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SYNOPSIS

The present petition has been filed by the petitioner seeking the transfer of an investigation arising out of I CR NO. 149/2011 registered with Ghatlodia Police Station against him, to an independent Investigating Agency like the Central Bureau of Investigation (CBI) or to any other Investigating Agency as deemed fit, outside the control of Shri. Narendra Modi, the Chief Minister of Gujarat; since the said FIR has been lodged with a view to falsely implicate, pressurize and intimidate the petitioner and other witnesses of 2002 Gujarat Riots at the behest of the Chief Minister of the State. In a Writ Petition(Crl) no 93 of 2001 filed by an IAS Officer with a same prayer for the transfer of the investigation outside the State of Gujarat, this Hon'ble Court was pleased to issue notice by an order dated 12.05.2011.

The petitioner is a post graduate from IIT, Bombay and is an IPS officer of 1988 batch, Gujarat Cadre. At the time the Gujarat Riots of 2002, the petitioner was working as Deputy Commissioner in-charge of Internal Security with the State Intelligence Bureau. The petitioner, by virtue of the position held by him at the relevant time, was privy to an enormous amount of intelligence as well as information pertaining to the dynamics behind the Gujarat Riots of 2002. The SIT appointed by this Honorable Court recorded the statement of the petitioner as a witness, wherein he disclosed several facts which directly implicate Shri Narendra Modi, the Chief Minister of Gujarat and other high functionaries of the State. The said facts have also been disclosed by the petitioner before the Commission of

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Inquiry as well as the learned Amicus Curiae appointed by this Honorable Court in SLP(CRL)1088 of 2008.

The petitioner states that he had disclosed before the SIT that he attended the meeting of 27th February, 2002 at the residence of the Chief Minister. The said meeting was the precursor to the Gujarat Carnage of 2002, as the instructions issued by the Chief Minister at the end of the said meeting had very far reaching implications on the law and order in the following weeks and had resulted not only in complete Police inaction but, in some instances, even complicity of the Police in the subsequent Carnage at various locations across Gujarat. The petitioner was accompanied by two of his subordinates, namely Assistant Intelligence Officer Shri K D Panth and Police Driver Shri Tara Chand Yadav, to the said meeting. Shri K D Panth and Shri Tara Chand Yadav affirmed their individual affidavits on 17.06.2011 with the intent of giving them to the learned Amicus Curiae, who under the directions of this Honorable Court, was scheduled to visit the State of Gujarat on 18.06.2011, for the purpose of interacting with various witnesses examined by the SIT inquiring into the Gujarat Riots of 2002.

The petitioner met the learned Amicus Curiae on 18.06.2011 and apprised him of certain relevant facts in regard to the Gujarat Riots of 2002, which were within his knowledge. Witness Shri Tara Chand Yadav also met the learned Amicus Curiae and handed over an affidavit to him. Shri K D Panth did not meet the learned Amicus Curiae as scheduled, and

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surprisingly, after five days, lodged an FIR against the petitioner under sections 189, 193, 195, 341, 342 of the IPC before the Ghatlodia Police Station as I CR NO. 149 of 2011, stating that he had been made to affirm an affidavit under the threat of the petitioner.

It is the case of the petitioner that the present FIR was lodged against him at the behest of the Chief Minister Shri. Narendra Modi with a view to unduly pressurize the petitioner and deter him from continuing to disclose incriminating details before various legally constituted entities; including the SIT appointed by this Honorable Court, the Learned Amicus Curiae appointed by this Honorable Court in SLP (CRL) 1088 of 2008, Commission of Inquiry, Trial Courts, etc. It is learnt by the petitioner that certain senior police officials of the State of Gujarat used threats and inducements to pressurize Shri K D Panth, drafted the said FIR and got it registered. The petitioner states that he is a witness of the SIT, investigating certain important cases of Gujarat Riots 2002. The statements of the petitioner have directly implicated Shri Narendra Modi in very serious acts of commission and omission related to the Gujarat Riots of 2002 and the subsequent state sponsored cover-up operations. It is submitted that, given the current situation and coercive atmosphere in Gujarat, no agency which is under direct or indirect control of Shri Narendra Modi would be in a position to make an independent or impartial investigation. It is submitted that an impartial and thorough investigation by an independent agency in the present FIR would bring out the facts

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pertaining to the modus operandi of the machinations resorted to by the State Government to frustrate the due process of law. An impartial and thorough investigation by an independent agency can expose as to how the administrative machinery including the Politicians, Senior Police Officers, Bureaucrats, Law Officers etc and influential persons outside the Government are used at the instance of the Chief Ministers to influence crucial witnesses, create false evidence, make false affidavits, destroy incriminating evidence, lodge false FIRs etc. with a view to subvert the process of law and obstruct the delivery of justice. The said acts are done to create a coercive atmosphere bordering on terror, so that no person would dare to speak the truth and give any evidence before any Authority or Court. It is therefore prayed that the investigation of Ghatlodia Police Station I C.R.No. 149/2011 be transferred to any other Independent agency like the CBI, outside the influence and control of Shri Narendra Modi.

LIST OF DATES

08.06.2006 The widow of slain Member of Parliament Smt. Jakia Nasim Ahasan Jafri gave a complaint to various authorities in the state of Gujarat with a request to register it as an FIR. Shri Narendra Modi, the Chief Minister of Gujarat was named as accused No.1 in the said criminal complaint.

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- 02.11.2007 The High Court of Gujarat rejected the writ petition registered as Special Criminal Application No. 421 of 2007 filed by Smt. Jakia Nasim Ahesan Jafri with a prayer for a direction to register the said complaint as an FIR.
- 26.03.2008 This Honorable Court in a Writ Petition (Criminal) 109 of 2003 passed an order constituting a Special Investigation Team (in short 'SIT') to investigate certain cases pertaining to the Gujarat Riots of 2002.
- 27.04.2009 This Honorable Court in the SLP (Crl) No. 1088 of 2008 challenging the judgment and order dated 02/11/2007 passed in Special Criminal Application No. 421 of 2007 was pleased to pass an order directing the SIT to look in to the allegations made in the complaint of Smt. Jakia Nasim Ahesan Jafri.
- Nov. 2009 The petitioner was informed telephonically by the SIT to remain present at the SIT office, Gandhinagar. Despite having maintained complete confidentiality regarding the said telephonic summons, prior to the scheduled interaction with the SIT, the petitioner was approached by Shri. Amit Shah, the then Minister of State for Home in the Government of Gujarat and was sought to be briefed at the

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requested to restrain the agencies and offices under the control of the Home Department from taking steps or measures that would jeopardize the safety and security of the petitioner and his family members.

