

In the Court of Honourable Additional Sessions Judge Mehsana district,

Mehsana

Sessions Case No. 275 / 2002

Sessions Case No 120 / 2008

Sessions Case No 7 / 2009

Sessions Case No 72 / 2010

Complainant: Government

Ibrahim Rasulbhai Sheikh

Against

Accused: Rameshbhai Kanjibhai Patel & others

Subject: Written arguments

We, the above-mentioned aggrieved persons / complainants give in writing our arguments as under:

1. On 27-02-2002, Sabarmati Express train carrying Hindu Kar Sevaks was torched and burnt down at Godhra railway station. It was rumoured that the act was committed by Muslims. So, the next day, on 28-02-2002, Vishwa Hindu Parishad (VHP) and other militant Hindu organizations gave a call for Gujarat bandh. Because of that, the whole of Gujarat was gripped with communal unrest and tension. In this context, on 28-02-2002, a large group of Hindus met at night between 10.00 to 11.00 and with the intention to take revenge, they decided to attack Muslim communities and set fire to their life and property. They formed an unlawful assembly and as part of a pre-planned strategy, they attacked Sheikh Vas of Muslim community on 01-03-02 and 02-03-02 with murderous weapons and petrol – kerosene. They attacked complainant Ibrahim miya Rasulmiya Sheikh (witness No 47, exhibit No 485) and other witnesses, pelted stones at them and injured them. They set fire to their houses, shops, cabins, jeeps, scooters and roof and plundered them. Witness Mahmudmiya Huseinmiya Sheikh and other members – men, women and children of the community who were hiding in former's house were mercilessly burnt to death. The crowd also shouted slogans which were intended to insult Islam and threaten Muslims that they would be killed. They indulged in rioting as part of unlawful assembly. They were charged under IPC 143, 144, 147, 148, 149, 153 (K), 297, 323, 324, 325, 336, 337, 302, 307, 396, 397, 435, 436, 34, 120 (b) and B.P. Act (Section 135), as they had committed offences mentioned in those acts. Hon. Court has charged them for the same (exhibit 78).
2. Before our attempt to prove the charges leveled against the accused, it should be noted that the investigation by the Gujarat Police about the 2002 riots was

haphazard, malicious and intended to suppress the truth and protect the culprits. Therefore, in order that the victims receive proper justice, the Court allowed the Justice – friendly NGO to file a writ petition No. 109/03, R.P. (Cr) No. 37 – 52/102, CR. L.M.P. No 19816 / 09. The Hon. Supreme Court ordered that a Special Investigation Team (SIT) be formed to carry out fair and neutral inquiry. Consequently, the Government issued notification on 1-4-08 and appointed SIT with Shri R.K. Raghavan as its director. Exhibit No. 896 is hereby produced for the same. Thereafter, SIT started investigation of the Gujarat riots but its investigation also was not completely neutral and in right direction. So the attention of the Hon. Court was often drawn by the aggrieved victims.

Thus, the heinous offences committed against the Muslim community during the riots were not properly investigated and all attempts were made to block a fair trial. Deliberate loopholes were left in the investigation and witnesses' statements were recorded in such a manner that they created contradictory meaning. In short, the whole investigation lacked sympathetic attempt to reach to the truth and nab the culprits.

3. In this context, the contradiction shown in the testimonies of the witnesses does not carry any significance and the Court has to evaluate them as they are.
4. The complainants have examined 112 witnesses before the Hon. Court to prove the charges levelled against the accused. The testimonies of the victims before the Court provide trustworthy proof. The witnesses produced by the Complainants include 33 persons who were present at the time of the rioting and some of them had received injuries on them. Their presence therefore, cannot be denied. They were examined and necessary medical evidences as well as documents from the panch and police officials are also presented before the Court.
5. As per the proofs provided in this case, first a crowd consisting of Hindus, mostly rowdy Patels of the village on 28-02-2002 burnt some cabins near the primary school and Panchayat building. Then on 01-03-2002, at about 9.00 or 10.00 at night, an unlawful assembly of Patels of Sardarpura village had come shouting and making shrill cries near the Muslim locality with intention to take revenge for the Godhra killing. They burnt down the wooden cabins but the crowd dispersed temporarily when the police came. Again the same crowd came back, shouting and shrieking – 'kill miya bhai, cut them, burn them alive', they attacked Sheikh Mohalla, started plundering and setting fire to houses. This crowd consisted of around 1000 to 1500 persons. They had with them inflammable substances like petrol and kerosene. To save themselves from the attack of the crowd, unprotected women and children ran to the house of Mahmudbhai and took

shelter there. However, the attackers broke open the windows and threw petrol, kerosene and set fire to the house. The crowd was unmoved against the cries of the helpless persons who were shouting to be saved.

