

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELATE JURISDICTION

INQUIRY REPORT

IN

Crl.M.P. NOS 6658-6661, 11884-11887-12515-12518 & 12519-12522

IN

CRIMINAL APPEAL NOS 446-449/2004

Zahira Habbullah Sheikh And Anr.

... Appellants

Versus

State of Gujarat & Ors.

... Respondents

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INQUIRY REPORT

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& 12519-12522 in Criminal Appeal No. 446-449/2004**

ZAHIRA HABIBULLAH SHEIKH AND ANR.

...Appellant (s)

Vs.

STATE OF GUJARAT AND ORS.

...Respondent (s)

The constitution of India has solemnly resolved – “secure to its citizens: justice, social, economic and political” and it echoes in the corridors of judiciary. Courts are constituted for dispensation of Justice, the quintessence being to maintain societal law and order and its existence indicates good and effective governance – whether democratic set up or otherwise. Effective dispensation of Justice is not possible sans proper investigation, free and fair trial and imposition of punishment commensurate with the crime. A criminal case is built upon the edifice of evidence, collected by investigation agency upon commissioning of a crime, to be dealt with by Courts during trial. Weighing of evidence has assumed paramount these days for the truthfulness or otherwise involved therein. It becomes all the more difficult, if a witness much less an eyewitness related to the victim gives inconsistent versions at different stages. The instant case, popularly known as Best Bakery case is a glaring example in which different versions rather inconsistent, appear and are on the record, including recorded during investigation before the highly placed authority viz. National Human Rights Commission (NHRC) and submitted in the shape of affidavits before different high authorities / forums, vis-à-vis during trial and retrial, by an eye witness who is closely related as a member of the family of the victims.

For having a look at the factual matrix of the matter in a narrow compass, we have to peep into the past, when on 27th February, 2002 Kar Sewaks returning from Ayodhya Ram Janam Bhoomi were travelling in Coach No. S-6 of the Sabarmati express and 56 out of them were burnt to death within railway boundary limits of Godhara, Gujarat. After this incident, riots spread over and 2 days after this incident, i.e. on 1st March, 2002 in Vadodara city of Gujarat, a business concern known as Best Bakery owned by the family of Ms. Zahira Habibullah Sheikh (hereinafter referred to as ‘Ms. Zahira’) was burnt down by an unruly mob of a large number of persons and about 14 persons were killed in this gruesome incident. Ms. Zahira, who was about 16-17 years of age at that time, was one of the eye witnesses among others who lost her family members and workers of the Bakery. In the course of the trial, the purported eyewitness including Ms. Zahira resiled from the statements alleged to be recorded during the investigation. None of the eye witnesses supported the case of the State filed through Vadodara Police, resultantly all the accused were acquitted from the charges of Sections 147, 148, 149, 188, 504, 342, 427, 436, 395, 307 and 302 of IPC vide judgement dated

27th June, 2003 by the Additional Sessions Judge, Fast Track Court No. 1 Vadodara of Gujarat State in Sessions Case No. 248 of 2002.

Criminal Appeal No. 956/2003 was filed by the State of Gujarat in the Gujarat High Court challenging the order of acquittal dated 27.6.2003 passed by the Additional Sessions Judge, Vadodara in Sessions Case No. 248/2002 acquitting all the accused persons of Best Bakery Case. The State of Gujarat also filed Crl. Misc. Application No. 9677/2003 in the said appeal and prayed that the State be permitted to produce the affidavits of four witnesses namely: (1) Zahira (2) Sairabanu (3) Sahejadh Khan (4) Mohmad Asaraf Shaikh on record and further evidence of the witnesses be permitted to be recorded and retrial also be ordered after quashing the entire proceedings. Thereafter, another Crl. Misc. Application No. 9825/2003 was filed in the said appeal by the State of Gujarat and prayed that it may be permitted to place on record the documents as per Annexures in the appeal and the same may be considered as corroborative piece of evidence. All these three matters were decided by a common order dated 26th December, 2003 in which Criminal Appeal was dismissed and order of acquittal was maintained. Against these three matters Criminal Appeal Nos. 446-448/2004 entitled as Zahira Sheikh and Ann Vs. State of Gujarat and Ors. were filed in this Court.

One Crl. Revision Application No. 583/2003 was also filed by Sairabanu, the sister of Ms. Zahira, in the High Court of Gujarat challenging the judgement and order of acquittal passed by the Additional Sessions Judge, Vadodara in Sessions Case No. 248/2002. Crl. Misc. Application No. 10315/2003 in Crl. Revision Application No. 583/2003 was filed by Sairabanu seeking permission to delete one of the grounds i.e. ground 'F' mentioned in the memo of the Application for condonation of delay in filing the above Crl. Revision Application No. 583/2003. Ground 'F' reads "that the applicant was too threatened and bewildered by the conduct of the accused before and after trial to immediately approach this Hon'ble Court. The Gujarat High Court while granting permission allowed this application and condoned the delay caused in filing the above Crl. Revision Application by its order dated 19.12.2003 and against this order Crl. Appeal No. 449/2004 entitled as Zahira Sheikh and Ann. Vs. State of Gujarat of Ors. has also been filed in this Court.

All these four appeals 446-449/2004 were heard together and allowed by this Hon'ble Court vide its judgement dated 12th April, 2004 and retrial of the case by a District Court under the jurisdiction of Bombay High Court was ordered along with other directions. After the disposal of these Criminal Appeals and during the pendency of retrial of the case registered as Sessions Case No. 315/2004 before the Additional Sessions Judge, Greater Bombay at Mazgaon, four Crl. M. Ps. Viz:

- (1) Crl. Misc. Petition Nos. 6658-6661 have been filed in Crl. Appeal Nos. 446-449/2004 on behalf of Ms. Teesta Setalvad (Herein after referred to as Ms. Teesta) and Ms. Zahira in this Hon'ble Court seeking clarification of the order dated 12.4.2004 and praying to direct the State of Maharashtra to select and appoint Public Prosecutors and retry the Best Bakery Case and that this appointment be effected in consultation with the applicants.
- (2) Crl. Misc. Petition Nos. 11884-11887 have been filed in these appeals

by Ms. Teesta praying therein to direct an inquiry to be held into the statement being made by Ms. Zahira, the circumstances which led her into making the statement, the persons who assisted her in the process, the role of the Vadodara Police who were present during the Press Conference (at Vadodara on 03.11.2004) by an independent Investigating Agency, the CBI.

- (3) Crl. Misc. Petition Nos. 12515-12518 have been filed by Ms. Teesta for permission to file an additional affidavit on behalf of Ms. Teesta.
- (4) Crl. Misc. Petition Nos. 12519-12522 have also been filed by Ms. Teesta for exemption from filing official translation and annexures in Criminal Misc. Petition Nos. 12515-18.

Were filed and this Hon'ble Court passed the following order on 10th January, 2005:-

“Having heard learned counsel for the parties, we are of the considered view that a detailed examination is necessary as to which version of Zahira Habibullah Sheikh is a truthful version. It is necessary to do so because various documents have been placed to show that she had made departure from her statements/ stands at different points of time. Allegations are made by Mr. P. N. Lekhi, learned senior counsel appearing for Zahira Habibullah Sheikh that she was being threatened, coerced, induced and / or lured by Teesta Setalvad. On the contrary, learned counsel appearing for Teesta Setalvad submits that she was being threatened, coerced, lured or induced by others to make statements or adopt stands contrary to what she had stated / adopted earlier. In this delicate situation, the appropriate course would be to direct an inquiry to be conducted to arrive at the truth. We direct the Registrar General of this Court to conduct the inquiry and submit a report to this court within three months. The Registrar General shall indicate in the report:

- (a) if Zahira Habibullah Sheikh was in any manner threatened, coerced, induced and / or in any manner pressurized to depose / make statement(s) in any particular way, by any person or persons, and
- (b) if the answer to (a) is in the affirmation, who the person/ persons is (or) are.

For the purpose of inquiry, he may take assistance of the police officer of the rank of Inspector General of Police. Though a suggestion was given by Mr. Anil Diwan, learned senior counsel appearing on behalf of Ms. Teesta Setalvad that it should be an officer from the CBI, Mr. P. N. Lekhi, Mr. K. T. S. Tulsi and Mr. Mukul Rohtagi, learned senior counsel, opposed the same.

In our view, an efficient, impartial and fair officer should be selected. Therefore, we leave the choice to the Registrar General to nominate an officer of the Delhi Police, as noted above, of the rank of Inspector General of Police. The inquiry shall be conducted on the basis of affidavits to be placed before the Registrar General and if he deems fit, he may examine any witness to substantiate the contents of the affidavits. We do not think it necessary to lay down any broad guidelines as to the modalities which the Registrar General will adopt. He is free to adopt such modalities as he thinks necessary to arrive at the truth, and to submit the report for further consideration.

The affidavits and documents if any in support of the respective stands shall be filed before the Registrar General within a period of four weeks from today.

We make it clear that the pendency of the inquiry will not be a ground for seeking adjournment in the pending trial.

We have perused the letter of the trial court seeking extension of time. The time is extended till 31st of May, 2005 for completion of trial.

The matter shall be placed for consideration of the Report to be submitted, after three months.”

[Emphasis in the shape of *italics* supplied]

No Affidavits by any of the parties were filed within the cut off time limit of 4 weeks. However, just after the expiry of the time limit CrI. M.P. Nos. 1908-1911 in CrI. M.P.Nos. 6658-6661 for extension of time were filed on behalf of Ms. Zahira and listed on 21st February, 2005 when the Hon'ble Court was pleased to allow the same with some further directions. As it being relevant, the full text of the order is reproduced below:

“Heard.

The parties are granted four weeks' time to file the affidavits in terms of the earlier order dated 10.01.2005. We make it clear that we have not taken note of paragraph-8 of the application filed in CrI. M. P. Nos. 1908-1911 of 2005.

Criminal Miscellaneous Petition Nos. 1908-1911 of 2005 are, accordingly, disposed of.

CrI. M.P. Nos. 6658-6661 of 2004

By order dated 10.01.2005, the question as to whether Ms. Zahira Habibullah Sheikh was in any manner induced to depose in a particular way, has been directed to be enquired

into, we think it appropriate to direct her to file an affidavit indicating details of her bank accounts, advances, other deposits, amounts invested in movable or immovable properties and advances or security deposits, if any for the aforesaid purpose, along with the affidavit to be filed before the Registrar General of this Court. She will also indicate the sources of the aforesaid deposits, advances and investments, as the case may be. She shall also indicate the details of such deposits, advances and investments, if any, in respect of her family members and the source thereof. The Registrar General and police officer nominated to be associated with the enquiry are free to record statements of such family members and to make such further enquiries in the manner as deemed necessary and to ask the family members to file affidavits containing the details as noted above. They shall indicate in the affidavits and the statements the sources of such deposits, advances and investments. If the Registrar General and the police officer feel that any further enquiry as regards the sources is necessary, they shall be free to do it.

Since, we have extended the time for filing of affidavits by the parties, the enquiry report shall be submitted by the Registrar General within three months from today.

Put up thereafter.”

(Emphasis in the shape of italics supplied)

In pursuance of the orders mentioned above, one affidavit dated 7th March, 2005 was filed by Ms. Aparna Bhat, Advocate on behalf of Appellant No. 2 – Ms. Teesta, and one affidavit dated 20th March, 2005 was filed by Sh. DK Garg, Advocate on behalf of Appellant No. 1 – Ms. Zahira. Beyond this time limit one affidavit dated 29th March, 2005 was filed by Ms. Hemantika Wahi, Advocate on behalf of State of Gujarat on 31st March, 2005 and the delay of which was condoned by this Hon’ble Court vide its order dated 4th April, 2005. No more affidavits were filed by any of the parties within the time frame allowed by the Hon’ble Court. Of course, some affidavits were filed by the parties clarifying the facts, already included in the affidavits filed on behalf of aforesaid three parties. In this way, I have to base the inquiry on the three initial affidavits.

Ms. Zahira Sheikh has mentioned in para 2 of her affidavit dated 20th March, 2005 that she has already filed one affidavit on 3rd January, 2005 (sworn on 31st December, 2004) before this Hon’ble Court and the averments made in this affidavit may kindly be read as part of the affidavit dated 20th March, 2005. Alongwith this affidavit dated 31st December, 2004 Ms. Zahira annexed the copy of one affidavit filed by her before the Collector, Vadodara on 3rd November, 2004 as mentioned in para 7 – “I made an affidavit and submitted it to the Collector, Vadodara. That affidavit does not find a place in the record of this matter or any connected matter linked with this matter. It is so found on inspection of the records by Shri Garg. However, I annex correct copy (English translation) of the said affidavit as Annexure RA-1 with my this reply affidavit.”

Observing her intention, I considered it necessary to go back to 3rd November, 2004 and as such these two affidavits of Ms. Zahira have also been taken into consideration along with her main affidavit dated 20th March, 2005. The brief but relevant gist of the affidavits filed by the parties, being necessary to be quoted, read as under:

Gist of the Affidavit dated 7th March, 2005 filed on behalf of Ms. Teesta Setalvad

That each and everyone of the allegations made against her and her organization Citizens for Justice and Peace (CJP) of which she is Secretary and Sh. Rais Khan field co-ordinator of CJP by Ms. Zahira in her affidavits are false and made with mala fide and malicious intention to divert from the serious issues raised by all those developments that have been detailed in her application and earlier affidavit.

That Ms. Zahira gave her statements before the Vadodara Police on at least four separate occasions i.e. on 2nd March 2002, 4th March, 2002, 9th March, 2002 and 1st April, 2002. These statements were given immediately after the incident and are, therefore, uninfluenced by any other source. The same version was reiterated by her to the NHRC on 21st March, 2002 and 11th July, 2003 and same version is also contained in her affidavit filed before the Nanavati-Shah Commission on 20th May, 2002 her statement before Concerned Citizens' Tribunal on 11th May, 2002 and is also contained in the affidavit dated 8th September, 2003 filed as an additional document in the Special Leave Petition.

That Ms. Zahira used to submit the copy of one memorandum titled 'An Eye-Witness Report of Best Bakery Incident at Dabhoi Road' signed by her and submitted first to Justice JS Verma, the then Chairperson, National Human Rights Commission, then to People's Union for Civil Liberties. Said Memorandum shows nine names of alleged accused typed in and eight written by Ms. Zahira.

That the affidavit which was filed by Ms. Zahira before Shah – Nanavati Commission was filed on 20th May, 2002, i.e. before coming into contact with her. Ms. Zahira also annexed a copy of her FIR detailing the incident and naming some of the accused, with that affidavit.

That Shri Nafitullah Sheikh also lodged FIR with the Vadodara police (Crime No. II/41/03) under the Detection of Crime Branch police Station asserting not only that he had been threatened to change his testimony before the Vadodra Court but also that he owned a mobile phone bearing number 9824326505 and stated that he was thrice threatened on this mobile from the number 9825060542. When he asked about the caller, as per Sh. Nafitullah he was told that, 'I am Madhu Srivastava speaking and give your statement in the Court as you have been told' Ms. Zahira and her family members have denied this fact in their evidence that Nafitullah or any other member of their family owned a Mobile phone. As a follow-up to this FIR, Ms. Zahira also recorded her statement dated 16th December, 2003 through the Mumbai police.

That thus, Ms. Zahira approached every forum available at the time to speak about the tragedy that befell her family when the Best Bakery was attacked and gutted on 1st/2nd March 2002. Her claim of alleged coercion and tutoring hence are not born out.

That the CJP, an organization of which she is the Secretary, was formed after the Gujarat pogrom of 2002. Most of its members are citizens of eminence who have been actually involved in the anti communal movement for the past decade and a half. CJP is also working on several other cases relating to Gujarat Carnage like Godhra Massacre, Gulberg, Narodagaon and pattiya, Sardar pura, ode and Kidiad carnage irrespective of community. She has earned the confidence of many hapless victims of violence in Gujarat of 2002, not because of religious affiliation but because she happened to reach the spot soon after the violence. She is a human rights activist and writer and has been involved in Gujarat dates back a decade. Along with her husband- colleague Sh. Javed Anand and other colleagues involved in the battle for what they humbly believe is that soul of India which has in the past two decades been seriously threatened by a divisive politics that uses hatred and venom for political mobilization. Due to work on Human Rights issues, she and her organization have an extensive network in Maharashtra, Gujarat and other parts of the country.

That every step taken by her as Secretary, CJP in the Best Bakery Case and in all other legal and related matters were and are on behalf of Board of Trustees. The decision to file Special Leave petition/ Criminal Appeal (SLP [Crl.] No 3770/2003 and Criminal Appeal Nos. 446-449/2004) was also taken after members of Board of Trustees met with Ms. Zahira's whole family. She was decided to appoint Sh. Mihir Desai, Advocate, Mumbai and Miss Aparna Bhat, Counsel in the Supreme Court of India as their advocated.

That after Ms. Zahira's moving to Bhayander-Meera Road in late November, 2003 she along with sister Smt. Saira Bano Sheikh visited Vadodara to reclaim money for amount deposited to the relief committee run by Shri Zuber Gopalani for their house in Ekta Nagar and the family experienced no sense of threat at that time. Ms. Zahira signed on a document dated 12th December, 2003 with the committee confirming receipt of Rs.55,000/- and her sister affixed thumb impression on the same. The entire family including Ms. Zahira, was moving freely in Mumbai, firstly at Yari Road Versova at the rental accommodation provided by the CJP and then at Bhayander and Meera Road. All decisions taken about the residential accommodation of Ms. Zahira and her family, the rehabilitation expenses incurred on them were, similarly a collective decision of the Board of Trustees.

That, Ms. Zahira's statements on affidavit that she was forcibly kept in confinement by Ms. Teesta are not simply false but a premeditated falsehood. Her subsequent allegations that she was 'quarantined' at Yari Road, Versova are equally baseless. The evidence recorded during retrial of her family members confirms that Ms. Zahira lived with her family at Yari Road and even moved about freely, falsifying claim of illegal confinement. That Ms. Zahira stayed along with mother Sehrunissa Sheikh and brothers Nafitullah and Nassebulloah at D-001 Unity Complex Cooperative Housing Society, Versova from July, 2003 until early December, 2003. After the first month, mother Smt. Sehrunissa and brother Shri Naseebullah left the premises at Versova and represented to her (Ms. Teesta) that they would be staying with their relative Sanaullah or his brother Aslam Kawal's place at Bhayander. Ms. Zahira continued to stay at the Versova flat with sister Saira and brother-in-law Kalamuddin who came over from Vadodara for the purpose. This flat is owned by one Shri Amjad Aziz and the flat was taken on rent by the CJP for Ms. Zahira's family for six months at a rent of Rs. 3,000/- per month During this whole period that Ms. Zahira lived there with her sister and had the keys of the flat, had relatives visiting her and even she visited them regularly. They

shopped for monthly provisions from the neighborhood grocery store on their own, went to the PCO to make calls to relatives and visited doctors when ill. In short, they had complete autonomy and moved freely. The allegations of forceful confinement are utterly baseless and motivated.

That when Msk. Zahira's sister Saira and her husband Kalamuddin had gone on an urgent visit to Vadodara during Ganpathy festival in September, 2003 for a period of about 2-3 weeks, Ms. Zahira stayed at her residence. Mother of Ms. Zahira visited her at least thrice along with her brother and met freely. She went out and visited the market on several occasions. Her intention of extending support to Ms. Zahira in her house in unfortunately today being termed as kept in captivity'.

That after Ms. Zahira's elder brother, Shri Nafitullah Sheikh approached the CJP for shelter, claiming to have fallen –out with his mother, another flat in the same complex (Unity Complex Cooperative Housing Society, Versova), i.e., D-401, was taken on rent by CJP from Smt. Zeenat. The rent paid by my organization for this flat was Rs.3,500/- per month. This family too moved around freely and independently. The autonomy and rehabilitation with dignity that was afforded to Ms. Zahira and her family can be ascertained from the vouchers signed or endorsed through thumb impressions for expenses that they incurred independently, whether it be for monthly groceries or for the birth of Shri Nafitullah's second child at the Asha parekh Hospital in Mumbai.

That the CJP with dignity supported the whole family in Mumbai and never made false promises, the struggle of CJP was a struggle for justice and it was their moral responsibility to maintain the family. The Board of Trustees of CJP took a collective decision to rehabilitate them with dignity since their condition was needy and they lost much in the tragedy. This included living expenses, rentals for home, travel and medical expenses, expenses for sewing machine to enable Ms. Zahira and her sister to resume an occupation, computer class expenses for Shri Naseebullah etc. Even the expenses of the birth of the second child of Shri Nafitullah Sheikh were borne by the CJP at a private hospital. A driving license was obtained for Shri Nafitullah to enable him to drive an autorickshaw when several attempts made to get him employment were unsuccessful.

That Ms. Zahira in her affidavit dated 31st December, 2004 filed before this Hon'ble Court stated that there is no other signed affidavit before this Hon'ble Court. These averments are being deliberately made to obfuscate the issue. She was co-petitioner in the Special Leave petition in the Hon'ble Supreme Court of India and subsequent in Criminal Appeal and had signed the Vakalatnama along with her appointing Ms. Aparna Bhat as Advocate. The said affidavit dated 8th September, 2003 in question was duly sworn before the Notary in Mumbai. But as so many proceedings were being filed at that time, a copy of the same was filed before this Hon'ble Court as additional document. Ms. Zahira had narrated the entire facts to her in Hindi in Mumbai. Advocate Sh. Mihir Desai was also present when they both were collating the information. The same was reduced to an affidavit in her presence and the entire contents were explained to her in vernacular. Ms. Zahira, thereafter, appeared before a notary public and her affidavit was duly sworn on 8th September, 2003. As Secretary, CJP, she received a summons from the Hon'ble Trial Court, Mumbai dated 17th December, 2004 asking her to produce this affidavit in original. On 20th December, 2004 she produced the original affidavit before the Trial Court along with the original letter,

written to be by Ms. Zahira in her handwriting from Vadodara to Ms. Teesta, dated 4th July, 2003 requesting assistance from their organization in her legal battle.

That this affidavit dated 8th September, 2003 was executed voluntarily, her whole family was present when the contents were discussed in detail and their Advocate was present when she and her brother Sh. Nafitullah Sheikh were narrating the facts. Ms. Zahira and her family together showed full willingness to not merely affirm the affidavit but to also be litigants in the Special Leave petition asking for a retrial in the Best Bakery Case. Ms. Zahira had made detailed notes of the details given to them in her own hand and she had kept the same with her. A close perusal of the detailed averments made by Ms. Zahira in her affidavit in question clearly states that there was nothing that she said in her affidavit that was not present—in both letter and spirit—in the essence of her testimonies given several times before, to authorities, quasi-judicial, and constitutional forums. Some additional details contained in the said affidavit are a mere expansion of what she had earlier voluntarily stated to the police (FIR dated 2nd March, 2002), the NHRC (21st March, 2002), the Shah-Nanavati Commission on affidavit (20th May, 2002) and the Chief Election Commissioner, Shri Lyngdoh (11th August, 2002) and the NHRC (11th July, 2003). The allegation, therefore, that she was tutored while kept in allegedly illegal confinement by her (Ms. Teesta) is entirely baseless.

That in the same affidavit dated 3rd November, 2004 Ms. Zahira in para 3 has stated that she was detained in a locked room, is also wrong. If that being true, nearly 14 months after she stayed voluntarily at her residence [of Ms. Teesta] in September, 2003 and after which she had over 11 months to make alleged complaints of confinement but her silence for this whole period speaks, as does the timings of the press conference on 3rd November, 2004 and subsequent developments before this Hon'ble Court.

That although she (Ms. Teesta) had engaged the Counsel, Ms. Zahira had travelled with her to Delhi along with Advocate, Mihir Desai and they met Aparna Bhat, their counsel and had a long conference with Senior Counsel Shri Shanti Bhushan at his chamber in Noida on 31st August, 2003.

That Ms. Zahira in her affidavit dated 31st December, 2004, has remained conspicuously silent on her meeting with the then Chairperson of the National Human Rights Commission (NHRC), justice JS Verma, on 21st March, 2002 the Chief Election Commissioner, Shri Lyngdoh on 11th August, 2002 and her second meeting before Justice A.S. Anand, Chairperson and other members of NHRC on 11th July, 2003 at the office of NHRC after shifting to Mumbai. As far as paragraphs 8 to 10 of the said affidavit of Ms. Zahira are concerned, she has not only denied appearing before the Concerned Citizens Tribunal-Crimes Against Humanity Gujarat 2002 on 11th May, 2002 but has overstepped all levels of decency by vilifying the Tribunal and the report it published, her appearance before the concerned Citizens Tribunal, of which CJP has a video Compact Disc in their possession showing the deposition of Ms. Zahira, which can be produced as and when this Hon'ble Court deems fit. Justice Hosbet Suresh (Retd.) an esteemed member of the Tribunal has in a letter dated 6th January, 2005 affirmed her appearance.

That on 11th July, 2003 Ms. Zahira appeared before a Bench of National Human Rights Commission under the Chairmanship of Dr. Justice A.S. Anand. Her appearance before the National Human Rights Commission is confirmed by the National Human

Rights Commission in its affidavit dated 6th January, 2005 filed before this Hon'ble court. The National Human Rights Commission has also annexed a copy of the statement made before the Commission by Ms. Zahira. In this statement she clearly states that her brother Nafitullah owned a mobile phone of Nokia Brand and received threats on this mobile from number when checked, turned out to belong to one Madhu Srivastava.

That on 16th December, 2003, Ms. Zahira recorded a statement before an officer of the Santacruz police station on the issue of protection. This statement has been filed before this Hon'ble Court.

That according to Ms. Teesta, now Ms. Zahira through her affidavit dated 31st December, 2004 is actively defaming in her personal and professional capacity and slurring her character by making remarks on her and her husband's religious identity.

That the deliberate attempts to slur her character by uttering this disgusting falsehood like 'Arab Sheikhs visiting her house' and 'Arab money coming in' are nothing short of a desire to prejudice the public mind with such loaded terminology and it cannot be believed that Ms. Zahira and her family alone and on their own can be the authors of such terminology and utter such infamy.

That on 20th October, 2004 when Sh. Nafitullah Sheikh along with his wife Mrs. Heena @ Kailash suddenly started making unreasonable demands in the presence of his relative Shri Sanaullah Kawal, first cousin, who too lives at Mira-Road Bhayander, also threatened to run away to Vadodara. Incidentally, on an earlier occasion too, when Smt. Sherunissa in presence of Sh. Sanaullah Kanwal had made a demand for a residence. Ms Zahira had stated after staying onemonth at Yari Road with her mjother that her mother would shift to relative Sh. Sanullah Kawal's place and she would stay with sister Saira and her husband Kalamuddin at Yari Road, Versova. She learnt that even the learned Special public prosecutor, Smt. Manjula Rao was approached by Smt. Sehrunissa Sheikh and Smt. Saira Sheikh on or around 27th October, 2004 just before the family's sudden departure to Vadodara when they insisted that the learned Special public prosecutor should make arrangements for monetary compensation for them. They were accompanied by two local persons from Mira Road. These facts were mentioned by Smt. Rao in open Court. On Saturday, 12th February, 2005, Sh. Sanaullah Kawal contacted her colleague Sh. Rais Khan from a number that showed as 09322845139 asking him to speak to him on a matter of urgent importance. Sh. Rais Khan was present in her office at that time and given the crude and baseless allegations hurled at them by the Sheikh family. Sh. Kawal was told to contact the learned Special public prosecutor. The call was made at 12.10 p.m. She has further stated that on the numerous occasions also Ms. Zahira voluntarily came with the consent of her mother and accompanied by her relative Sh. Sanaulla Kawal to the office of the CJP after November-December 2003 after she had shifted to Mira Road.

Gist of affidavit dated 3rd November, 2004 of Ms. Zahira filed before Collector, Vadodara annexed with affidavit dated 31st december, 2004

That regarding Best Bakery case when the matter was before the Trial Court at Vadodara, at that time she (Ms. Zahira) and her family members had made statements on oath and had informed that the persons who had attacked the Bakery were unknown persons and that they had not identified them. These were true statements on oath.

That Sh. Mohd. Vora who is residing in Hathikhana and Sh. Arif Malik and Sh. Munna Malik of Macchhipith are resident of Vadodara and other two or three unknown persons had come in one white Tata Sumo at night to the place where they were residing in Ekta Nagar and had knocked at the door and had forcibly entered the house and threatened her and her mother that – “you keep quiet, it is a matter of our community.”. Her brother Sh. Nafitullah was also forcibly picked-up in Tata Indica of Sh. Rais Khan from Tandja. For two days, she was kept in a hotel against her wish and without her consent and thereafter, she was taken to the house of Ms. Teesta. She was there for one month against her wishes. The persons who had abducted her including other persons had through Mohd. Vora informed her mother that – “it is a matter of community, your daughter is safe. Be quiet or you will not be able to stay in Vadodara.” Subsequently, she came to know that her brother had escaped from the Yari Road where he was also detained. Thus, she and her family members were continuously kept under fear and had illegally detained against their wishes. All these men were getting them act as per their desires.

That when she was in Mumbai, Ms. Teesta took her signatures on different dates on documents typed in English on Computer. She does not know English and also that what was written. Before taking her signatures Ms. Teesta did not inform her about the contents and also not explained the facts to her. She was detained in a room in the house of Ms. Teesta and the room was locked from outside. She was not allowed to meet any other person including her mother. Although, she desired but still she was not allowed to talk to her mother over the telephone.

That when her signatures were taken she asked Ms. Teesta why her signatures were taken. Ms. Teesta informed that Best Bakery building was to be transferred in the name of her mother and therefore, the signatures were obtained on the documents. As she was crying, she was sent to the house of Sh. Ishak Bhai at Yari Road, Varsova and there also against her wishes she was detained in the said place for seven months and during this period also she used to receive threats from Ms. Teesta, Sh. Rais Khan, Sh. Ishaq Bhai and her other people with the words – “it is the matter of our community, you will have to speak the untruth and when the case would proceed again then whatever we may say you will have to make statement accordingly.”

That Ms. Teesta and her persons used to torture her and she was not allowed to go anywhere, not allowed anyone to speak to her. Once she was suffering from fever, Ms. Teesta did not call any doctor and brought the medicine and gave to her because Ms. Teesta was apprehensive that the true facts would be made known to the doctor then there would be problems arising for Mrs Teesta and their people. Had Ms. Teesta detained her like this for any longer period then she would have certainly died, and all the times she had thoughts of causing harm to herself. Ms. Teesta and her men knew that there is no one of her and her family and if they run away and escape then they will again bring them back, and therefore, they were time and again issuing threats of killing the entire family.

That even the Mumbai Police was not impartial, and Mumbai Police acts as per the dictates of Ms. Teesta and they were also pressurizing them for speaking lies and giving the names of the accused arrested by the police in the Best Bakery Case as the criminal offenders.

That she and her family members escaped from Mumbai from Ms. Teesta and Sh. Rais Khan and their men and due to fear and apprehensive they had escaped in hiding. Even at present the men of Ms. Teesta are in search of her and her family members and she and her family are very much afraid, and there life is in danger. They apprehended that if they do not speak untruth as per the say of Ms. Teesta then these police will get her family murdered.