05.03.2011: The petitioner wrote a letter to ACS (Home), apprising him about the measures taken by the agencies and offices under the control of the Home Department to jeopardize the security of the petitioner and his family members. The ACS (Home) was once again requested to provide adequate and full proof security cover to him and his family members and restrain the agencies and offices under the control of the Home Department from taking steps or measures that would jeopardize the safety and security of the petitioner and his family members.

15.03.2011: Pursuant to the directions issued by this Honorable Court on 15.03.2011 while hearing the SLP(Criminal) 1088 of 2008, the SIT, on the very same day, issued a summons under section 160 of the CRPC to the petitioner, in connection with I CR NO. 67/2002, Meghaninagar Police Station. The petitioner

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was directed to remain present before the SIT on 21.03.2011 for recording of his statement.

18.03.2011: The petitioner wrote a letter to Shri. R. K. Raghavan, Chairman of SIT, stating that the SIT had leaked the contents of his deposition and the details of his interaction with the members of SIT, to the highest echelons of the government of Gujarat. The petitioner also apprised Shri. Raghavan about certain other occurrences which were highly indicative of real-time leakage of information from within the SIT. It was further requested that all officers as well as support staff working under the control of Government of Gujarat be completely disassociated from the task of recording, processing or safe keeping of the petitioner's forthcoming deposition.

21.03.2011: The SIT started recording the statement of the petitioner under section 161 of the Cr.P.C. The statement of the petitioner continued to be recorded on 22.03.2011, 22.03.2001 and 25.03.2011. Amongst other things, the petitioner drew attention of the members of the SIT to the documentary evidence including e-mail records in his possession indicating illegal complicity between high functionaries of

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the State of Gujarat including the Chief Minister, the Ex-Minister of State for Home, the Additional Advocate General of Gujarat and other extraneous political entities, in the ongoing cover-up operation aimed at shielding highly placed persons from prosecution for alleged heinous crimes.

22.03.2011 The petitioner wrote a letter to Shri. R. K. Raghvan, reiterating his earlier request for access to the relevant contemporaneous records, reports and communications of the State Intelligence Bureau which could help in ascertaining the existence of any larger conspiracy or official orchestration behind the Gujarat Riots of 2002.

25.03.2011 The SIT continued recording the statement of petitioner. The SIT expressed inability to encompass the details indicative of a larger conspiracy or official orchestration behind the Gujarat Riots of 2002 as they were recording statement of the petitioner in the investigation of Meghaninagar Police Station I C.R. No. 67/2002 and were restricted by the scope of the FIR under investigation. The petitioner had taken Shri. K.D.Panth along with him to the office of the SIT for the purpose of introducing

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him to SIT as a witness who could corroborate the fact of the petitioner having attended the fateful meeting at the Residence of the Chief Minister on the late night of 27.02.2002. The SIT expressed strong reluctance to examine Shri. Panth and was even averse to take on record the names of certain other witnesses including Shri. Tarachand Yadav, who were in a position to directly corroborate the fact of the petitioner having attended the fateful meeting at the Residence of the Chief Minister on the late night of 27.02.2002.

05.04.2011: The complainant herein, Shri K. D. Panth, was examined as a witness by the SIT and his statement was recorded after being subjected to brazen intimidation and coercion.

06.04.2011 Shri. K.D.Panth met the petitioner and informed him about the treatment meted out to him by the SIT on the previous day while recording his statement. The petitioner wrote a letter to Shri. R. K. Raghvan, informing him about the intimidation of Shri. K.D. Panth and other important witnesses by the SIT and reiterated his request for personal audience. Shri. Raghavan was informed about the reluctance of the SIT to record certain

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Inconvenient details pertaining to the existence of a larger conspiracy and official orchestration behind the Gujarat Riots of 2002. The petitioner expressed his serious apprehensions about the role and intention of certain members of the SIT in the ongoing investigation. The attention of Shri. Raghavan was drawn to the fact that the petitioner had been informed by the witness Shri. K. D. Panth, that when he appeared before the SIT on 05.04.2011, he was treated like an accused by the members of the SIT and was also threatened with arrest and other dire consequences, including an inquiry and action against him by the Anti-Corruption Bureau of Gujarat. Shri. Raghavan was informed that the SIT was indulging in intimidation and coercion of already reluctant witnesses and was thereby giving the impression of having become a party to the ongoing cover-up operation in Gujarat. It was requested to ensure that witnesses arising out of the testimony of the petitioner were duly protected and shielded from all kinds of coercion.

April 2011

Shri. Tarachand Yadav was summoned twice by the SIT in the second week of April 2011 for

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the purpose of recording his statement as a witness. On both these occasions he was treated like an accused person and was threatened with dire consequences by the members of the SIT. Shri. Tarachand Yadav brought these facts to the notice of the petitioner.

13.04.2011

The petitioner wrote a letter to the ACS (Home), regarding the withdrawal of the existing security cover and reiterated his request for providing adequate and fool-proof security cover and once again requested him to restrain the agencies and offices under the control of the Home Department from taking steps or measures that would jeopardize the safety and security of the petitioner and his family members. It was once again pointed out that the State of Gujarat was not only abdicating its bounden duty of providing protection to the petitioner and his family but was also conniving in the measures being taken to jeopardize the safety and security of the petitioner and his family members.

14.04.2011

The petitioner sent an affidavit to this Honorable Court in SLP Criminal No. 1088 of 2008 disclosing *inter alla*, certain disquieting

aspects and inadequacies in the manner and approach of the SIT including details regarding intimidation of Shri. K. D. Panth and the reluctance on the part of the SIT to record certain inconvenient details which would help in establishing the existence of a larger conspiracy and official orchestration behind the Gujarat Riots of 2002. The said affidavit also brought out the details of a meeting convened by the Chief Minister Shri. Narendra Modi on 27.02.2002, where he expressed the view that emotions were running very high amongst the Hindus and it was imperative that they be allowed to vent out their anger; and that the situation warranted that the Muslims be taught a lesson to ensure that such incidents do not recur ever again.

15.04.2011

The petitioner wrote a letter to Shri Raghvan drawing his attention to the repeated actions of the Government of Gujarat aimed at withdrawing and jeopardizing the security cover of the petitioner and his family members. Shri. Raghavan was requested for immediate provision of adequate and fool proof security cover to the petitioner and his family members, giving reference of the order dated 01.05.2009 passed by this Honorable Court In

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Writ Petition (Criminal) No. 109 Of 2003 wherein it directed the SIT to provide security to the witnesses of the 2002 Gujarat Riots cases.

27.04.2011: The petitioner was issued summons by Justice Nanavati and Mehta Commission of Inquiry directing him to appear before the Commission on 16.05.2011.