At about 2.30 at night, police came and opened the door of Mahmoodbhai and found dead bodies of persons living in the locality. At one place, there were 28 innocent Muslim men, women and children. The entire unlawful crowd was guilty of looting, stone-pelting, arson, killing and inflicting grievous injuries. The witnesses who identified before the Hon. Court – persons who were part of the crowd, belonged to the same village. They (the witnesses) knew the culprits and their names were given to the police as well as to SIT by them. The defence lawyer had argued that since it was night time, it was not possible for the witnesses to identify the culprits. However, as part of the pre-planned strategy, the culprits had installed halogen lamp, the proof of which is with the Hon. Court.

(1) Witness No 48 Sabir Hussein Kadarmiya,
(2) witness No 65 Akbarmiya Nathumiya,
(3) witness No. 56 Ayubmiya Rasulbhai,
(4) witness No 54 Sharifmiya Bhikhumiya and
(5) witness No. 60 Bachumiya Imammiya had seen culprits Ambalal Kapur, Patel Amaratbhai Somabhai, Patel Kanubhai Joitaram and Patel Mathurbhai Trikamdas making arrangement for electric light.

At the same time G. B. Official Patel Dineshbhai Bhagwanbhai (witness no 86, exhibit 664) had admitted in his testimony that he had switched on the lines which were dead. That did not mean that all lights in that area were dead.

Thus, at the time of rioting, electric lights were on and for that sufficient proof is provided. The culprits had themselves made arrangement for light, so that they could carry out their cowardly acts, with ease. Besides, the crowd had set fire to Muslim houses and in the flames of that fire, it was easy to identify the culprits.

When the event took place, persons who were involved in the crime, against them enough and reliable body of proof is available. It is as follows:

Crimes committed by the accused persons as part of the conspiracy.

Sr. No.	Witness No	Sec	Name of the Witness	Details
1.	46	475	Sabarmiya Akhumiya Pathan	<p>Before the event of 2002, Haresh Bhatt, a leader of Vishwa Hindu Parishad had come to the village and he had held a meeting at the Mahadev Temple (the place from where the crowd came on the night of the event). A meeting of youth of Patel caste was held...when Haresh Bhatt came, there was a crowd of young men...Hareshbhai gave a very instigating lecture. For instance, he said 'these Muslims are a burden to India. They have no right to live in India. In case riot takes place and we get a chance, no Muslim should remain here. After that Haresh Bhatt presented tridents...Five persons were given tridents. They include the following:</p> <p>(2) Sureshbhai Baldevbhai Patel (Sec. Case No 275/02 accused no 35)</p> <p>(3) Madhabhai Vitthalbhai (Sec. Case No 275 / 02 accused no 34)</p> <p>(4) Vanabhai Ishwarbhai</p> <p>(5) Rajeshbhai Govindbhai</p> <p>(6) Ambaram Maganbhai (Sec. Case No 275 / 02 accused no 44)</p> <p>On 28-02-02 Vishwa Hindu Parishad had given a bandh call for the whole of Gujarat. This was bandh call also declared in the village. There is a shop owned by Madhabhai Vitthalbhai...when they saw me, they shouted 'kill bandiyas', 'butcher them'.</p> <p>They included the following:</p> <p>(1) Sureshbhai Baldevbhai (Sec. Case No 275 / 02 accused no 35)</p> <p>(2) Madhabhai Vitthalbhai (Sec. Case No 275</p>

				<p>/ 02 accused no 34)</p> <p>(3) Rameshbhai Kantibhai (Sec. Case No 275 / 02 accused no 33)</p> <p>(4) Baldevbhai Ranchodbhai (Sec. Case No 275 / 02 accused no 39)</p> <p>(5) Jagabhai Vitthalbhai.....</p> <p>(6) Thereafter, I went inside the market. A crowd of about 50 to 60 had gathered. Among them were the following.</p> <p>Mathurbhai Trikambhai Patel (Sec. Case No 275 / 02 accused no 54), Dahyabhai Kachrabhai)Sec. Case No 275 / 02, accused No 52), Mathurbhai Govindbhai Patel, Bhaveshbhai, Kanubhai Patel (Sec. Case No 275 / 02 accused No 9), Kanubhai Joitaram Patel (Sec. Case No 275 / 02, accused No 49), Govind Mohan (Sec Case No. 275 / 02 accused No 10), Kalabhai Bhikhabhai Patel (Sec. Case No 07 / 09 accused No 9)</p> <p>The crowd forced the market to close down, thereafter they compelled gallas to close down. Then, thy gathered at Mahadev temple (the place from where crowd had come on the day of the event)</p> <p>Current – At about 2 to 2.30 pm D.S.P Gehlot had come to our place...the room in Sheikh Vas, where the big event had taken place....immediately the current...the wires were separated with the help of a stick. That wire was connected to the electric pole near the house of Natwarbahi Prabhaibahi (accused no...). The wire was wrapped with a bar which was thrown inside from a window. Then we went inside there was a heap of dead bodies.</p>
2..	47	485	Ibrahimbhai Rasoolbhai	Confirmation to the incident as told by Bashirabibi about flour – Dahyabhai Vanabhai (Sec. Case No 120 / 08 accused No 7)