That she was threatened that all the witnesses are compelled to speak the lies, and even the wife of her brother Sh. Nafitullah viz. Ms. Heena alias Kailash was detained in a guest house in Worli, and then her sister-in-law was handed over in the custody of Mumbai Police but when the Best Bakery incidence took place at that time her sister-in-law was in Bodeli Village, and she had not witnesses the incidence, then also she was asked to speak lies and when her sister-in-law refused to speak lies she was admonished.

That she want to live in Vadodara peacefully with her mother and her brother and when her statement is to be recorded in Mumbai then under police protection she desires to go there, and she was very scared of Ms. Teesta and her men, and therefore, in order that she and her people should make true facts known before the Court there should not be any threat, fear or apprehension, for which she requested in affidavit to Collector to do the needful.

That in the last she requested the Collector, Vadodara through her affidavit dated 3rd November, 2004 that, in future, the summons to attend the Court the directly sent to her and her family members and not through Ms. Teesta. It was also requested to provide them she police protection as they would give statements without any force or pressure from Ms. Teesta and her men.

GIST OF AFFDAVIT DATED 31ST DECEMBER, 2004, FILED BY MS. ZAHIRA ON 3rd JANUARY, 2005 IN SUPREME COURT, THROUGH SHRI D.K. GARG, ADVOCATE.

That the agents of Ms. Teesta – Sh. Mohd. Vora, Sh.Arif Malik and Sh. Munna Malik had contacted her and they took her before Nanavati Commission and tutored her to make statements implicating certain persons, although neither she nor her family members had ever seen them on the date of tragic occurrence at Best Bakery. In fact, there, was no possibility to see anyone since they all were taking shelter behind the brick railings on top floor. The same names were repeated at their instance and also at the instance of Ms. Teesta, and that she was acting at their tutoring before different Authorities and Commissions that she did not appear before self-appointed concerned Citizens Tribunal and on inspection of records by her counsel, it is discovered that there is no affidavit which is signed by her and appears in the record of this Hon'ble Court.

That she was persuaded to make those earlier statements because of the appeal made by the agents of Ms. Teesta and later by Ms. Teesta herself in the name of Kaum-meaning thereby, members of the faith to which she belongs. That appeal was constantly dinned into her ears, and she was really transformed into a victim symbol of the Gujarat carnage.

That the report on Gujarat prepared by a committee of which Ms. Teesta is the convenor, a perusal of which would show that she made a statement before the

Committee. She submits that she did not appear before any one of them signally or collectively. What really surprises her is how come only one burnt bakery has been made as the central piece of the grievances before the public and nobody concerned with other bakeries where more persons were allegedly killed and Bakeries burnt, have received the attention that is given to Best Bakery matter by Ms. Teesta and the Committee.

The during her stay at Ms. Teesta's place she used to find persons dressed like Arab Sheikhs visiting her with suit cases and when they used to enter her office she was told to leave the place and that during the one month stay at her place Ms. Teesta went abroad once to Canada and second probably to some Arab country.

That she discovered during her stay at the residence of Ms. Teesta in Mumbai, that she was Neo-Muslim and that was why she pressurized her in the name of Kaum.

That when she was brought to this Hon'ble Court by Ms. Teesta in connection with filling appeal against the Judgment of Gujarat High Court, it was reported as if she had made false statement before the Trial Court at Vadodara. The record would show she did not file any affidavit to that effect.

That the matters contain an affidavit supposed to have been made by her in September, 2003. She do not recall having made any such affidavit and it does not contain any evidence of her having sworn. It does not bear her signatures nor there are any signatures of having sworn to or affirmed before any authority competent to administer oath.

That there is no such extended family of her father in Vadodara. The person described as her uncle Sh. Sheikh Aslam is not Sheikh Aslam, but a mere Aslam Haroon Pathan, a resident of Allahabad whose family was living in neighbourhood, is not a member of extended family. Including him in the family is totally false because on other family member of late Sh. Habibullah Sheikh related by blood was present in the Best Bakery.

That Ms. Sheikh Hassina is described as her grandmother who survived the tragic incident, whereas her grandmother arrived after about a fortnight of the tragic occurrence.

That Ms. Teesta incited so much hatred against her that Muslim Tayohar Committee on or about 24th December, 2004 issued a Fatva excommunicating her.

That from the records of different proceedings relating to these matters it is discovered there is no other single document which is affirmed or sworn or signed by her except Vakalatnama and that every Application/petition/Affidavit is signed or sworn by Ms. Teesta and only she has signed documents or sworn affidavits.

That on or around 23rd December, 2004 Tehelka screened Video purporting to show payment of Rupees Eighteen Lakhs to her by some BJP MLA and Sh. Bathu. She submits that it as blatant falsehood.

Gist of the affidavit of Ms. Zahira dated 20th March, 2005

That she had not filed any other affidavit before this Hon'ble Court in any proceedings relating to the incidents that took place during the riots 2002 in the State of Gujarat, although this Hon'ble Court appears to have acted on the basis of her affidavit. The records of the appeal [Criminal Appeal No. 446-449 of 2004] can be seen wherein "she had never filed any other Affidavit before this Hon'ble Court earlier to the Affidavit dated 31st December, 2004 filed on 3rd January, 2005, which may be read as a part of this Affidavit dated 20th March, 2005."

That she was nowhere in the actual records of the matter before this Hon'ble Court and this fact would be clear from a mere perusal of the record i.e. Criminal Appeal No. 446-449/2004. There are affidavits bearing her name but sworn and signed by Ms. Teesta.

That her name was used as a screen for the peculiar designs of Ms. Teesta. As told by her counsel, news had appeared in the press that Ms. Teesta has now got another substitute woman to fill her place to fulfill the agenda of Ms. Teesta which she has in her mind in relation to what happened in 2002 in Gujarat. The news item which appeared in daily Asian Age dated 2nd March, 2005 inter alia publishes "...the residents of Gulbarg Society have come together at the behest of Ms. Teesta Setalvad, who also spearheaded the case of Zahira Sheikh in the Best Bakery case before the latter had a fallout with her ...". The brand of the story of Gujarat 2002 designed by Ms. Teesta was sold in the market nationally and also outside India and got the attention of Arab world. Arab Sheikhs visited the office of Ms. Teesta with bags. Ms. Teesta needs one woman from riot hit Gujarat to fill the slot which Ms. Teesta had used her to fill. Now, it is Mrs. Zakia wife of Ehsan Jafri of Ahmedabad. Some similarity in pronouncing her name and the name of Ms. Zakia could help Ms. Teesta to avoid confusion. It would help Ms. Teesta to continue marketing her concoction on Gujarat.

That the perusal of reports would show that Best Bakery and Best Bakery alone was made symbol of what had happened in Gujarat. Although many other incidents took place in Gujarat but none has got so much prominence in the publications made and circulated worldwide tarnishing the image of the country. Ms. Teesta took the Supreme Court for a ride and she misled the Hon'ble Court and also NHRC By misusing her (Ms. Zahira). That disinformation misled the world. In fact, the whole world was made to believe of the fact which did not exist in the records of this Hon'ble Court.

That the alleged statements on her behalf recorded by police on 2nd March, 2002, when she was taken to Sayaji Hospital, where her family members were admitted, other persons like Iqbal Ansari (with whom her late father had for sometimes worked in his Bakery) and another Sh. Mohd. Vora, actively connected with Ms. Teesta, were also present. This statement attributed to her was in fact the narration of events given to Vadodara police by these two persons.

That Sh. Mohd. Vora used to tutor her and accompany her to various organizations and authorities to get themselves involved in their own way to investigate into the facts leading to riots in Gujarat after Godhra incident. That she was taken three times to the Circuit House. She was staying in the house of Sh. Iqbal Ansari when she was for the first time taken to the Circuit House. Sh. Mohd. Vora, Sh. Arif Malik and Sh. Munna Malik, either one or two or all the three used to visit Sh. Ansari's house to take her to different places.

That during her first visit to Circuit House she was made to sit on one of the lawns where many media persons including other persons who had come to meet the officer staying in the Circuit House were also present. Her turn to see the officer came nearly towards the end. She was taken in front of those persons and she said what she was told to say.

That on the second occasion to Circuit House, she narrated the same tutored story before "Chautani Commissioner", whom she came to know later on that he had something to do with elections. What transpired during his visit to Best Bakery is now known to her. She now came to know the Best Bakery and Ms. Zahira were being processed into a moulded symbol. On the other occasion she was again taken to Circuit House by some person and she met Devegowda as told to her. There she kept quiet and the entire talking with Sh. Devegowda was done by Sh. Ansari and others.

That on one occasion, she was escorted by one Sh. Najum, who was a social worker, to meeting held in Baba Hir Hall. Many other Muslims living in different camps were also present there. The meeting was video filmed. The persons present in the hall narrated their respective stories. She too narrated the same tutored story where Ms. Teesta was also present. On whose instance the video was recorded.

That according to her that video film was sold abroad by Ms. Teesta which needs to be inquired into as to how much money was earned/collected by Ms. Teesta and her company by that film, the pictures and the books published by Ms. Teesta through Sabrang publications and donations received from her website. Ms. Teesta used to carry copies of these video films during her visits abroad.

That Burqa was unknown to her family. Neither her mother nor her sisters or sisters-in-law wear Burqa. She came to the occasion when she was made to wear Burqa by Ms. Teesta.

That the trial of persons alleged to have been named by her statement supposed to have been recorded on 2nd March, 2002 was held in the Court of Vadodara and after her statement was recorded by that Fast Track Court they left Vadodara for their village in Uttar Pradesh and came to know about acquittal of the accused persons in their village.

That her family came back to Vadodara when situation became conducive to restart their Best Bakery. She and her family were again contacted by Sh. Mohd. Vora, Sh. Arif Malik and Sh. Munna Malik and these people warned them that their lives were in danger if they stay in Vadodara and also told them that Ms. Teesta who lives in Mumbai was a social worker and she was ready to assist in their rehabilitation by getting the Bakery business restarted and the burnt residential building reconstructed. She has been informed that Ms. Teesta in a recent television show admitted both these facts. In enclosed Compact Disk (CD) Ms. Teesta admitted in that television appearance that she held that inducement to her. Had Ms. Teesta not held the inducement she would not have gone to live with her in Mumbai. Ms. Teesta misused her alliance by making her a showpiece

That her mother was opposed to the suggestion made by these persons with regard to shifting to Mumbai in assistance of Ms. Teesta but Sh. Mohd. Vora and Sh. Malik insisted on taking her which now she realized after seeing the CD of a televised

talk given by Ms. Teesta that she was to be presented to the world as a symbol – show case of a frail, innocent, Muslim female, whose family members had suffered at the hands of furious mob of murderous Hindus.

The U.S. State Department has set aside several lac dollars for funding litigations aimed at bringing legal redress to Muslims of Gujarat.

That she is applying to this programme for aid and assistance so that she may be able to explain the world the exploitation in the name of secularism and protection of Muslims by persons like Ms. Teesta Being afraid that she may tell the true story that she saw nothing, Ms. Teesta herself became appellant No. 2 in Criminal Appeal and Ms. Teesta filed all affidavits in those proceedings and the Court acted as if she had filed the Affidavits. She did not file any.

That her mother reluctantly agreed to her being taken to Mumbai on 2nd July, 2003, she along with brother Nafitullah were taken first in Tata Sumo then in Tata Indica where for the first time she met Rais Khan in that vehicle. They were taken to a hotel in Juhu where they stayed for half a day and Ms. Teesta came to meet them in that hotel and that was an introductory talk on the first day.

On 3rd day Ms. Teesta called her in the office which is in the residence of Ms. Teesta's father Shri Atul Setalvad where Ms. Teesta told her what to say about what happened in Best Bakery in a press conference arranged by her [Ms. Teesta]. She was also told that she had to mention that, all that she had stated in the Trial Court, Vadodara and that was after coming under the pressure of Sh. Madhu Srivastava and Sh. Bathu Srivastava. When she told Ms. Teesta that this MLA had nothing to do with her area and that she did not know him as he did not come to her locality in Vadodara, Ms. Teesta said, if she (Ms. Zahira) followed her instructions, she would ensure to restart Bakery business and rebuild the residential premises.

That the press conference was held on 7th July, 2003 which was near Victoria Terminus, Mumbai and she stated in that press conference that all that was told by Ms. Teesta. On the same day she was taken for recording at Aaj Tak Television Channel where she stated the same thing at the instance of Ms. Teesta.

That from 7th, July, 2003 onwards she was kept at the residence of Ms. Teesta and was not allowed to keep her brother along with her in that house where she was kept like a prisoner for about a month. She was also not allowed to go out alone. She did not visit Vadodara during that time. This may also be added that her mother and brother Sh. Nasibullah came to Ms. Teesta's place to enquire about her but she was not allowed to see them. During this one month Ms. Teesta had gone abroad for about 15 days with CDs and other material. One visit was to Canada and the other was probably to Arab countries. Her passport may be examined to ascertain the countries she visited.

That during her stay with Ms. Teesta, she saw Arab Sheikhs carrying bags and coming to see Ms. Teesta and at that time she was directed to leave the office. Hence, what transpired between those Sheikhs and Ms. Teesta needs to be investigated.

That after one month's stay in confinement at Ms. Teesta's place, she was shifted to a flat of Ms. Teesta's brother-in-law Sh. Ishak at Yari Road Varsova, Andheri, Mumbai. There too she was kept under the watchful eye of Sh. Ishak, his wife and

watchmen. She was never left alone and was not allowed to meet even her mother during these seven months.

That when she was shifted to Yari Road in Andheri, Mumbai she was photographed along with Burqa. By this way Ms. Teesta was hiding her identity by concocting a fiction around her.

That a statement, in English, was prepared in the office of Ms. Teesta on which she was told to sign and that she did. Ms. Teesta also signed the statement on every page. This was during the period when she was staying at the residence of Ms. Teesta and thereafter, she was brought to Delhi by Ms. Teesta accompanied by an Advocate Sh. Mihir Desai and she was taken to National Human Rights Commission (NHRC). Before the office of NHRC, she was made to say orally what Ms. Teesta had told her to say and after that, statement which was prepared in Mumbai was handed over to the Commission. That is not the statement which she made orally in the office of NHRC. If any statement was reduced in writing that was not the same as the written statement which was produced by Sh. Ajit Bharihok, Registrar, NHRC. What the person wrote would be different from the statement which Ms. Teesta prepared in Mumbai. That is why the record of proceeding before NHRC is essential to be examined. Most probably there is no record in NHRC.

That there is a need to enquire into the funds – Indian and foreign – collected by Ms. Teesta and her organization in the name of Gujarat riots. As Ms. Teesta admits to be the recipient of large funds from Congress Party of India allegedly in the form of advertisement.

That this is also to be enquired into that Ms. Teesta and her husband are not running the Non Governmental Organisation (N.G.O) Communal Combat is business venture of the company/firm known as Sabrang publications Pvt. Ltd. Her Lawyers told her that it is a device to avoid Foreign Contribution Regulation Act. Had it been a NGO every foreign contribution would have been disclosed after giving information to the Home Ministry? Sabrang publications or Ms. Teesta have invented a way to defeat the law. The bank pass books of Ms. Teesta, Sh. Javed Anand and Sabrang publications need careful and thorough examination including where foreign funds collected by them are kept.

That Ms. Teesta is habitual of getting signatures of others on blank papers and it has been transpired to her lawyer on examination of the records of the case.

That the copies of bank records of her own and her family members have been enclosed with the affidavit. She enclosed the photocopies of bank accounts of – Ms. Zahirabanoo Habibullah Shaikh [Syndicate Bank, Goddev, Bhayander (E) Account No. 16754], Mrs. Shaikh Sairunnisa Habibulla [Syndicate Bank, Gooddev, Bhayander (E) Account No. 16669], Sh. Shaikh Nasibbula Habibullah [Syndicate Bank, Gooddev, Bhayander (E) Account No. 16667], Sh. Sheikh Nafitullah Habibulla [The Baroda City Co-op. Bank Ltd., Vadodara – Account No. 2037], Jaheera Abhibula Sheikh [Bank of Baroda, Baroda – Account No. 011348] and Sayurinisha Abimulla Shaikh [Bank of Baroda, Rv Desai Road, Boroda – Account No. 8881]. Except these they have no other accounts.

Gist of the affidavit dated 29th March, 2005 filed by Mrs. Hemantika Wahi, Advocate on behalf of State of Gujarat through Sh. Sudhir Sinha, Commissioner of police, Surat.

That it is a matter of record that National Human Rights Commission (NHRC) preferred Special Leave petition (SLP) in this Court challenging the order of acquittal of Additional Sessions Judge, Vadodara and that Ms. Teesta Setalvad along with Ms. Zahira Sheikh had also filed SLP (Crl.) No. 3370/2003 challenging the order of acquittal of ADJ, Vadodara and that State of Gujarat also filed appeal in the Gujarat High Court which was dismissed.

That the State also filed SLP (Crl.) Nos. 1039-1041/2004 in this Court against the order of Gujarat High Court which was allowed by Judgment dated 12th April, 2004 directing retrial by Court under the jurisdiction of Bombay High Court.

That the retrial of Best Bakery case commenced on 7th June, 2004 before Additional Sessions Judge, Greater Bombay and that State appointed Sh. Atul Mehta and Sh. TS Nanavati as Special public prosecutors and that till such time the trial was on the verge of commencement. State was not approached by any witnesses/victims/affected persons except a letter dated 7th June, 2004 received by Legal Department from CJP suggesting the names of four Advocates proposed to be appointed by the State as public prosecutors for the retrial of Best Bakery case. The said letter was not signed by Ms. Teesta Setalvad. To know about the genuineness Ms. Manjula Rao, Advocate was appointed to assist the Special public prosecutor. The appointment of Special public prosecutors was not approved by the Supreme Court. Therefore, pursuant to the order of the Supreme Court dated 16th August, 2004 Sh. PR Vakil, Senior Advocate and Ms. Manjula Rao, Advocate came to be appointed as Special public prosecutors and upon the demise of Sh. PR Vakil the state appointed

Sh. JP. Yagnik and Sh. AR Pandey as public Prosecutors in consultation with Ms. Manjula Rao as directed by the Supreme Court.

That all the accused had not surrendered as directed by the Supreme Court. Warrants of arrest were issued by the Trial Court, Vadodara and a special team for the said purpose was constituted by him. The State also moved the Trial Court for issuance of proclamation in respect of absconding accused and till date out of 21 in all 17 have been arrested and at present they are standing trial before the Bombay Court.

That the following Affidavits/Statements made by Zahira to the knowledge of deponent -

That the first Statement of Ms. Zahira Sheikh was recorded on 2nd March, 2002 by Vadodara Police and the same was treated as FIR. Further statements dated 4th March, 9th March and 1st April, 2002 were also recorded.

That in the interregnum period before trial by trial Court, Vadodara, Ms. Zahira Sheikh preferred an affidavit dated 20th May, 2002 (before Nanavati Commission) duly sworn but without any identification and endorsement of the deponent.

That deposition of Ms. Zahira Sheikh dated 17th May, 2003 before Trial Court is annexed.

That Ms. Zahira addressed a press conference at Bombay on 7th July 2003.

That on 11th July, 2003 Ms Zahira made statement before NHRC which is signed by Ms. Zahira and Ms. Teesta Setalvad. One statement was also recorded by Bombay Police On 16th December, 2003.

That on 3rd November, 2004 Ms. Zahira presented an affidavit before Collector, Vadodara affirmed before Notary and countersigned by her brothers, sister and mother and on the same day she also addressed a press conference.

Stands regarding Affidavits of Ms. Teesta

That for the first time in Affidavit dated 5th January, 2005 Ms. Teesta has mentioned about the Affidavit dated 8th September, 2003 of Ms. Zahira and that the original Affidavit is currently in her possession and that a true typed copy of the same filed in the Supreme Court.

That in affidavit dated 7th March, 2005 Ms. Teesta again mentioned the affidavit dated 8th September, 2003 and that Ms. Zahira signed the Vakalatnama appointing Ms. Aparna Bhat as Advocate and that she produced the original before Trial Court on 20th December, 2004 with the letter dated 4th July, 2003 addressed to Ms. Teesta Setalvad requesting for assistance.

That as per the Affidavit of Ms. Teesta Setalvad dated 30th November, 2004 filed Supreme in Supreme Court, Ms. Zahira Sheikh accompanied by brother reached Bombay by car on 6th July, 2003.

That during the course of hearing before the Supreme Court certain grievances were made regarding alleged threats given to Ms. Zahira Sheikh during trial at Trial Court, Vadodara and FIR about it was registered at the instance of her brother against Madhu Srivastava and others. It is stated that in spite of persistent efforts to contact Ms. Zahira Sheikh by Vadodara Police the same came to be thwarted at the instance of Ms. Teesta Setalwad and in this respect an affidavit was filed in Supreme Court on 8th September, 2003.

On persual of the affidavits of the parties, Ms Zahira Habibullah Sheikh appears to have made the following depositions/statements. Admission or otherwise of the parties in relation to the depositions/statements concerned has also been noted in the column of 'Remarks'. On 7th June, 2005 a direction was given to Ms Zahira as recorded in the Record of Proceedings to the following effect:

“.....In order to save the time, Ms Zahira Sheikh is required to give in writing by the next date, if the status of any of the documents in remarks column has not been correctly mentioned.

She is also required to mention by the next date, whether any other statement/deposition was also made by her at any other point of time

If the required information is not submitted by or on behalf of Ms Zahira Sheikh by the time fixed it will be deemed that the status as mentioned is admitted by or on behalf of Ms Zahira and no other statement/deposition was made by her.....”

But she did not raise any objection till date and also did not file any response. Accordingly, it is taken as admitted as per the following Statement

STATEMENTS MADE BEFORE VARIOUS AUTHORITIES BY MS. ZAHIRA HABIBULLAH SHEIKH

Sl. No	Date	Statements before	Remarks
1.	2.3.2002	Sh, Bariya, Police Inspector, Statement/FIR, Police Inspector, Panigate Police Station, Vadodara	Existence is admitted by Ms Zahira subject to that it is based on tutoring
	4.3.2002	Sh, Bariya, Police Inspector, Statement, Panigate Police Station, Vadodara	Not admitted
	9.3.2002	Sh, Bariya, Police Inspector, Statement, Police Inspector, Panigate Police Station, Vadodara	
	1.4.2002	Police Inspector, DCB Vadodara city	
2.	11.5.2002	Statement before CCT, Bawahir Hall	Existence is admitted by Ms Zahira subject to that it is based on tutoring
3.	20.5.2002	Affidavit by Ms Zahira filed before Nanavati Commission	
4.	17.5.2003	Statement before Trial Court, Vadodara	Admitted
5.	7.7.2003	Press conference at Bombay	Existence is admitted by Ms Zahira subject to truthfulness on the ground that it is based on tutoring
6.	11.7.2003	Statement by NHRC, Delhi	
7	8..2003	Affidavit of Ms Zahira copy of which was filed by Ms Teesta as additional document	Disputed
8.	16.12.2003	Statement by Ms Zahira before Police Station, Santacruz, Bombay	Existence is admitted by Ms Zahira subject to truthfulness on the ground that it was prepared by Ms Teesta
9.	3.11.2003	Press Conference at Vadodara	Admitted
10.	3.11.2004	Affidavit before Collector, Vadodara	Admitted
11.	7.11.2004	Representation submitted to National Commission for Women	Admitted

12.	10.11.2004	Statement given before ACP, Vadodara	Admitted
13.	31.12.2004	Affidavit before Hon'ble Supreme Court	Admitted
14.	21.12.04 to 2.2.2005	Statements during Retrial before Court, Mumbai	Admitted
15.	20.3.2005	Affidavit before the Inquiry Officer (RG, Supreme Court)	Admitted

On perusal, of all these depositions/statements, for the sake of convenience, these can be divided into following four parts on the basis of the particular stand taken by Ms Zahira during that period:

1. **Part A** will include the depositions/statements recorded in between 2nd March, 2002 to 20th May, 2002 in which Ms Zahira always supports prosecution side and speaks against the accused/defence side.
2. **Part B** will include only her statement dated 17th May, 2003 recorded during trial by Fast Track Court, Vadodara in which she became hostile to the prosecution
3. **Part C** will include those depositions/statements recorded during 7th July, 2003 in which she again supports the prosecution having same stand which she took between 2nd March, 2002 to May, 2002.
4. **Part D** will include those depositions / statements recorded / made after 3rd November, 2004 onwards when Ms. Zahira addressed a press Conference at Vadodara submitted one affidavit dated 3rd November, 2004 before the Collector, Vadodara, the period of this part starts and continues till date. In all the depositions / statements made by Ms. Zahira during this period, she returned back to the position the adopted while giving statement on 17th May, 2003 in Trial Court, Vadodara, and is supporting the defence showing the hostility against the case of the prosecution. The causes and the circumstances shown by the parties and appeared otherwise on the record, will be dealt with, part-wise, herein below.

PART -A

STATEMENTS / FIR (WITH TRANSLATED VERSION) DATED 2ND, 4TH, 9TH, MARCH, AND 1ST APRIL, 2002 OF MS. ZAHIRA SHEIKH GIVEN TO SH. BARIYA, POLICE INSPECTOR, PANIGATE POLICE STATION, VADODARA CITY AND SH. KPP KANANI, SENIOR INSPECTOR, DCB, VADODARA.

[Ex. Nos. 24 to 26A and 28 & 28A]
(Vernacular / English Version)

To understand the incident of Best Bakery, which was alleged to be reported to the Police by Ms. Zahira herself vide her statement / FIR recorded by Police on 2nd March, 2002 and signed by her immediately after the incident is reproduced herein below:

“I, Zahira D/o Habibullah Abdul Rehman Shaikh, age – 18 yrs, Occupation – Household work, residing at Hanuman Tekri, Dudhiya Talao, Best Bakery, Dabhoi Road, Vadodara, originally an inhabitant of Village Bhagobar, Thana – Dumariyagunj, Dist. Basti (U.P.), On being asked personally declare and dictate my complaint here in S.S.G. Hospital, as follows:

I am residing at the aforesaid address with my family since last six months. Prior to the same we were residing at Navapura opposite Slum Quarters. My father was running a bakery viz. Best Bakery for the last five years from the said place. My father recently died of heart attack nine days back. I have two brothers and we are three sisters. My eldest sister's name is Saira and second is Nafitullahbhai followed by sister Sabera and then myself and the youngest is Naseemulla alias Rajubhai. From out of us my elder brother Nafitullah is married and my sister in law's name is Yasmin, who has gone to her maternal house at Chota Udepur. My mother's name is Saherunissa. My brothers are working in the bakery, and we are residing in a Pucca building situated next to the bakery. There are total 12 employees in our bakery. Next to my house, there is a house of Zainabbibi Aslambhai. Aslambhai too is working in another bakery. There are two houses of Muslims in our area and rest are Hindus. Our bakery was closed since two days due to curfew. My maternal uncle Kausarbhai is also residing with us and is working in the bakery.

Yesterday the date 1.3.2002 as there were riots, we all were sitting on first floor of our house after taking our meals. At about nine O'clock at night we switched off lights etc. and closed the doors and were sitting in the house and were preparing to go to sleep. During this time about 1000 to 1200 mob from Ganeshnagar Zopadpatti came shouting 'kill, set afire the bakery' so we peeped from the window and my maternal uncle went down to persuade the mob but they did not budge and told my maternal uncle to go away. Hence my maternal uncle came up. As the said mob were carrying petrol etc. with them they first set afire the saw mill of Kallubhai, situated opposite our house and started pelting stones at our residence and throwing bags of petrol, kerosene, bulb etc. and started shouting 'these are Muslims, set them ablaze. At that time my maternal uncle Kausarbhai, my sister Sabera, my aunty Zainab, my aunt Shabnam and Shipli-babli twins daughter of my aunty Zainab, and one son and one daughter of my aunt Shabnam were there in our room downstairs. And I, my mother, my elder sister Saira, elder brother Nafitulla, and Nasimulla and my grandmother Zarina and the employees were on the terrace. At that time these mob poured petrol, Kerosene etc. in the room on the downstairs and set afire our room on the downstairs and ransacked our premises. Moreover they also attacked the premises of our neighbour Zainabbibi and set it afire. The mob gheraoed us and took wood from the room down and set afire all the same and were also shouting and telling us to come down. They threatened us; that is we donot come down they will ransack our house and were also abusing us.

This day till morning the said mob gheraoed us, so by morning we asked to forgive us and requested that we will go to our native place from here.

Please forgive us. However these people did not listen to us and finally we got down and this mob tied hands and leggs of both my brothers and the employees of our bakery and said “we are not going to leave you after assaulting you.” By saying this they started assaulting both my brothers and employees with swords, knives rods etc. which they were carrying and dragged us the ladies towards the jungle. At that time they saw police vans and run here and there. The Police rescued us and brought my brothers and all the members who were burnt, to the Hospital here in the Ambulance.

This Hindu mob set afire the room below our premises and neighbouring room and injured with sharp weapons causing deaths of 1) Zainabbibi Hasnambhai 2) Sabira Habibulla 3) Shabnam bibi Firoz Aslam 4) Firoz Aslam’s son age about 5 years 5) Aslam’s daughter Sipli and 6) Aslam’s daughter Babli, who are twins, aged about 4 years and 7) Firoz Aslam’s daughter age about 3 years and employee of our bakery viz. 8) Baliram Harijan whereas 1) Sajidmiya alias Shehzaad 2) Rajubhai alias Nasimulla Habibulla 3) Taufel Ahmed Pathan and 4) Nafitulla Habibulla Shaikh 5) Rajesh 6) Prakash were injured and are under treatment. Whereas I donot know the whereabouts of both my maternal uncle Kausarbahi Abdul Raza Shaikh and Zainab’s brother in law whom we call Lula. In this stone pelting I too got hurt on my head and so also our employee Salim. We saw Jayanti residing in our Zopadpatti behind the Talao, running tea stall in Gajarawadi and his nephew Mahesh – known as Mafatiyo, and Jayanti’s nephew Munno and Pratap and Jayanti’s son whose name I donot know and Thakkar who is a worker in our Zopadpatti are and Kiran, Mafatiya’s friend, and Jitu residing in the lane opposite us, and others were there in the said mob. Whereas I donot know the names of other persons however I can identify some persons in the mob if I see them.

In connection with the communal riots in Godhara on 27.2.2002, there were riots in Vadodara City on 1.3.2002 from nine O’clock at night till early morning i.e. to say when police arrived, about 1000 to 1200 Hindumob including the above named persons attacked our bakery and our residences and poured petrol-kerosene and set afire the same and assaulted with sharp weapons and caused deaths of the persons named by me in my complaint and injured them and also set afire our two rickshaws, tempos and two scooters and one Hero Honda etc. and have caused damage. Hence it is my complaint to take action against them. My witnesses are the members of my house and the persons found during investigation.”

This much is my complaint.

Sd/- Shaikh Zahira Banu
I have received the copy of my complaint
Sd/- Shaikh Zahira Banu

Before me
Sd/-
Police Inspector
Panigate Police Station
Vadodara City

Attested True Copy.
Sd/-

Police Inspector
D.C.B., Vadodara City
(Seal of the Police Inspector
D.C.B. Vadodara City)

Chief Translator and
Interprete's Office
High Court, Bombay, 2004

A True Translation
Sd/-
Translator"

Sh. Baria, Police Inspector, Police Station Panigate, Vadodara who recorded the statement of Ms. Zahira on 2nd March, 2002 which was treated as F.I.R., stated on 5th August, 2005 during inquiry proceedings that, a Criminal Case was registered on the basis of this FIR and the investigation started. During the course of investigation he recorded two statements of Ms. Zahira under Section 161 of Criminal Procedure Code on 4th March and 9th March, 2002 respectively. One more statement of Ms. Zahira was also recorded on 1st April, 2002 by Sh. Kanani, Police Inspector, DCB, Vadodara City.