05.05.2011 This Honorable Court by an order dated 05.05.2011, directed the learned Amicus Curiae to examine the report of SIT and have independent assessment of the statements of the witness recorded by the SIT. It also directed that it would be open to the learned Amicus Curiae to interact with any of the witnesses who have been examined by the SIT.

09.05.2011: The petitioner wrote a letter to ACS (Home) regarding the reluctance and failure of the Government of Gujarat to provide adequate and fool-proof security cover to the petitioner and once again requested him to immediately restrain the agencies and offices under the control of the Home Department, Government of Gujarat from taking steps or measures that

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would jeopardize the safety and security of the petitioner and his family members.

12.05.2011

This Honorable Court issued notice in Writ Petition (Criminal) 93 of 2011 filed by an IAS officer of Gujarat, praying for transfer of investigations outside the State of Gujarat.

16.05.2011

The petitioner was examined by the Honorable Justice Nanavati and Justice Mehta Commission, wherein the petitioner inter alia, brought on record very important details regarding the role of the Chief Minister Shri. Narendra Modi and other high functionaries of the Government of Gujarat in Gujarat Riots of 2002.

20.05.2011

Advocate Shri Chetan K. Shah, Ex-District Government Pleader of Ahmedabad and Special Public Prosecutor in many important cases throughout the State of Gujarat, filed a Criminal Complaint before the Commissioner of Police Ahmedabad City against the Petitioner and others u/ss 153 and 153B of the IPC. It is alleged in the said complaint that by deposing before the Commission of Inquiry, the petitioner has committed the abovementioned offences.

23.05.2011 The Petitioner filed an Application below Exhibit 6132 before the Commission of Inquiry inter-
alia praying to initiate appropriate action against Shri Chetan Shah for interfering with the functioning of the Commission and for filing a Criminal Complaint against the petitioner in contravention of the provisions of Section 6 of the Commission of Inquiry Act 1952.

The Commission passed an order below the said Application inter-alia observing that the said act of filing a Criminal Complaint by Shri Chetan Shah may amount to interference with the course of the proceedings before the Commission.

The petitioner was continued to be cross-examined before the Honorable Justice Nanavati and Justice Mehta Commission. The petitioner revealed further details regarding the role of Shri Narendra Modi, Shri Amit Shah and other high functionaries of the Government of Gujarat in Gujarat Riots of 2002 and the subsequent ongoing cover-up operations.

27.05.2011 The learned Amicus Curiae wrote a letter to the petitioner asking him to remain available at Ahmedabad/Gandhinagar on 18.06.2011 and 19.06.2011.

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02.06.2011.

The petitioner wrote a letter to the Additional Chief Secretary (Home), drawing his attention to the continual disregard of his genuine requests for provision of security and the repeated actions by the offices and agencies working under the Home Department, aimed at jeopardizing the safety and security of the petitioner and his family members despite the assurance given by the State of Gujarat to the Honorable Supreme Court of India on 05.05.2011 during the hearing of SLP (Criminal) No. 1088 of 2008. The ACS (Home) was once again requested to provide adequate and fool proof security to the petitioner and his family members.

16.06.2011

As decided earlier, in the afternoon of 16.06.2011, the petitioner spoke with the learned Amicus Curiae to inquire about the final details regarding the venue and time of the forthcoming interaction. The petitioner in turn, informed witnesses Shri. K.D.Panth and Tarachand Yadav about the forthcoming visit of the learned Amicus Curiae to Ahmedabad-Gandhinagar on 18.06.2011, as well as the exact details of the venue and time for the scheduled interaction.

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The Advocate for the victims in Sessions Case no. 152 of 2002 wrote a letter to the SIT requesting them to cite the petitioner as a witness and examine him in the ongoing trial of Sessions Case No 152/2002 arising out of Meghaninagar Police Station C.R. No. 67/2002.

17.06.2011

The petitioner suggested to the witnesses Shri K. D. Panth and Shri. Tarachand Yadav, who had been earlier examined by the SIT, that they may prepare affidavits to be given to the learned Amicus Curiae on 18.06.2011. Both the witnesses individually agreed to the suggestion and requested the petitioner to arrange for a trustworthy Advocate who could help them in preparing and affirming the proposed affidavits in strict confidence. Accordingly, the petitioner arranged for an Advocate who could assist both the above named witnesses in preparing and affirming the affidavit. Consequently both the witnesses got their respective affidavits prepared and affirmed on 17.06.2011 and gave copies of the same to the petitioner.

18.06.2011

The petitioner met the learned Amicus Curiae and interacted with him. Shri Tara Chand Yadav also met the learned Amicus Curiae and

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handed over his affidavit in person to the learned Amicus Curiae. As Shri. K. D. Panth did not turn up for the interaction with the learned Amicus Curiae, a copy of his affidavit dated 17.06.2011 was handed over to the learned Amicus Curiae.

21.06.2011

The advocate for the victims in Sessions Case No. 152 of 2002 gave an application to the Special Court seeking permission to file an application under section 311 of the Cr.P.C. to examine the petitioner as a witness in the case arising out of Meghaninagar Police Station I C.R.No. 67 of 2002.

22.06.2011

At the behest of the Chief Minister's Office, senior Police officials pressurized Shri. K. D. Panth and made him affirm another affidavit before the Executive Magistrate at Gandhinagar, negating the earlier affidavit filed by him before a Notary Public on 17.06.2011. A written complaint was prepared under the guidance and instructions of senior Police Officials of the State Intelligence Bureau, as well as other senior Police officials posted at the State Police Head Quarters situated at Police Bhavan, Gandhinagar. Thereafter, Shri K. D. Panth was brought to Ahmedabad at 23:30 hrs. on 22.06.2011 and made to lodge

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an FIR under sections 189, 193, 195, 341, 342 of the IPC before the Ghatlodia Police Station as I CR NO. 149 of 2011.

29.06.2011

The petitioner appeared before the Honorable Justice Nanavati and Justice Mehta Commission in connection with his ongoing cross-examination. During the course of the proceedings it was stated by the learned Senior Counsel Shri. S.B. Vakil appearing on behalf of the State of Gujarat that the relevant records of the State Intelligence Bureau pertaining to the period of Gujarat Riots 2002 had been destroyed by the Government of Gujarat in 2007. Shri. Vakil also tried to intimidate the petitioner by stating that the petitioner was "crossing the line" by disclosing the details of the meeting held by the Chief Minister on 27.02.2002 and therefore should be prepared to face the consequences. A disclosure to the above effects was also made to the representatives of the Media by the learned Senior Counsel appearing on behalf of the State Government of Gujarat.