3.	48	491	Sabirhussein Kadarmiya	Para No 2 28-02-02.....at about....from Kapurvas which is situated on the opposite side of our house (1) Patel Ambalal Maganbhai (Sec. Case No 275 / 02, accused No 44) (2) Amratbahi Somabhai Maherwadia (Sec. Case No 275 / 02, accused no 6). Both of them were standing near the electric pole situated in front of our house. Amratbahi Somabhai climbed the pole, loosened the main wires and connected them to the tube light and started direct current. At that time, Ambalal Maganbhai was standing near the electric pole. At that time Ambalal Maganbhai was standing near the electric pole. At that time, upon seeing my father, Ambalal had said, 'now' we will enjoy killing the bandiyas...On that night Patels of the village had gathered in front of our (Muslim) mohalla and were talking about riot...On that night, Patels of the village had set fire to our cabins and shops and also of other communities.
4	49	500	Iqbalmiya Rasoolmiya Sheikh	Three days before this event, Naranbhai Lallubhai, MLA of Unjha at that time had come to Sardarpura. A meeting of Patels was held at Mahadev Temple (the place from where the accused persons had come in a group on the night of the event). In the mike some Patels were heard saying 'now Lallubhai will say a few words'. At that time, Lallubhai was heard saying, 'the Government is ours. You may do whatever you like'.....
5	54	527	Sharifmiya Bhikhumiya Sheikh	On 1-3-02 at about 7 o'clock in the evening when the halogen lamp was fixed on the electric pole, Amrutlal Somabhai Merwadia had said, 'today, we will enjoy killing the bandiyas'.
6.	56	537	Aiyubmiya Rasoolmiya Sheikh	On 1-3-02, on our street light halogen lamp was fixed facing our mohalla. I had inquired from Kanubhai Sarpanch (Sec. Case No 275 / 02, accused No 49) whether electric bill of the street light was paid. He had said in his reply

				that all bills were paid and now they will enjoy killing Musalmans. Wireman Mathurbhai Trikambhai (Sec. Case No 275 / 02, accused no 54) had climbed the pole and switched on the light.
7.	60	563	Bachumiya Imammiya Sheikh	<p>Four days before 27-02-02, I was at the galla of Rafikbhai. At that time, accused Raghubhai Rewabhai (Sec. Case No 275 / 02, accused No 26) had come and told me to remove his galla which was kept touching his house because in his house he had stalked bundles of straw and that might cause fire.</p> <p>Para 3. On 28-02-02, at about 5 o'clock in the evening, I was standing near the pole of street light. At that time Wireman Mathurbhai Trikambhai (Sec. Case No 275 / 02, accused No 49) had started the electric light from direct current. Near the electric pole were Becharbhai Odhavbhai and Kanubhai Sarpanch. The focus light was kept on the pole near our graveyard and the flood light was falling on our mohalla.</p>
8.	62	575	Rafikmiya Mohmudhussein Sheikh	<p>On 29-02-02, at about 9 to 10 o'clock in the morning I was at my cabin when some men from Patel community came. They were forcing people to close their shops and cabins. They came to my cabin and asked me to close it otherwise they threatened to burn it down...</p> <p>The Patels abused me and there was some tussel between us. They included the following (Rameshbhai Kantibhai (Sec. Case No 275 / 02, accused no 33) (2) Sureshbhai Baldevbhai (Sec. Case No 275 / 02, accused No 35) (3) Rajeshbhai Punjabhai (Sec. Case No 275 / 02, accused No 38). All of them had tussel with me.</p> <p>.....At that time, this crowd had gone back to Mahadev Temple (the place from where the crowd had come on the day of the event). Again at night, crowds of Patel had come</p>