The police inspector Sh. Baria, who recorded the statements [pages 358-363 of Vol. II] of Ms. Zahira further stated as under:

"That he was deputed in Panigate Police Station as Inspector in March, 2002 and that he recorded the statements of Ms. Zahira regarding Best Bakery case on 2nd March, 4th March, 9th March, 2002 which were recorded at SSG Hospital, Vadodara.Mr. Baria further said that it is two pages statement and signed by me. The statement was written by my writer on my instructions after hearing Ms. Zahira. Meaning thereby that I was asking Zahira and whatever she replied I got it written by my writer. Thereafter, I read it over to Ms. Zahira and Ms. Zahira signed that and Ms. Zahira never raised any objection. The statement was recorded whatever Ms. Zahira uttered and that he has never seen till date Mr. Vora or Mr. Iqbal Ansari. When the statement of Ms. Zahira was recorded except my staff no one from the public was present there.

Whatever Ms. Zahira had uttered that was reduced into writing. The statements dated 4th and 9th March, 2002 were also reduced into writing whatever was said by Ms. Zahira and both the statements were read over to her and she did not raise any objection and he signed. The statement of Ms. Zahira dated 2nd March, 2002 was treated as FIR and on the basis of that crime was registered."

According to Sh. KPP Kanani, Senior Inspector of Police, who was also examined on 5th August, 2005 stated that the statement dated 1st April, 2002 (Exhibit 28) was got written in DCB Police station and whatever Ms. Zahira stated he got it written by his writer in Gujarati language and after recording the statement the same was read over to Ms. Zahira which she admitted to be true then he signed that.

Regarding all these four police statements Ms. Zahira stated in her affidavit dated 20th March, 2005 at para 13 that the police records of Vadodara appear to indicate that she made statements on these four occasions. In this affidavit she did not say anything regarding rest of the three statements recorded after 2nd March, 2002, she only stated

about the statement recorded by police on 2nd March, 2002 in her aforementioned affidavit at para 14 that reads as under [page 5 of Vol. IV (a)]:

“On 2nd March, 2002, I was taken to Sayaji Hospital where my family members were admitted. Also present there were other persons, like Iqbal Ansari (my late father had for sometimes worked in his bakery – that is how I knew him) and another, whose name I came to know later, called Mohammed Vora. I found him actively connected with the woman called Teesta The “statement” attributed to me was in fact the narration of events given to Vadodiar police by these two persons”

Ms. Zahira vide her statement dated 6th August, 2005 admitted her signatures on police statement dated 2nd March, 2002 and according to her she did not give statement to Sh. Baria, Police Inspector but as she was mentally upset and on the saying of some police person she signed and that she doesn't know Sh. Baria. When she was asked that she has stated in her affidavit dated 20th March, 2005 that the statement was recorded on narration of events by Sh. Mohd. Vora and Sh. Iqbal Ansari, she said that both came to the hospital and spoke to the Police personnel there and that she did not give any statement at that time and even after that. She also refused and said that she ever gave statement to Inspector Baria on 4th and 9th March, 2002 and she further refused and said that she ever gave statement on 1st April, 2002 to Sh. Kanani, Senior Inspector. She further stated that Sh. Mohd. Vora and Sh. Arif Malik when they were sending her to Bombay at that time she came to know that Sh. Mohd. Vora was Ms. Teesta's man and when Sh. Mohd. Vora came to Shilpa apartment along with Ms. Teesta I could guess that he will be her man but about Sh. Iqbal she said that she could not come to know whether Sh. Iqbal is Teesta's man. Nothing more is available with regard to this statement of Ms. Zahira which is on record.

Sh. Mohd. Vora and Sh. Iqbal Ansari both deny this allegation in their statements recorded during inquiry proceedings.

The stand of Ms. Teesta about the statement is that she came to know about Sh. Mohd. Vora later on and that the allegation that Mohd. Vora was actively connected with her is denied. Her denial has been recorded in her affidavit dated 16th April, 2005 at paras 8 and 23, which reads as under [pages 46, 47 & 54 of Vol IV (b)]:

“... .. I deny that Mohammed Vora, Arif Malik and Munna Malik are my agents... .. At the time she gave her police statement, (March 2-4, 2002) I did not know Ms. Shaikh... ..”

“... .. I deny that Mohammed Vora was actively connected with me at that time. I am not responding to the allegations regarding Mohammed Vora.”

Ms. Teesta, as quoted above, has denied that Sh. Mohd. Vora, Sh. Arif Malik and Sh. Munna Malik are her agents. As per the statement of Ms. Teesta recorded during the Inquiry Proceedings on 25th April, 2005 at page 8 [page 37 of Vol.II], she has stated that she knows these persons only through Ms. Zahira and that she has no other relations with these persons and according to Ms. Zahira's statement dated 6th August, 2005 she came into contact with Ms. Teesta afterwards i.e. when she met her in Bombay in July, 2003.

In affidavit dated 20th March, 2005 in para number 19 Ms. Zahira has mentioned the two names of two persons as Arif Malik and Munna Malik. In response, Ms. Teesta, in her statement dated 25th April, 2005 has stated that she knows these persons only through Ms. Zahira. At a later stage, when these two persons were summoned for their examination, through a report of the serving agency of the police department, Vadodara it was stated that the persons of these two names are not two different persons but Sh. Arif Malik is also called as Sh. Munna Malik Sh. Arif Malik deposed that he is also known as Munna Malik and that they are three brothers.

When all the three Malik Brothers (Sh. Malek Farukmiya Yusufmiya, Sh. Malek Arif @ Munna Yusufmiya and Sh. Malek Asif Yusufmiya) were made present before Sh. Nafitullah during his statement dated 2nd July, 2005 for identification, he identified Sh. Malek Arif @ Munna Yusufmiya as Arif Malik and Malek Farukmiya Yusufmiya as Sh. Munna Malik.

This above fact may also be read as and when these two names appear hereinafter.

When Ms. Zahira was asked on 6th August, 2005 that she is habitual of telling lies on the basis of tutoring her reply was that earlier she was alone and she was giving statements as per tutoring and she told lie but now she is not telling lie and in future also she will not tell lie and she further stated that today whatever she is speaking is true and without any tutoring.

When she was asked on 6th August, 2005 that a person who is helping her monetarily on his persuasion can she give wrong statements which is not true otherwise and whatever may be the consequences she did not reply.

Ms. Zahira admits her signatures on ex. 24, the statement recorded by Police Inspector, Sh. Baria on 2nd March, 2002. At that time Ms. Zahira was a matured lady of approximately 16-17 years of age, living in Baroda city and not in a countryside. She has studied upto 9th class. She belongs to such a family, which cannot be said down trodden backward or poor. The way of answering the questions, as observed during the course of her examination thrice in inquiry proceedings, her way of speech, which has been observed in various CDs placed on record, also indicate that she is quite intelligent and no an innocent or immature lady. A person of such a status, if admits her signature on a particular document, attributed to be stated by her, itself carries a weight. Once the admission of the signatures is there, burden goes to Ms. Zahira to explain in what way and under what circumstances, she put her signatures at the relevant time. For this, she gives different versions at different times, though a slight difference is there, as quoted above. Looking to her different stands, she has earned an image of such a lady, whose statement is to be weighed very cautiously. She gives only one explanation about the statement in question that it was due to tutoring, given by Ms. Teesta or her agents. Here at an early stage she put an allegation against Sh. Mohd. Vora and Sh. Iqbal Ansari that this statement attributed to her was in fact narrated before the police by these two persons. subsequently, she says that these two persons were seen talking with the police and does not reiterate the same allegation that her statement was narrated by these two persons.

As against the allegation put by her against these two persons, they both denied the same in her statements. Sh. Mohd. Vora further stated that Ms. Zahira came into his contact after they (Ms. Zahira and her family) had visited Nanavati Commission (i.e. on 20th May, 2002) and that they also went to him (Mohd. Vora) when they did not receive sufficient help from the Government and then he contacted the Collector, Vadodara in this regard. So far as this particular statement is concerned, the testimony of these two witnesses can be relied upon on the ground that as per Ms. Zahira herself she admits that Sh. Iqbal Ansari was earlier working with her father and she along with her family lived together with him in his house and along with his family for a period of one month and that too just after the occurrence of the Best Bakery incident. It shows that how much confidence was reposed in Sh. Iqbal Ansari and it was the same time when the statement was recorded by police. After that she puts allegation against Sh. Iqbal Ansari that he being the agent of Ms. Teesta, on her instigation, narrated the statement. However, at a later stage she in her statement recorded on 6th August, 2005 says that she cannot say about this gentleman that whether he is a man of Ms. Teesta or not. Such a witness, related to the family and against whom nothing appears on the record, cannot be disbelieved and his denial of the allegation can safely be accepted.

With regard to Sh. Mohd. Vora earlier, she alleged that at the time of recording of the statement as he was a man or agent of Ms. Teesta, he narrated the statement to the police. But at a later stage she admits that she was for the first time introduced to Ms. Teesta when she was brought or taken to Mumbai in the month of July 2003 and before this period, she had no relation with Ms. Teesta [Statement dated 6th August, 2005] that leaves a sign mark that how an unrelated person i.e. Ms. Teesta be expected working for or against her. She further states that at the time of her going to Mumbai and staying at Mumbai when Sh. Mohd. Vora approached her, she could guess that he may be a man of Ms. Teesta. It shows that this was only her guess and the guess came into existence after one and half years of period on which the statement was recorded. It can be said that Ms. Teesta and Sh. Mohd. Vora both have denied this fact and that at a subsequent stage Sh. Mohd. Vora came into contact with Ms. Teesta. In view of all this the allegation of Ms. Zahira against Sh. Mohd. Vora cannot be accepted.

Sh. Baria appears to be an independent and believable witness. Nothing is there on record which can suggest any interest of this officer in writing such a statement / complaint on behalf of Ms. Zahira without stating by her. All the five witnesses denied the allegations of Ms. Zahira and against it only the statement of Ms. Zahira cannot be accepted. **Thus, no inducement by tutoring, as alleged is proved.**

TWO PAGED MEMORANDUM DATED NIL SUBMITTED TO NATIONAL HUMAN RIGHTS COMMISSION AND CHIEF ELECTION COMMISSIONER

[Ex. 37]

Exhibit 37 is the Photostat copy of the two paged memorandum received from the NHRC along with other documents with a letter dated 27th January, 2005 of Sh. Ajit Bharioke, Registrar, National Human Rights Commission (NHRC), which was submitted by Ms. Zahira on 21st March, 2002 before the then Hon'ble Chairperson of NHRC when the NHRC delegation visited Vadodara. This memorandum reads as follow:

AN EYE WITNESS REPORT OF BEST BAKERY INCIDENT
AT DABHOI ROAD TOLLING – 12 PEOPLE
REPORTED DEAD 8 – 2 - MISSING
DAY & TIME OF INCIDENT : 1ST MARCH, 02
TIME : 20.00 P.M. TO 10.00 A.M. OF 2ND MARCH, 02

I Miss Zahira Shaikh the survival of the above incident narrate hereunder the whole matter of Arson, looting & burnt to death of about 14 people between above period.

On 01.03.02, Friday at about 20.00 pm a mob of about 50c-700 people gathered near our bakery located at Dabhoi main road. We were about 18 members present in the two-story building of the bakery. The mob looted & torched ground floor store room & workers room. Out of 18, 10 members including 3 women & 4 children died in the night itself. We tried several times for the help of police & Fire Brigade during whole night but no one turned to save us.

The bakery building was burning whole night i.e. about 14 hrs. [since 20.00 p.m. to 10.00 a.m. of next day] but no help was given to us. The mob also stabbed to death two persons who were trying to escape to save their life. About five vehicles were burnt.

A Police van came about 9.30 p.m. but did not respond to our call... (illegible) without taking any cognizance / actions against miscreants. Our bakery building was taken to ban whole night. On contacting Panigate Police Station & Control Room, no help was provided and instead replied that Police is busy with other incidents in the city and we are unable to reach to your place.

Six people was injured who were tied with the rope & burnt are still under treatment at SSG Hospital. The mob also attacked on survival women & threatened...(illegible) over them.

I have registered an FIR with Panigate Police Station with names of some known culprits namely.....

1. Mr. Jayanti Chaiwala & His Sons
2. Mr. Mafat
3. Mr. Mahesh
4. Mr. Munna
5. Mr. Sanjay Thakkar
6. Mr. Santosh Thakkar
7. Mr. Jagdish Rattiwala
8. Mr. Dinesh Bakeriwala
9. Mr. Painter
10. Mr. Sanar (Handwritten)
11. Mr. Yaseen (Handwritten)
12. Mr. Gitoo (Handwritten)
13. Mr. Raju (Handwritten)
14. Mr. Haris (Handwritten)
15. Mr. Pratap (Handwritten)
16. Mr. Maneder (Handwritten)

17. Mr. Pankaj (Handwritten)

I regret to state that no Police actions have been initiated against named culprits and no arrest have been done till reporting this. Even Police Department is unable to trace out dead bodies of 2 missing persons till date.

If timely help was provided to us during 14 hrs. of the whole incident many of us could have saved their life.

I wish, I could have lost my life to save myself from all miseries that have come across to me.

ENCL.:

**COPY OF NEWS CUTTINGS REPORTED ON THE NEXT DAY WITH
PHOTOGRAPHS
COPY TO**

- 1. THE DELEGATION, NATIONAL HUMAN RIGHTS COMMISSION, NEW DELHI.**
- 2. THE POLICE COMMISSIONER OF VADODARA**
- 3. THE COLLECTOR, VADODARA**
- 4. HUMAN RIGHTS, WING OF VADODARA**
- 5. P.U.C.L., VADODARA**

Sd/-

SIGNATURE

NOTE : In this document received from NHRC handwritten names of the accused do not find place. However, copy enclosed by Ms. Teesta along with her affidavit dated 7th March, 2005 the handwritten names are there and Ms. Zahira in her statement dated 6th August, 2005 recorded at Vadodara admits that at the time of putting her signatures these names were written but were not written by her.

Ms. Zahira has also admitted in her statement before the NHRC, Delhi on 11th July, 2003 that she made a statement before the then Chairperson, NHRC on 21st March, 2002. This statement is signed by Ms. Zahira and she admits her signatures on this Memorandum at **B to B**.

With regard to the above 2 paged memorandum / statement Ms. Zahira vide her affidavit dated 20th March, 2005 at para 19 has stated as under **[page 7 of Vol. IV (a)]**:

“... .. I was taken three times to that circuit house. I was staying in the house of Iqbal Ansari when I was for the first time taken to circuit house. Mohammed Vora, Arif Malik and Munna Malik used to visit Ansari’s house to take me to different places. Sometimes it was Mohammed Vora, sometimes either Vora or Malik and others too, whom I do not know. During the first visit to Circuit House, and I said what I was told to say. On the second occasion I narrated the same tutored story. Later on I

came to know that he was ‘Chutani Commissioner’. I was told that he had something to do with elections.... ..”

In her affidavit dated 7th March, 2005 in para 20 [page 22 of Vol. IV (b)] Ms. Teesta while enclosing the copy of that Memorandum stated as under:

“... ..that Ms. Shaikh approached every forum available at the time to speak about the tragedy that befell her family when the BEST Bakery was attacked and gutted on 1/2-03-2002. To every forum that she approached, to my knowledge, she used to submit the same copies of the memorandum that she had submitted first to Justice J. S. Verma, ex-chairperson, National Human Rights Commission on 21-03-2002. Eminent members of local level civil rights groups including those of the Vadodara unit of the People’s Union for Civil Liberties (PUCL) were also given copies. I enclose as Annexure-J colly, a copy of the said memorandum given by Ms. Shaikh at the time to the NHRC, PUCL and Commissioner of Police, Vadodara. This memorandum titled “An Eye-Witness Report of BEST Bakery Incident at Dabhoi Road” was signed by Ms. Shaikh and included a set of newspaper clippings and photographs whose translations are included in the Annexure. A close look at page two of the copy of the said memorandum shows nine names of alleged accused typed in an eight written by hand, by Ms. Shaikh who has also signed the memorandum.. ...”

For seeking further clarifications from the party vide record of proceeding dated 6th April, 2005 at para 3 [page 8 of Vol. I] the following directions were given:

“Response, if any, of any additional/ new facts relevant to the question referred to this Forum by the Hon’ble Court, as to the clarification, explanation, admission or denial and not mentioned earlier in the parties by 16th April, 2005 failing which such facts will be deemed as not denied.”

In response thereto Ms. Zahira has stated a very few lines about this fact at para 5 of her affidavit dated 12th April, 2005 which reads as under [Page 69 of Vol. IV (a)].

“... .. It is submitted that the appearance before the Chief Election Commissioner was organized by Teesta Javed Anand through her aforementioned agents.”

She herself did not try to put even the slightest labour to say something with regard to this Memorandum / statement which was referred to by Ms. Teesta as mentioned above. However, during her final examination on 6th August, 2005 when she was questioned [Page 427 of Vol. II]:

Question: Whether that document bears your signature from ‘B’ to ‘B’?
Answer: It bears my signature on the part earmarked as ‘B’ to ‘B’. When I was taken to Circuit House after the incident, some people of our community came to the House of Iqbal Ansari and they got my signature on this paper and at that time also the names written in between the portion earmarked as ‘A’ to ‘A’ were there. Then witness says on her own that at that time her signatures were obtained on a large number of papers.

She further stated on 6th August, 2005 that the names written are not in her hand.

In view of all this, this Memorandum is deemed to be admitted by Ms. Zahira.

At this final stage, she appears to take this stand by first time that at that time her signatures were obtained on a large number of papers and it may be treated as afterthought. This is also a vague explanation as she has not clarified as to who obtained these signatures of her's and why without any verification she signed this Ex. 37, when such document was to be submitted to very highly placed authorities i.e. Hon'ble Chairperson of NHRC and Chief Commissioner. She does not say that whether there was inducement, coercion, threat or pressure of any kind so far as this document is concerned. In this view, **it cannot be said that there was nay inducement, coercion, threat or pressure behind this document**

STATEMENT GIVEN BEFORE THE CONCERNED CITIZEN TRIBUNAL ON 11TH MAY, 2002 AT BAWAHIR HALL

[EX.8]

Ex. 8 is a true and correct transcript of the full documents Ex. 40 recorded and filed by Ms Teesta along with her affidavit dated 21st April, 2005. the relevant extract reads as under **[Page 116 of Vol.III]**:

“..... I saw a mob. Everyone had swords in their hands and stones – everyone had weapons in their hands..... No, there were no police with them only people from the mohalla- about 100 – 200. They set fire.... My (maternal) uncle was also there? Got a heart attack right there and they set him on fire. My aunt's children were in her arms. They pulled them away, cut them up and threw them into the fire. My sister was set on fire and my uncle was also set on fire right in front of my eyes..... They caught my uncle and they started hitting them with swords- they cut them up into three pieces and threw him into the fire. Whenever we find bones and go to the DCP, they say this is an animal's bone, not a human being's. how do you know? I said I know because all this happened in front of my eyes..... There are 17 accused and not one has been arrested. They are roaming around openly and one was sitting in his shop.....There were Hindu boys with us and when they said they were Hindus and they should be spared they asked them why they were working in a Muslim's bakery, and that they would not be spared. They were cut up also and the Muslim servants were torched. My brother was also hit with a sword, the wound is there around the neck. My sister is just three months old and they burned her legs.....”

The transcript of the statement was also filed in this Court by Ms Teesta along with her Crminal Miscellaneous Petition Nos. 12515-18 for filing additional affidavit. This statement of Ms Zahira speaks out that she was every happening on 1st March, 2002 and that there are 17 accused persons, they were roaming around and one was sitting in his shop. With regard to this statement the stand of Ms Zahira about her appearance in Bawahir Hall before CCT, she deposed in para 8 of her affidavit dated 31st December, 2004 **[page 25 of Vol. III]** as under:

“... .. I did not appear before self established concerned citizens Tribunal, Gujarat 2002.”

As against this in the affidavit of Ms. Teesta dated 7th March, 2005 she has stated in para 20 as under **[Page 21 Vol. IV (b)]**:

“... .. As far as paragraphs 8-10 of the said affidavit of Ms. Zahira Sheikh are concerned, she has not only denied appearing before the Concerned Citizens Tribunal-Crimes Against Humanity Gujarat 2002 on 11-05-2002, but has overstepped all levels of decency by vilifying the tribunal and the report it published... ..”

She has further stated in para 21 which reads as under **[Page 22 Vol. IV (b)]**:

“... .. as far as Ms. Zahira Shaikh’s denying of her appearance before the Concerned Citizens Tribunal is concerned, we have a Video Compact Disc in our possession showing the deposition of Ms. Sheikh which can be produced as and when this Hon’ble Court deems fit... ..”

It appears that after going through the above affidavit of Ms. Teesta in which Ms. Zahira’s presence was shown in an electronic record i.e., the C.D. prepared at the same time, subsequently, Ms. Zahira, while changing her earlier stand and admitting her presence, stated in her affidavit dated 20th March, 2005 in para 21 which reads as under **[Page 8 of Vol. IV (a)]**:

“On one occasion I was escorted by one Najum, who was a social worker, to a meeting held in Baba Hir Hall.The meeting was video filmed. The persons present in the Hall narrated their stories. I was also placed before the video and recording was done. I narrated the tutored story before that video film. On that occasions Ms. Teesta w / o Javed Anand was also present in that hall.”

Thus, the presence and speaking before the Tribunal was subsequently admitted by Ms. Zahira.
The veracity of Ms. Zahira can very well be evaluated by above quoted state of affairs.

She also stated in this affidavit in para 18 and 19 **[Page Nos. 6 – 7 of Vol. IV (a)]** that-

“18.Mohammed Vora was in close contact of Ms. Teesta w / o Javed Anand. He used to tutor me and accompany me to the various organizations and authorities... ..”

“19. Mohammed Vora, Arif Malik and Munna Malik used to visit Ansari’s house to take me to different places. Sometimes it was Mohammed Vora, sometimes Mohammed Vora accompanied by Arif Malik and sometimes either Vora or Malik and others too, whom I do not know I narrated the tutored story before that video film. On that occasions Ms. Teesta w/o Javed Anand was also present in that hall... ..”

While seeing the CD of CCT on 6th August, 2005 Ms. Zahira admitted that she was speaking in that CD and that whatever she stated there, some part of it, is false and some part is correct. She again stated that Sh. Mohd. Vora Sh Munna Malik and Sh. Arif Malik had taken her there. According to her she was told by these three persons that if she gives the statement according to their tutoring, then only she will get the compensation otherwise not and this was the reason that she gave statement as per their tutoring.

Again she puts an allegation of tutoring against Ms. Teesta, Sh Mohd. Vora, Sh. Arif Malik and Sh. 'Munna' Malik and they all denied the same in their statements. With regard to the statements of Mohd. Vora the reasons assigned hereinbefore will remain the same. No interest of their own has been established on record as to why these two persons will tutor Ms. Zahira to speak and put serious allegations against innocent persons. The ground of awarding the compensation was not taken by Ms. Zahira anywhere in her earlier affidavits/statements. It appears to be an after thought and is not to be accepted. That apart, for getting compensation indicating the accused persons is not required. Compensation is awarded against loss incurred during the incident of such riots and for that making her to speak – "There are 17 accused and not one has been arrested. They are roaming around openly and one was sitting in his shop ...' is not necessary and what was the benefit of these two persons, if Ms. Zahira gets some compensation that is also not clear. As such, the denial of the allegation by these two is accepted and resultantly no tutoring is established.

As discussed above, the allegations of Ms. Zahira that there was inducement by tutoring by Ms. Teesta and her so called and her so called agents Sh. Mohd. Vora, Sh. Arif Malik and Sh. Munna Malik does not establish so far as this document is concerned.

AFFIDAVIT FILED BEFORE NANAVATI COMMISSION ON 20.5.2002

[EX. 41]

After the order of this Hon'ble Court dated 10th January, 2005 ordering inquiry, the record of the Hon'ble Supreme Court was perused by me and on perusal of affidavit dated 31st December, 2004 of Ms. Zahira in para 8, it is stated that the agents of Ms. Teesta, Mohammed Vora, Arif Malik and Munna Malik took her before the Nanavati Commission and tutored her to make statements implicating certain persons although neither she nor her family members had even seen them on the date of the occurrence on 1st March 2002. On this information, a letter was written to the Secretary, Nanavati Commission and in response of which, a certified copy of Ms. Zahira's affidavit dated 20th May, 2002 was received from the Secretary to the Nanavati Commission vide his letter dated 24th January, 2005. It is stated in the letter that the original affidavit was filed in Gujarati language and that their office had prepared the English translation of the affidavit and a copy of the said translation was also forwarded along with the copy of the affidavit in Gujarati language and which were taken on record. Subsequently, a copy of this affidavit was also filed by Ms. Teesta as Annexure 'O' with her affidavit dated 7th March, 2005. The parties were given a copy of the same with a direction to file objection, if any, with regard to the translation but no objection was received. The relevant and important extracts of the affidavit dated 20th May, 2002 are as under **[Page 358 of Vol. III]**

“3. The incident started at about 8-00 P.M. on Friday, 1st March, 2002. The male members of our family were on the ground floor while the females were on the first floor. A mob of about 500 to 700 persons carrying arms and raising shouts and hurling abuses rushed to our house.”

“4. Jayanti Chavla, his son Mafat alias Mahesh, Munna, Sanjay Thakkar, Santosh Thakkar, Jagdish Diskwala, Dinesh Bakeriwala, painter and others, who were carrying arms, and who were in the mob were near us. I know them very well. They and the other member of the mob had first attacked our Bakery and they robbed away the goods that was there in the Bakery and they also caused damage and set the bakery to fire... The mob killed from out of us Jenabbibi Firoz, Sabira Habibullah, Sabnam the wife of Aslam, both the minor children of Firoz, 2 twin minor daughters of Aslam, Prakash, Rajesh and Baliram, the servant of the Bakery.

And the mob caused injuries to Sahelul, Sahejad and Tufel Pathan. My maternal uncle Kosarbhai and Hasmat alias Lula were done to death. However, they were missing. My mother, my servant Salim and I sustained injuries by means of stones. Over and above the miscreants mentioned above, there was others in the mob and out of them I know some of them by face.... Ever so, they with the aid of swords, knife iron rods etc bet them and they started to drag the females towards bushes with malafide intention....Some days latter, the miscreants whose names had been disclosed were arrested by the police and were sent to jail. At 9.30 p.m. a police jeep had arrived but went back without doing anything....”

With regard to this affidavit Ms Zahira in her affidavit dated 31st December 2004 at para 8 has stated as mentioned above, that she was taken to Nanavati Commission by Mohd Vora, Arif Malik and Munna Malik. Subsequently in her affidavit dated 12th April, 2005 at para 4 she stated as under **[Para 6 of Vol.IV(a)]**

“The reference to the event on20.5.2002..... are references to the event when I was either tutored by the agent Teesta Javed Anand or by she herself.....”

The said statement has been reiterated in her preliminary statement recorded during the Inquiry proceedings on 18th April, 2005 at page 2. Subsequent to this while changing her stand she stated in her final statement dated 6th August, 2005 that she did not go to Nanavati Commission for giving the affidavit dated 20th May, 2002 and that she is not aware who has filed that affidavit there. When she was asked that she has already admitted that she went to Nanavati Commission in her both the earlier affidavits dated 3rd November 2004, 31st December 2004, she did not reply. She further stated that she did not go to Nanavati Commission but certainly went to Circuit House whether Nanavati Commission and that she doesn't know whether Nanavati Commission was also there or not but she admitted her signatures on that affidavit. She also said that on the saying of Mr Iqbal Ansari her signatures were taken on blank papers by two-three persons who had come along with him. When she was asked that why she has not disclosed this in her earlier affidavits? She said she doesn't remember

In response to the allegation of Ms Zahira, Ms Teesta in her statement dated 25th April 2005, recorded during the Inquiry Proceedings at page 2 [page 31 of vol. II], has stated that she was informed about this affidavit only after Ms Zahira's press conference on 3rd November 2004. Ms Teesta has further stated in her affidavit dated 16th April, 2005 at para 8, which reads as under [Page 47 of Vol. IV(b)]:

“.....I deny that Mohammed Vora, Arif Malik and Munna Malik are my agents. I do not believe that Ms Sheikh was tutored by them to go to Shah-Nanavati Commission. However, this is beyond my knowledge. I deny that Ms Sheikh repeated any names at my behest.....”

Denying that allegation of tutoring, Sh Mohd Vora in his statement recorded during the Inquiry Proceedings on 25th May, 2005 stated that they [Ms Zahira & family] had come to him only after they had visited Nanavati Commission. This allegation of tutoring was also denied by Sh Arif Malik and Sh Munna Malik in their statement dated 25th May 2005 recorded during the Inquiry Proceedings.

Ms Zahira in her final statement recorded during Inquiry Proceedings on 6th August, 2005 has admitted that she came into contact with Ms. Teesta for the first time in the first week of July, 2003 and before that “there was no influence of Teesta on me or on my family prior to the period I was taken to Mumbai” also at page 33 (English translation) she has stated that “earlier I have told lies also but now I am not telling a lie and I would not do so even in future, I am telling the truth today, nobody has tutored me.”

Evaluating the material available on record which has been placed/quoted above, under the captions of all the four places i.e.

- (i) **Statements before Police on 1st, 4th and 9th March and 1st April, 2002;**
- (ii) **Undated Memorandum before National Human Rights Commission (NHRC) & Chief Election Commissioner;**
- (iii) **Address in Bawahir Hall (CCT) dated 11th May, 2002; and**
- (iv) **Affidavit dated 20th May, 2002 before Nanavati Commission.**

The following considerable situation emerges –

- (A) Allegations against Sh. Mohd. Vora, Sh. Iqbal Ansari, Ms. Teesta Setalvad, Sh. Arif Malik and Sh. Munna Malik have been denied on oath by all these persons and no material is available against these persons on which their testimony can be disbelieved.
- (B) That apart, Ms. Zahira has stated in her statement recorded on 6th August, 2005 at page 21 in reply of the following queries raised, as under **[Page 453 of Vol. II] :**

“Question: Whether you are habitual of telling a lie or anything untrue on being asked to do so by someone?

Answer : Earlier I used to live with them alone and they got the things done through me as they wished to do, so earlier I have told lies but now I am not telling a lie and I would not do so even in future.

Apart from all other circumstances which have appeared in the report against her, now when this statement also comes on record, it can very well be said that uncorroborated testimony of this witness is not safe at all to rely upon.