30.06.2011

An application was filed on behalf of the victims before the Sessions Court in the ongoing trial of Sessions Case no 152/2002 under section 311 of the Cr.P.C. with a prayer

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to examine Sanjiv Bhatt IPS, the petitioner herein, as a Witness. The same is pending.

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Hence, this petition in the aforesaid circumstances.

IN THE SUPREME COURT OF INDIA
WRIT JURISDICTION
Cr. Original Jurisdiction
WRIT PETITION (CrI) No. /2011

(A WRIT PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA)

IN THE MATTER OF-

Sanjiv Rajendra Bhatt, IPS,
Principal,
State Reserve Police Training Centre,
Resident of Bunglow No. 2,
Sushil Nagar Society Part-II,
Drive- in Road,
Ahmedabad Gujarat.

Petitioner

Versus

1. Union of India,
Through Law Secretary,
Shyamnath Marg,
New Delhi.
2. The State of Gujarat
Through its Secretary,
Department of Home,
Sachivalya, Gandhinagar,
Gujarat.
3. Central Bureau of Investigation,
CGO Complex, *Through Director*
New Delhi.
4. Shri K D Panth,
R/O CHH Type, Block No. 4/5,
Gandhinagar, Gujarat.
5. Shri R K Raghvan,
The Chairman, SIT,
O/o SIT, Old Sachivalaya,
Gandhinagar. Gujarat.

Respondents

In the matter of:

WRIT PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA

To,

The Hon'ble Chief Justice of India and
His Companion Justices of the Supreme
Court of India.

The humble petition of the
above named Petitioner.

MOST RESPECTFULLY SHOWETH:

1. That the present petition has been filed by the petitioner seeking the transfer of an investigation arising out of I CR NO. 149/2011 registered with Ghatlodia Police Station against him, to an independent Investigating Agency like the Central Bureau of Investigation (CBI) or to any other Investigation Agency as deemed fit, outside the control of Shri. Narendra Modi, the Chief Minister of Gujarat; since the said FIR has been lodged with a view to falsely implicate, pressurize and intimidate the petitioner and other witnesses at the behest of the Chief Minister of the State. The petitioner, in several of his depositions before the SIT as well as the ongoing deposition before the Commission of Inquiry, has revealed certain facts which have the potential of directly implicating Shri. Narendra Modi in the Gujarat Riots of 2002 as well as the subsequent ongoing cover-up operations and has also revealed the unholy nexus between the investigating agencies, prosecuting agencies and high office bearers of the Government of Gujarat for undermining certain judicial proceedings including Writ Petition (Civil) No. 221 of 2002 pending before this Honorable Court.

2. That the petitioner is a Post Graduate from the Indian Institute of Technology Bombay. After completing his post-graduation, he joined the Indian Police Service (IPS) in 1988 and was allotted to the Gujarat Cadre. Over the last 23 years, he has served in different capacities in various Districts, Police Commissionerates and other Police Units. He is currently posted as the Principal, State Reserve Police Training Centre, Junagadh. The petitioner was working as Deputy Commissioner of Intelligence in the State Intelligence Bureau from December 1999 to September, 2002. The petitioner used to look after all the matters pertaining to the Internal Security of the State; including matters pertaining to Border Security, Coastal Security, Security of Vital Installations, Counter-Intelligence and VVIP Security including the security of the Chief Minister. The petitioner was also designated as the Nodal Officer for sharing of intelligence with various Central Agencies and Armed Forces of the Union of India. The petitioner was working on the said post during the time 2002 Gujarat Riots took place. The petitioner while working in the aforesaid position had access to huge amounts of intelligence and information. The petitioner was present at the meeting convened by Shri. Narendra Modi on the night of 27.02.2002 and several other subsequent high-level meetings. The petitioner, in his depositions before the SIT, as well the ongoing deposition before the Commission of Inquiry, has revealed several

facts which have the potential of directly implicating Shri. Narendra Modi in the Gujarat Carnage of 2002. The present FIR is a counter blast of the aforesaid actions taken by the petitioner.

3. The brief facts giving rise to the present petition are as under:

3.1 That on 08.06.2006 the widow of slain Member of Parliament Smt. Jakia Nasim Ahesan Jafri gave a complaint to various authorities in the state of Gujarat with a request to register it as an FIR. Shri. Narendra Modi, the Chief Minister of Gujarat has been named as accused No. 1 in the said complaint. A copy of the complaint dated 08.06.2006 is annexed and marked as **Annexure P1** page no. 35-162.

3.2 That on 02.11.2007 the High Court of Gujarat rejected the writ petition registered as Special Criminal Application No. 421 of 2007 filed by Smt. Jakia Nasim Ahesan Jafri with a prayer for a direction to register the said complaint as an FIR.

3.3 That on 26.03.2008 this Honorable Court in a Writ Petition (Criminal) No. 109 of 2003 passed an order constituting a Special Investigating Team to investigate in to 2002 riot cases of

Gujarat. A copy of the order dated 26.03.2008 passed by this Hon'ble Court is annexed and marked as **Annexure P2** page no. 163-170.

3.4 That on 27.04.2009, this Honorable Court in the SLP (Criminal) 1088 of 2008, challenging the judgment / order dated 02.11.2007 passed in Special Criminal Application No. 421 of 2007, was pleased to pass an order directing the SIT to look in to the allegations made in the complaint. A copy of the order dated 27.04.2009 passed by this Hon'ble Court is annexed and marked as **Annexure P3** page no. 171-172

3.5 That Tushar Mehta, the Additional Advocate General of Gujarat happens to be a very close family friend of the petitioner for over the last two decades. That the families of the petitioner and that of Shri. Tushar Mehta have been regularly vacationing together since many years. In the month of September 2009 while planning one such family trip to Goa, at the request of Shri Tushar Mehta, the petitioner had accessed the e-mail account of Shri. Tushar Mehta (tusharmehta99@yahoo.co.in) for the purpose of confirming travel and

accommodation, related arrangements including the reservations at the Taj Aguada Hermitage, Goa. While going through the said e-mail account the petitioner came across two very unusual e-mails received from sit.godhracases@gmail.com the official e-mail identity of the SIT constituted by this Honorable Court. It was therefore apparent to the petitioner that someone from within the SIT was leaking very sensitive and confidential details pertaining to the ongoing investigations being conducted by the SIT. Copies of the above referred two emails dated 14.09.2009 are annexed and marked as **Annexure P4** page no. 173 - 174.

