, 4, 5, 10, 18, 20, 21, 22, 25, 27, 28, 30, 33, 34, 38, 39, 40, 41, 42, 44, 45, 46, 47, 52, 53, 55, 58, 60 and 62 (in all 30 accused) are convicted of the offence u/s.147 r/w. Sec.149 of I.P.C. wherein, each of them is sentenced to suffer rigorous imprisonment for 2 (two) years, and shall also pay a

fine of Rs.200/- (Rupees Two Hundred only) each, in default, to suffer further rigorous imprisonment for 15 days.

[5] Accused No.1, 2, 4, 5, 10, 18, 20, 21, 22, 25, 27, 28, 30, 33, 34, 38, 39, 40, 41, 42, 44, 45, 46, 47, 52, 53, 55, 58, 60 and 62 (in all 30 accused) are convicted of the offence u/s.148 r/w. Sec.149 of I.P.C. wherein, each of them is sentenced to suffer rigorous imprisonment for 2 (two) years, and shall also pay a fine of Rs.200/- (Rupees Two Hundred only) each, in default, to suffer further rigorous imprisonment for 15 days.

[6] Accused No.1, 2, 5, 10, 18, 20, 21, 22, 25, 27, 33, 34, 38, 39, 40, 41, 42, 44, 45, 46, 47, 52, 55, 58, and 62 (in all 25 accused) are convicted of the offence u/s.295 r/w. Sec.149 of I.P.C. and A-37 is convicted for the offence u/s.295 r/w. Sec.120-B of I.P.C. (thus in all 26 accused) wherein, each of them is sentenced to suffer rigorous imprisonment for 2 (two) years, and shall also pay a fine of Rs.200/- (Rupees Two Hundred only) each, in default, to suffer further rigorous imprisonment for 15 days.

[7] Accused No.1, 2, 4, 5, 10, 18, 20, 21, 22, 25, 27, 28, 30, 33, 34, 38, 39, 40, 41, 42, 44, 45, 46, 47, 52, 53, 55, 58, 60 and 62 (in all 30 accused) are convicted of the offence u/s.427 r/w. Sec.149 of I.P.C. and A-37 is convicted for the offence u/s.427 r/w. Sec.120-B of I.P.C. (thus in all 31 accused) wherein, each of them is sentenced to suffer rigorous imprisonment for 2 (two) years, and shall also pay a fine of Rs.200/- (Rupees Two Hundred only) each, in default, to suffer further rigorous imprisonment for 15 days.

[8] Accused No.1, 2, 4, 5, 10, 18, 20, 21, 22, 25, 27, 28, 30, 33, 34, 38, 39, 40, 41, 42, 44, 45, 46, 47, 52, 53, 55, 58, 60 and 62 (in all 30 accused) are convicted of the offence u/s.435 r/w. Sec.149 of I.P.C. and A-37 is convicted for the offence u/s.435 r/w. Sec.120-B of I.P.C. (thus in all 31 accused) wherein, each of them is sentenced to suffer rigorous imprisonment for 2 (two) years, and shall also pay a fine of Rs.200/- (Rupees Two Hundred only) each, in default, to suffer further rigorous imprisonment for 15 days.

[9] Accused No.1, 2, 4, 5, 10, 18, 20, 21, 22, 25, 27, 28, 30, 33, 34, 38, 39, 40, 41, 42, 44, 45, 46, 47, 52, 53, 55, 58, 60 and 62 (in all 30 accused) are convicted of the offence u/s.436 r/w. Sec.149 of I.P.C. and A-37 is convicted for the offence u/s.436 r/w. Sec.120-B of I.P.C. (thus in all 31 accused) wherein, each of them is sentenced to suffer rigorous imprisonment for 10 (ten) years, and shall also pay a fine of Rs.1000/- (Rupees One Thousand only) each, in default, to suffer further rigorous imprisonment for 30 days.

[10] Accused No.1, 2, 4, 5, 10, 18, 20, 21, 22, 25, 27, 28, 30, 33, 34, 38, 39, 40, 41, 42, 44, 45, 46, 47, 52, 53, 55, 58, 60 and 62 (in all 30 accused) are convicted of the offence u/s.440 r/w. Sec.149 of I.P.C. and A-37 is convicted for the offence u/s.440 r/w. Sec.120-B of I.P.C. (thus in all 31 accused) wherein, each of them is sentenced to suffer rigorous imprisonment for 5 (five) years, and shall also pay a fine of Rs.500/- (Rupees Five Hundred only) each, in default, to suffer further rigorous imprisonment for 20 days.