- (C) Ms. Zahira in her statement dated 6th August, 2005 at page 1 has also stated: "There was no influence of Ms. Teesta on me or my family prior to the period I was taken to Mumbai." When this fact is admitted by her at this last stage, it cannot be, thought even that an unknown person (Ms. Teesta) having no influence during the time when all these four statements came into existence, alleging that Ms. Teesta and her agents – Sh. Mohd. Vora, Sh. Arif Malik and Sh. Munna Malik are responsible for tutoring to give such statements become false.
- (D) Ms. Zahira appears – changing her stands as written earlier at relevant places.
- (E) Ms. Zahira too now on 6th August, 2005 conceded the fact that she was not in contact with Ms. Teesta before 6th July, 2003.
- (F) No relations of Sh. Iqbal Ansari with Ms. Teesta and also with regard to Mohd. Vohra she only says - that because he took part in her sending to Mumbai and visited her residence once along with Ms. Teesta, i.e. after July, 2003, for which it can be presumed that – such relations were developed subsequently. It can be said that – Ms Zahira was not in any way related or known to Ms. Teesta before 6th July, 2003 and that is after the happenings of aforesaid all the four incidents. Then how it can be presumed that against an unknown person Ms. Teesta through her agents will take part as alleged.

Ms. Zahira admits the existence of this affidavit dated 20th May, 2002 filed before the Nanavati Commission. Now it is for Ms. Zahira to explain the existence and truthfulness or otherwise of the same. According to the statements made by her in her affidavits and during Inquiry Proceedings, she only puts aforementioned allegations against aforementioned persons and all these persons are examined and they have denied the allegation. Weighing the testimonies put forward by both the parties including the witnesses, the stand taken by Ms. Zahira with regard to this affidavit also is not established or appears not to be true and hence **it cannot be accepted that there was any threat/ inducement/ coercion and pressure** in the root of these four document.

PART – B

The stand taken by Ms. Zahira before the Trial Court, Vadodara on 17th May, 2003 which is to be dealt with under this part is the same, as it has been taken by her on and after 3rd November, 2004 and that is to be dealt with **Part – D**. Due to the similarity, this part will be dealt with after dealing with **Part – C**.

PART – C

PRESS CONFERENCE BOMBAY ON 7TH JULY, 2003

Before proceeding ahead, to deal with all the three statements related to this part we have to write a few sentences with regard to reaching of Ms. Zahira to Mumbai from Vadodara and also the circumstances in which she was kept or staying there, which is controversial. According to Ms. Zahira, she was forcefully taken to Mumbai Via Tandija by the Agents of Ms. Teesta tutored to address before Bombay press Conference and kept there in confinement just like a prisoner. Before writing a few words of conclusion on this point, first it will be appropriate to have a look at two different stands taken by both the ladies.

In her affidavit dated 3rd November, 2004 [Page 4 of Vol. III] submitted by Ms. Zahira before the Collector Vodaodara she deposed as under:-

“2. ...The resident of vadodara Mohamed Vohra who is residing in Hathikhana and Arifmalek Munnamalek of Machhipith and other two to three unknown persons had come in one white Tata Sumo at night to the place where we were residing in Ektanagar and had knocked at the door and had forcibly enter the house and had threatened me and my mother that “you kept quiet, it is a matter of our community” and my brother Nafitulla was also forcibly picked up in the Tata Indica of Raiskhan from Tandja, for two days I was kept in a certain hotel against my wish and without my consent, and thereafter, I was taken to the house of Tista Setalvad, and for one month against my wishes forcibly I was detained.”

In her affidavit dated 31st December, 2004 in para 13 [Page 26 of Vol. III] Ms. Zahira stated that.

“13. In my affidavit before the collector, Vadodara, I described the manner in which I forced to come into contact with Ms. Teesta and that was a true statement which I made... ..”

This fact reaffirmed by Zahira in her affidavit dated 20th March, 2005 filed in this Court by slightly changing her stand in para 26 and 32 which is as under [Pages 10 & 12 of Vol. IV (a)]:

**“26. My mother was opposed to the suggestion made by these persons that I should be taken to Teesta’s place in Mumbai
.....”**

“32. My mother reluctantly agreed to my being taken to Mumbai. On 02/07/2003 I alongwith my brother Nafitullah were taken in a Tata Sumo to Tandalija locality and there shifted to a Tata Indica whose number I do not know. For the first time I met Rais Khan in that vehicle.

As above Ms. Zahira stated that her mother was opposed to her going to Bombay and that her mother reluctantly agreed to her going to Bombay. Sending reluctantly and taking forcibly both are two different things. When a question in this regard was asked on 6th August, 2005 Ms. Zahira stated that both the facts are correct that she was forcibly sent to Bombay and that her mother unwillingly gave the consent. This cannot be accepted.

Per Ms. Teesta:

Excerpts from affidavit dated 16th April, 2005

[Page 48 of Vol. IV (b)]

“9.I deny that she was taken to my house forcibly. I have already recounted how she came in contact with me and have also filed the letter she addressed to me.....”

One letter dated 4th July 2003 (Ex. 9) **[Page 118 of Vol. III]** was allegedly written by Ms. Zahira addressed to Ms. Teesta, requesting Ms. Teesta for help in this matter. Ex-9C is the vernacular and Ex. 9 is English translation which runs as under:

“Date 4-7-2003

R.No. 38

Ekta Nagar,

Sayaji Park,

KGN Park,

Vadodara

Teesta Setalvad

Citizens for Justice and peace

Sheikh Jaherabibi Habibullah I, Jahera am the chief witness and from the beginning to the end I wish to fight out my case. But when after summons when I appeared in court there was no one with me. Again and again, I was threatened that my family would be killed that is why in court I changed my testimony. I regret this and I was on the look out for a group that would fight my case strongly with me Jahera. I had met you a year ago and I was looking for you. You were also looking out for me. I am sending you this letter with Mr. Raees Khan. I request you to fight my case. I am writing this letter of my own free will. If you? Me and my family then we will leave Vadodra and fight it outside of our own free will and I am with you in this.

Yours

Jaherabibi Habibullah”

Ms. Teesta’s stand to this letter is as per para 14 of affidavit dated 7th March, 2005 which reads as under **[Page 10 of Vol. IV (b)]:**

“... ..on 20-12-2004 I had produced the original before the trial court along with the original letter written to be by Ms. Shaikh in her handwriting from Vadodara, dated 04-07-2003 requesting assistance from our organization in her legal battle”

As per Ms. Teesta’s statement dated 25th April, 2005, she stated that she came to know about this letter when she received it through fax at Bombay in her office.

In response, Ms. Zahira stated in her affidavit dated 12th April 2005 in para 6, which reads as under **[Page 69 of Vol. IV (a)]:**

“ The so called handwritten letter is in Gujarati and that letter was at the bidding and dictation of Teesta Javed Anand through her agent Rais Khan. That letter was got written in the office of Teesta Javed Anand at Mumbai at her instance.”

As per the statement of Sh. Rais Khan dated 29th Aprilm 2005 When he was asked **[Page 53 of Vol. III]**:

Question: What do you know about letter dated 4th July, 2003 which is stated to be written by Ms. Zahira to Ms. Teesta?

Answer: In this regard, I don't know anything else.

Ms. Zahira vide her statement dated 18th April, 2005 stated that Ms. Teesta had got written the same thing **[Page 6 of Vol. III]**

Once Ms. Zahira is admitting the existence o the document that it was written and signed by her and further said that it was on the instigation of Ms. Teesta and it is for her to establish the same. If one document is executed on merely saying by someone that cannot be said that there was some inducement, pressure, coercion etc. Looking to all the circumstances of the matter Ms. Zahira's statement, in these circumstances, cannot be accepted. It appears through this letter a request was made by Ms. Zahira to Ms. Teesta to provide legal help.

Press Conference

Ms. Zahira in her affidavit dated 20 th March, 2005 para 33 **[Page 10 of Vol IV (a)]** has admitted that she addressed the press Conference at Bombay on 7th July, 2003 which was arranged by C.J.P According to Ms. Teesta's affidavit dated 30th November, 2004, para 9 this conference was organized by CJP. This fact also finds place in the affidavit of Ms. Teesta dated 16th April. 2005 paras 32 and 40. In her statement dated 6.8.2005 Ms. Zahira also admits the relevant part of C.D. Ex-9A which runs from index No. 0142 to 0200. Mrs. Teesta was directed to file the full text through letter dated 8th June, 2005 and reminder dated 4th July, 2005, but, the same were not filed. The part about it taken from Tehelka CD (Ex. 9A) is reproduced here:

“Yes, that Madhu Srivastava used to threaten me a lot. He is leader of BJP of that place and even Bhathu Chandrakant Srivastava of that place used to threaten me a lot over mobile phone saying that from there you would not be able to go the Court as we would finish you on the way. I want trial of this case in Gujarat.”

In her affidavit dated 20th March, 2005 Ms. Zahira in para 33 has stated that the Press Conference was held on 7th July, 2003. She doesn't know the place where this Press Conference was held and she has further stated that in that Conference she stated all that what was told by Ms. Teesta. Ms. Zahira has further stated in her statement dated 18th April, 2005 that the Press Conference was arranged at the instance of Ms. Teesta.

Whereas, the stand of Ms. Teesta regarding this Press Conference as stated by her in her affidavit dated 16th April, 2005 in paras 32 and 40 that she did not tutor or tell Ms. Zahira as to what was to be spoken and that the statement made by Ms. Zahira was

voluntary. She has further stated that it is a patent falsehood that all she stated in the Press Conference of 7th July, 2003 was tutored and that she had never before addressed a Press Conference which is evident from the numerous interviews given repeatedly to the media in 2002 after the Best Bakery tragedy. Thus, oath against oath is available on record and while comparing the two, the stand of tutoring by Ms. Teesta cannot be accepted looking at the circumstances of the case. Only on saying, telling or tutoring such dangerous statement making serious allegations against such highly placed persons like MLA and Corporator will not be given in a Press Conference by any person unless it is true. That apart, the whole of the family of Ms. Zahira was also present in the Press Conference as has been admitted by Ms Zahira in her statement dated 6th August, 2005

Ms. Zahira admits in her statement at Mumbai during retrial a page 1153 that she came into contact with Teesta for the first time in Bombay when she was brought from vadodara to Bombay after he returning from the native village of U.P. She admits this fact in he final statement recorded on 6th August, 2005 and at the same time also admits that before this meeting there was no impact of Ms. Teesta either on her or on her family **[Page 422 of Vol. II]**. There is no dispute that in the first week of July Ms. Zahira either went to Bombay or was brought to Bombay to Ms. Teesta. As per Sh. Rais Khan's statement dated 29th April, 2005 he along with Ms. Zahira and Sh. Nafitullah reached Mumbai on 6th July, 2003 morning. Ms. Zahira and Sh. Rais Khan both admit that Ms. Teesta met only once for a few moment to Ms. Zahira in a Hotel where Ms. Zahira and her brother Sh. Nafitullah were staying. In such a short span of time any inducement through tutoring, coercion, threat, pressure etc. cannot be imagined.

That fact of confinement of Ms. Zahira by Ms. Teesta has been mentioned first time by Ms. Zahira in her affidavits dated 3rd November, 2004 and 20th March, 2005 in the following way:

Per Ms. Zahira:

Paras 2 & 3 of affidavit dated 3rd November, 2004

"2. for two days I was kept in a certain hotel against my wish and without my consent, and thereafter, I was taken to the house of Tista Setalvad, and for one month against my wishes forcibly I was detained....."

"3.I was detained in a room inside the house of Tista Setalvad, and the room was locked from outside and the room was closed. I was closed. I was not allowed to meet any other persons, and I was also not allowed to meet my mother. Although I desired but still I was not allowed to talk to my mother over the telephone at any time....."

Para 34 & 36 of Affidavit dated 20th March, 2005

[Page 14 & 15 of Vol. IV (a)]

"34. From 7th July, 2003 onwards I was kept at the residence of Teesta but I was not allowed to keep my brother along with me in that house

where I was kept like a prisoner for about a month. I was not allowed to go out from that house alone.....”

“36. After a month's stay in confinement at Teesta's place I was shifted to flat of her brother-in-law. His name is Ishak,I was kept under the watchful eye of Ishak, his wife and a watchman. I was never left alone. I was not allowed during these 7 months to meet my mother. Teesta explained I was not allowed to see my mother lest she instigate me to leave her.....”

Subsequently, as per her statement recorded during the proceedings of the inquiry on 6th August, 2005, the following statement was given by her.

Statement of Ms. Zahira dated 6th August, 2005:

[Page 435-436 of Vol.II]

Question: In your statement dated 3.11.2004 you have stated that you were kept close inside a room but in your statement before the retrial court of Mumbai 9796/1155), why did you not tell any such thing?

Answer: I was kept close I had stated so but the court might not have recorded it.

Question: In your affidavit dated 3.11.2004, submitted before the Collector, Vadodara, you have mentioned that Smt. Teesta kept you confined in a room of her house which used to be locked from outside, whereas in your affidavit dated 20.3.2005 it has ben stated that you were kept there as a prisoner and in this Affidavit there is no mention about your confinement inside the room. Whereas in your statement given before Mumbai Court at page No. 1149/1509 and 921/1279, it has been mentioned that when you were living at Yari Road, Smt. Teesta used to keep you quite. Well, you were given a good treatment and she used to take care of you quite well and she had also sent cloths, cupboards, sewing machine etc. For you. Suddenly how this change appeared. What would you like to say in this regard?

Answer: She used to give me articles etc. but she kept me like a prisoner.

Question: Whether Ms. Teesta had provided you the facilities of cupboards and sewing machine etc. when you were living at Yari Road in Mumbai?

Answer: Yes, that is true. She had given the articles stated above.

Question: Whether at that time your food was also cooked at the house of a relative of Smt. Teesta, namely Shri Ishaq and supplied to you?

Answer: Yes, that is also true. Food was cooked and supplied to me.

Whereas the stand of Ms. Teesta with regard to confinement is as under:

Excerpts from affidavit dated 7th March, 2005

[page 27 of Vol. IV (b)]

“27. I would like to reiterate that Ms. Shaikh’s statements on affidavit that she ‘was forcibly kept in confinement’ by me are not simply false but a premeditated falsehood Certified copy of the evidence recorded before the trial court is to show how Ms. Sheikh and her family have stated that while in Mumbai and staying at Yari Road, Versova in rented accommodation provided by C.J.P., they were moving around freely falsifying her claim on oath before this Hon’ble Court that she was in anyway illegally confined.....”

Here also appears a gradual change in the stand of Ms. Zahira in the gravity of the situation started in alleged confinement. She was to admit ultimately before the Trial Court, Mumbai in her statement dated 12th January, 2005, page 150-151, she has admitted that:

“....after I went to reside at Unity complex, Yari Road, I was being looked after by her properly and I was kept in a good condition..... Teesta had sent clothes, cupboard, a sewing machine for me while I was residing at Unity Complex. It is possible that Teesta had sent a colour T.V. also but I do not know anything about it..... I used to have food that used to be cooked in the house of Ishaq.”

Reference appears with regard to C.J.P. in above quoted para 27 of the affidavit of Ms. Teesta dated 7th March, 2005. It is appropriate to write a few words with regard to C.J.P. as informed by Ms. Teesta.

Ms. Teesta in her affidavit dated 7th March, 2005 in para 9 **[page 16 of Vol. IV (b)]** has stated about the CJP that CJP is an organization which was formed after the Gujarat pogrom of 2002 and most of its members are citizens of eminence who have been actually involved in the anti-communal movement for the past decade and a half, and prior to the decision of the CJP Board to assist the legal struggle of Ms. Shaikh, they have been handling several other cases, some of which are pending before this Hon’ble Court, others are pending at the Gujarat High Court, irrespective of community. She further states in the affidavit that they have earned the confidence of many helpless victims of the mindless violence that gripped Gujarat 2002, and that every step taken by her as Secretary, CJP in the Best Bakery case and in all other legal and related matters were and are on behalf of the Board of Trustees, which is a voluntary work.

In para 45 of the affidavit, she further states that the CJP with dignity supported the whole family in Mumbai never making false promises and theirs was a struggle for justice, and the Board of Trustees of the CJP took collective decision to rehabilitate them with dignity since they had lost much in the tragedy.

One important factum is necessary to be highlighted dealing with use of force and confinement and based on the admitted facts is that Ms. Zahira is a matured lady having good health. Her elder brother Shri Nafitullah is not only matured but is of a very sound and robust health and can be said to face any situation against any type of force being used against these two sister and brother. Ms. Zahira was not alone but accompanied by his brother from Vadodara to Mumbai. They were followed by mother and sister and another brother of Ms. Zahira, who reached immediately after reaching of

Ms. Zahira and Mr. Nafitullah. During the journey, at one side these two sisters and brother were together and as against this, Sh. Rais Khn was alone in the car and no allegation against Sh. Rais Khan of using or having help of any firearm or sharp-edged weapon has been made. Immediately after reaching Mumbai, both sister and brother were accommodated in a hotel on 6th for a few days, on next day Ms. Zahira addressed a Press Conference and admittedly all the family members were present there. After that, according to Ms. Zahira, she was kept in the house of Ms. Teesta. As against this, per Ms. Teesta, she was kept in her house during Ganesh Utsav when a few members of Ms. Zahira's family had gone to Vadodara from Mumbai. At the time of staying in Mumbai, as admitted by Ms. Zahira in her statement recorded before the Trial Court, Mumbai, she was provided with all amenities including clothes, sewing machine, etc. not only this, her food was cooked by a close relative of the husband of Ms. Teesta named Ishaq. Ms. Zahira also admitted in the trial court that Ms. Teesta kept her in very we manner. During that time, the fact that no report whatsoever was lodged or the matter of confinement etc. was reported to any third person, public authority, is surprising. If the stand of Ms. Zahira though not acceptable, can be accepted for the moment that despite report it was not lodged by the police, which shows that at that time also if the report was not written by the police, the mother was living at a distant place with their relative Sh. Kawal, she might have reported the matter to some other police station.

One more allegation Ms. Zahira puts against Ms. Teesta is that she was given inducement by Ms. Teesta. In para 6 of her affidavit dated 20th March, 2005 [at page 4, March, 2005 [at page 4, Vol. IV (a)], Ms. Zahira has stated that:

“.....I was staying at her place or with her brother-in-law in Mumbai. I was available to do her bidding then. She has agreed to hold inducement that's why I agreed to tow her line like a pet.”

Ms. Zahira also enclosed one V.C.D. with the above-mentioned affidavit, subsequently filed by Ms. Teesta also. On the basis of relevant part in that text of that VCD a question was raised to Ms. Zahira **[Page 454-455 of Vol. II]**

Question: Smt. Teesta Setalwad in a TV interview which runs from Index Nos. 7-55 to 8-15, as per CD which has been produced by you, stated that she and her organization C.J.P. promised you people to provide legal assistance C.J.P. promised you people to provide legal assistance and it was also assured that she would help you get house also from the Government after case is over. As to whether you produced this CD in order to bring this fact into notice or do you want to tell something else?

Answer : Yes, this is true.

As per the text of this VCD, it appears that Ms. Teesta assured to provide legal assistance and also to get house from the Government. The assurance cannot be termed as any type of inducement.

This factual status has only been quoted that the allegation of taking her forcefully and that of confinement by Ms. Teesta can be weighed properly. She does not hesitate to put an allegation against the Trial Court also when her statement was

recorded that a particular fact narrated by her, was not written by the Court. Her admission with regard to providing essential articles and also providing food, being prepared by close relative of Ms. Teesta's husband is admitted. The allegations of confinement put by her is not believable as not supported by the circumstances as mentioned hereinafter nor by any other witness.

Thus, in view of the above, no inducement, threat, coercion or pressure whatsoever has been established in this part.

**STATEMENT BEFORE NATIONAL HUMAN RIGHTS COMMISSION (N.H.R.C.)
DATED 11.07.2003**

[EX. 42]

Exhibit 42 is the statement of Ms. Zahira given before the National Human Rights Commission (hereinafter referred to as N.H.R.C.) on 11th July, 2003 when she visited NHRC along with Ms. Teesta. The relevant part of the statement is quoted hereunder [Pages 363-372 of Vol. III] :

"I had made a statement before the Chairperson, National Human Rights Commission when the NHRC team visited Gujarat soon after the Gujarat riots. It was probably on 21st March, 2002. I have also made statements before the police and certain other agencies. I made a statement in the court also. I made a request to appear before the commission and the commission has granted my request. I wish to make a statement and I am doing so voluntarily.

When my sister, Saira received summons for appearance in the Court Ever since she received the summons we also started receiving threats Lal Mohd.,... .. came to our house even before the summons were received on many occasions and kept threatening us not to depose in the court against the accused. He was saying that you should resile from your earlier statement or otherwise even the four of my surviving family members would be killed. He repeated these threats every time he came to the house but we did not believe in what he was saying.

My brother Nafitullah has acquired a mobile phone... .. Chandrakant @ Bhattoo Srivastava made threatening calls on the mobile and told my brother that unless we resile from our statement, those who are surviving would also be killed. Madhu Srivastava, a BJP MLA was also giving threats on the mobile phone of my brother. We know that it was Madhu Srivastava because his name and telephone number used to come on the screen of the mobile phone Threats were also being received by us from Bharat thakkar. He is also an accused in the case. My brother Nafitullah told me that I care for my life and because of these threats now, I will not depose in the Court. my sister, Saira and brother, Nafitullah appeared in the court on 7th May, 2003. After they came back from the court they told me that in the court, people belonging to the accused group and their supporters were there in the court. counsel representing the State was taking the side of the accused

and other counsel also were supporting the accused. the police was supporting the accused. He, therefore, advised me to resile from my statement.

After I received summons I also started receiving threats. The threats were also received on the mobile by my brother. He was told that he advised me that if I resile from my statement it could save the life of the family and if I do not do so the rest of the family members may also be killed. I told him that I shall go to the court and make my statement.

On the date when I had appeared in the Court I expected that some fellow Muslim would come to take me from my house to the court but nobody turned up. At 11.00 a.m. I had to appear in the court along with my mother and younger brother, Naseebullah and we went to the court in a Rickshaw. on the ground floor of the court complex I met Chandrakant Bhattoo. He told me that I should again think about it whether I wanted to give evidence in their favour or stick to my earlier statement. He threatened that in case I stuck to the earlier statement the remaining four members of my family would be killed. But in case I resile from it then they would spare all members of my family. I noted that in the court room members of Bajrang Dal and residents of Hanuman Tekri, who were participants in the burning and killing of our people were present. At that time, two thoughts crossed my mind whether I should get the accused, who had committed crime, punished or save my surviving family members. I decided in favour of my family members. I decided in favour of my family members. When the state counsel asked me as to where I was on 1st March, 2002, I told him that I was observing 'roza' and was present at the terrace of our house. for once because there was a statement which was signed by me. Actually, I was taken to the police station about 5 to 10 times to identify the accused. I have also named some of the person who were responsible for killing my family but no action was being taken to arrest them. It was, thereafter, that the accused were arrested. The State counsel asked me 3-4 times if I could identify the accused whom I had named in the statement. I said no because I was under pressure. thereafter, I went to the room of Shri Raghuvir Pandya and waited for my mother, whose statement was to be recorded after me. The man with the menacing looks whom I had seen in the court room was present in that room. A press reporter by name of Sachin Sharma came up to me and told me that he wanted to ask why I had resiled from my statement. He wanted to tape record my statement and when I was about to tell him that I was under pressure, he press reporter was made to leave the room by Madhui Srivastava, who told him that Zahira would make no statement. My brother told me later on that he had been promised that if I would resile from my statement, then they would sell the property of the Bakery and the house which had been burned and give him the proceeds. I, thereafter, went to my house and three days later left for the village.

While leaving for the village even conscience was bothering me as to why I had saved those who had killed my family members. I regretted having resiled from my statement and cursed myself for saving the criminals. ... I stayed there for about 1 ½ months. Everybody there was accusing me of having taken money to resile from my statement. ... I told them that I resiled from my statement under pressure... I then wanted to come back to Baroda. I had a desire to make clean breast of the whole thing before the media.

I had met a group from Bombay earlier also. I had met them in the circuit house as well as in the Bawari Hall in Baroda. ... I approached the Relief Committee and asked them to honour their promise of giving a dwelling unit free of cost to me to which they refused and said I should pay Rs. 55,000/-. ...

I want the case to be reopened so that the criminals can be punished. I have full faith in the Group from Bombay and I am confident that they would get me justice. I do not want this case after being reopened to be tried in Gujarat. It should be tried outside Gujarat. I would be very grateful if the commission can also help me in this behalf”.

Deposing this statement before NHRC is admitted by Ms. Zahira. However, in para 38 of her affidavit 20th March, 2005 filed before the Hon'ble Supreme Court, Ms. Zahira Sheikh has deposed as under **[Page 15-16 of Vol. IV (a)]**:

“ I remember a statement was prepared in the office of Ms. Teesta. That statement was in English language. I was told to sign that statement. Teesta also signed that statement. Every page was signed by both of us I was taken to the office of NHRC, there I was made to say orally what Teesta has told me to say and after that the statement which was prepared in Mumbai was handed over to the Commission. That is not the statement which I made orally in the office of NHRC..... The Chairman of Commission and two members took part I the proceeding. Also present was another person who wrote what I said orally.... ..”

She further stated in para 7 of her affidavit dated 12th April, 2005 that **[page 69 of Vol. IV (a)]**:

“... ..At that point of time I was under direct influence of Teesta Javed Anand. Written statement was prepared by Teesta Javed Anand. She was all the time putting words into my mouth.”]

When a response was invited from the parties with regard to the facts relevant to the questions referred to his Forum, as to clarification, explanation, admission or denial and not mentioned earlier in the affidavits filed before earlier shall be filed by the parties by 16th April, 2005, Ms. Teesta vide her affidavit dated 16th April, 2005 in para 39 has stated as under **[page 61-62 of Vol. IV (b)]**:

“I humbly repeat that an august body like the NHRC had also intervened on the strength of a statement recorded in person by Ms. Sheikh on 11.7.2003 and for Ms Sheikh therefore to state that she had never approached the highest court in the land is a patent falsehood.. The NHRC is a statutory body and for a statement made before it to be discredited the way that has been attempted is shocking to state the least. Ms. Sheikh’s averments in para 38 of page 16 of her affidavit about the NHRC are ridiculous, shocking and false.”

In response to above, an affidavit of Sh. Ajit Bharioke, Registrar National Human Rights Commission dated 15th April, 2005 was filed in this Court and the relevant extracts of the same is necessary to be reproduced hereunder **[page 2-5 of Vol. IV (c)]:-**

“3. I state that on 11.7.2003, the NHRC was approached by Ms. Sheikh Zahira Ms. Zahira Sheikh, who was accompanied by Ms. Teesta Setalvad of Citizens for Justice and Peace, made a statement before the NHRC explaining the circumstances under which she was made to resile from the statement earlier made to the police. She named the persons who had threatened her as well as her mother.

4. I was personally present when Ms. Zahira Habibullah Sheikh accompanied by Ms. Teesta Setalvad appeared in the forenoon on July 11, 2003 before the full commission of the NHRC. The oral statement made at that time before the Full Commission of the NHRC by Ms. Zahira Sheikh in Hindi was translated and dictated to the Court Master by the learned Chairperson himself. The Commission thereafter directed the Court Master to have the dictated statement typed out and the Chairperson and Members retired to their respective chambers.

5. Thereafter, I accompanied by Ms. Zahira Shiekh and Ms. Teesta Setalvad came to my office in the NHRC. On receipt of the typed version of Ms. Zahira Sheikh’s oral statement made before the Full commission, I read out the said statement to Ms. Zahira Sheikh and explained to her its contents in Hindi. Thereafter, the said typed statement was signed in my presence by Ms. Zahira Sheikh as well as Ms. Teesta Setalvad. The true copy of this statement which forms part of the record of the proceedings of the NHRC has been annexed to my earlier affidavit dated 6.1.2005 before the Hon’ble Supreme Court.”

6. In Para 38 of her affidavit 20th March, 2005 filed before the Hon’ble Supreme Court, Ms Zahira Sheikh has made several incorrect and false statements. Her statement to the effect in the affidavit that after she was orally examined by the Commission on 11.7.2003, an already prepared statement duly signed by her and Teesta Setalvad was handed over to the Commission, is absolutely false. She has also made a false averment in the affidavit that the Registrar of the Commission, Mr, Ajit Bharioke (myself) was not present in the Commission’s meeting on 11.7.2003 when she made an oral statement before the Commission. Also false is her assertion in para 38 that copy of her statement dated 11 July, 2003

produced alongwith my earlier affidavit dated 6.1.2005 is not the actual statement made by her orally before the NHRC on 11July, 2003. True copies of the record of proceedings dated 11.7.2003 and the statement of Zahira Sheikh made in the course of those proceedings have already been enclosed with my earlier affidavit dated 6.1.2005 filed before the Hon'ble Supreme Court."

By putting such type of serious allegations against a very highly placed constitutional authority like NHRC that the statement recorded by Hon'ble the Chairperson himself along with two Hon'ble members of NHRC was substituted with an already prepared statement in Ms. Teesta office can not be relied upon and for such a decision I feel no necessity of any corroboration of any kind. However, as one affidavit dated 15th April, 2005 of Sh. Ajit Bharioke, Registrar, NHRC finds place on record and only because of this reason relevant extracts have been inserted in this report. Sh. Ajit Bharioke deposed that he was present there and that the statement was read over in Hindi to Ms. Zahira by him and after that Ms. Zahira signed the statement. At the same time Sh. Ajit Bharioke has categorically denied all the allegations including the allegation of changing the statement, nothing more is required to be discussed on this part.

The second challenge to this statement is that it was tutored by Ms. Teesta and that whatever was tutored Ms. Zahira stated in the same words. The tutoring pressurizing cannot be held as established looking into all the circumstances.

Third allegation of putting the words by Ms. Teesta in the mouth of Ms. Zahira can also not be accepted as the statement was recorded before the Hon'ble Members of NHRC and when the statement itself was translated and dictated by the Hon'ble Chairperson himself. In view of all this, such allegations cannot be accepted.

As discussed above, no coercion through tutoring and putting the words by Ms. Teesta into her mouth and also substitution of statement by another already prepared document do not establish.