3.6

That in Nov. 2009, the petitioner was informed telephonically by the SIT to remain present at the SIT office, Gandhinagar. Despite having maintained complete confidentiality regarding the said telephonic summons, prior to the scheduled interaction with the SIT, the petitioner was approached by Shri. Amit Shah, the then Minister of State Home Department, and was sought to be briefed at the office of the Additional Advocate General of Gujarat,

Shri. Tushar Mehta. On appearing before the SIT, the petitioner informed Shri. A. K. Malhotra Member SIT about this episode as well as other definite instances where the petitioner had documentary evidence in his possession to establish that someone from within the SIT was leaking and sharing by way of e-mails, highly sensitive and confidential information relating to the ongoing investigations with the Additional Advocate General of Gujarat. The statements of the petitioner were recorded by the SIT on several occasions in 2009 and 2010. Members of the SIT were contemporaneously kept apprised about the other instances of real-time leakage of information pertaining to the petitioner's ongoing deposition, from within the SIT.

3.7

That the petitioner's family and the family of Tushar Mehta vacationed in the USA, Canada and Alaska in May-June 2010. The petitioner was again required to access the e-mail account of Tushar Mehta on several occasions during the period from February 2010 to June 2010 for the purpose of making and confirming travel related arrangements for the above referred vacation trip. While accessing the email account of Shri. Tushar Mehta, the

petitioner came across several e-mail exchanges that were clearly indicative of an unholy nexus and illegal complicity between high functionaries of the State of Gujarat including the Chief Minister Shri. Narendra Modi, the then Minister of State for Home Shri. Amit Shah, the Additional Advocate General of Gujarat Shri. Tushar Mehta and other extraneous political entities; in the ongoing cover-up operation aimed at shielding highly placed persons from prosecution for alleged heinous crimes. Copies of the other such emails are supplied by way of separate compilation.

3.8

That on 20.09.2010 the petitioner sought appointment and met the Additional Chief Secretary (Home) Shri. Balwant Singh IAS and briefed him about the leakage of his testimony before the SIT to the highest echelons of the Government of Gujarat. The said fact was confirmed by the ACS (Home) during the meeting. It was suggested by Shri. Balwant Singh that the petitioner should meet the Chief Minister Shri. Narendra Modi to "clear the air" in this regard.

3.9 That on the night intervening 03.11.2010 and 04.11.2010 the house of the petitioner's mother was broken into by some miscreants. The house was thoroughly ransacked and searched for documents. Several documents were burnt and destroyed. However one Steel Almirah could not be opened by the miscreants. The FIR in this regard was registered as Navrangpura Police Station I CR NO. 449/2010. A copy of the said FIR dated 04.11.2010 is annexed herewith and marked as **Annexure P5** page no. 175-182.

3.10 That on the night Intervening 08.011.2010 and 09.11.2010 the house of the petitioner's mother was once again broken into. The Steel Almirah which could not be broken open on the earlier occasion was successfully broken and the house was once again thoroughly searched for documents. The FIR in this regard was registered as Navrangpura Police Station I CR NO. 456/2010. A copy of the said FIR is annexed herewith and marked as **Annexure P6** to this petition, Page No. 183-189

3.11 That Tehelka Magazine published a Cover Story under the heading "THE TRUTH ABOUT GODHRA SIT REPORT" at pages 28 to 41 of Tehelka Magazine Volume 8 Issue 06 and

thereafter published another article under the heading "GUJARAT 2002 EXPLOSIVE TESTIMONY" at pages 30 to 37 of Tehelka Magazine Volume 8 Issue 07.

3.12

That on 14.02.2011, the petitioner wrote a letter to the Additional Chief Secretary (Home), stating that his testimony before the SIT had been leaked to the higher echelons of the Government of Gujarat some time prior to September 2010. It was also pointed out that portions of his testimony and some details regarding his interaction with the members of the SIT had been selectively leaked to the media as well. It was pointed out that these disclosures would anger not only the members of the ruling BJP in Gujarat and other Organizations of the Sangh Parivar but also some Fanatical Right-Wing Organizations and elements across the country. In view of these developments, the petitioner requested for provision of adequate security cover to him and his family members. A copy of the said letter dated 14.02.2011 is annexed and marked as **Annexure P7** to this Petition. *Page 190.*

3.13

That on 05.03.2011, the petitioner wrote a letter to ACS (Home), apprising him about the

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measures taken by the agencies and offices under the control of the Home Department to jeopardize the security of the petitioner and his family members. The ACS (Home) was once again requested to provide adequate and full proof security cover to him and his family members and restrain the agencies and offices under the control of the Home Department from taking steps or measures that would jeopardize the safety and security of the petitioner and his family members. It was also pointed out in the said letter that agencies working under the Home Department of Gujarat had taken measures that caused irreparable jeopardy to the safety and security of the petitioner and his family. It was further pointed out that allowing the continuance of these acts, not only amounted to willful abdication of an obligatory duty cast upon the State but would also tantamount to a blatant attempt by the agencies of the State of Gujarat to obstruct the judicial process that had been set in motion by way of SLP No. 1088 of 2008. A copy of the said letter dated 05.03.2011 is annexed and marked as **Annexure P8** to this Petition, Page No 191-192.

of Gujarat. Shri. Raghavan was also informed about the attempt by a very high level Government functionary to brief the petitioner prior to his earlier interaction with SIT, as also certain other occurrences which were highly indicative of real-time leakage of information from within the SIT. It was further requested that all officers as well as support staff working under the control of Government of Gujarat be completely disassociated from the task of recording, processing or safe keeping of the forthcoming deposition of the petitioner. A copy of the letter dated 18.03.2011 is annexed and marked as **Annexure P11** to this Petition.
Page No. 199-201.

3.17 That on 21.03.2011, the SIT started recording the statement of the petitioner under section 161 of the Code of Criminal Procedure. The statement of the petitioner continued to be recorded on 22.03.2011, 22.03.2001 and 25.03.2011.

3.18 That on 22.03.2011, the petitioner wrote a letter to Shri. R. K. Raghvan, Inter alia requesting that he may be allowed to access the relevant contemporaneous records, reports and communications of the State Intelligence Bureau, which can help in establishing the

existence of a larger conspiracy or official orchestration behind the Gujarat Riots of 2002. A copy of the said letter dated 22.03.2011 is annexed and marked as **Annexure P12** to this Petition, *Page No. 202*

3.19

That on 25.03.2011 while recording the statement of petitioner, the SIT expressed inability to encompass the details indicative of a larger conspiracy or official orchestration behind the Gujarat Riots of 2002 as they were recording his statement in the investigation of Meghaninagar Police Station I C.R. No. 67/2002 and were restricted by the scope of the FIR under investigation. The petitioner had taken Shri. K.D.Panth along with him to the office of the SIT for the purpose of introducing him to SIT as a witness who could corroborate the fact of the petitioner having attended the fateful meeting at the Residence of the Chief Minister on the late night of 27.02.2002. The SIT expressed strong reluctance to examine Shri. Panth and was even averse to take on record the names of certain other witnesses including Shri. Tarachand Yadav, who were in a position to directly corroborate the fact of the petitioner having attended the fateful meeting

at the Residence of the Chief Minister on the late night of 27.02.2002.