[11] Accused No.1, 2, 4, 5, 10, 18, 20, 21, 22, 25, 27, 28, 30,

33, 34, 38, 39, 40, 41, 42, 44, 45, 46, 47, 52, 53, 55, 58, 60 and 62 (in all 30 accused) are convicted of the offence u/s.153 r/w. Sec.149 of I.P.C. and A-37 is convicted for the offence u/s.153 r/w. Sec.120-B of I.P.C. (thus in all 31 accused) wherein, each of them is sentenced to suffer rigorous imprisonment for 1 (one) years, and shall also pay a fine of Rs.200/- (Rupees Three Hundred only) each, in default, to suffer further rigorous imprisonment for 7 days.

[12] Accused No.1, 2, 4, 5, 10, 18, 20, 21, 22, 25, 27, 28, 30, 33, 34, 38, 39, 40, 41, 42, 44, 45, 46, 47, 52, 53, 55, 58, 60 and 62 (in all 30 accused) are convicted of the offence u/s.153-A r/w. Sec.149 of I.P.C. and A-37 is convicted for the offence u/s.153-A r/w. Sec.120-B of I.P.C. (thus in all 31 accused) wherein, each of them is sentenced to suffer rigorous imprisonment for 3 (three) years, and shall also pay a fine of Rs.300/- (Rupees Three Hundred only) each, in default, to suffer further rigorous imprisonment for 20 days.

[13] Accused No.1, 2, 5, 10, 18, 20, 21, 22, 25, 27, 33, 34, 38, 39, 40, 41, 42, 44, 45, 46, 47, 52, 55, 58, and 62 (in all 25 accused) are convicted of the offence u/s.153-A(2) r/w. Sec.149 of I.P.C. and A-37 is convicted for the offence u/s.153-A(2) r/w. Sec.120-B of I.P.C. (thus in all 26 accused) wherein, each of them is sentenced to suffer rigorous imprisonment for 3 (three) years, and shall also pay a fine of Rs.300/- (Rupees Three Hundred only) each, in default, to suffer further rigorous imprisonment for 20 days.

[14] Accused No.1, 2, 4, 5, 10, 18, 20, 21, 22, 25, 27, 28, 30, 33, 34, 38, 39, 40, 41, 42, 44, 45, 46, 47, 52, 53, 55, 58, 60 and

62 (in all 30 accused) are convicted of the offence u/s.323 r/w. Sec.149 of I.P.C. and A-37 is convicted for the offence u/s.323 r/w. Sec.120-B of I.P.C. (thus in all 31 accused) wherein, each of them is sentenced to suffer rigorous imprisonment for 6 (six) months, and shall also pay a fine of Rs.200/- (Rupees Two Hundred only) each, in default, to suffer further rigorous imprisonment for 7 days.

[15] Accused No.1, 2, 4, 5, 10, 18, 20, 21, 22, 25, 27, 28, 30, 33, 34, 38, 39, 40, 41, 42, 44, 45, 46, 47, 52, 53, 55, 58, 60 and 62 (in all 30 accused) are convicted of the offence u/s.324 r/w. Sec.149 of I.P.C. and A-37 is convicted for the offence u/s.324 r/w. Sec.120-B of I.P.C. (thus in all 31 accused) wherein, each of them is sentenced to suffer rigorous imprisonment for 1 (one) year, and shall also pay a fine of Rs.200/- (Rupees Two Hundred only) each, in default, to suffer further rigorous imprisonment for 15 days.

[16] Accused No.1, 2, 4, 5, 10, 18, 20, 21, 22, 25, 27, 28, 30, 33, 34, 38, 39, 40, 41, 42, 44, 45, 46, 47, 52, 53, 55, 58, 60 and 62 (in all 30 accused) are convicted of the offence u/s.325 r/w. Sec.149 of I.P.C. and A-37 is convicted for the offence u/s.325 r/w. Sec.120-B of I.P.C. (thus in all 31 accused) wherein, each of them is sentenced to suffer rigorous imprisonment for 7 (seven) years, and shall also pay a fine of Rs.500/- (Rupees Five Hundred only) each, in default, to suffer further rigorous imprisonment for 20 days.