AFFIDAVIT DATED 8TH SEPTEMBER, 2003
[EX. 7]

Exhibit 7 is the affidavit dated 8th September, 2003 for which Ms. Teesta has alleged that it was sworn by Ms. Zahira at Bombay when she was living there with her. It is notarized and a copy of which was filed by Ms. Teesta as an additional document in S.L.P. (Criminal) 3770/2003 in this Court. It contains more or less the same type of statement of Ms. Zahira as given by her before the NHRC. In addition to that a few facts of the incident of 1st March, 2002 have also been quoted in this affidavit which reads as under **[page 100 to 115 of Vol. III]:**

"... .. A month before the incident of March 1, 2002, my father died of a heart attack. On March 1, 2002 the city of Vadodara had seen heightening levels of tension due to the Godhra incident... .. at about 8 p.m. on March 1, 2002 we heard big shouts outside our house and therefore I rushed to the terrace. From the terrace I could see a large mob carrying petrol cans, stones, talwars, trishuls and shouting "Myanbhai ne jalao, maroo."..... I could clearly identify: Rajubhai Baria Ravi Rajaram Chavan in the mob

attacking us. ... They were throwing tubelights, petrol in plastic bags, some whiteish powder that would catch fire if water was flung on it as a result of which the downstairs of the house where we were living had caught fire... ... By about 9 or 10 0' clock the attack became more and more brutal and some of them even entered and my brother and my uncle who were fighting with them were getting extremely hurt and injured. ... It was when Firoze escaped upto us on the terrace ... He said that my elder sister and his wife were burnt alive and he said my maternal uncle was brutally cut to pieces. ... that I physically saw him being pulled away from us and I saw him being set upon and I saw him being pulled away below and I could feel they were probably going to burn him though I did not actually see them do it... ... All of these people that I identified are from the same locality. ... All night we were attacked. The attackers were trying to come up. We were waiting till morning so those of us alive would be saved. There was no sign of the police. ... Through the night 9 people were killed till about by 3 a.m. 9 people had been killed 3 women, 4 children, 2 men were killed and that is when Firoze who was a neighbour whom we call chacha (uncle). ... When we stepped down they separated the women from the men and we were asked to stand on one side and my two brothers and the three workers of the bakery were all tied, their hands and legs were tied and they started beating them with iron rods and also with slashing with the swords. ... I say and submit that after recording part of my statement in my injured state, the police took us to Sayaji Hospital and at Sayaji Hospital I gave the name of the accused and the continuation of the same statement. ... The accused I had identified in my statement at Sayaji Hospital were Jayanti Chaiwala, Mafat Gohil, Munna (Harshad Solanki), Rinkoo (Jayanti's son), Painter, Sana, Sanjay Thakkar, his two brothers, Santosh Thakkar among others. ... I say and submit that the first statement recorded by the police at the Sayaji Hospital was signed by me and thereafter they also recorded two other statements which were not signed by me. ... I say what has been stated above is only a brief narration of facts. ...

The stand of Ms. Zahira is against the execution of this affidavit and is of total denial. She only admits the signature on that affidavit but states that these signatures were taken in the office of Ms. Teesta at Bombay on saying that a document was to be prepared for the purpose of transferring the Bakery in the name of the mother. The stands of Ms. Zahira and Ms. Teesta are quoted hereunder.

In her affidavit dated 3rd November, 2004 in para 3 Ms. Zahira has stated as under:

"when I was in Mumbai at that time Tista Setalvad had taken my signatures on different dates on documents typed in English on Computer. I do not know English, and therefore, what was written on the same that I do not know. Prior to taking my signatures Tista Setalvad had not informed me that contents and also not explained the facts to me."

She has further stated in her affidavit dated 31st December, 2004 in para 29 which reads as under:-

“All these matters contain an affidavit supposed to have been made by me in September, 2003. I do not recall having made any such affidavit because this one” compulsive document: which is found in every writ or application, or appeal does not contain any evidence of my having sworn it as it does not bear my signatures nor there is any sign of having been sworn to or affirmed before any Authority competent to administer the oath.”

With regard to affidavit dated 8th September, 2003, when Ms. Zahira was asked on 6th August, 2005 that the Notary and the Advocate both have stated that the contents of the Affidavit were read over to you and that you admitted it to be true, her reply was it is wrong and that she did not appear before the Notary.

When Xerox of this document was shown to Ms. Zahira during her examination on 18th April, 2005 she admitted the signature on it and said that she never executed this affidavit and that her 5 signatures were obtained in the office of Ms. Teesta stating that these were the papers relating to the transfer of Bakery in the name of her mother

A Copy of the affidavit filed in this Hon'ble Court in Special Leave petition (Crl.) No. 3770 of 2003 as additional document is not the xerox copy of the original which bears attestation, signature etc. but it is a simple and unsigned copy, nowhere it is written and signed that it is a true copy of the original. As per Ms. Teesta's affidavit dated 23rd April, 2005, this affidavit was to be filed along with Special Leave petition. However, it is not mentioned for which SLP (Crl.) this was prepared as no number of SLP appears on the copy. The aforesaid SLP was filed on 8th August, 2003 whereas the affidavit bears the date of its execution and attestation dated 8th September, 2003. The stamp papers of the document were purchased on 4th August, 2003. During her examination when the queries were raised the reply of Ms. Teesta was that it was to be filed along with SLP (Crl.) No. 3770/2003. According to her, Ms. Zahira was gradually revealing the facts before the members of her family and that she wanted to file this document only in support of the SLP. In her subsequent statement dated 23rd July, 2005, Ms. Teesta has disclosed that Sh. Mihir Desai was engaged by Ms. Zahira as her Advocate for taking legal steps and that he was also present at the time of drafting of the Affidavit. Despite queries raised to Sh. Mihir Desai by post requesting him to reply on oath and he informed through an affidavit dated 28th June, 2005 **[page 240 to 246 of Vol. III]** that Vakalatnama was executed by Ms. Zahira and that has been filed. Where the Vakalatnama was filed was subsequently asked through a letter dated 23rd July, 2005 August, 2005 however, no reply was received till 12th August, 2005. On 13th August, 2005 a letter was received from Sh. Desai through Ms. Aparna Bhat, the counsel appearing for Ms. Teesta, informing that two Vakalatnamas were executed voluntarily by Ms. Zahira and those were given by him to his clerk for filing in Sessions Court. He also informed that, he believes that the Vakalatnamas have been filed. A letter was also written to Bombay Trial Court and it was informed through a letter dated 19th July, 2005 that Sh. Mihir Desai he had been appointed as her Advocate by Ms. Zahira for watching the proceedings. Thus, this again remains a mystery, which could not be solved, despite all the efforts made and it could not be known whether any Vakalatnama was executed if yes then where it was filed. This is very important, in the circumstances, when Ms.

Teesta states that Sh. Mihir Desai was appointed by Ms. Zahira as her Advocate and Ms. Zahira denies this fact in her statement recorded on 6th August, 2005.

In response to the stand taken by Ms. Zahira, Ms. Teesta vide her affidavit dated 7th March, 2005 in paras 14 and 15 has stated [page 18-19 of Vol. IV (b)]:

“14.The said affidavit in question was duly sworn before the Notary in Mumbai. But as there were many proceedings being filed at that time, a copy of the same was filed before this Hon’ble court as additional documents..... Ms. Shaikh had narrated the entire facts to me in Hindi in Mumbai. Advocate Mihir Desai was present when we were collating the information. The same was reduced to an affidavit in her presence and the entire contents explained to her in vernacular. Ms. Shaikh thereafter appeared before a notary public and her affidavit was duly sworn on 08.09.2003.....

15.... .. that this affidavit dated 08.09.2003 was executed voluntarily, her whole family was present when the contents were discussed in detail and our advocate was present when she and her brother Mr. Nafitullah Shaikh were narrating the facts. Ms. Shaikh and her family together showed full willingness to not merely affirm the affidavits but to also be litigants in the SLP asking for a re-trial in the BEST Bakery case... ..”

Subsequently, Ms. Teesta clarified the state of affairs in which this affidavit was executed and filed in the following words in her affidavit dated 21st April, 2005 in para 15 [page 85 of Vol. IV (b)]:

“I say and submit that the purpose for executing the affidavit dated 08.09.2003 was solely for the purpose of substantiating the case before this Hon’ble Court. As can be seen from the true copy, right at the top it states, that the affidavit was for filing in the Hon’ble Supreme Court of India. Criminal Appellate Jurisdiction, Special Leave petition [under Article 136 of the Constitution of India] in Spl. Leave petition Criminal No.----- of 2003. The stamp paper was bought in her name dated 4.8.2003, almost a month after she came to Mumbai. She had time to reflect on her decision, she was staying with her mother and brothers independently at Yari Road. I myself on behalf of CJP again and again, sat with advocate Mr. Mihir Desai and repeatedly checked and re-checked with her all the facts that she was voluntarily stating. Ms. Shaikh kept notes of what she told us. It was only after we were entirely satisfied that she [Ms. Sheikh] was entirely clear and satisfied with what she was stating and that she was genuinely making it that she swore it before a notary on the above mentioned date. I say and submit that the only reason for executing it in English was because it was for filling in this Hon’ble Court.”

As mentioned by Ms. Teesta in her affidavit quoted above that this affidavit was prepared for filing before this Honb'ble Court in SLP (Crl.). However, this was not filed along with the SLP and that it was after the filing of the SLP that it was filed as an additional document. In such circumstances which require further clarification from her and that was obtained in her examination of 25th April, 2005 in the following from [page 32 & 33 of Vol II]:

“Before this affidavit was recorded the advocates related to this case were asking and getting the facts from Ms. Zahira Sheikh and she was always revealing the facts before the members of her family and since I wanted to file it in support of the SLP. Just to clarify this Affidavit was filed in support of the SLP as a supporting document..... It was not got verified in my office. I was also not present at the time of verification. Mr. Mihir Desai, Advocate was also not present there. Two persons from my office took Ms. Sheikh with her younger brother Nasibulah to Mr. Thakker.”

In her subsequent statement dated 23rd July, 2005 Ms. Teesta disclosed that Sh. Mihir Desai was engaged by Ms. Zahira as her Advocate for taking legal steps.

The stand of Sh. Thakker, Notary and Mrs. D.V.Ved, Advocate who identified and read over the affidavit to Ms. Zahira appears in their respective affidavits dated 16th June, 2005, that this affidavit was prepared in the presence of Sh. Mihir Desai, Advocate. It was lead over by Ms. D.V.Ved, Advocate and admitted to be correct by Ms. Zahira and after that Ms. Zahira put her signatures on the affidavit dated 8th September, 2003 and in the last Sh. Thakker, Notary attested this affidavit.

The contours of referred questions as assigned do not obligate me to go into the genuineness of the documents (S) and/or veracity of the text, contained therein and, in obedience, I have desisted too. If, at any given point of time any aberration or otherwise comes to the fore, with regard to this document or any other document that may not in any manner arm either of the party to raise it before the Trial Court nor the Court concerned may take it into account.

I have to find out if Ms. Zahira was in any manner threatened, coerced, induced and/or in any manner pressurized to depose/make statement(s) in any particular way, by any person or persons and nothing has been alleged by any of the parties with this regard. Only genuineness of it has been challenged and that is not within the purview of the questions referred. Accordingly, only the facts appeared on record have been collected here.

STATEMENT BEFORE SANTACRUZ POLICE STATION ON 16TH DECEMBER, 2003
(Ex. 43)

Exhibit 43 is the copy of the statement of Ms. Zahira recorded by Inspector Sh. Chauhan of Santacruz police Station, Bombay in Marathi and the English translation prepared by the Senior Inspector of police, Mumbai containing a request of Ms. Zahira for providing police protection, the same has been 7 received from the Trial Court, Mumbai. The relevant portion of the same is as under [pages375A-375D of Vol. III – following translation taken from the file of Crl.A. Nos. 446-449/2004]:

“... .. On 1st March, 2002 our ancestral Bakery was attacked by some persons and it was destroyed in the fire in which my maternal uncle, sister and other 12 persons (total – 14 persons) were burned alive. I am the eyewitness to this incidence. After registration of the case, I had identified the accused persons and therefore my evidence was given importance. I had also established identity of the victims, the electronic media had given me exposure and therefore everybody knew that I am the main witness in the said case. On 07.05/2003, my elder sister Saira received Court summons in connection with trial of Best Bakery case. About 2-3 days prior to this Mr. Lal Mohd. Who is resident of our locality had threatening my elder brother Nafitullah to the effect that I should not go to court to give evidence or else. Our life would be in danger.

During Oct-02 to May-03 Lal Mohd had given similar threats to my brother through different means but sometime prior to 07/05/03 there was increased in threats. Mr. Rahimtullah the other person from our locality had also started giving similar threats to my brother. On 17/05/03, at the time when I was going to court to give the evidence I met Battu at the court entrance and he told me that I should identify my previous statement in court, I should depose in favour of accused person otherwise they will cause harm to me and my family members. Therefore for the sake of my family members, I changed my evidence in the court as a result the accused in BEST Bakery case were acquitted on 27/06/03. Thereafter on 12/07/03, I gave my statement to N.H.R.C. and the media gave ample publicity to this. After I gave my two statement to N.H.R.C.,it decided to file appeal in Supreme Court against the decision of the court (acquittal). During this period I met Smt. Tishtaq Settlewar and she also promised to help me and decided to file and appeal in Supreme Court. I am the eyewitness in Best Bakery case and since I and other institutions on my behalf have filed and appeal against the Judgment of the same case. I apprehend danger to my life from the accused person in BEST Bakery case or their relatives, I am request that I may please be provided with police protection.”

Ms. Zahira in her affidavit dated 16th April, 2005, in para 10 **[page 70 of Vol. IV (a)]:** has stated without giving any particular reference to that statement that some policeman was called by Ms. Teesta. She dictated the statement on my behalf.

In response to that Ms. Teesta vide her affidavit dated 30th November, 2004 in para 12 stated as under:

“Ms. Shaikh came to our office on December 16, 2003 accompanied by her cousin Sanaullah Kawal and Inspector Chavan of Santacruz police Station who was also present on my request, recorded the statement.

With regard to this statement Ms. Zahira on 6th August, 2005 replied that it is wrong that she gave any statement to police. Though, it is signed by her but it is not stated by her and Ms. Teesta got her signatures over it and what is written in that she is not aware.

Mr Chavan, Inspector, Bombay police who recorded the statement of Ms. Zahira on 16th December, 2003, vide his affidavit dated 22nd August, 2005 stated that he had gone to record the statement of Ms. Zahira at the place of Ms. Teesta and recorded the statement of Ms. Zahira as stated by her and it was read over to Ms. Zahira and she signed.

For this document same view can be attributed as of affidavit dated 8th September, 2003 the genuineness is not to be seen here and no allegation from any of the parties with regard to the scope of this inquiry is available on record. Accordingly, the facts appearing on record have been collected here.

PART – B

STATEMENT BEFORE THE TRIAL COURT, VADODARA ON 17.5.2003

[Ex. 48]

Exhibit 48 is the statement of Ms. Zahira before the Trial Court, Vadodara [Fast Track Court] in Sessions Case No.248 of 2002. This statement originally was recorded in Gujarati and translated into English was done by translator of Bombay High Court. Both these copies have been received through Bombay High Court which were taken on record.

On perusal of the same, a sudden change appears in the stand of Ms. Zahira regarding incident of Best Bakery dated 1st March, 2002. For the first time, she deposed not only against what she stated in the very beginning and just after the occurrence on 2nd March, 2002 before the police – Exhibit 24 on which the Best Bakery case was registered by the police, investigation made and charge sheet was filed against the accused persons in the Trial Court, Vadodara but also she stated against what she mentioned in a written and signed two paged memo Ex. 37 submitted by her before Hon'ble the Chairperson of NHRC at Circuit house on 21st March, 2002, spoken in Bawahir Hall on 11th May, 2002 (Ex.8) before CCT and also deposed in her affidavit Ex. 41 submitted before Nanavati Commission. Ms. Zahira denied identifying the accused persons due to smoke as according to her she was unable to see anything. Everyone concerned and interested in knowing the result of such an incident became surprised by this changed stand of Ms. Zahira. Ms. Zahira had admitted this statement recorded during the trial on 17th May, 2003 and in her affidavit dated 31st December, 2004 in para 13 and affidavit dated 3rd November, 2004 in para 1 she has stated that statement was the true statement.

After statements of Ms. Zahira and her family members were recorded during the trial in the trial court, Vadodara after three days she shifted to the native village situated in Distt. Basti, U.P. After the judgment in the Sessions Case was pronounced acquitting all the accused persons on 27th June, 2003 she returned back to Vadodara and thereafter in the first week of July 2003 the family shifted to Bombay to Ms. Teesta as it appears from the affidavit of Ms. Zahira dated 3rd November, 2004 and 31st December, 2004. This family stayed at Bombay from July 2003 to October 2004. During this period, Ms. Zahira addressed a Press Conference on 7th July, 2003, appeared before NHRC,

Delhi on 11th July, 2003 where Ms. Zahira gave one statement before NHRC at Delhi executed an affidavit dated 8th September, 2003 duly notarized by Notary at Bombay on 16.12.2003 requesting for police protection. In all these statements, Ms. Zahira has stated that whatever stand she had taken before the Trial Court, Vadodara on 17.5.2003 was under tutoring and threat / pressure given to her and her family by Sh Madhu Srivastava, MLA and Sh. Chandrakant Ramcharan Srivastava alias Bathu Srivastava, Corporator with the help of Sh . Lal Mohammed and Sh. Rahimtulla [Sh. Lal Mohammad and Sh. Rahimtullah both denied this fact in their statements dated 25th May, 2005]. Threat was also given to them as stated by her by Sh. Bharat Thakker, brother of Sh., Sanjay Thakker, one of the accused in Best Bakery case. The details of these statement given by Ms. Zahira have been dealt with while dealing those statements in the order hereinbefore.

When a sudden and important change was seen in the statement of Ms. Zahira recorded during Trial before the Fast Track Court, Vadodara on 17th My, 2003 as mentioned above and reasons have also been indicated by Ms. Zahira herself in her statements as noted in the foregoing paragraph, it is to be find out here-in-after as what, if any, were the factors responsible for this sudden change. Ms. Zahira herself, for the first time informed this Hon'ble Court through her affidavit dated 31st December, 2004 at para 23 **[page 29 of Vol. III]** that is with regard to one VCD produced by Tehelka. Com which is quoted below:

“On or around December 23, 2004, Tahelka screened a video purporting to show payment of Rs. 18 lacs to me by some BJP MLA and a Congress Corporator Chandrakant Bathu, both Hindus. A report was published in the paper that Hindu bribed Muslim witness. This was done in the presence of Teesta Setalvad who traveled all the way from Bombay to Delhi to attend the Tehelka press Conference in which this video was released. I am not shown in the video clip. Now practically daily, even after a week of the Tahelka's so called disclosure, which I respectfully submit is blatant falsehood, the electronic media is daily showing this news on a 5 minute clip as if I am the rogue of playing fast and loos, making little of process of justice administration.”

In response to that Ms. Teesta vide her affidavit dated 7th March, 2005 in para 36 stated as under **[page 632 of Vol. IV (b)]**:

“I say and submit that the deliberate allusion by Ms. Shaikh in her affidavit dated 31-12-2004 made in para 23 that I flew down especially for the press conference organized by the Tehelka group is not simply inaccurate but again motivated to prejudice the public mind. Due to a variety of my professional commitments I have occasion to visit New Delhi frequently and on that day (22-12-2004) was addressing students at the Delhi University. When I learned of proposed press conference, I felt naturally curious and dropped into see what was transpiring on the occasion.”

It appears that a factor of treats for the change of her stand before Trial Court was made known by Ms. Zahira herself through her Bombay Press Conference on 7th July, 2003, and later on by her statement before NHRC on 11 July, 2003. Another factor,

money transactions were made known to all concerned through this VCD by Tehelka. Com Now, the description of statements before Press Conference and NHRC has already been recorded hereinbefore. The description of the VCD is given hereafter.

MONEY TRANSACTION RECORDED IN VIDEO COMPACT
DISC (VCD) PRODUCED BY TEHELKA.COM
[EX. 9-A]

The aforesaid VCD was submitted by Mrs. Kanwaljit Deol, Joint Commissioner of Police, Delhi, nominated to assist the Inquiry Officer under the orders of Hon'ble the Supreme Court of India, enclosing with her letter dated 16th My, 2005. The relevant excerpts of the English transcript of the conversation recorded between one representative of Tehelka and Sh. Tushar Vyas, Sh. Nisar Babu & Sh. Chandrakant Ramcharan Srivastava alias Bathu Srivastava, Sh. Nisar Babu & Sh. Madhu Srivastava, Sh. Nisar Babu & Sh. Tushar Vyas and Tehelka's conversation is as under:

Tehelka and Tushar Vyas

Tehelka: So this time you feel that whatever stand Zaheera Sheikh – she is taking this time it was based on compromise.

Vyas: It was an understanding that she doesn't want to file any more, doesn't want to make much noise. The two wanted to compromise. Because there is a saying 'Bhai bina preet nahi hoyi' (Without fear love cannot breed). There should be some fear of the State, of the police Commissioner. In fact, there is lack of security, so, there is no fear. The area's local leader calls the two differing sides. Don't make a sound. I will tell this side and they won't attack the other, and I will tell the other side and they won't attack the first or else, I will break your legs. Both the sides understand and the matter is over.

Tehelka: So, this is what Madhu did.

Vyas: Exactly, Exactly. Honestly, before you even call me I gave you your answer. The media says Madhu did this. Chandra Kant Bathu did that. They played their role "I will smack you. Stay quiet. Now or else, I will do this, I will do that".

Sh. Nisar Babu and Sh. Chandrakant Ramcharan Srivastava alias Bathu Srivastava

CK Bathu: One should kill such a lying woman and throw her away. Someone said this happened. So we gave piece of information to the police. We did not know that would be so senseless.

Nisar: That day.

Bathu: When

Nisar: At the time of turmoil, when Madhu met me, I told Madhu what would you do with the girl. The neighbourhood is stricken by fighting and skirmishes. He said you won't believe it. I gave 18 lakh rupees.

Bathu: That is true (Nodding his head)

Nisar: Didn't she get all the money. What happened?

Bathu: All the money.

Nisar: Then, why did she act so bastardly?

Bathu: What can I say? We did not understand it either.

Nisar: It is beyond my grasp.

Bathu: It is beyond our grasp too. It has given us headaches. What is more, I will tell you. We never took any interest in it. But again and again, the entire family went to Madhu. Time and again we can start a Bakery of something. Help us start something. They pestered us. At last Madhu decided; fine, let us give her the money. Negotiations started at 25 lakhs and stopped at 18-20 lakhs. Collecting money from everyone, all 18 lakhs rupees was given to her in cash.

Nisar: I came to know the money was handed at Shailesh patel's House – 2 lakh 70 thousand, she didn't get the rest. So she kicked-up a furore.

Bathu: No. No. Full amount. Complete.

Nisar: Why, then, did she behave so shamefully?

Bathu: I don't know.

Nisar: Now, that she has come here... She has come here for the money.

Bathu: Yes.

Nisar: Mark my word.

Bathu: It is greed.

Nisar: It is called greed. She has come here now. Why didn't she flee before?

Bathu: The Government must have paid her.

Nisar: The Government paid her this time.

Bathu: 100 per cent they have paid her.

Nisar: They have paid her about 35 lakhs.

Bathu: 100 per cent they must have paid her. She went there too, for the money.

Nisar: There too, she went looking for money. She took money from there, she took money from here and Teesta and Teesta had glorified her.

Bathu: Had glorified her.

Nisar: Now, she is in such a position that no court would pay any attention to her.

Bathu: Now they wont.

Nisar: She has finished herself.

Sh. Nisar Bapu and Sh. Madhu Srivastava

Nisar: There was something on Zaheera in the papers today – Sumo, the car.

Nisar: I used to talk to Bathu often.

Madhu: Bathu advised me to say no.

Nisar: Yes, you got involved wrongly.

Madhu: Yes, he advised me against. It. But she came to my place and cried. We didn't call her.

Nisar: He is such a good man. He doesn't care about the Hindu-Muslim deal. Like a brother. He has been disgraced.

Nisar: Tell me, if you have any work regarding Zahira. Anything for me any work.

Madhu: I don't get involved in such issues. We got abased falsely.

Nisar: How much was paid? 18-20 lakh was paid, right?

Madhu: 18 lakhs... 18 lakhs.

Nisar: Look at this Zahira – she took money from here, took money from there and is still of hero. How much money did she get – 2-3 lakhs?

Patel: She was not so innocent that for 2-3 lakhs, Zahira will say... and if she had got only this amount, her mother and two brothers would not have turned hostile.

[Emphasis supplied]

Sh Ashish Khaitan who recorded the VCD

In order to ascertain the correctness of this VCD of Tehelka. Com the statement of Sh. Ashish Khaitan, a Journalist of Tehelka.com was recorded on 18.6.2005. According to him, he is working with Tehelka since June 2004 and his main work is to do investigative journalism and according to him he is skilled in recording video and audio footage by using a spy camera and that after joining Tehelka he learnt to use spy camera and recording the tapes. As per Sh. Khaitan, he has recorded, 35-40 tapes or probably more than that from spy camera after joining Tehelka and according to him, no fabrication has been made in any of the tapes of this VCD (Exhibit 9-A). According to him, he knows Tushar Vyas, Advocate and met him when he was doing sting operation and recorded his conversation, the transcript of which is quoted in index part which runs from 03.40 to 04.50.

He also stated in his statement at page 12 [page 204 of Vol. III] that he projected himself as a social activist and introduced himself to Sh. Nisar Babu as Pranay Lal who had come from Delhi to do research about Gujarat riots and told Sh. Nisar Babu that he is going to help him in his son's case i.e. helping him in search of a proper Advocate in Delhi and to meet other litigation logistics. He along with Sh. Nisar Babu met Sh. Chandrakant Bath Srivastava twice, once at his house and thereafter in Municipal Corporation's office at Vadodara in Nisar's chamber and when he first met Sh. Bathu at his house it was towards the end of November or first week of December 2004. Sh. Khaitan also deposed that the whole text of the CD was recorded by him by using the spy camera.

He also stated that he met Sh. Nisar Babu more than a dozen times in Vadodara and whenever he had conversation with Sh. Chandrakant Bathu Sriavatava, Sh Madhu Srivastava and Sh. Shailesh patel in his presence, he recorded the conversation.

He further stated that the once met Sh. Shailesh Patel, Advocate in his house when he was talking to Sh. Nisar Babu and during that conversation he was just a listener and recorded that conversation which runs from the index 09.58 to 10.42.

According to Sh. Khaitan, he once met Sh. Madhu Srivastava when he was sitting in his house in Vadodara where most of the conversation took place between Sh. Nisar and Sh. Madhu and only once Sh. Nisar Babu introduced him with Sh. Madhu saying that he was Sh. Nisar's friend.

Statement of Ms. Puneeta Roy, Television producer working in Tehelka, was 'also recorded on 18th June, 2005 [pages 209 to 211 of Vol. II] during the Inquiry proceedings, who stated that she is working with Tehelka since October 2004 and that this Tehelka VCD was her third investigative story for Tehelka which she has edited. She also stated that the audio and video of this VCD are in original sync exactly as they were recorded.

Ms. Harinder Baweja, Editor [Investigation] in Tehelka was also examined on 18th June, 2005 [pages 216 to 219 of Vol. II] during the Inquiry proceedings and according to her, the idea behind this case and the preparation of VCD was to find out why Ms.

Zahira was changing her stand at different places and at different times and that the original tapes of Tehelka are in her possession in Tehelka Office and that they are willing to hand over the original tapes along with the transcript to this Hon'ble Court, if required.

In the examination during the inquiry proceedings on 30th June, 2005 only Sh. Nisar Babu admitted his presence in whole part 6 of the VCD wherever his presence was shown in the VCD. But Sh. Tushar Vyas, Sh. Chandrakant Bathu Srivastava, Sh. Madhu Srivastava and Sh. Shailesh Patel admitted their presence in the VCD but denied the part of the voice in the following words:

According to Sh. Madhu Srivastava (Statement dt. 07.06.05), the voice recorded in the VCD is not his own.

According to Sh. Chandrakant Bathu Srivastava (Statement dt 07.06.05), it is not his voice and it is fabricated one.

When Sh. Tushar Vyas was questioned: (Statement dt. 18.6.05) Whether the voice recorded in this VCD is his voice, he replied, it is difficult to answer and certified that it is his voice. However, this seems to be my voice.

According to Sh. Shailesh Patel (Statement dt. 18.6.05) about the audio part of the film he stated that it seems to him it is tampered and doctored and it is not a complete version and it is found to be dubbed. Because entire conversation is not before me.

When the voice recorded in Tehelka VCD of Sh. Madhu Srivastava Sh. Chandrakant Srivastava and became disputed, to ascertain the correctness, the Director, Central Forensic Science Laboratory (CFSL), Central Bureau of Investigation (CBI), Delhi was approached through a letter dated 9th June, 2005 and he was kind enough to constitute a team of the CBI officers, professionally trained in voice matching and that team was given the task for taking the sample voice of Sh. Madhu Srivastava & Sh. Chandrakant Srivastava. Since, Sh. Tushar Vyas and Sh. Shailesh Patel also disputed their voice in the VCD, during the recording of their statements on 18th June, 2005 at Delhi, the samples of voice of Sh. Tushar Vyas and Sh. Shailesh Patel were recorded by CBI team at Delhi itself on 18th June, 2005 in the presence of one witness, Sh. K.S. Gill, Joint Registrar [Security], Supreme Court of India and the samples of voice were sealed in two envelopes, which were marked as Exhibit Nos. 15 and 16, a panchanama was prepared and all this material was handed over to me. One sample voice of each of the two witnesses along with the VCD containing disputed voice was sent through Special Messenger to the Director, CFSL, CBI New Delhi vide letter dated 4th July, 2005 with a request to submit the report with regard to the voice of these two witnesses containing in the CD which was disputed.

The CBI team submitted their report (Ex. 19) dated 13th July, 2005 regarding voice of Sh. Shailesh Patel and Sh. Tushar Vyas. The report received from the Director, CBI about the sample voice of Shailesh Patel and Tushar Vyas inter alia reveals as under [**pages 231 to 232 of Vol. III**]:

“Accordingly, on the basis of consolidated effects of similarities in the linguistic characters and phonetic features using auditory and voice spectrographic analysis, it is concluded that the voice marked

exhibits Ex-9A (1) (Q-2) could be the voice of same person whose specimen voice is marked exhibit EX-16(A) [Mr. Tushar N. Vyas]

Accordingly, on the basis of consolidated effects of similarities in the linguistic characters and phonetic features using auditory and voice spectrographic analysis, it is concluded that the voice marked exhibits Ex-9A (2) (Q-2) could be the voice of same person whose specimen voice is marked exhibit Ex-15 (A) [Mr. Shailesh patel].”

[Note: Ex. 15 (sample voice of Sh. Tushar Vyas) and Ex. 16 (sample voice of Sh. Shailesh patel) were sent to the CBI which have been numbered as Ex. 15 (A) {Sh. Shailesh patel} and Ex. 16(A) {Sh. Tushar Vyas} respectively, in the Report by the CBI at page Nos. 10 and 11]

As per the above report, it is established that the voice of Sh. Tushar Vyas and Sh. Shailesh patel recorded in VCD [Exhibit 9A] and the sample voice recorded by the CBI team of Sh. Tushar Vyas and Sh. Shailesh patel do match. So on the basis of the results of the examination, it is established that the voice recorded in the VCD of Sh. Shailesh patel and Sh. Tushar Vyas is their original voice and the statement given and words shown to be spoken by them were given and spoken by these persons.

Sh. Bathu and Madhu Srivastava, though directed, did not come to Delhi for the purpose of recording their sample voice on the ground of their other commitments and on the second occasion again they showed their inability to come to Delhi on the ground of their ill health and requested for six weeks more time vide letters dated 27th June, 2005. Sh. Nisar Babu whose statement was also to be recorded informed vide letter dated 14th June, 2005 that since he was bed ridden he was unable to come to Delhi for the purpose and requested for some more time for coming to Delhi for the purpose of recording of his statement. Due to time constraint and since the report was to be submitted by 18th July, 2005 as per Court's order the Inquiry proceedings were held at Vadodara for the purpose of recording the statement of Sh. Nisar Babu who was bed ridden as per the medical certificate and whose statement was necessary for the inquiry purpose. Since, the Inquiry proceedings were to be held at Vadodara, it was also decided to record the sample voice of Sh. Bathu and Madhu Srivastava at Vadodara itself and CBI team was deputed for the purpose. In Vadodara both Sh. Madhu Srivastava and Sh. Chandrakant Bathu Srivastava refused in writing to record their sample voice by the CBI team. The applications (Ex. 16A-Chandrakant Bathu Srivastava and Ex. 17-Madhu Srivastava) were taken on record and due to their denial their sample voice could not be recorded.