3.20

That on 05.04.2011, the complainant herein Shri. K. D. Panth was examined as a witness by the SIT and his statement was recorded after being subjected to brazen intimidation and coercion.

3.21

That on 06.04.2011, Shri. K.D.Panth met the petitioner and informed him about the treatment meted out to him by the SIT on the previous day while recording his statement. The petitioner wrote a letter to Shri. R. K. Raghvan, informing him about the intimidation of Shri. K.D. Panth and other important witnesses by the SIT and reiterated his request for personal audience. Shri. Raghavan was also informed about the reluctance of the SIT to record certain inconvenient details pertaining to the existence of a larger conspiracy and official orchestration behind the Gujarat Riots of 2002. The petitioner expressed his serious apprehensions about the role and intention of certain members of the SIT in the ongoing investigation. The attention of Shri. Raghavan was drawn to the fact that the petitioner had been informed by the witness Shri. K. D.

Panth, that when he appeared before the SIT on 05.04.2011, he was treated like an accused by the members of the SIT and was also threatened with arrest and other dire consequences, including an inquiry and action against him by the Anti-Corruption Bureau of Gujarat. Shri. Raghavan was informed that the SIT was indulging in intimidation and coercion of already reluctant witnesses and was thereby giving the impression of having become a party to the ongoing cover-up operation in Gujarat. It was requested to ensure that witnesses arising out of the testimony of the petitioner were duly protected and shielded from all kinds of coercion. A copy of the said letter dated 06.04.2011 is annexed and marked as **Annexure P13** to this Petition, *Page No 203-204*.

3.22

That on 13.04.2011, the petitioner wrote a letter to the ACS (Home), regarding the withdrawal of the existing security cover and reiterated his request for providing adequate and fool-proof security cover and once again requested him to restrain the agencies and offices under the control of the Home Department from taking steps or measures that would jeopardize the safety and security of the petitioner and his family members. It

was once again pointed out that the State was not only willfully abdicating its bounden duty of providing protection to the petitioner and his family; but was also conniving in the measures being taken to jeopardize the safety and security of the petitioner and his family members. A copy of the said letter dated 13.04.2011 is annexed and marked as **Annexure P14** to this Petition, *Page No 205-207*

3.23

That on 14.04.2011, the petitioner sent an affidavit to this Honorable Court in SLP Criminal No. 1088 of 2008 disclosing *inter alia*, certain disquieting aspects and inadequacies in the manner and approach of the SIT including details regarding intimidation of Shri. K. D. Panth and the reluctance on the part of the SIT to record certain inconvenient details which would help in establishing the existence of a larger conspiracy and official orchestration behind the Gujarat Riots of 2002. The said affidavit also brought out the details of a meeting convened by the Chief Minister Shri. Narendra Modi on 27.02.2002, where he expressed the view that emotions were running very high amongst the Hindus and it was imperative that they be allowed to vent out their anger; and that the situation

warranted that the Muslims be taught a lesson to ensure that such incidents do not recur ever again. A copy of the said affidavit dated 14.04.2011 is annexed and marked as **Annexure P15** to this Petition, *Page No 208-227.*

3.24

That on 15.04.2011, the petitioner wrote a letter to Shri. Raghvan drawing his attention to the repeated actions of the Government of Gujarat aimed at withdrawing and jeopardizing the security cover of the petitioner and his family members. Shri. Raghavan was requested for immediate provision of adequate and fool-proof security cover to the petitioner and his family members, giving reference to the order dated 01.05.2009 passed by this Honorable Court in Writ Petition (Criminal) No. 109 of 2003, wherein it directed the SIT to provide security to the witnesses of the cases of the Gujarat Riots of 2002. A copy of the said letter dated 15.04.2011 is annexed and marked as **Annexure P16** to this Petition, *Page No. 228-229.*

3.25

That on 27.04.2011, the petitioner was issued summons by Justice Nanavati and Mehta Commission of Inquiry directing him to appear before the Commission on 16.05.2011. A copy of the said summons dated 27.04.2011

is annexed and marked as **Annexure P17** to this Petition, *Page No. 230.*

3.26

That on 05.05.2011, this Honorable Court by an order dated 05.05.2011 directed the learned Amicus Curiae to examine the report of SIT and have independent assessment of the statements of the witness recorded by the SIT. It also directed that it would be open to the learned Amicus to interact with any of the witnesses who have been examined by the SIT. A copy of the said order dated 05.05.2011 passed by this Honorable Court is annexed and marked as **Annexure P18** to this Petition, *Page No. 231-232.*

3.27

That on 09.05.2011, the petitioner wrote a letter to ACS (Home) regarding the reluctance and failure of the Government of Gujarat to provide adequate and fool-proof security cover to the petitioner and once again requested the Government of Gujarat to immediately restrain the agencies and offices under the control of the Home Department, Government of Gujarat from taking steps or measures that would jeopardize the safety and security of the petitioner and his family members. A copy of the said letter dated 09.05.2011 is annexed and marked as **Annexure P19** to this Petition. *Page No. 233-234.*

- 3.28 That on 12.05.2011, this Honorable Court issued notice in Writ Petition (Criminal) 93 of 2011 filed by an IAS officer of Gujarat, praying for transfer of investigations outside the State of Gujarat. A copy of the said order is annexed herein and marked as **Annexure P20** to this petition, *Page No. 235-236.*
- 3.29 That on 16.05.2011, the petitioner was examined by the Justice Nanavati and Justice Mehta Commission wherein the petitioner inter alia, brought on record very important details regarding the role of the Chief Minister Shri Narendra Modi and other high functionaries of the Government of Gujarat in the Gujarat Riots of 2002. A copy of the statement as well as the cross-examination of the petitioner dated 16.05.2011 is annexed and marked as **Annexure P21** to this Petition, *Page No. 237-279.*
- 3.30 That on 20.05.2011, Advocate Shri Chetan K. Shah, Ex-District Government Pleader of Ahmedabad and Special Public Prosecutor in many important cases throughout the State of Gujarat, filed a Criminal Complaint before the Commissioner of Police Ahmedabad City against the Petitioner and others u/ss 153 and 153B of the IPC. It is alleged in the said

complaint that by deposing before the Commission of Inquiry, the petitioner has committed the abovementioned offences. A copy of the said Criminal Complaint dated 20.05.2011 is annexed herewith and marked as "**Annexure P-22**" to this Petition, *Page No. 280-285.*