[17] Accused No.1, 2, 4, 5, 10, 18, 20, 21, 22, 25, 27, 28, 30, 33, 34, 38, 39, 40, 41, 42, 44, 45, 46, 47, 52, 53, 55, 58, 60 and 62 (in all 30 accused) are convicted of the offence u/s.326 r/w.

Sec.149 of I.P.C. and A-37 is convicted for the offence u/s.326 r/w. Sec.120-B of I.P.C. (thus in all 31 accused) wherein, each of them is sentenced to suffer rigorous imprisonment for 10 (ten) years, and shall also pay a fine of Rs.1000/- (Rupees One Thousand only) each, in default, to suffer further rigorous imprisonment for 30 days.

[18] Accused No.1, 2, 4, 5, 10, 18, 20, 21, 22, 25, 28, 30, 40, 41, 44, 46, 52, 53, 55 and 60 (in all 20 accused) are convicted of the offence u/s.188 of I.P.C. wherein, each of them is sentenced to suffer rigorous imprisonment for 6 (six) months, and shall also pay a fine of Rs.200/- (Rupees Two Hundred only) each, in default, to suffer further rigorous imprisonment for 7 days.

[19] No separate sentence has been recorded for the offence committed u/s.135(1) of the B.P. Act and 120-B of the I.P.C.

[20] A-22 is convicted of the offence u/s.354 and u/s.376 of I.P.C. wherein, he is sentenced to suffer rigorous imprisonment respectively for 2 (Two) years and for 10 (ten) years and shall also pay a fine of Rs.200/- (Rupees Two Hundred only) and Rs.500/- (Rupees Five Hundred only). In default he shall suffer rigorous imprisonment respectively for 2 (two) months and 6 (months).

[21] Accused No.1, 2, 4, 5, 10, 18, 20, 21, 22, 25, 27, 28, 30, 33, 34, 38, 39, 40, 41, 42, 44, 45, 46, 47, 52, 53, 55, 58, 60 and 62 (in all 30 accused) are convicted of the offence u/s.307 r/w. Sec.149 of I.P.C. and A-37 is convicted for the offence u/s.307 r/w. Sec.120-B of I.P.C. (thus in all 31 accused) wherein, each of

them is sentenced to suffer rigorous imprisonment for 10 (ten) years, and shall also pay a fine of Rs.1000/- (Rupees One Thousand only) each, in default, to suffer further rigorous imprisonment for 30 days.

[22] Accused No.37 is convicted of the offence u/s.302 r/w. Sec.120-B of I.P.C. and is sentenced to suffer rigorous imprisonment to serve a minimum sentence of 18 (eighteen) years in jail without remissions before consideration of her case for premature release and shall also pay a fine of Rs.5000/- (Rupees Five Thousand only), in default, to suffer further rigorous imprisonment for 40 days.

[23] Accused No.1, 2, 10, 22, 25, 41 and 44 are convicted of the offence u/s.302 r/w. Sec.149 of I.P.C. and are sentenced to suffer rigorous imprisonment to serve a minimum sentence of 21 (twenty one) years in jail without remissions before consideration of their case for premature release and shall also pay a fine of Rs.5000/- (Rupees Five Thousand only), in default, to suffer further rigorous imprisonment for 40 days.

[24] Accused No.18 is convicted of the offence u/s.302 r/w. Sec.149 of I.P.C. and is sentenced to suffer rigorous imprisonment for remaining period of his natural life subject to remission or commutation at the instance of the Government and shall also pay a fine of Rs.500/- (Rupees Five Hundred only), in default, to suffer further rigorous imprisonment for 15 days in case, if his case is considered for commutation or remission.

[25] Accused No.4, 5, 20, 21, 27, 28, 30, 33, 34, 38, 39, 40, 42,

45, 46, 47, 52, 53, 55, 58, 60 and 62 (in all 22 accused) are convicted of the offence u/s.302 r/w. Sec.149 of the Indian Penal Code wherein, each of them is sentenced to the life imprisonment (to be meant in usual terms) and shall also pay a fine of Rs.3000/- (Rupees Three Thousand only) in default, to suffer further rigorous imprisonment for 20 days.