Since Sh. Chandrakant Bathu Srivastava and Sh. Madhu Srivastava refused to give their sample voice for the purpose of matching it with the voice recorded in VCD, an inference can be drawn against both of them to the effect that had the sample voice been given and examined by the CBI team, the result would have been positive as happened in the case of Sh. Shailesh patel and Sh. Tushar Vyas. As such, it is also now established that the words spoken as shown in the VCD Exhibit 9A are their own and spoken by Sh. Chandrakant Bathu Srivastava and Sh. Madhu Srivastava as recorded in the Tehelka VCD.

When Ms. Zahira was shown the Tehelka VCD on 6th August, 2005, she was asked that Sh. Madhu Srivastava is saying in the VCD that Rs. 18,00,000/- were given to

her for changing the statement in Vadodara Court, she said that they want to defame her and she did not receive any amount and this is all false. When she was asked that it is also spoken in the VCD that 2-3 lakh rupees were given to her in the chamber of Sh. Shailesh Patel, she stated that they are only defaming her that she was not paid any amount. When she was asked that it is also stated in the VCD the Gujarat Government had given her Rs. 35,00,000/- that's why she changed her stand on 3rd November, 2004 she stated it to be false and that they only got the compensation for burnt house and for her sister who was also burnt.

To sum up-

- (A) The denial of voice to be their own by Sh. Chandrakant Bathu Srivastava, Sh. Madhoo Srivastava, Mr Tushar Vyas and Sh. Shailesh Patel, is not correct and it can now be accepted that the voice was of their own on the grounds:
- i) Examination report Exhibits 15A & 16A gives the opinion that the disputed voice and admitted voice of these two witnesses is similar. There is no reason to disbelieve the Report of the C.B.I.
 - ii) Denial for giving sample voice for the purpose of examination of the voice recorded in VCD to which they both denied is sufficient to draw an inference against both of them that had the sample voice been taken and further the same was examined by CBI, the result would have been positive in the sense that both the voices are similar.
 - iii) The statement of Sh Ashish Khaitan, the Press Reporter can be treated as reliable as nothing is available on record by which it can be inferred adversely and not having any kind of relations with any of the parties. The statement of Sh Nisar Bapu can also be relied on this point as corroborated by an electronic document in VCD Ex. 9A. on the basis of these two statements of the witnesses also, it can be accepted that the voice recorded in VCD is of all these four persons named above.
 - iv) Presence as well as speaking have not been denied by the above named four persons. In this way, it can be said that whatever the conversation among the persons is shown in the VCD is established and it is the true picture of the affairs recorded at the relevant time.
- (B) The conversation has already been written earlier. On perusal of the same it can be said that before Sh Nisar Bapu and Sh Ashish Khaitan it was said by Sh Madhoo Srivastava, Sh Chandrakant Bathu Srivastava and Sh Shailesh Patel that Rs 18 lacs were given by Sh Madhoo Srivastava to Ms Zahira for giving statement in trial Court, Vadodara in a particular manner of their choice and that was against the prosecution and in favour of the accused. The result is known that she refused to identify the accused at the spot of occurrence due to smoke.
- (C) This was also the part of the conversation that for the same purpose, she was paid Rs 2-3 lacs in Sh Shailesh Patel's Chamber.
- (D) There was some compromise between the parties

- (E) The net result of all is that this conversation between the above named persons can be treated as established.

To record any impact of the aforesaid conversations, it will be appropriate to look into the following factors also with regard to money transaction appearing on the record.

- (1) Sh. Ashish Khaitan, reporter of Tehleka was examined during process of inquiry and he in his statement dated 18th June, 2005 stated as under [page 205 of vol II]:

“Yes there is a social activist in Baroda called Lala Bhai, who provided some relief to Sheikh’s family in the aftermath of riots and he stated that he saw money being delivered in a jute bag to Ms Zahira Sheikh”

When Sh. Lala Bhai was examined on 30th June, 2005, in his statement he denied this fact. Because the detailed description of Sh Lala Bhai was not given, it cannot be said with certainty that the person who was called as a witness was the same Lala Bhai or not. This finds support with the statement of Lala Bhai when he said, there are so many persons named Lala Bhai available in Vadodara. However, he replied that ***“I do not know such Lala Bhai who is related to Ms Zahira”***. In view of this, much importance cannot be given to the denial of this Lala Bhai.

Ms Zahira has denied the allegation on 6th August, 2005 that she was given money in a Jute Bag and that Sh. Lala Bhai saw money being delivered for giving false statement in the Trial Court.

- (2) In the statement dated 30th June, 2005 of Sh Nisar Bapu, when he was asked, whether any money transaction took place through any of the Srivastavas on behalf of the accused persons of the Best Bakery case, the answer was in the affirmative and was based on the conversation itself. When Sh Nisar Bapu was asked what was the basis of saying that these rupees were paid, he replied that Sh Madhoo Srivastava stated this before him, hence he said. When Sh. Nisar Bapu was asked whether his son Abid also told him that Rs 18 lakhs were given to Ms Zahira by Sh Madhoo Srivastava and other Rs 6 lakhs were to be given after the decision, his reply was in affirmative. But at the same time, he stated that this was also reported by his son Sh Abid who was detained in Jail. Sh. Nisar Bapu also stated that the matter started from Rs 25 lakhs but ultimately was settled at Rs 18 lakhs.

Mr. Nisar Bapu has also stated in his statement recorded on 30th June, 2005 as under **[Page 275 of Vol.II]:**

Question: Whether Sh Shailesh Patel, Sh. Chandrakant Srivastava and Sh. Madhu Srivastava, at the time taping their talks, knw that whatever talks have been done at different places, were taped?

Answer: Not to talk of others even I did not know that it was being taped.

With regard to this fact, the statement of Sh. Abid, son of Sh. Nisar Bapu is also material. Sh. Abid was examined on 1st July, 2005, when he was asked whether he can tell about any important discussion which had taken place in the Jail amongst the

accused persons and the persons visiting them regarding Best Bakery case, and his reply was that discussion used to happen before him and that he used to listen them too. He also said there was another accused Sh Sanjay Thakkar in the Best Bakery case. He told him all these matters because both were jailed in the same room and once Sanjay Thakkar told him that all of them would be released because some deal has taken place between Srivastavas and Ms Zahira and that Rs 18 lakhs have been given and Rs 6 lakhs were to be given after the decision. Sh Abid also stated Sh Madhoo Srivastava told him that he had given Rs 18 lakhs to ms Zahira and that time some persons were also standing beside Sh Bhatu Srivastava and Sh Madhu Srivastava they did not say anything except these words.

The cumulative effect of the statements of these witnesses is that there was some whispering, as quoted above with regard to the money transaction, in jail also where the accused persons were detained along with Sh. Abid.

The third factor mentioned below also indicates about money transaction.

(3) **Accounts:** This Hon'ble Court, vide its order dated 21st February, 2005, was also pleased to direct Ms. Zahira Sheikh to submit information of accounts of herself and her family members in the following words Page [Page 5 of Vol. I]:

“.....We think it appropriate to direct her to file an affidavit indicating details of her bank accounts, advances, other deposits, amounts invested in movable or immovable properties and advances of security deposits, if any for the aforesaid purpose She will also indicate the sources of the aforesaid deposits, advances and investments, as the case may be. She shall also indicate the details of such deposits, advances and investments, if any, in respect of her family members and the source thereof..... They shall indicate in the affidavits and the statements the sources of such deposits, advances and investments....”

In partial compliance to this order, Ms. Zahira Sheikh, in her affidavit dated 20th March, 2005 enclosed the zerox copies of their Bank Accounts with the information that they have no other accounts and stated in para 44 as under [Page 18 of Vol. IV (a)]:

“I file along with affidavit the copies of Bank records of my Bank Accounts and of my family members. We have no other accounts, copies of Bank Accounts are enclosed.”

No other information was supplied by Ms. Zahira as per the other with regard to advances, other deposits, amounts invested in movable or immovable properties and advances of security deposits, etc. with regard to herself as well as her family members.

For seeking the remaining information regarding accounts, a direction was given to Ms. Zahira Sheikh vide order dated April 6, 2005, recorded in the Record of Proceedings that she shall also file the information by 16th April, 2005 with regard to

bank accounts of her sister Saira and her husband and wife of her brother, Nafitullah and she will also disclose advances, investments, other deposits, amounts deposited in movable, immovable properties or security deposits and sources thereof.

She informed vide her affidavit dated 12th April, 2005 in para 18 [**Page 71 of Vol. IV (a)**] that they have made no investments and that they means she or any member of her family, that too was the partial compliance to the aforesaid order. She mentioned nothing with regard to the other requirements including sources, etc.

To seek clarification on a few ambiguities as well as rest of the information required with regard to the sources, she was preliminary examined on 18th / 21st April 2005. When she was questioned that “despite demands you did not mention the sources of bank account”, she surprisingly replied that it was not asked from her. Immediately, Sh. D.K. Garg, her counsel, intervened and conceded that due to his mistake this information could not be supplied. During the course of examination as well as in the Record of Proceedings on 21st April, 2005, she was further granted 10 days time through her counsel, Sh. D. K. Garg, for filing the details of the bank accounts along with sources. Thereafter, one affidavit dated 24th April, 2005 was filed. She mentioned therein the following details:

- | | | |
|-----|----------------------------------|--|
| 1. | Rs. 65,000/- | Sale consideration of one house sold in the month of November 2001. |
| 2. | Rs. 40,000/-
Approx | Sale consideration of two three-wheelers sold to scrap dealer [Kabadi]. |
| 3. | Rs. 30,000/- | Received from Insurance Company by mother on account of damages to motor cycle. |
| 4. | Rs. 32,000/- | Sale consideration of scrap of machinery of Bakery. |
| 5. | Rs. 1,50,000/-
Approx | Sale consideration of scrap of Bakery. |
| 6. | Rs. 50,000/- | Compensation for damages of house received from Government through cheque in favour of her mother. |
| 7. | Rs. 50,000/-
and Rs. 40,000/- | Received by mother as compensation of her sister's death from the Government through cheque. |
| 8. | Rs. 493/- per
month | Deposited on monthly basis directly in Savings Bank Account No. 16669 with Syndicate Bank stands in the name of mother, as interest on Bond amount of Rs. 50,000/- received as compensation of her sister's death from Government. |
| 9. | Rs. 55,000/- | Investment in a house in Ekta Nagar in the name of Ms. Zahira Sheikh |
| 10. | Rs. 20,000/- | Investment in two small plots of 15X 30ft. each by |

	Rs. 25,000/- Approx.	her brother Nasibullah
11.	Rs. 45,000/-	Deposited by her in the Bank Account No. 11348 with Bank of Baroda, Nawapura Branch at Vadodara
12.	Rs. 52,045/-	Deposits in a joint account No. 16745 with her brother, Nasibullah with Syndicate Bank, Goddev Branch, Bhayander
13.	Rs. 1,37,384/-	Deposits in her brother's account No. 16667 with Syndicate bank, Goddev Branch, Bhayander
14.	Rs. 1,42,256/-	Deposits in her mother's account No. 16669 with Syndicate Bank, Goddev Branch, Bhayander

As per directions of this Hon'ble Court vide order dated 21st February, 2005, report was to be submitted by 21st May, 2005 whereas details were made available on 3rd May, 2005 through affidavit dated 24th April, 2005 and that the compliance of the Hon'ble Court's order was not made by her, but after repeated directions as noted in record of proceedings dated 21st April, 2005 and 29th April, 2005 it was disclosed in affidavit dated 24th April, 2005 filed on 3rd May, 2005 which needs following consideration:

1. An amount of Rs. 60,000/- was invested in one flat situated in Shilpa Apartment, Bombay. When it was not disclosed suo motu, a question was asked to Sh. Nafitullah during his statement on 24.05.05 [Page 15].
2. An amount of Rs. 65,000/- which has been shown in the first column received in the month of November 2001. This amount was received before the Best Bakery incident and no details are available in bank accounts and the same was also not clarified despite questioning. Sh. Nafitullah in his statement dated 24th May, 2005 [Page 15] when he was asked when this amount was deposited in bank, he replied that he does not know in what use it was taken. Thus, this amount cannot be considered as a source against the deposits made after incident / after a considerable long time. Hence this amount is not relevant to be considered.
3. An amount of Rs. 40,000/- has been shown in Column 2 above as receipts out of sale of two three-wheelers. When number of the two three wheelers were not given and the person from which this amount was received was also not disclosed, questions were asked during the examination from Ms. Zahira and Sh. Nafitullah. In his statement dated 24th May, 2005 [Page 92 of Vol. II], Sh. Nafitullah disclosed only one number GJ - ^U 6514 of three wheeler and said that he does not know the number of other three-wheeler. When he was questioned to inform about the name and address of buyer, Sh. Lekhi, Senior Counsel appearing for Ms. Zahira, stated that this can be ascertained from RTO. Accordingly, letter dated 11th July, 2005 was written to RTO, Vadodara. In response, information was received that this vehicle was registered in the name of Sh. Habibullah Sheikh, father of Ms. Zahira and which was subsequently, sold to one Sh. Suresh Bhai Kalidas Barot. Then a letter dated 14th July, 2005 was addressed to Suresh Bhai Kalidas Barot who vide his letter dated 22nd July, 2005

informed that he purchased the vehicle through Sh. Kalicharan Dalal for an amount of Rs. 18,800/-. When no number and other details of other three wheeler were given either by Ms. Zahira or by Sh. Nafitullah, then he was requested to send the details afterwards, he immediately replied that as he does not remember the number, he will not be in a position to inform anything. It cannot be believed that owing a three-wheeler he does not know the numbers of that vehicle. In these circumstances, it cannot be accepted that there was any second three-wheeler and out of this alleged amount of Rs. 40,000/-, only Rs. 18,800/- can be accepted as receipts from sale of three-wheeler.

4. The information recorded in columns, 3, 6, 7 and 8 being correct needs no discussion.
5. An amount of Rs, 45,000/- as shown in column 10 has been mentioned as invested in two small plots purchased after Best Bakery incident. With regard to these plots Sh. Nafitullah stated in his subsequent statement dated 2nd July, 2005 [Pages 325-326 of Vol. II] that he paid Rs. 30,000/- or Rs. 36,000/- and also installment of Rs. 1000/- per month was fixed and Rs. 30,000/- have been invested for constructing the outer walls and shade over there [Page 5]. Thus in place of Rs. 45,000/-, Rs. 66,000/- have been invested over these two plots. Sh. Nafitullah has stated in his affidavit dated 2nd July, 2005 at page 6 that he has spent Rs. 7,000/- in renovation of the Best Bakery building. Thus total sum of Rs. 66,000/- + Rs. 7,000/- = Rs. 73,000/- has been invested.
6. Under Columns 11 to 14 only four accounts have been disclosed. Information with regard to following two accounts does not find place in the affidavit dated 24th April, 2005. Whereas, these were mentioned by her in affidavit dated 20th March, 2005.
 - (a) Account No. 8881 with Bank of Baroda stands in the name of Ms. Sairunissa, the mother of Ms. Zahira in which of Rs. 30,727/- shown as balance on 2nd February, 2005.
 - (b) Account No. 2037 with Baroda City Cooperative Bank Ltd, stands in the name of Sh. Nafitullah, brother of Ms. Zahira having closing balance of Rs. 518/- as on 24.02.05;

However, in the last para of her affidavit dated 24.04.05, it has been mentioned "It is submitted that no other bank account is being maintained by the deponent, her mother, her brother Nasibullah". The name of Sh. Nafitullah, brother of Ms. Zahira, has not been included in this para. When the above quoted information was given by Ms. Zahira, she was also to give some information with regard to Sh. Nafitullah also. Previously, along with her affidavit dated 20.3.05, she enclosed one document which shows that Account No. 2037 stands in the name of her brother, Sh. Nafitullah in Baroda City Cooperative Bank Ltd. In that account, a major amount deposited was Rs, 48,000/- on 14.5.03.

7. An amount of Rs. 55,000/- has been mentioned in column 9 as invested in a house in the name of Ms. Zahira. The affidavit has been filed on 24th April, 2005 and as per the statement of Ms. Zahira one house which was purchased from relief committee for Rs. 55,000/- was again sold by her when she was staying at

Bombay i.e. in the year 2003 then why this fact has not been disclosed in the subsequent affidavit filed in April, 2005, in absence of which it cannot be said that whether she intends to indicate about the same house purchased from the relief committee or this is another house. It is still stand as not clarified. In such a state of affairs, the only material available on record, are the statements of Ms. Zahira and Sh. Nafitullah, when both are denying that except 2 plots purchased from one Sh. Arif of 15X30 feet dimension, no other house is now owned by this family in Ekta Nagar Vadodara. On the basis of these statements this house is taken as the same house, which was purchased from the relief committee and subsequently sold by Ms. Zahira. In view of this, this investment shown by her becomes immaterial for the purpose of calculation.

8. In Column 4, an amount of Rs, 32,000/- has been mentioned as sale consideration of scrap of machinery of bakery and in column 5, an amount of Rs. 1,50,000/- approximately has been mentioned as receipt out of sale consideration of scrap of bakery.

Repeatedly it was asked from Ms. Zahira as well as her brother Sh. Nafitullah during their examination about the names/ addresses of purchasers of scrap, they only stated that they did not know the names of the purchasers of this scrap. At the same time, it was stated that it was sold in piecemeal. The names of all the purchasers of scrap in piecemeal if not known, it can be believed upto a certain extent but not this that even the names of the purchasers of machinery of bakery which was sold only in two items, namely, toast cutter machine was sold for Rs. 10,000/- and Cake Machine was sold for Rs. 22,000/- are not known. Even it was not known, they could have been ascertained, if efforts were made. A request was also made to the witnesses during their examination but the required information has not been supplied till date.

The total amount as shown as sale price of scrap also appears to be exaggerated. Certain amount cannot be said as sale price of scrap in the absence of any material available on record. When sufficient information has not been given and in the absence, this amount cannot be accepted in the head of receipts.

In para No. 5 of the affidavit dated 24th April, 2005 **[Page 96 of Vol. IV (a)]** an amount of Rs. 50,000/- shown as has been received from the Government against damages of the House. On perusal of the accounts of Mrs. Sairunnissa Sheikh, the mother of Ms. Zahira, in her account No. 8881 stands in the Bank of Baroda. No other entry of receipt of the rest of Rs. 25,000/-, if any, received as against damages of the house appeared in any of the accounts. However, in evidence/statements of Ms. Zahira recorded on 21st April, 2005 at page 6, Sh. Nafitullah recorded on 24th May, 2005 at page 18 and Mrs. Sairunnissa recorded on 6th August, 2005, all the three witnesses stated that for damages of the house Rs. 50,000/- was received in two installments of Rs. 25,000/-. This statement/information also doesn't tally with the information given by the Collector, Vadodara vide his confidential letter dated 13th July, 2005 **[Page 20 of Vol. V(f)]** informed at 1B (I) that Rs. 25,000/- was paid to the family vide State Bank of India's cheque No. 80505 dated 13th May, 2002 on account of damage of house (only this cheque appears to be deposited as against damages) and this was deposited in the account of Mrs. Sairunnissa.

Whatever the material has been placed and discussed hereinbefore, one important fact appears and i.e. when the Bakery was in operation, only one bank

account in the name of Mrs. Sairunissa Sheikh, mother of Ms. Zahira, was in existence and i.e. A/c. No. 8881 of Bank of Baroda, Vadodara. After perusal of the xerox copy filed by Ms. Zahira along with her affidavit dated 20th March, 2005, it appears that this account continues since 10th March, 1995 in which till the date of Best Bakery incident approximately 54 entries find place and in none of them any deposit appears more than Rs. 10,000/- and i.e. on one date i.e. 17th February, 2001 i.e. before the incident. Simultaneously, withdrawals of considerable amount (from Rs. 2000/- to Rs. 5000/-) also appears. Most of the entries are of one thousand or below than that. The last balance as on 4th January, 2002 shown was Rs. 25,218/-. But after Best Bakery incident when Bakery is not in operation and none of the family members remain in earning condition till November, 2004, Ms. Zahira's family is now having six accounts (regarding father's account, for which Ms. Zahira in para 14 of her affidavit dated 24th April, 2005 [**Page 98 of Vol. IV (a)**] has mentioned, details of which, despite asked, have not been supplied whether this account is in operation by heirs of the deceased or not) and the amount of deposits has increased as it appears from the chart.

On the basis of the information given, subject to above discussion, the following comparative chart can be seen which clarifies the status of bank deposits as well as receipts.

Following are the two charts, showing the status of known receipts and deposits after the incident

CHART NO. 1

Receipts

Sr. No.	Amount	Remarks
1.	Rs. 50,000/- & Rs. 40,000/-	Received as compensation of her sister's death
2.	Rs. 25,000/-	Received as damages of the house
3.	Rs. 30,000/-	Received from insurance company against damages of motorcycle.
4.	Rs. 18,800/-	Received as sale price of one three-wheeler
5.	Rs. 6,296/-	Receipts from clearing zone – Received as interest against bond of which has been alleged to be purchased out of the balance amount of Damages of sister's death.
Total	Rs. 2,02,096/-	

Note : Rs. 1,82,000/- have been claimed to be treated as receipts against the sale price of the scrap which has not been acceded to on the ground noted in page No. 106-107 Despite if this amount is deemed to be accepted, then the total of the receipts will be Rs. 3,84,096 (Rs. 2,02,096 + 1,82,000)

CHART NO. 2

Investments

Sr. No.	Amount	Remarks
1.	Rs. 45,000/-	Deposited by her in the Bank Account No. 11348 with Bank of Baroda, Nawapura Branch at Vadodara.
2.	Rs. 52,045/-	Deposits in a joint account No. 16754 with her brother, Nasibullah with Syndicate Bank, Goddev Branch, Bhayander
3.	Rs. 1,37,384/-	Deposits in her brother's account No. 16667 with Syndicate Bank, Goddev Branch, Bhayander
4.	Rs. 1,42,256/-	Deposits in her mother's account No. 16669 with Syndicate Bank, Goddev Branch, Bhayander
5.	Rs. 73,000/-	Purchase of two plots and construction to the tune of Rs. 66,000/- and spent Rs. 7,000/- on renovation of best bakery building.
6.	Rs. 60,000/-	Invested against a flat of Bombay
7.	Rs. 48,000/-	Deposited on 14.5.03 with Bank account (A/c. No. 2037) of Sh. Nafitullah
8.	Rs. 30,727/-	Mother's account (A/c. No. 8881)
Total	Rs. 588,412/-	

- Difference: Investments – Receipts Rs. 5,88,412 – Rs. 2,02,096 =
- Rs. 3,86,316/-
- If Rs. 1,82,000/- is also included as receipts then the difference is = Rs. 2,04,316/-

This difference between investments and receipts / sources is without considering / taking into account any expenditure, whatsoever, of the day-to-day needs of the family. It is known that for a considerable time, from July, 2003 to October, 2004 at Bombay, the expenses of the family were borne by Ms. Teesta's organization i.e. CJP. However, even for this period it cannot be taken for granted that no expenditure was required to be incurred by the family from their own pocket. It also appears during the statement of Ms. Teesta as well as Sh. Nafitullah that after a few months there was a dispute with Ms. Teesta and Ms. Zahira shifted to her mother at Bhayander Road. That apart, the period from March, 2002 to June, 2003 i.e. for 15 months it cannot be accepted that the family can survive by a meager amount earned by the members of the family.

To sum-up, the following considerable facts appear on the record.

- As discussed under the heading of 'Money transaction recorded in video compact disc (VCD) produced by Tehelka.com that Sh. Madhu Srivastava has been shown stating Rs. 18 lakhs given to Ms. Zahira which is corroborated by Sh. Nisar Bapu, Sh. Ashish Khaitan, Sh. Shailesh Patel and Sh. Chandrakant Srivastava.
- Sh. Tushar Vyas has been shown speaking that there was a compromise / settlement: it was an understanding that she doesn't want to file any more, doesn't want to make much noise. They two wanted to compromise..... Both the sides understand and the matter is over.

- c) Sh. Ashish Khetan, reporter of Tehelka has said that one Sh. Lala Bhai told him that before Lala Bhai money was paid to Ms. Zahira in a jute bag.
- d) Sh. Nisar Bapu and his son Sh. Abid both have stated that one co-accused Sh. Sanjay Thakker informed that all of them (all accused) would be released because some setting had taken place between Srivastavas and Ms. Zahira and that Rs. 18 lakhs had been given and Rs. 6 lakhs were to be given after the decision. He also stated that Sh. Madhu Srivastava himself told that he had given Rs. 18 lakhs to Ms. Zahira.
- e) The elaborate discussion over accounts, the receipts and the investments, part goes very high on a comparative study of the accounts. After the incident it appears that the accounts of the family are rich.
- f) The balance sheet of investments and receipts doesn't include the daily expenditure, for which it can be presumed that a considerable amount must have been spent in comparison to the regular source of income.

In absence of sufficient evidence it cannot be taken as proof or established that the alleged money in that same amount was passed through hands as stated by Sh. Nisar Bapu in his statement dated 30th June, 2005.

The balance sheet of investments and receipts doesn't include the daily expenditure, which can be presumed that a considerable amount is required to meet out the day-to-day expenses of the family. However, in their statements of Ms. Zahira and Sh. Nafitullah dated 21st April and 24th May, 2005 respectively they have stated that Sh. Nafitullah lives separately from other members of the family and rest of the three members are living jointly in a house which is on rent. Both the brothers are earning members and in this manner house-hold expenses are made by their earnings. Sh. Nafitullah deals in the business of scrap materials and Sh. Nasibullah works as a labour in a Company. The average income of Sh. Nafitullah is Rs. 8 to 10 thousand per month out of which Rs. 2-3 thousand per month he gives to mother. The mother of Ms. Sehrunissa, and Ms. Zahira herself are also doing tailoring work and joint earning of the family members are sufficient to meet out their day-to-day expenses.

The following important portion of the statement of Sh. Nisar Bapu dated 30th June, 2005 also needs consideration: [Pages 257 & 261 of Vol. II]

Question: Did you tell Shri Khaitan that some cash was given to Zahira and her family and when the complete fixed amount was not paid to her, then she went to Teesta?

Answer: Yes, I said like this.

Question: What is the basis of your such speech?

Answer: Zahira had become homeless and Shri Ganibhai Qureshi, Head of the B.J.P. Minority Cell was running a camp at Ajmadi Mill road and Zahira

was staying there with her mother and after our release from the jail we came to know about this.

Question: I again ask that what is the basis of your this speech that when Zahira did not get complete money, then, she went to Teesta Sitalwad?

Answer: This is not known to me

Question: You have also accepted the becoming greedy of Zahira, on what basis this has been said?

Answer: When Chandrakant Bhattu Shrivastava and Madhu Shrivastava said that 18 lakhs rupees have been given to Zahira Sheikh and full amount has been paid, even though she had gone to the place of Smt. Teesta Sitalwad and it is my guess that she would have taken money from there too and I also said this that now she has gone to the government, then in this condition I called her to be greedy.

As against this, Ms. Zahira has denied on 6th August, 2005 in her statement the allegation of Sh. Nisar Bapu (Sh. Nisar Bapu's statement dated 30th June, 2005) that it is wrong that they were not paid the full amount by Sh. Madhu Srivastava as per agreement despite demands and when it was not paid, they went to Ms. Teesta and gave statements in Bombay Press Conference and before NHRC in July, 2003.

On the same subject, one more, fourth important fact is available on record, which is as under:

Ms. Teesta along with her affidavit dated 16th April, 2005 enclosed a copy of the VCD which relate to interview of one Sh. Aslam to whom Ms. Zahira addresses as 'Chacha'. The relevant extract is as under:

“Aslam (Zahira calls him uncle) : Only one daughter Sabira died other than this there was no damage, loss suffered by them and they have let accused go free after taking 6 lakh rupees that money Guddu only took. Who else would take. It is well known. Everyone in Gujarat knows. No one was under pressure. These are ways for earning money. Guddu also told me about the money but I refused saying that I don't want any money. Nafitullah is called Guddu.”

Efforts were made to examine Sh. Aslam but the servicing agency of police vide letter dated 29th June, 2005 reported that he has already left the place and now is not available. Hence, he could not be examined.

However, the above statements of Sh. Nisar Bapu appears to be probable and on the basis of the cumulative effect of all the discussions, it can be said that there exist a strong probability of the money transaction and that money exchanged the hands in the matter and that was the inducement behind the statement of Ms. Zahira recorded during her examination on 17th May, 2003.

THREATS

Threats as alleged given through cell phone

Ms. Zahira during her statement dated 11th July, 2003 (Ex. 42) before NHRC has stated that before recording of her statements in Trial Court, Vadodara, threats were given to her through cell phone possessed by her brother Sh. Nafitullah. A gist of full text of NHRC has already been quoted earlier and for ready reference very relevant parts regarding threats have been quoted here, which are as under:

With regard to Sh. Chandrakant Srivastava

"Chandrakant @ Bhattoo Srivastava made threatening
calls on the mobile and told my brother that unless we
resile from our statement, those who are surviving would
also be killed..... I received summons ... on the date
when I had appeared in the Court.... I met
Chandrakant Bhattoo. He told me that I should again
Think about it whether I wanted to give evidence in their
favour or stick to my earlier statement ... I could not
identify anybody."

With regard to Sh. Madhu Srivastava

"Madhu Srivastava, a BJP MLA was also giving threats on
the mobile phone of my brother..... He was told that
he should advise me that if I resile from my statement it
could save the life of the family and if I do not do so the
rest of the family members may also be killed.....
made a note of that number On the date when I
had appeared in the Court ... I went into the witness
box. there was one another person who had
menacing looks..... was giving me dirty looks.....
Thereafter, I went to the room of Mr. Raghuvir Pandya
...I then realized that the man with the menacing
looks was Madhu Srivastava

With regard to Sh. Bharat Thakker

".....Threats were also being received by us from
Bharat ThakkarMy brother got afraid after
receiving all these threats....."

Apart from this, more or less the same information was given in para 6 of the affidavit dated 29th April, 2005 of Sh. K. Kumaraswamy, Joint Commissioner of Police,

Vadodara, which is enclosed along with the appears of investigation of the Crime No. II/41/03 filed by Mrs. Hemantika Wahi, Advocate appearing on behalf of the State of Gujarat which is as under **[Page 4 of Vol. IV (d) 2]:**

“The I.O. had also sought to verify the contention of the complainant that the threats were issued through the mobile phone by one of the main accused Madhu Shrivastava. In this connection mobile phone records were obtained from “Idea” and “Hutch” telephone companies, for the period from 20.4.2003 to 30.6.2003. In this period, Nafitullah himself had called Madhu Shrivastava 8 (eight) times, whereas Madhu Shrivastava had called Nafitullah only once. Nafitullah’s phone number is 9824326505 and Madhu Shrivastava’s number is 9825060542....”