3.31

That on 23.05.2011, the Petitioner filed an Application below Exhibit 6132 before the Commission of Inquiry inter-alia praying to initiate appropriate action against Shri Chetan Shah for interfering with the functioning of the Commission and for filing a Criminal Complaint against the petitioner in contravention of the provisions of Section 6 of the Commission of Inquiry Act 1952. A copy of the said Application dated 23.05.2011 is annexed herewith and marked as "**Annexure P-23**" to this Petition, *Page No. 286-287.*

The Commission passed an order below the said Application inter-alia observing that the said act of filing a Criminal Complaint by Shri Chetan Shah may amount to interference with the course of the proceedings before the Commission. A copy of the Order dated 23.05.2011 is annexed and marked as "**Annexure P-24**" to this Petition, *Page No. 288.*

The petitioner was cross-examined before the Justice Nanavati and Justice Mehta Commission. The petitioner revealed further details regarding the role of Shri Narendra Modi, Shri Amit Shah and other high functionaries of the Government of Gujarat in Gujarat riots of 2002 and the subsequent on going cover-up operations. A copy of the said cross-examination dated 23.05.2011 is annexed and marked as **Annexure P25** to this Petition, Page No. 289-313.

3.32

That on 27.05.2011, the learned Amicus Curiae wrote a letter to the petitioner asking him to remain available at Ahmedabad/Gandhinagar on 18.06.2011 and 19.06.2011. A copy of the said letter dated 27.05.2011 is annexed and marked as **Annexure P26** to this Petition, Page No. 314.

3.33

That on 02.06.2011, the petitioner wrote a letter to the Additional Chief Secretary (Home), drawing his attention to the continual disregard of his genuine requests for provision of security and the repeated actions by the offices and agencies working under the Home Department, aimed at jeopardizing the safety and security of the petitioner and his family members, despite the assurance given by the

State of Gujarat to the Honorable Supreme Court of India on 05.05.2011 during the hearing of SLP (Criminal) No. 1088 of 2008. The ACS (Home) was once again requested to abide by the assurance given by the State of Gujarat to this Honorable Court on 05.05.2011 during the hearing of SLP (Criminal) 1088 of 2008 and to take all necessary measures for urgently providing adequate and fool proof security to the petitioner and his family members. A copy of the said letter dated 02.06.2011 is annexed and marked as **Annexure P27** to this Petition, Page No. 315-316.

3.34 That on 16.06.2011, the Advocate for the victims in Sessions Case no. 152 of 2002 wrote a letter to the SIT requesting them to cite the petitioner as a witness and examine him in the ongoing trial.

3.35 That on the afternoon of 16.06.2011, as decided earlier, the petitioner spoke with the learned Amicus Curiae to inquire about the final details regarding the venue and time of the forthcoming interaction. The petitioner in turn, informed witnesses Shri. K.D.Panth and Tarachand Yadav about the forthcoming visit of of the learned Amicus Curiae to Ahmedabad-

Gandhinagar on 18.06.2011; as well as the exact details regarding the venue and time for the scheduled interaction with the learned Amicus Curiae.

3.36

That on 17.06.2011, the petitioner suggested to the witnesses Shri. Tarachand Yadav and Shri K. D. Panth, who had been earlier examined by the SIT, that they may prepare affidavits to be given to the learned Amicus Curiae on 18.06.2011. Both the witnesses individually agreed to the suggestion and requested the petitioner to arrange for a trustworthy Advocate who could help them in preparing and affirming the proposed affidavits in strict confidence. Accordingly, the petitioner arranged for an Advocate who could assist both the above named witnesses in preparing and affirming the affidavit. Consequently both the witnesses got their respective affidavits prepared and affirmed on 17.06.2011 and gave copies of the same to the petitioner.

3.37

That on 18.06.2011, the petitioner met the learned Amicus Curiae at the appointed time and interacted with him. Shri Tarachand Yadav also met the learned Amicus Curiae and handed over his affidavit along with a covering

letter. A copy of the said affidavit dated 17.06.2011 along with the covering letter dated 17.06.2011 is annexed and marked as **Annexure P28** to this Petition, *Page No 317-320.*

3.38

That on 18.06.2011, witness Shri. K. D. Panth did not turn up before the Amicus Curiae. The petitioner apprised the learned Amicus Curiae about the affidavit affirmed by witness Shri. K. D. Panth on the previous day and handed over a Copy of the said affidavit to the learned Amicus Curiae. A copy of the said affidavit dated 17.06.2011 is annexed and marked as **Annexure P29** to this Petition, *Page No. 321-324.*

3.39

That on 21.06.2011, the advocate for the victims In Sessions Case No. 152 of 2002 gave an application to the Special Court seeking permission to file an application under section 311 of the Cr.P.C. to examine the petitioner as a witness in the case arising out of Meghaninagar Police Station I C.R.No. 67 of 2002.

3.40

That at on 22.06.2011, it was learnt by the petitioner that at the behest of the Chief Minister's Office, senior Police officials pressurized Shri. K. D. Panth and made him affirm another affidavit before the Executive

Magistrate at Gandhinagar, negating the earlier affidavit filed by him before a Notary Public on 17.06.2011. A written complaint was prepared under the guidance and instructions of senior Police Officials of the State Intelligence Bureau, as well as other senior Police officials posted at the State Police Head Quarters situated at Police Bhavan, Gandhinagar. Thereafter, Shri K. D. Panth was brought to Ahmedabad at 2330 hrs. on 22.06.2011 and made to lodge an FIR under sections 189, 183, 195, 341, 342 of the IPC before the Ghatlodia Police Station as I CR NO. 149 of 2011. A translated copy of the said FIR dated 22.06.2011 is annexed and marked as **Annexure P30** to this Petition, Page No. 325-329.