[25] As has been discussed and held while discussing Point for Determination No.XI at Part-7 of the Judgement since PW-205 named Zarinabanu Naimuddin Shaikh was subjected to the crime known as worst form of human right violation of the woman viz. the commission of offence of sexual violence in the light of international concern for growing menace of sexual violence against the women and since she was a victim of the offence of gang rape which gives a serious blow to her supreme owner, her self-esteem and her dignity as woman, this Court gives direction to appropriately consider the case of compensation of the PW-205 who is hereby ordered to pay compensation of Rs.5,00,000/- for the gang rape committed on her. The commission for women in Gujarat State, the Principal Secretary of the Department of Social Welfare, Sachivalaya Gandhinagar, Gujarat State and the Board formulated for the compensation of the rape victim in the State of Gujarat shall see to it that the compensation as awarded of Rs.5,00,000/- from the Gujarat State exchequer shall be paid to PW-205 at the earliest upon due verification and proper procedure to be adopted for her identity.

[26] All the substantive sentences, except the sentences for imprisonment for life, the applicable meaning of which has been given by this Court in this order with reference to each of

the accused, shall run concurrently.

[27] The sentences of imprisonment for life and the applicable meaning of which has been given by this Court in this order with reference to each of the accused, shall run after the expiration of the concurrent sentences for imprisonment for the mentioned terms.

[28] As the case against the original accused No.26 has been kept pending, since he is on run and N.B.W. issued against him by the Court could not be served, the Sessions case No.236/09 in which this accused has been arraigned as an accused, is ordered to be kept pending in the original final of this Court till the N.B.W. issued against A-26 stands executed. This order is qua A-26 only. The matter qua A-26 has now been kept on 03/09/2012 for the execution of the N.B.W. and / or for production of action taken report by the investigating agency.

All the mentioned 7 cases for all the mentioned accused and the Sessions Case No.236/2009 for all the accused except for A-26, hereby stand disposed of in light of the further final order passed herein above.

[29] All the accused shall be entitled for set off in accordance with law.

[30] As far as A-52 is concerned, he shall be entitled for set off in accordance with law for all the substantive sentences for the mentioned terms.

[31] A-52 shall be protected against the imposition of life

sentence second time on him while the first sentence is in operation, hence, he shall be entitled to his statutory right u/s.427(2) of the Cr.P.C.

[32] All the muddamaal collected by the investigating agency as case property of these cases, shall not be disposed of at this stage since, at least three of the accused are absconding.

[33] This being a common order for eight Sessions Cases, a copy of this judgment shall be kept on record of each case mentioned in the title.

[34] Certified copy of the judgment shall be provided by the Registry to each of the convicted accused of this case, free of cost, at the earliest but, in any case within ten days from today i.e. on or before 10/09/2012 under their written receipt. On account of paucity of time and on account of the judgment being of about 2000 pages, this Court is of the opinion that supplying the soft copy today or latest by tomorrow evening before the completion of office hours, to each of the accused would serve the purpose of compliance of the statutory provision of supplying the copy of the judgment to each of the convict. In case of supply of the soft copy of the judgment, except during the working hours of the day, the registry shall supply the same at Central Jail, Sabarmati under written receipt to all of them.

[35] In view of the fact that about 3 accused are absconding as named in EXH.65 - Charge, the Registry is also hereby directed to keep one set of certified copies of the entire R & P except the prosecution applications and the adjournment applications.

use the same while the trial of the absconding accused would begin.

[36] Before parting, this Court records its appreciation to all the members of legal fraternity concerned and connected with the matter for the prosecution as well as for the defence and the Chairman and members of the SIT for their able assistance to the Court in smooth administration of justice.

[37] All those convicted accused who have been imposed sentence today, have been explained in Gujarati about the entire order stated herein above which was read over in the open Court in English.

Dictated and pronounced in the open Court today on this 31st day of August, 2012.

(Dr. Smt. Jyotsna Yagnik)
Special Judge,
Court for conducting Speedy
Trial of Riot Cases, situated at
SIT Courts, Old High Court
Building, Navrangpura,
Ahmedabad.