During the investigation of the crime, Sh. K. Kumaraswami, Joint Commissioner of Police, Vadodara, recorded a statement (which was subsequently treated as FIR II/41/03) of Sh. Nafitullah on 27th September, 2003, in which Sh. Nafitullah stated before him as under **[Page 27-28 of Vol. IV (d) 3]:**

“....My Mobile Phone No. was 9824326505 and I got threats on it that “If you give statement against the accused, nobody in your family will be saved and no body in the house will live to burn the light/ lamp.” I had Prepaid Simcard in my mobile and I have given it to Teesta Madam in Bombay and my phone was of Nokia Company Thrice on this mobile. And in my mobile the number of Phone from which I was threatened was: 9825060542....” So I telephoned the person and asked him who he was and on asking such question; I was told “I am Madhu Shrivastava speaking and give your statement in the court as you have been told.....”

The aforementioned crime number was registered on the basis of above-quoted statement [FIR] of Sh. Nafitullah. Sh. RJ Pargi, ACP, A Division, Vadodara recorded one statement of Sh. Nafitullah on 14th September, 2004 (Ex. 29) in which it was stated by Sh. Nafitullah that “I (Nafitullah) had telephoned only once. In my presence no other telephone call was made and if telephone call has been made in my absence, then I don’t know about it.”

On the basis of the information received by the statements’ affidavits mentioned above, for getting verification of numbers and the status of telephonic conversation, letters were written to M/s Idea Cellular Company Limited and M/s. Reliance Infocomm companies. View their letters dated 14th June and 23rd July, 2005 the required information was received and on that basis the following tables, showing the telephone numbers possessed by Sh. Nafitullah, Sh. Madhu Shrivastava and Sh. Bharat Thakkar, with regard to the status of their calls were prepared:

The following table shows the status of calls of cell phone No. 9825060542 alleged to be possessed by Sh. Madhu Shrivastava and cell phone no. 9824326505 alleged to be possessed by Sh. Nafitullah.

Sr. No.	Date	Time	Duration	Call from Cell Phone No.
1.	09.05.2003.	15:14:10	20	9825060542
2.	10.05.2003	16:26:35	77	9824326505
3.	17.05.2003	15:26:42	86	9824326505
4.	28.05.2003	11:48:41	45	9824326505
5.	02.06.2003	13:42:59	36	9824326505
6.	07.06.2003	18:13:35	46	9824326505
7.	12.06.2003	07:53:51	46	9824326505
8.	28.06.2003	11:50:59	60	9824326505
9.	30.06.2003	09:42:02	06	9824326505
10.	02.07.2003	11:51:22	42	9824326505
11.	02.07.2003	14:35:54	78	9824326505

The following table shows the status of calls of Cell Phone No. 9824326505 alleged to be possessed by Sh. Nafitullah and Reliance mobile No. 2653122052 alleged to be possessed by Sh. Bharat Thakkar.

Sr. No.	Date	Time	Duration	Call from Cell Phone No.
1.	08.05.2003	23:21:54	44	2653122052
2.	09.05.2003	00:55:25	11	2653122052
3.	09.05.2003	07:54:16	28	2653122052
4.	09.05.2003	13:59:08	39	2653122052
5.	11.05.2003	11:53:24	46	2653122052
6.	14.05.2003	09:28:53	21	2653122052
7.	14.05.2003	09:55:56	77	9824326505
8.	17.05.2003	22:15:58	80	2653122052
9.	17.05.2003	08:10:06	15	9824326505
10.	17.05.2003	19:03:12	36	9824326505
11.	17.05.2003	22:00:21	49	9824326505
12.	23.05.2003	13:10:42	61	2653122052
13.	24.05.2003	20:41:49	91	2653122052
14.	26.05.2003	20:24:37	21	2653122052
15.	26.05.2003	20:56:21	9	2653122052
16.	02.06.2003	16:20:50	32	9824326505
17.	03.06.2003	07:15:41	48	9824326505
18.	05.06.2003	09:55:25	27	9824326505

On the basis of this information, when the relevant questions were asked during the examination of Ms. Zahira and Sh. Nafitullah on 6th August, 2005 (Ms. Zahira) and also on 2nd July, 2005 (Sh. Nafitullah) respectively both have denied / not admitted the facts of owning the above noted cell phone number by Sh. Nafitullah (9824326505) as well as having conversation with Sh. Madhu Shrivastava and Sh. Bharat Thakkar at the time and on the dates as noted in the tables mentioned above. The fact of this

conversation was also denied by both Sh. Madhu Shrivastava and Sh. Bharat Thakkar in other in the present circumstances of the case because, if the money transaction, as allege body amongst these four has been benefited.

When the information was received through the correspondence quoted above, during their examination Sh. Madhu Shrivastava and Sh. Bharat Thakkar, they both have denied the allegations not however, they admitted having the cell phone of the same numbers. Sh. Nafitullah goes

When Sh. Nafitullah denied the fact of possessing the alleged cell phone, vide st was made allotment of the cell phone number. In response, M/s. Idea Cellular Limited vide their rd closing the copy of th December, 2002 Cell phone number 9824326505 was allotted to him from 24 st

dated 5 August, 2005 did not admit his signatures Director, Central Forensic Science Laboratory, New Delhi was requested vide letter th nation of the disputed signatures of Sh. Nafitullah on signatures of Sh. Nafitullah on his statements dated 24 May and 2 July, 2005 which s subsequent statement dated 5 August, 2005, for the form of Sh. Nafitullah, the same was obtained from M/s Idea Cellular Limited and the the purpose. A report dated 12 August, 2005 was

“.....Handwriting evidence points to the writer of the admitted Hindi signatures marked A 1 to A* attributed to “Nafitullah Shei

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during the handwriting examination and it was reported that the disputed signatures on applica alleged time Sh. Nafitullah was owning this mobile phone number 9824326505.

It appears from the first chart that before and after recording of the statement of in Trial Court, Vadodara, at one time on 9 May, 2003 one telephone call cell phone of Sh. Nafitullah and after that at least 10 times calls were made from the f Sh. Nafitullah to the telephone of Sh. Madhu Shrivastava and this

continued till 2nd July, 2003. It is important on the ground that the statements of Ms. Zahira in the Trial Court, Vadodara were recorded on 17th May, 2003.

As discussed above, it can be believed that these telephonic contacts were made during the relevant and material period when the statement of the material witnesses including Zahira's statement were being recorded by the Trial Court, Vadodara. As per the information received from the various mobile companies as quotes above, the following facts are treated to be proved.

1. that there was some conversation between the person having mobile number 9824326505 and 2653122052 and 9825060542, on the dates and time mentioned in the tables.
2. that cell number 9824326505 was allotted to Sh. Nafitullah and mobile number 2653122052 was allotted to Sh. Bharat Thakkar and mobile 9825060542 was allotted to Sh. Madhu Shrivastava. Sh. Madhu Shrivastava and Sh. Bharat Thakkar both have admitted their cell phone numbers in their respective statements recorded during the inquiry.

The fact that threats were given by Sh. Madhu Srivastava and Sh. Bharat Thakkar to Sh. Nafitullah was denied by all the three, in their statements recorded here during the inquiry proceedings. The facts as noted and established in the above para shows that some contacts were made at the time and the dates as mentioned in the above quoted two tables and when this established fact was denied by all the three persons, in such circumstances it can only be presumed that the fact of giving and receiving threats was alleged to be expressed by Ms. Zahira and Sh. K. Kumaraswami was true and their subsequent denial of these two statements is not correct.

Threats reported to press on 5th July, 2003

During the last days, the searchlight of the inquiry could be able to stare a very important fact with the help of Mrs. Kanwaljit Deol, Joint Commissioner of Police, Delhi Police, who suddenly draw attention through two self handwritten letters, at the camp at Vadodara and the fact that the mother of Ms. Zahira, Mrs. Sehrunissa, had reported the factum of threats to the Press Reporter of Indian Express newspaper given to them before recording of their statement by Trial Court, Vadodara and due to the threats she 'put her head down and deposed'. 'After all, one is afraid of one's life'. By this fact again Ms. Zahira be qualified as a liar since according to her the threat part finds place only in Bombay Press Conference and NHRC due to tutoring of Ms. Zahira and which she subsequently clarified that she came in contact with Ms. Teesta only in the month of July, 2003 when she reached in Bombay.

When Ms. Zahira refused to attend the inquiry here at Delhi for the purpose of recording of her final statement, dates were fixed for 5th and 6th August, 2005 for holdin the inquiry at Vadodara. During that period Mrs. Kanwaljit Deol, Joint Commissioner of Police Delhi Police Headquarters was also present at Vadodara and submitted aforementioned two letters to the effect that one new witness Sh. Abhishek Kapoor, Senior Reporter of Indian Express is to be examined and Sh. Mohd. Vora (witness) be also re-examined. Mrs. Kanwaljit Deol also submitted copies of the newspapers

6th

In his examination, Sh. Abhishek Kapoor stated that he is Senior Correspondence of Indian Express newspaper and in that capacity of 5 July, 2003 he took the interview of Ms. Zahira's mother Mrs. Sehrunnissa by a dicta phone

After perusal of the Exhibit No. 32, one of the copy of the newspapers filed by Mrs. Kanwaljit

6th C were also published which were based on the conversation made by him with Mrs. Sehrunnissa

quoted below [Page 342 & 344 of Vol. III]:

"But Sehrunnissa said the pressure was intense: 'Apne ko dhamki bhi aayi ki tum bole to tumko yahan aane nahin denge. Mar denge. (we received threats that if we speak we will not be allowed to come here. We would be killed).'"

"Sehrunnissa said that on the day of her deposition, the presence of a large number of goons,

Shirvastava) was intimidating. 'Lots of people were there, some signating at us with their eyes. I put my down and deposed. After all, one is afraid for

stood there staring, ' she said.

examined on 6th fact of giving any interview by saying "I did not give any interview. Thereafter, she said that she did not remember."

concerned audio CD in which the interview was recorded was in his office, on request,

CD was produced by him on 6th statemnet i.e. 5th was played in the presence of Mrs. Sehrunnissa during her examination on 6 August, 2005. After hearing the audio part of this Audio CD marked as Ex 47 in which her interview was recorded, she also did not admit the same by saying "witness says that she i who is not speaking in it"

Further, Ms. Sehrunnissa said that she cannot recognize the Press Reporter (Sh. th July, 2003 in Ekta lady press reporter, Ms. Ayesha Khan, who was present there and shown to her. When she was asked that it that interview she accepted that

due to threats they gave statement in the Court under fear and that they were pressurized and threatened, in place of denial, Mrs. Sehrunnissa stated she cannot understand.

Ms. Zahira also stated on 6th August, 2005 that she doesn't know whether her mother gave interview on 5th July, 2003 to Sh. Abhishek Kapoor, Senior Reporter, Indian Express.

In the statement of Ms. Zahira recorded in NHRC (Ex.42) one press reporter Sh. Sachin Sharma find place with the reference to that statement of Ms. Zahira recorded on 17th May, 2003 in the Fast Track Court, Vadodara. When during the trial, the statements of Ms. Zahira were recorded and immediately after that he tried to take her interview, which was intervened by Sh. Madhu Shrivastava and due to the reason he could not take the interview.

Vide letter dated 5th August, 2005 handwritten by Mrs. Kanwaljit Deol, Joint Commissioner of Police, wherein she has mentioned that "a meeting in Fast Tract Court with Ms. Zahira and Mr. Madhu Shrivastava after she turned hostile on 17.5.2003 it has come to my notice that it was this reporter who was present there and not Mr. Sachin Sharma as has been erroneously stated by Ms. Zahira in her affidavit."

In the statement of Mr. Abhishek Kapoor, Senior Reporter, Indian Express recorded on 5th August, 2005 [**Pages 386-388 of Vol. II**], the fact appears that he tried to take interview but due to the intervention of Sh. Madhu Shrivastava he could not achieve in that. By the above quoted information given by Mrs. Kanwaljit Deol and the statement of Sh. Abhishek Kapoor it becomes clear that the Press Reporter, who tried to take interview of Ms. Zahira on 17th May, 2003 was Sh. Abhishek Kapoor not Sh. Sachin Sharma.

He also stated that on 17th May, 2003 when the statement of Ms. Zahira was recorded in Fast Track Court he was present there and that after completion of the statement he tried to take the interview of Ms. Zahira but he could not take. When he started conversation Sh. Madhu Shrivastava came there and told that she will not give any interview and in the presence of Sh. Madhu Shrivastava Ms. Zahira, Sh. Nafitullah and Mrs. Sehrunnissa were not ready to talk even and also before coming of Sh. Madhu Shrivastava in the room of Sh. Raghuvir Pandya, Public Prosecutor, the family members were not talking perhaps Sh. Madhu Shrivastava was standing behind him. This report was published in the Indian Express on 20th May, 2003. Which is Ex. 33, which supports the statement.

Sh. Mohd. Vora was also re-examined on 5th August, 2005 at the request of Mrs. Kanwaljit Deol, Jt. Commissioner of Police who stated in his statement that Zahira and family came back from their village after 2-3 months and Zahira and her mother approached him and said they have been cheated. He replied that you people had given statement in the Court and the Judgement has also been pronounced and if you now say that you were cheated I cannot do any thing. You may appeal to the higher court. he further said that in response to his query how they were cheated the reply was that they were threatened but did not disclose, by whom. Ms. Zahira and her mother both also requested him to have a contact with Ms. Teesta so that they can get some help from her in proceeding further for their legal battle. As against this Ms. Zahira and her mother both denied this fact in their statements recorded on 6th August, 2005.

Mrs. Teesta in her affidavit dated 21st April, 2005 in para 11 deposed that **[Page 83-84 of Vol. IV (b)]**:

“.....with regards to the ground / reasons thereof for Zahira Shaikh changing her stand / statements at different points of time, I say and submit that, as far as the first time is concerned (May, 2003), according to the reasons given to us and our Advocates, by her as to why she changed stands in the Fast Tract Court, it was threats and intimidation.....”

It indicates that apart from the Bombay Press Conference speech and statements before NHRC Ms. Zahira also stated to Ms. Teesta that threats and intimidation were the causes behind their changing of stand during their statement recorded by Trial Court, Vadodara.

On perusal of the material collected and made available as discussed earlier in this part [B] of this Report, it appears that, money transaction [inducement] and / or threats might have played an important role in change of first stand by Ms. Zahira in turning hostile and deposing in the trial court, Vadodara against the prosecution, which was alleged to be based on her statements/ FIR given by her to Police, Vadodara on 2nd March, 2002. No direct evidence for the both, is available on record which can give some direct bearing to the fact of money transaction as well as of threats. The facts which have been treated as established, have already been enumerated in foregoing pages at their suitable places. On the basis of the facts established, now we have to consider their impact that in what way and upto what extent they both or anyone are/is can be accepted as responsible for changing the stand by Ms. Zahira.

Money transaction for an illegal work is an act of such a nature, which usually do not take place before my third person / party and except those two who are involved in it, none else becomes known of it. However, it can usually be experienced either by performance of that act which was expectedly required by the money giver or by a changed action, behaviour, or changed or improved living style of the person receiving the money or sometimes by any other supporting material like availability of excess fund/unaccountable assets etc. In a case in hand only two out of the three are visible.

- (1) Change of stand is one of the main factors which can be assessed as supportive of such a transaction and in this case it finds place by change of stand by Ms. Zahira and family turning hostile.
- (2) With regard to the second aspect, the change in living style, nothing material is available on record or could be collected on record.
- (3) The third part, i.e. availability of excess funds, appears though not in full form yet in part only and can be noticed as discussed earlier.

Question arises as to why the excess funds/assets in full extent or near about that, i.e. to the extent of Rs. 18 lakhs is not available. The reasons can be enumerated like this:

- (i) Either despite efforts full amount / investment could not be traced out ; or
- (ii) Full amount was not paid as per agreement and before statement it was assured but denied subsequently; or
- (iii) Only less amount was assured & paid and the declaration of full amount may be for pacifying the persons / accused from whom the amount was collected and rest of the big part was kept by the mediators.

Out of all the above three possibilities, this case appears very near to the second one. For the rest of the two possibilities nothing is available on record. Three reasons for the second one are on record. First reason is the statement of Sh. Mohd Vora who was re-examined on 5th August, 2005. He told that after the judgement was pronounced by the Trial Court, Vadodara on 27th June, 2003, Ms. Zahira and her mother both went to him and said that they were cheated and he should help them in getting some help from Ms. Teesta so that they can get justice in the case. Sh. Mohd. Vora is a person who at one point of time was a Deputy Mayor of Municipal Corporation, Vadodara as stated by him in his statement and as such appears to be an influential man in this Muslim community because Ms. Zahira also speaks his name, though putting allegations that he tutored her, but it appears from her statements that he was an active man of the community and worked for assistance of victims of happenings in Vadodara during that period. Going to Sh. Mohd Vora and informing him about cheating and requesting for having contact with Ms. Teesta was denied by Ms. Zahira and her mother in their statements. But the circumstances which appears to be created by this family of Ms. Zahira itself, and in which they are living at present, nothing other than denial, can be expected. Looking to all the circumstances of the case, the statement of Sh. Mohd. Vora can be given more weightage in comparison to that of these two interested ladies. This fact gets support by the second reason as described hereinafter.

The second supportive reason for the second possibility is the established fact that after receiving first call [proposal] from Sh. Madhu Srivastava through his cell phone number 9825060542 on the cell phone number 9824326505 of Sh. Nafitullah, Sh. Nafitullah was continuously calling Sh. Madhu Srivastava on cell phone until 2nd July, 2003, i.e., just after the judgement of the Trial Court was pronounced on 27th June, 2003 and just before their approaching Ms. Teesta on 5th July, 2003. The calls started on 9th May, 2003 i.e. before the date 17th May, 2003 when the statements of Ms. Zahira were recorded in the Trial Court. The calls were perhaps to make the demands of the balance amount what was the purpose for the calls and what was the talk can only be said by these two persons and when inspite of written record of the cell phone, denying the existence of calls, we can only infer it from the available possibilities and that can mainly be money transaction and not threats as discussed in this report and after having last unsuccessful effort on cell phone on 2nd July, 2003, the family approached Sh. Mohd. Vora and subsequently Ms. Teesta.

_____ for this second possibility is the presumption as expressed by Sh. Nisar Babu in his statement dated 30 July, 2005 [at page 16 of English translation] when he was questioned "Did you tell Sh. Khetan that some cash was given to Ms. Zahi went to Ms. Teesta? He answered in affirmative."

In all these circumstances, it can firmly be said that appears a _____ of money changing hands _____ ment by which Ms. Zahira was induced for giving a particular statement in Trial Court, Vadodara which was supportive to the

_____ also be held responsible for material change of stand of Ms. Zahira. It appeared in various statements _____th July, 2003 (Exs. 47 & 32) given to Sh. Kapoor, _____th July, 2003 Press Conference (Ex 9A) at Bombay, _____th July, 2003 National Human Rights Commission (Ex. 42), the source for all in only an that is the statements by the family members including Ms. Zahira and none else as _____ e contacts. The factum of giving threats is not supported by any third person. This factum is denied by all

point of time. Only two witnesses support and they are Sh. Abhishek Kapoor and Ms.

family. However, the source of information remains the same. Unlike money transactions, for the facts of giving threats witnesses can by available necessary), but none is before us. On the other hand, other supportive elements as narrated hereinbefore are on record for money transaction.

contacts which were earlier admitted by the family members but are now denied. Those

of giving threats was stated by Ms. Zahira and family, the answer is very simple and for that we have

money for an illegal work, will never accept this fact. Either he will keep mum or will speak a false pretence that he / she was threatened. Receiving money for such illegal _____ s gives a bad name and the person concerned can be condemned highly by friends and the society, while doing some wrong thing due to pressure of threats will

on these circumstances and thus, he never accepts such facts. That apart, usually a

threats will not go back to that person who gave the threats. But as we have seen at one point of time

her and subsequently she appears to be in the hands of all such persons. This fact can also negatives the allegation of threat put by Ms. Zahira in her earlier stand.

important information has been received through Mrs. Kanwaljit Deol, Joint Commissioner of Police, vide her letter dated 18 August, 2005 along with that she enclosed the information collected by a police officer deputed by her and that shows that act was made on the cell phone number 9892104251 possessed by Sh.

_____ (the fact of possession of this cell phone number is available on the basis of

the record of cell phone company, received through Mrs. Kanwaljit Deol, Joint Commissioner of Police, vide her letter dated 28th June, 2005), brother of Ms. Zahira with Sh. Bharat Thakkar, brother of one of the accused, on the cell phone number 9824050388. For confirmation whether this cell phone number was allotted to Sh. Nasibullah, a letter dated 7th July, 2005 subsequently a reminder dated 10th August, 2005 was sent to M/s. Airtel cell phone company. However, till date no response is received. It also shows that again Ms. Zahira on her family has contacts with that person against whom earlier allegation of giving threats was put by her.

In view of the all, as discussed above, the fact which can be accepted, as highly probable, that money has exchanged hands and that was the main inducement responsible which made Ms. Zahira to state in a particular way in Trial Court, Vadodara although threat could have also played a role in reaching at an agreement. However, the element of threat cannot be altogether ruled out. One cannot loose sight of the fact that first contact over cell phone was made by Sh. Madhu Srivastava and Sh. Bharat Thakkar and not by Sh. Nafitullah. The evidence of Sh. Abhishek Kapoor about presence of Sh. Madhu Srivastava, MLA, in the Court at the time of testimony of Ms. Zahira can also be treated as an indication of this factor.

PART – D

Ms. Zahira admits the statements given by her before the Trial Court Vadodara on 17th May, 2003 affidavit dated 3rd November, 2004 filed before the Collector, Vadodara, addressing Press Conference at Vadodara on 3rd November, 2004 [a part of VCD Ex. 9A], her statement before the Trial Court, Mumbai during retrial, affidavit dated 31st December, 2004 filed in Supreme Court along with copy of her affidavit date 3rd November, 2004 filed before Collector, Vadodara and also the affidavits filed before the Inquiry Officer dated 20th March, 2005, 16th April, 2005, 24th April, 2005 and 3rd May, 2005, in all these she takes one and the same stand which goes against the prosecution.

This appears to be the third change in the stand of Ms. Zahira. First two changes we have already discussed in earlier three Parts A, B & C of the Report. Curiosity obviously arises as to why again on 3rd November, 2004 and onwards she has adopted a changed theory with regard to the same case of Best Bakery for which earlier she had already changed her stands twice. For satisfying curiosity and before reaching any conclusion, we shall have to peruse the stands taken by all the parties including the State of Gujarat.

Stands taken by Ms. Teesta

Excerpts from Affidavit dated 7th March, 2005

[Page 13 & 37 of Vol. IV (b)]

“3. The substantive issues of public importance raised in our application and subsequent affidavit filed by me relating to the inaction by the Gujarat State authorities and non-intimation of the press conference hosted by the Jan Adhikar Samiti to the learned Special Public Prosecutor conducting the re-trial in Mumbai and remain, to date, unanswered.”

“42.....I have learnt that even the Learned Special Public Prosecutor, Smt. Manjula Rao was approached by Smt. Sehrunnissa Shaikh and Smt. Saira Shaikh on or around 27.10.2004 just before the family’s sudden departure to Vadodara when they insisted that the learned special PP should make arrangements for monetary compensation for them. They were accompanied by two local persons from Mira road. These facts were mentioned by Smt. Rao in open court.....”

Excerpts from Affidavit dated 16th April, 2005

[Page 69 of Vol. IV (b)]

“54.. I would like to say and submit that the attitude of the state of Gujarat in summoning witnesses, upright investigation and the appointment of public prosecutor are all issues that have been looked at by this Court and need to be recalled in the context of the State of Gujarat’s most recent intervention.”

Excerpts from Affidavit dated 21st April, 2005

[Page 83 of Vol. IV (b)]

“9.... When members of the family tried to make demands as mentioned by me, we were firm. Just after Sh. Nafitullah Sheikh was turned over to the Court, in open court he told the Special Public Prosecutor that unless he was given a flat and a bakery he was not interested in fighting the case. The day before in the presence of Sh. Sanaullah and his wife Heena he also started making demands for a flat immediately.”

As per Statement dated 23rd July, 2005 of Ms. Teesta Setalwad

[Page 334 & 335 of Vol. II]

Pages 4 & 5

Question: In your affidavit dated 7th March, 2005 you have mentioned in para 5 that the allegations made against you and your organization (CJP) by Ms. Zahira are false and made with malicious intention to divert from the serious issues raised by you in your earlier affidavit.

As per your earlier affidavit dated 30th November, 2004 in para 4 you have mentioned that –

“issues of grave public importance arising out of circumstances behind blatant admission by the officials of Gujarat State and its administration, be it the Collector, Vadodara... or the Commissioner of Police, Vadodara.... in being silent spectators while a key prosecution witness was giving a press conference against the prosecution case while the trial was afoot and her deposition was scheduled for the next day. I am concerned about the apathy and the efforts which seems to be keenly afoot by the Gujarat State to actively hamper free and fair trial and .. coming before the Trial Court.”

And in para 22 you have mentioned –

“the entire expenses of traveling to Vadodara, staying in hotel & club and Hosting of the Press Conference was borne by Janadhikar Samiti.... The genesis and origin of the Janadhikar Samiti that owes affiliation to the Vishwa Hindu Parishad (VHP) lending financial support to Ms. Zahira and her family are Mr. Ajay Joshi, President of the Vadodara Unit of Vishwa Hindu Parishad and Mr. Anil Desai, a sitting BJP Councillor”

Question: If yes, please specify what omission or commissions were on the part of the State, Janadhikar Samiti or the persons mentioned by you in your affidavit?

Answer: From my understanding when retrial was ordered and started in the month of October, 2004 and after starting of the retrial a prime witness, all of a sudden, was deposing against the prosecution, the state authorities should have immediately intimated this to the public prosecutor. This action of a prime witness just after she had chosen to shift from Bombay to Vadodara. In those circumstances also this information was necessary to

be given to the public prosecutor. She further says that as far as she remembers Ms. Sheikh was to appear before the Trial Court on next day i.e. 4th November, 2004. The trial court was the first forum where this type of statements was to be deposed by Ms. Zahira Sheikh. According to me this action of Ms. Zahira Sheikh was an attempt to disrupt the trial.

Apart from the omission on the part of the State officers that they did not inform the public prosecutor, in my opinion, nothing else was required to be acted upon or to be omitted by the State officers."

Page 6

Question: Can you say what was the purpose behind this help given by Jan Adhikar Samiti to Ms. Zahira Sheikh?

Answer: Obviously, for turning her hostile.

Question: As per para 20 of your affidavit dated 30th November, 2004 senior persons from the Government met Ms. Zahira's family after press conference at Vadodara. Who were those senior officers, at which place they met and how many times?

Answer: When Ms. Zahira and her family were staying in Silver Oak Club, Gandhinagar, that area was cut off by the State authorities, all the staff deputed there was sent for 8 to 10 days leave and nobody was allowed to meet or to access Ms. Zahira and her family. At that time, according to me, some Government functionaries/ Ministers met Ms. Zahira Sheikh and her family but I can't mention the exact names.

Question: It means it is your apprehension?

Answer: This is based on indirect information received by me. She further adds that at that time since last one and a half year Ms. Zahira and her family

was known to me and was not well to do and suddenly after November 3, 2004 I observed a sudden change in the family's stand including addressing a Press Conference, in the language of all the affidavits before this Court etc. I still believe that she is a tool and a pawn in a much bigger game.

Question: Can you say for what purpose all these steps were taken?

Answer: I can only surmise that to finalise a deal.

Question: What deal?

Answer: Some deal which I am surmising is mainly responsible for the very sudden change in the stand and behaviour of the family.

Response of State of Gujarat

Sh. Sudhir Sinha, Commissioner of Police, Surat City filed an affidavit on behalf of State of Gujarat on 31st March, 2005 [**Page 1 of Vol. IV (d) i**] and stated in para 2 as under:

“I crave leave to file a further and a fuller affidavit as and when desired and required, though fit and necessary”

A direction was given to the parties on 6th April, 2005 during the Inquiry Proceedings which has already been quoted hereinbefore that response, if any, of any additional / new facts relevant to the question referred to this forum by the Hon'ble Court, as to the clarification, explanation, admission or denial and not mentioned earlier in the affidavit filed before this Forum shall be filed by the parties by 16th April, 2005 failing which such facts will be deemed as not denied.

In spite of the above direction, the State of Gujarat chose not to file any response to the affidavits filed by Ms. Teesta, in which she has put various allegations against the State.

To summarise, the stand of Ms. Teesta regarding State of Gujarat, that:

- a) The substantive issues of public importance raised by her relating to inaction by the Gujarat State authorities and non-intimation of the Press Conference (on 3rd November, 2004 at Vadodara) hosted by Jan Adhikar Samiti to the Learned Public Prosecutor conducting the

retrial.

- b) Attitude of the State in summoning witnesses and the have been looked on by this Court and need to be recalled in the context of the State of Gujarat's most intervention.
- c) Prosecutor and specifically in connection with Ms. Shaikh's second turnaround on 3.11.2004.
- d) ic importance arising out of of Gujarat State and its administration, be it Collector, Vadodara or the Commissioner of Police Vadodara, witness was given prosecution case when the trial was afoot and her deposition was scheduled for the next day. She also efforts which seems to be keenly afoot by the Gujarat State to actively hamper free and fair trial.
- e) At that time, (just after Vadodara press conference dt. functionaries/Ministers met Ms. Zahira Sheikh and her family, but she could not mention the exact names.

at the same time, she is not in a position to name any of the functionaries of the Government and high officials who met Ms. Zahira just after the Vadodara Press ated 3rd again using the words like substantive issues, serious issues, as to what are those serious and substantive issues, the answer was two fold.

First, Public Prosecutor of the very material fact that a key witness in Best Bakery Case, whose statement was to be the prosecution. It can be accepted that no such information was given as there is no not such a confidential meeting, the holding of which does not come to the notice of the Public authorities. There is also the fact of th Vadodara. In view of this, allegations of Ms. Teesta cannot be ignored.

The _____ part of her answer is with regard to the duty of Ms. Zahira, a witness, and she says that it was for Ms. Zahira to state before the whatever she was intending to state. This also can be accepted. Such an action of a material witness can be treated as objectionable. With regard to the other allegations, quoted above and in the absence of any specific allegation / information it is difficult to find out the truth. If Ms. Teesta really

wanted to give some information, she was to inform it in a concrete way. In the absence of such clarity, nothing more requires to be mentioned here.

Regarding demands by the family, Ms. Teesta has stated that:

- a) Ms. Sehrunnissa and Ms. Saira Shaikh [Mother and sister of Ms. Zahira] on or around 27th October, 2004 just before the family's sudden departure to Vadodara, insisted that the learned Special Public Prosecutor should make arrangements for monetary compensation for them. These facts were mentioned by Smt. Manjula Rao (Special Public Prosecutor) in open court.
- b) However, when members of the family tried to make demands as mentioned by her, they were firm. Just after Sh. Nafitullah Sheikh was turned over to the court, in open court he told the special public prosecutor that unless he was given a flat and a bakery he was not interested in fighting the case. The day before in the presence of Sh. Sanaullah and his wife Heena he also started making demands for a flat immediately.