3.41

That on 29.06.2011, the petitioner appeared before the Honorable Justice Nanavati and Justice Mehta Commission in connection with his ongoing examination. During the course of the proceedings it was stated by the learned Senior Counsel Shri. S.B. Vakil appearing on behalf of the State of Gujarat that certain relevant records of the State Intelligence Bureau pertaining to the period of Gujarat Riots 2002 had been destroyed by the Government of Gujarat in 2007. The learned

Senior Counsel for the State of Gujarat also attempted intimidate the petitioner by stating that the petitioner was "Crossing the line" by disclosing the details of the meeting held by the Chief Minister on 27.02.2002 and should therefore be prepared to face the consequences. A disclosure to the above effects was also made to the representatives of the Media by the learned Senior Counsel appearing on behalf of the State Government of Gujarat. The petitioner begs to rely upon the editorial article title "*Burnt Paper-Why did the Gujarat Government destroy records of a period under investigation*" published in Indian Express dated 01.07.2011. A copy of the said Indian Express Editorial is annexed and marked as **Annexure P31** to this Petition, *Page No. 340-32.*

3.42

That on 30.06.2011, an application was filed on behalf of the victims before the Sessions Court in the ongoing trial of Sessions Case no 152/2002 under section 311 of the Cr.P.C with a prayer to examine Sanjiv Bhatt IPS, the petitioner herein, as a Witness. The same is pending. A copy of the said application dated 30.06.2011 is annexed herewith and marked as **Annexure P32** to this Petition, *Page No. 363*

4. That the petitioner most humbly submits that it is his bounden duty as an officer of the Indian Police Service to bring all relevant facts to the notice of the investigating agencies, lawful authorities and Courts. It was in pursuance of this duty, that on several occasions, the petitioner sought to draw the attention of the Chairman and Members of the SIT to the leakage of information via e-mail and otherwise, from within the formations of the SIT; as well as to the other evidence, including several e-mail exchanges, pointing to the existence of an unholy nexus between the investigators, prosecutors, high officials of the State and persons accused of heinous crimes. That on failing to receive an appropriate response from the SIT, the petitioner was constrained to bring these facts to the notice of this Honorable Court as well as the learned Amicus Curiae in SLP (Criminal) 1088 of 2008, by way of an affidavit submitted to this Honorable Court on 14.04.2011. The petitioner humbly submits that the impugned FIR has been registered and is being investigated in a *mala fide* manner, at the behest of Shri. Narendra Modi, the Chief Minister of Gujarat; who has a personal agenda to ensure that witnesses of cases pertaining to the Gujarat Riots of 2002 are effectively intimidated and prevented from stating the truth or from bringing out any evidence pertaining to the role of the State machinery headed by him; before any investigating agency, Commission or Court. It is submitted that by falsely

implicating and persecuting a senior Indian Police Service officer who ostensibly dared to depose against Shri. Narendra Modi and other high office bearers; the State administration wants to send out a strong message in order to effectively deter and prevent other witnesses from coming forward and truthfully deposing before any investigating agency, Commission or Court. It is the genuine and well founded apprehension of the petitioner that any investigating agency under the control of Shri. Narendra Modi would not be able to carry out an independent and impartial investigation. The petitioner therefore prays that the investigation arising out of Ghatlodia Police Station I C.R. No. 149/2011 be transferred to an independent agency like the CBI or any other independent agency outside the influence and control of Shri. Narendra Modi.

Hence this petition.

5. That the present petition is preferred amongst others on the following grounds:

GROUND

- A. Because the petitioner believes that an impartial and through investigation by an independent agency outside the control of the State Government of Gujarat would bring out the facts pertaining to the modus operandi of the machinations resorted to by the State Government to frustrate the due process of

law; and expose as to how the administrative machinery under Shri. Narendra Modi is used for influencing material witnesses, fabricating false evidence, creating false affidavits, destroying crucial evidence, lodging of false FIRs etc. with a view to subvert the process of law and obstruct the delivery of justice.

There is clear violation of Article 14,15,16,19 and 21 of the Constitution of India .

- B. Because the FIR is registered at the behest of Shri. Narendra Modi, by giving threats or inducements to the complainant, with a view to scuttle the investigation being carried out by the SIT, as also to influence the ongoing independent assessment being carried out by the learned Amicus Curiae in SLP(CRL) 1088 of 2008.
- C. Because it is the case of the petitioner that Shri. Narendra Modi apprehends that the petitioner is in possession of additional concrete evidence which could establish the criminal complicity of Shri Modi in the Gujarat Riots of 2002. Hence, the said FIR is registered at the behest of Shri Narendra Modi, with a view to somehow obtain custody of the petitioner and dispossess him of the said evidence and to destroy the same.
- D. Because the petitioner gave direct evidence exposing the role and complicity of Shri. Narendra Modi in the

larger conspiracy and official orchestration behind the Gujarat Riots of 2002, the FIR was registered as a counter blast against the petitioner. It is submitted that the FIR is registered with a view to pressurize and intimidate the petitioner so that he is deterred from giving any further evidence before any lawful authority or Court.

- E. Because the petitioner seriously apprehends that justice will not be done to him by any investigating agency which is under direct or indirect control of Shri Narendra Modi.
- F. Because the Chief Minister of Gujarat, Shri Narendra Modi, is in a systematic and planned manner, misusing the official machinery at his disposal to destroy incriminating evidence and to intimidate material witnesses in order to ensure that no person including the petitioner would be willing to speak out the truth in the course of inquiries, investigations and trials pertaining to the Gujarat Riots of 2002.
- G. Because Shri. Narendra Modi, by misusing the official machinery, is directly and indirectly intimidating the witnesses and is tampering with and destroying crucial evidence with a view to scuttle the ongoing investigation.
- H. Because even otherwise when allegations of such a serious nature are being investigated against the Chief Minister of a State, no agency under him would

be competent of carrying out a free and fair investigation of the present offence.

- I. Because the Petitioner's fundamental right to liberty has been repeatedly and comprehensively violated time and again, without the due process of law, by the persecution launched against the Petitioner and his family, by the most powerful man in the recent history of the State.
- J. Because In an appropriate case, particularly, when the Court feels that high police officials of the State may have been involved in the drafting, lodging and motivated investigation of a vexatious FIR; It is always open to the Court, in the interest of justice, to hand over the investigation to an independent and specialized agency like the CBI.
- K. Because in view of the circumstances narrated in the petition, there is a reasonable apprehension on the part of the petitioner, that justice will not be done. It is submitted that a Petitioner is not required to demonstrate that justice will inevitably fail. The circumstances very clearly demonstrate that the apprehension is reasonable.

6. That the petitioners have not filed any other petition *on any other Court* before this Honorable Court for the same purpose. Because of paucity of time the present transfer petition has been

filed in a great hurry and thus the petitioners seek leave of this Honorable Court to place on record additional documents and also put forth supplementary facts and grounds in the present petition.

PRAYER

In view of the submissions made hereinabove, the petitioner most respectfully pray that this Honorable Court may graciously be pleased to :

- A) Pass an appropriate writ of mandamus or any other appropriate writ, order or direction to the respondents herein; allowing the present petition and directing the transfer of the investigation arising out of I CR NO. 149/2011 registered with Ghatlodiya Police Station, Ahmedabad at Gujarat under sections 189, 193, 195, 341, 342 of IPC to any independent agency like CBI out side the control of the State Government.

- B). Pass any other order as this Hon'ble Court may deem fit and appropriate in the facts and circumstances of the present case.

DATED 8.07.2011

PLACE

VARINDER KUMAR SHARMA
Advocate on Record for the
PETITIONER