*****Special Public Prosecutor Ms. Manjula Rao, a query was raised to her through a letter requesting to send her reply on oath, in response to which she sent her affidavit dated 6th June, 2005 [Page 7, Vol 'V(e)'] in which she denied the fact of demand of independent flat by Shri Nafitullah. The fact of demands has been negatived by Sh. Nafitullah in his statement dated 24th May, 2005 [Page 419, Vol. 'II']. Other demands including monetary compensation and Bakery before Special Public Prosecutor Ms. Manjula Rao do not appear to be very material.

Regarding Jan Adhikar Samiti (JAS), Ms. Teesta indicates that:

- a) Organizations responsible for funding the travel of Ms. Shaikh to Vadodara, press conference, and subsequent and continuing legal aid in the retrial and here in the Hon'ble Supreme Court and conduct of advocates in the whole exercise.
- b) The genesis and origin of the Jan Adhikar Samiti that owes affiliation to the Vishwa Hindu Parishad (VHP ... lending financial support to Ms. Zahira and her family are Mr. Ajay Joshi, President of the Vadodara unit of Vishwa Hindu Parishad and Mr. Anil Desai, a sitting BJP Councillor.

Ms. Teesta appears to be very keen to highlight this fact and at the same time is unhappy with the action of Jan Adhikar Samiti for funding on travel, stay, and legal aid for Ms. Zahira. Perhaps, she has forgotten that the same type of help was also provided to Ms. Zahira

appears that a sum of Rs. 6,04,973/- - of Advocates fees etc.
o Gujarat] was spent by CJP
over this family, including litigation expenses, during a period of 15 months and a sum of
- was spent by JAS on this family within a period of about six months i.e.
rd November, 2004 to 4 May, 2005. In that way, the status of both is similar in this
benefits from the two as and when they remain affiliated to either of them.

With regard to this aspect, the information of
However, it can be mentioned here that in his statement dated 18th
[Page 192 of Vol. II], Shri Tushar Vyas, Advocate, who is a Convenor of JAS, has
had.

Jan Adhikar Samiti [JAS] came into picture when Ms. Zahira was asked a
st April, 2005 that how much expenses were incurred when she came to
st April, 2005 and the reply was that she had
Delhi by Air and that the expenses were met by Janadhikar Samiti, Vadodara
that's why she did not know the expenses. She further stated that she went to
Samiti. She also stated that for going to Bombay and Ahmedabad *****
Janadhikar Samiti and that the rent for the house in which they are staying is also paid

That a letter dated 25 April, 2005 was sent to Sh. Tushar Vyas, Advocate
through Sh. Atul Mistri, Advocate of Vadodara seeking some information about the
seven persons of great eminence who have constituted the Samiti and formed a Trust

Sh. Tushar *****
regarding Ms. Zahira and then they decided immediately after even before Ms. Zahira
had held press conference showing how she was made a tool of that conspiracy to
ow tar on the good image of a good government and also decided to
contribute their efforts to save the image of the country.

th

According to Sh. Tushar Vyas, regular accounts of JAS are maintained by a
***** be finalized they will be submitted before the Charity Commissioner.

According to him resolutions are passed after the minutes are recorded and the
money is sanctioned before helping Ms. Zahira and others. He further added that initially
lodging, boarding and counsel fee etc. for Ms. Zahira and family and the Samiti may

Initially the contributions were made by the Founder Trustees on their own, and that methods for collecting funds is by putting several boxes at convenient places during public meetings for the public to contribute or coins and the people voluntarily come forward. Receipts are also issued on printed books.

Vide his statement dated 18th June, 2005 during the course of the inquiry proceedings he stated that as and when Sh. Atul Mistri, ***** and family and if that is within the limit as sanctioned by the Samiti that amount is paid to him.

He further stated that Janadhikar Samiti had made some arrangements for residential house on rental basis for Ms. Zahira's family. According to Ms. Zahira also they are residing in a rented house and the rent is paid by the Jan Adhikar Samiti. When Sh. Tushar Vyas was asked on 18th June, 2005, whether Janadhikar Samiti is paying rent of the house in which Ms. Zahira and her family is residing, he replied "precisely, I am not in a position to recollect the details but for sometime this help was provided by Janadhikar Samiti to this family or some agreement ***** rental basis by intervention of Janadhikar Samiti.

According to Ms. Zahira (statement dated 6th August 2005) they ***** and the rent of house is regularly being paid by Janadhikar Samiti.

On perusal of the accounts submitted by Janadhikar Samiti, no amount has been shown as against rent being paid by Janadhikar Samiti of the house provided for residence to Ms. Zahira and her family. Regarding owner of the house, during the examination of Ms. Zahira and Sh. Nafitullah, repeatedly (about two times) it was asked to give the information regarding the owner of the house in which they are presently residing on rent basis. If at the time of examination it was not known to them, they could have inform the same after some time. Very surprisingly, both – brother and sister have not given the *****.

When Ms. Zahira was asked on 6th August, 2005 that at present Jan Adhikar Samiti is giving financial help to her through Sh. Atul Mistri, the statements and affidavits filed by her have been filed at their behest, her reply was that she herself had gone to these people and the statements/ affidavits have been given by her after reading those and they are true.

Regarding shifting from Bombay to Vadodara, Ms. Zahira in her statement dated 6th August, 2005 [at page 58, Vol. II] stated that from the day of Dussehra Ms. Teesta and Rais Khan started threatening her that and she should give statement in Bombay Trial Court as per their ***** Dussehra holidays. Regarding threatening, her mother approached Kanakya Police Station but the report was not written there, she further stated.

Regarding coming to Vadodara from Bombay by Taxi when it was asked to Sh. Nafitullah as to how much was spent towards Taxi fare, the reply was that he spent a sum of Rs. 3,500/- when the same question was asked to Sh. Nasibullah his reply was that they had spent a sum of Rs. 5,000/- but surprisingly both were unable to give the further details of hiring taxi, taxi stand etc. According to Jan Adhikar Samiti accounts

submitted they had spent a sum of Rs. 6,806/- for taxi fare for going to Bombay
***** then it also proves that
the taxi fare cannot be Rs.3,500/- or Rs, 5,000/- as stated by Sh. Nafitullah and Sh.
Nasibullah. In view of this, it appears that the taxi fare might have been paid by someone
else but by whom nothing is available on record.

According to Ms. Zahira after the Press Conference at Vadodara they stayed at
Hotel Airport and the expenditure was borne by Sh. Nafitullah. When she was asked that
according to Janadhikar Samiti Rs. 11,000/- was spent by them for their stay at Hotel
Airport, her reply was she doesn't know, Sh. Nafitullah must be knowing.

On the allegation of Ms. Teesta when Ms. Zahira was asked that when they were
staying at Silver Oak Club at Ahmedabad/Gandhinagar, which Ministers, Officers,
Leaders of Gujarat Government met her, her reply was, it is wrong and when she was
asked that the Silver Oak Club was put under tight security and nobody was allowed to
enter, her reply was, she doesn't know.

It has been admitted that after the Press Conference at Vadodara on 3rd
November, 2004 Ms. Zahira and her brother Sh. Nafitullah along with Sh. Atul Mistri,
Advocate went Ahmedabad and stayed in Silver Oak Club / Hotel (Shri Nafitullah's
statement dated 24th May, 2005 – page no. 12 of English translation and Ms. Zahira's

expenditure has also not been shown in the accounts of Janadhikar Samiti submitted by
Sh. Tushar Vyas, Advocate.

Shri. R. J. Pargi. Asstt. Commissioner of Police, 'A' Division Vadodara has stated
in his statement dated 5th August, 2005 [**Page 345 of Vol. II**] that on 10.11.2004 he
recorded the statements of Sh. Nafitullah in Silver Oak Club, Ahmedabad. It appears
that on 3rd November, 2004 the Conference was convened, expenditure papers
submitted by Sh. Tushar Vyas shows that the family stayed in Hotel Airport in Vadodara
for 3rd November, 2004 and thereafter, *****
***** recording of the statement of Sh. Nafitullah on 10th November,
2004 shows that upto that time these persons stayed in Silver Oak Club. On counting
the time period it comes 5-6 days.

When she was asked that according to Sh. Nisar Babu and Sh. *****
***** the influence of Sh. Atul Mistri,
Advocate that's why she was changing stand, her reply was she is not under the
influence of anybody.

Ms. Teesta also appears to be very unhappy with the role of the advocates in the
matter, but did not take pains to highlight the same in a very specific form.

Alleged cause for change of stand

Apart from what has been quoted and discussed above, nothing is there on
record on behalf of the parties which can indicate as to what are the causes of this
change of stand by Ms. Zahira. Only one indication was given by Ms. Teesta in para 54
of her affidavit dated 16.4.2005, quoted earlier and that is to the effect that there is an
recent intervention in this case. What is that intervention is not clarified or specified. Shri
Nisar Babu has stated in the statement dated 30th June, 2005 (English Translation)

[Pages 261-262, 264-266 & 275-276 Vol. II] as under, which indicates that inducement through money this time also –

Question: You have also accepted the becoming greedy of Zahira, on what basis this has been said?

Answer: When Chandrakant Bhattu Shrivastava and Madhu Shrivastava said that 18 Lakhs rupees have been given to Zahira Sheikh and full amount has been paid, even though she had gone to the place of Smt. Teesta Sitalwad and it is my guess that she would have ***** this that how she has gone to the government, then, in this condition I called her to be greedy.

Question: In this conversation Shri Chandrakant Bathu Shrivastava has called Zahira a liar. Whether You can tell that on what basis this has been Said?

Answer: I do not know as to why Chandrakant has given this statement. But he himself said that Zahira Sheikh and the complete Best Bakery area falls under his Corporation area and he would have visited there. It is quite possible that on that basis he would have said this.

Question: Whether Shri Bhattu Shrivastava also told you ***** to Zahira?

Answer: Yes, it was said and it was also said that hundred percent would have been given.

Question: In the conversation, you have also accepted the matter regarding the payment by the government, on what basis this has been accepted?

Answer: Chandrakant Bhattu is the brother of Madhu Shrivastava who is an M.L.A. in government, then, Chandrakant would have told him so, then, Chandrakant would have told his so, thus Chandrakant has told. On this basis I have accepted this statement.

Question: By (the word) government, which government you mean?

Answer: By government I mean (to say) Gujarat Government.

Question: In the conversation, you have talked about the payment of 35 lakhs, on what basis you have said so.

Answer: I said this on the basis that when she had left to (those) who had given her 18 lakhs, then it was definite that the government would have given more.

Question: Whether it was your guess or there was also some basis for it?

Answer: Yes it was my guess. He himself said that the guess was also accepted by Bhattu Bhai.

Question: Who gave this amount from the government, where and to whom?

Answer: I donot know

Question: Whether during conversation Shri. Bhattu also told that Zahira Sheikh also went to the government for demanding money. On what basis it was told.

Answer: His brother is a Councillor, it is possible that he would have told.

Question: Whether there is any influential person behind the stand taken by Zahira at present?

Answer: There is the influence of the person who at present has kept her and looked after her.

Question: Who has looked after and whose influence is There?

Answer: *****

Note: The witness himself says that the junior of Rajendra Dwivedi, Advocate of Vadodara, who was the Advocate in the Best Bakery case on behalf of the defence and who was stated to be associated with Zahira in the Press Conference of Vadodara he is that person, I do not know his name. Then, he himself said that Rajendra Dwivedi, Advocate is the member of BJP.

Previously, he was Corporator and now he is the Chairman of School Board of BJP, the Schools which are run by the Corporation.

After watching the relevant part of VCD, Ex. 9A:

Note: The witness at this stage *****
*****. he is advocate Atul
who practices in Vadodara.

At the time of recording of his statement dated 18th June, 2005, Sh. Shailesh Patel, Advocate has very anxiously mentioned a few facts, according to him, appearing against this witness. He informed that Sh. Nisar Bapu was involved in 7-8 criminal cases as an accused. He was booked in NASA also. An order of externment was also passed against him. In one case, in which Shri. Nisar Bapu was a complainant, the court of Sessions has observed a few remarks against Shri Bapu that he has no value for truth and he is having a tendency of fabricating false evidence, pressurizing police by using his political *****
certified copies of two judgements of Sessions Court, Vadodara.

When relevant questions were asked to Shri Nisar Bapu at the time of his statement on 30th June, 2005, his answers were as follows:

Question: How many criminal cases are pending against you or still going on?

Answer: So far as I can remember a case under National Security Act was registered against me and in which I was released by the Advisory Board. The second Criminal case is Lal Akhara murder case in which I have been acquitted by the Sessions Court.

The relevant remarks of Sessions Court at page No. 32 (para 47) of Sessions Case No. 107/95 entitled "State of Gujarat v. Zulphikar Ali Pirzada & Ors":

The English translation of the same is reproduced here:

"There is a contradiction between the Complaint of the Complainant Nisar and the statements given before the Court. He is presenting false facts again and again. He does not have any respect for truth. He is involved in many Criminal cases and he was also arrested in drunk condition, the Sessions Court has declared him false witness. He uses political relations for getting done his works

from the Police Officials and is habitual of making complaint. He had absconded from Sayaji hospital without taking a discharge, this fact has been confirmed. Even though he is telling a lie.”

Keeping all these facts in mind, the statement of Sh. Nisar Babu has been weighed cautiously. With this regard, two material facts are also to be kept in mind, which are:

One – not only Sh. Nisar Babu but also Sh. Ashish Khetan, the Press Reporter [Statements of Sh. Ashish Khetan dated 18th June, 2005] are to the effect that the video recording was not known even to Sh. Nisar Babu. This can show that the intention of Sh. Nisar Babu was not that the recording being done. Second – Sh. Ashish Khetan also supports the text of video recording, who can be believed.

First supportive fact

First supportive fact is with regard to the assistance given by Shri Atul Mistri, Advocate to Ms. Zahira and family. It is an admitted fact that right from 3rd November, 2004, when for the first time to this last turn in the stand of Ms. Zahira appeared, till today Shri Atul Mistri, Advocate of Vadodara was seen associated with Ms. Zahira. According to the statement of Ms. Zahira on 6th August, 2005, she engaged Shri Atul Mistri as her Advocate and perhaps in that capacity Shri Mistri is appearing for Ms. Zahira. Nothing wrong can be presumed that if a party engages one Advocate for legal assistance on his or her behalf. However, a few peculiar facts, which find place on record, are appropriate to reproduce here.

First important fact is that Sh. Atul Mistri was working as an associate / junior advocate to the Senior Advocate Shri Rajendra Trivedi (Diwedi) of Vadodara who was appearing on behalf of the accused persons in Best Bakery case. This fact has been informed by Sh. Mohd. Vora in his statement dated 25th May, 2005 at page 5 (English Translation) [**Page 106 of Vol. II**] and by Sh. Nisar Babu in his statement dated 30th June, 2005 at page 34-35 (English Translation) [**Pages 275-276 of Vol. II**].

The question related to this fact was asked to Ms. Zahira, her reply to which was “she does not know, she only knows that Shri Atul Mistri is her advocate.”

This indicates that Ms. Zahira again has come into contact with defence side.

Second supportive fact

Mrs. Kanwaljit Deol, Joint Commissioner of Police has submitted a letter on 18th August, 2005 along with enclosures as well as from the text of the letter itself that there were two telephone contacts between Sh. Nasibullah Sheikh (the younger brother of Ms. Zahira) and Sh. Bharat Thakkar (Brother of one of the accused in Best Bakery case Sh. Sanjay Thakkar) one at 8.54 p.m. and another at 11.06 p.m. on 29th October, 2004. The time of cell phone contact is very crucial as it appears that it is either on the same day or one day before their departure from Bombay to Vadodara. This is also an indication of the same theory.

Third supportive fact

Another important fact has also appeared on record very recently, with the help of Mrs. Kanwaljit Deol, Joint Commissioner of police Delhi, video her letter dated 22nd August, 2005, which goes as under:

"To,

The Registrar General
Supreme Court of India

Subject : Inquiry Report in Cr. Appeal – Zahir Sheikh vs.
State of Gujarat & Ors.

Sir,

I have been able to secure an original tape of a recorded interview made by Tehelka over the telephone with Shri Mahu Srivastava MLA regarding his presence at the press conference held by Ms. Zahira Sheikh on 3.11.04 at Hotel Surya palace, Vadodara. In this interview, which was reported by *****
***** Srivastava has explained that he fired in the air from his licenced revolver when asked by journalists if it was authentic.

Enclosed : 1 audio tape
2 copy of news item

Sd/
[KANWALJIT DEOL]
Jt. Cp/HQ."

(Copies of all the informations received from Mrs. Deol have been supplied to all the parties immediately on the receipt of the letters).

The Enclosure of the letter is edition dated 15th Janury' 2005 of "Tehelka The people's paper" in which telephonic interview with Sh. ***** of the Tehelka, was published. The interview was immediately recorded on auto C.D. by the reporter (copy of which has also been enclosed by Mrs. Deol along with the letter). The questions asked and the replies given by Mr. Madhu Srivastava were published in the newspaper at its page 9. One relevant question goes under:

TAHELKA: ***** Zaheera press conference in Vadodaras
Hotel Surya palace on November 3?

MADHU: You journalists asked if it was an authentic weapon, how to fire it, so I fired in an open field. Where is the question of another motive? It awas a licenced revolver.

TEHELKA: So whenever anybody asks you, you will fire in the Open?

MADHU: It is not something to be told to everybody. It is to be proved only for Angads. You people operate underground and malign people now you should come out in the open.”

It indicates that at the time of Vadodara Press Conference, Shri Madhu Srivastava fired through one fire arm. However, he said that ***** presence at the Press Conference, which was denied by him in his statement recorded during the process of this Inquiry on 7.6.05. The relevant part of the statement is under:

“Question: Whether you were present in the Press Conference held in November, 2004?

Answer: I was not present.

Question: Did you fire [a bullet] at the completion of the Press Conference?

Answer: This is false. He himself said that I have an old licensed gun and to which I generally try and if somebody would have taken the photograph of that trial, then I cannot say.”

A fire arm whether licenced is not usually tried in such a public place particularly, a place where a hotel is situated and a press conference is arranged over there. These factors can be deemed indicative of the fact that Ms. Zahira and family appear to have again ***** which appear well wishers to the defence side of the case.

Before concluding the subject in hand, this fact cannot be lost sight of that Sh. Sudhir Sinha, Commissioner of police, Surat, who was earlier posted in Vadodara in the relevant month of the Vadodara Press Conference i.e. on 3rd November, 2004, attended the inquiry proceedings on 29th April, 2005. This fact has also been recorded in the appearance slip of that date. When a query was raised as to why and in what capacity he visited Delhi and appeared during Inquiry proceedings, in response of the same he sent his affidavit dated 13th June, 2005, in which he has mentioned that he attended the Inquiry for watching the proceedings on the direction of Shri S.C. Murmu*****Gujarat.

To sum up

It is clear from the statements of Ms. Zahira and Sh. Nafitullah that the family returned willingly to Vadodra, some time in the last week of October, 2004 and approached Sh. Atul Mistry as their advocate as well as contacted Jan Adhikar Samiti and Sh. Tushar Vyas to undertake their expenses. Thus there is no compulsion or threat upon them.

The timing of this movement is significant as the retrial court in ***** Sh. Taufel Ahmad had given his testimony from October 26th to 29th. 2004 [It appears from the enclosures of the affidavit of Ms. Teesta dated 7th Marc, 2005].

The statements before the Inquiry with regard to hiring of taxi from Mumbai to Vadodara are not reliable. Nafitullah has stated that he paid Rs. 3500 for the same while Nasibullah has stated that Rs. 5000 were paid, from accounts submitted by Jan Adhikar Samiti it is seen that taxi between vadodra and Mumbai cost Rs. 6800/-. They have also not been able to supply any details from where the said taxi was hired. From this it appears that they did not themselves hired and paid for the taxi. Who paid for it is a mistery.

Two important facts on which evidence has been produced before the Inquiry are that Sh. Madhu Srivastava was present at the venue of the press conference and fired with his licensed firearm in front of Press Conference ***** or while leaving Mumbai, they telephoned Bharat Thakkar, brother of accused Sanjay Thakkar, twice. These facts taken together imply that Zahira and family had again come into contact with the same persons who had played a role in their turning hostile in the fast track court in May, 2003. It is also relevant that the advocate appointed by the family ***** lawyer for the accused in the Best Bakery case.

The accused party obviously has an interest in Ms. Zahira and her family changing their stand before the retrial court, and they might have contacted them at this crucial time. The calls have been mad from Nasibullah's phone so the contact is being initiated from the side ***** motive for again changing the stand.

Sh. S.N. Sinha, the Commissioner of Vadodra at the time of the press conference dated 3rd November, 2004, was found attending the hearing of this Inquiry on 29th April 2005, when he had already been ***** evidence of Ms. Teesta Setalvad was recorded on that date and there was no good reason for his presence during the inquiry proceedings or for him to be officially deputed by the Home department for this hearing.

Besides the expenditure admitted by the Jan Adhikar Samiti for the stay of the family at the Airport Hotel, Vadodra, and the press Conference at Hotel Surya Palace, the expenses for the stay of Ms. Zahira, her brother Sh. Nafitullah and advocate Sh. Atul Mistry at the Silver Oaks Club, Gandhi Nagar, where they stayed for 5-6 days, are not found to be undertaken by the Jan Adhikar Samiti. The reasons for this movement have been differently explained as for approaching the High Court and the Mahila Aayog, by Sh. Nafitullah and Ms. Zahira, which makes their explanations unreliable. Ms. Teesta has alleged that this movement was made to meet senior government functionaries. In the absence of any ***** about who met the expenditure is not made clear.

That apart, Ms. Zahira, her mother Sehrunissa and her brother Sh. Nasibullah are residing presently at Bhai Lal Apartments in Makarpura, Vadodra. Jan Adhikar Samiti has not shown any expenditure on this rent while Ms. Zahira has stated that the rent is being paid by this of organization. As the family has been living there for a number of months, it is a relevant point how this expenditure is being met. The details of ownership of this flat have also not been supplied by Ms. Zahira despite asking. **A conclusion of inducement in this matter is also likely.**

undisputedly be said that the phrase '*To have fruits of heaven out of hell*' has now been established synonymous to Ms. Zahira who once earned public sympathy out of her desertion through the condemned tragedy has made concerted efforts and has engaged herself in having cash/ comforts from every possible corners.

as per the terms of reference and **answered the question of 'A'** of order dated 10th January, 2005 at the same place, where her deposition/statement concerned have been dealt with. **For 'B'** despite concerted efforts, identity could not be ascertained of the person/persons responsible for the kind of inducement, as said in the *****

Ms. Zahira changed her stand three times as already mentioned in parts A to D and that changing of those stands are well known. Apart from that, during the Inquiry proceedings the following discrepancies in stands taken by her at various stages have also appeared, which are as under:

1. **With regard to Statement dated 2nd March, 2002**

In her affidavit dated 20.3.2005 in para no.14 [pages 5-6 of Vol. Iv (a)], she has mentioned in the following words the 'Statement' attributed to me was in fact the narration of event given *****
(Mohd. Vora and Iqbal Ansari).

Subsequently when inconsistency appeared in her statement recorded on 6th August, 2005 and for seeking clarification when she was asked replied in a different way. The said question and *****
[pages 124 of Vol. II]

“Question: In your affidavit dated 20.3.05 you have mentioned about the fact that things were dictated and got written at the instance of Mohd. Vora and Iqbal Ansari. But, here, you are telling something else, what is the reason for the same?

Answer: None of my family members was present *****
***** with both of them since past. Both of them came in the hospital. Iqbal asked me, 'Your father works in my Bakery, let us go home.' I said, 'I do not know you but both of them were also talking with the police Officials'."

It appears that in her subsequent statement this stand of Ms. *****
***** two persons. Simply saying that both the persons were talking with the police does not support the earlier stand of Ms. Zahira.

2. **Statement/ Memorandum submitted before the Hon'ble Chairman, NHRC at Circuit House, Vadodara on 21st March, 2002**

In her affidavit dated 20th March, 2005 [pages 7 of Vol. IV (a)], *****

“... ..I was taken three times to that Circuit House. Mohd. Vora, Iqbal Ansari and Munna Malik used to visit Ansari’s house to take me to different placesDuring the first visit to Circuit HouseI was taken in front of that person and I said what I was told to say. On the second occasion I was again taken round about 11a.m. to circuit house and I narrated the same tutored story.”

During her examination dated 6th August 2005, when she was questioned about the memorandum titled as “An Eye Witness Report of Best Bakery Incident” stated to be submitted before the authorities including Hon’ble Chairman of NHRC visit at the Circuit House, ***** the documents, but at the same time clarifies that when I was taken to Circuit House after the incident, some people of our community came to the house of Iqbal Ansari and they got my signature on this paper.”

At both the places, her version with regard to this event is not similar.

3. Appearance before CCT on 11th July, 2002

Ms. Zahira in her Affidavit dated 31st December, 2004 initially filed before the ***** before the Concerned Citizens Tribunal (CCT) and deposed “*I did not appear before the self appointed Concerned Citizens Tribunal*”. Subsequently when Ms. Teesta mentioned in her affidavit dated 10th March 2005 that the fact of her appearance before the CCT was recorded in VCD and that VCD was in her possession and can be produced. Perhaps after going through this Affidavit and having knowledge of her ***** her subsequent affidavit dated 20th March, 2005 admitted this fact in para 21 [pages 8 of Vol. Iv (a)] in the words “*On one occasion I was escorted by one Najum, to a meeting held in Baba Hir hall I was also placed before the video and recording was done...*”

Altogether, a different version appears.

4. Allegation of Ms. Zahira of Tutoring by Ms. Teesta or her agents

In her affidavit dated 20th March, 2005, Ms. Zahira puts an allegation against Ms. Teesta that she or her agents, Mohd. Vora, Arif Malik and Munna Malik tutored her for giving/submitting the statements/affidavits before the various authorities. As against this, the following part of her statement ***** [pages of Vol. II] shows that there was no influence by tutoring of Ms. Teesta on her or on her family till she went to Bombay and, as such, there is no truth in the said allegation:

“Question” Whether influence, fear or pressure of Ms. Teesta started on you in July 2003 after you went to Mumbai?

Answer: There was no influence of Teesta on me or on my family prior to the period I was taken to Mumbai.”

Difference appears in both the statement.

5. Appearance before Nanavati Commission on 20-5-2002

With regard to the fact whether she appeared before Nanavati Commission on 20th March, 2002 to submit her affidavit [Exhibit 41] or not, detailed description has been given in the relevant part 'A' of the report where it appeared that earlier to 6th August, 2005, her stand was that she appeared before Nanavati Commission on 20th March, 2002 but all of a sudden on 6th August, 2005 in her statement, she resiled from the earlier stand.

6. Stay at Mumbai – conditions under

As per affidavits dated 3rd November, 2004 and 20th March, 2005 of Ms. Zahira, she stated that she was forcefully taken from Vadodara to Mumbai by Shri Rais Khan. agent of Ms. Teesta and kept there in *****
***** in trial court, Mumbai, she admitted that she was kept very well by Ms. Teesta and the fact of her taking forcefully does not find place in the statement before the trial court, Mumbai.

7. Expenses of Press Conference, Vadodara borne by Nafitullah / Jan Adhikar Samiti

In her statement dated 6th August, 2005 [pages 448-449 of Vol. III], when a query was raised that by whom this press conference was organized, her reply was that by her Advocate and money was given by her brother, Nafitullah. At the same time when she was again questioned that as per the account papers of 'Jan Adhikar Samiti_vadodara', it appears that the expenses were borne by Jan Adhikar Samiti, then, she replied: "I do not know, my brother knows about it"

8. Speaking truth or lies

For the first time on 6th August, 2005 in her statement [pages 453 of Vol. II], she admitted the fact that "earlier I used to live with them alone and they got the things done through me as they wished to do, do earlier I have told lies also but now I am not telling a lie and I would not do so even in future"

9. During her examination on 6th August, 2005, Ms. Zahira has said: [pages 431 of Vol. II]

Question: If you knew that all these things are false then why did you do so on being tutored by someone?

Answer: They had told me that I would get compensation provided I say 80, otherwise not.

Question: It means that you told a lie in order to get compensation?

Answer: I had stated as they wanted me to state.

Apparently, she can even tell a lie for getting compensation for herself.

Looking to the aforementioned status in full including all other circumstances of the case, I feel no hesitation to mention that Ms. Zahira is not such a lady who speaks the truth she has developed an image of a self-condemned liar whose statements alone cannot safely be accepted.

Various other issues raised by Ms. Zahira

The attitude of Ms. Zahira is also clearly evident from the issues, which are not relevant, raised by her in her earlier affidavits filed in this Court and some of the issues raised by her in the affidavits filed before the inquiry officer, which are as under:

In para 12 of affidavit dated 31st December, 2004 she stated that she discovered during her stay at the residence of Ms. Teesta that she was a neo-Muslim *****
***** name of *Kaum*, she also raised irrelevant questions about the identity of her husband and his faith.

In her affidavit dated 20th March, 2005 in para 4 she stated that now Ms. Teesta wants one woman from riot hit Gujarat to fill the slot which she has used her to fill. Now it is Mrs. Zakia wife of Ehsan Jafri of Ahmedabad and she stated this choice to be good.

In para 21 Ms. Zahira stated that Ms. Teesta made her to wear Burqa, whereas, she had never put on Burqa earlier.

In para 22 she stated that Ms. Teesta and her company had earned money by the distribution of video film, pictures and the books published by Ms. Teesta and Sabrang publications and that needs to be inquired into.

In para 27 she stated that president George W. Bush pledged during January, 2005 to bring democracy to the oppressed people throughout the world which would soon reach the Muslims in Gujarat. The US Department of State in Bureau of Democracy Human Rights and Labour has announced its support to that project.

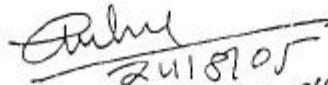
In para 34 she stated that during her foreign visits Ms. Teesta use to carry a number of CDS and other material for selling them in abroad and in para 35 she stated that during her stay with Ms. Teesta, she saw Arab Sheikhs carrying bags coming to see Ms. Teesta.

She further stated in para 38 of her affidavit dated 20th March, *****
***** NHRC in respect of her statement made there and that the record of proceedings before NHRC are essential to be examined and she herself again stated that most probably there is no record with NHRC. By stating this she herself put the question and replied the same.

In Para 42 her affidavit she stated that Ms. Teesta and her husband were getting monthly salary of Rs.12,000/- and Rs. 8,000/- respectively and which was not sufficient to meet their requirements and she further stated that the bank pass books of Ms. Teesta, Javed Anand and Sabrang Publications also need careful examination.

As this was not the reference made to this inquiry, the accounts of Ms. Teesta, her husband & Sabrang Publications and also the other issues mentioned above have not been dealt with.

Before parting, I would like to place on record my thankful acknowledgement for the contribution made and assistance rendered by Mrs. Kanwaljit Deol, Joint Commissioner of Police, Delhi Police Hqrs., New Delhi, who was associated with the inquiry in terms of the order of the Hon'ble Court dated 10th January, 2005. But for the help rendered by her, I would have felt handicapped on certain aspects and it might not have been possible for me to conclude the inquiry within the given time. I would also like to place on record my deep appreciation for the assistance rendered by the learned counsel for the parties in parties in formulating the questions to be answered and arriving at a just conclusion.


24/8/05
corrected on 27/8/05
-B.M. Gupta
Inquiry Officer
Registrar General, Supreme Court of India
B. M. GUPTA
Registrar General
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New Delhi-110001