				together and they were talking among them that no shop or cabin belonging to Muslims will be allowed to exist...burnt down.
9.	63	580	Bhikhumiya Kalumiya Sheikh	On 28-02-02....at about 4 o'clock in the evening, I had gone to the shop of Anifbhai Abdulbhai. The next shop was that of Shankarbhai. He was vacating, he said his to rent another shop, so he was shifting his goods to the compound of Mahakali Temple. (On 28-02-02, shops and gallas of Muslims were burnt down)
10.	65	586	Akbarmiya Nathumiya Sheikh	On 28-02-02, between 4 to 5 o'clock in the evening wireman Mathurbhai Trikambhai (Sec. Case No 275 / 02, accused No 49) were present. Becharbhai Odhavbhai had fixed focus light with street light...on 1-3-02, a call for Bharat bandh was given...on that day between 4 to 5 o'clock in the evening, Kanubhai Sarpanch Becharbhai Odhavbhai and Mathurbhai Trikambhai had switched on the light in front of the house.
11	68	603	Gulamali Akbarmiya Sheikh	Para – 2: On 27-02-02, the day Godhra train event occurred, I was doing colour work in Jain Derasar near Sarday bridge....On that day, at about 4 o'clock in the evening, Ambalal Maganlal Kapur (Sec. Case No 275 / 02, accused No 44) and Becharbhai Odhavbhai were passing by. They were saying 'butcher these bandiyas'.
12.	71	672	Mangabhai Ramabhai Raval	Para no 3. On that day at about 9 o'clock at night, Ramabhai Mohanbhai Patel had kept his tractor on the road besides his house. In it there were two to three drums of kerosene and one drum of petrol. Thereafter, Nathubhai Kachrabhai Patel (Sec. Case No 120 / 08, accused No 5), Jayantibahi Ambaram Patel (Sec. Case No 275 / 02, accused No 48), Kalabhai Bhikhabhai Patel (Sec. Case No 07 / 09, accused No 9), Bakabhai Mangalbhai Patel (Sec. Case No 275 / 02, accused No 5), Kantibhai Prabhudas (Sec. Case No 07 / 09,

				accused no 1), Jitendrakumar Kantilal, Bhikhabhai Joitabhai (Sec. Case No 275 / 02, accused No 18) were passing on the road near my house. I had seen them going towards Kapurvas to the house of Kantibhai Prabhudas (Sec. Case No 07 / 09, accused No 1). They were carrying tinpots of kerosene with them. When they passed by my house, there was smell of kerosene coming from them. That is how I came to know about it. For going to Kapur Mohalla from the house of Kantibhai Prabhudas, there are two lanes. From there via Mahadev Temple, they had gone towards Sheikh Mohalla.
13.	74	632	Sikandarmiya Rasoolmiya	Para 2: While returning from the field....Kanubhai Joitabhai (Sec. Case No 275 / 02, accused No 49) was sitting. He said, 'now you won't get Kuber (name of a ghutkha). Your people have burnt the train in Godhra. I have Kuber but you won't get it'.
14.	78	642	Bashirabibi Bachumiya Sheikh	On 28-02-02, in the evening Jayanti Ambarambhai (Sec. Case No 275 / 02, accused No 48) came home and took away account book from my husband. On 1-03-02, at about 5.00 pm, I had gone to the shop of Dahyabhai Vanabhai (Sec. Case No 120 / 08, accused no 7) to purchase gram flour. Dahyabhai Vanabhai asked me 'what will you do with this flour?' I said, 'I will prepare bhajiyas'. He said 'today is your last day. Eat your bhajiyas today. If you survive tomorrow then only you will eat them tomorrow'.
15.	87	670	Patel Jitubhai Chhaganbhai	In Sardarpur village, electric line is installed by the Panchayat...to operate and carry out repair work, Panchayat had appointed Becharbhai Odhavbhai as a helper. He was paid a monthly salary of Rs. 400/- During the year 2002, Patel Mathurbhai Trikambhai (Sec. Case No 275 / 02, accused No 54) was appointed from Gujarat Vidyut Board. He was a resident of Sardarpur village.

16.	90	695	Galbabhai Khemabhai Parmar (P.S.I)	Para no 5 I was on patrolling duty on 1-3-02. At that time electric lights were on from Panchayat house to Sheikh Vas lights were on.
17.	99	734	Krishnakumar Kantilal (A.P.C)	When we went to Sardarpur village for patrolling for the first time, street lights had tube lights and they were on.
18.	100	736	Razakbhai Allarakhabhai (A.P.C)	While patrolling, on the side of Sheikh mohalla, three cabins were burning. No one was there. Street lights were on.
19.	102	739	Lalajibhai Arjanbhai Desai (P.C)	When we first went for patrolling, lights were on in the village. When we went for the second time at about 1.45 at night, street lights were switched off.
20.	103	740	Ganpatbhai Narsinghbhai (H.C)	When we went for patrolling for the first time and resorted to firing, lights were on.

Criminal acts committed by the accused as part of the criminal conspiracy

In 2002, when the Godhra train burning incident took place, systematic conspiracy against the Muslim community was hatched. This becomes evident from the testimony of witness no 48, Sabirmiya Akumiya Pathan before the Hon. Court. As said by the witness before the Godhra incident some 20 to 25 days before, Vishwa Hindu Parishad leader Haresh Bhatt had come to the village. A meeting was held at the Mahadev Temple (the place from where a crowd had come on the night when the event took place) in which young persons of Patel community of the village were present in large number. Haresh Bhatt attended that meeting and gave a venomous lecture full of hatred against the Muslims. He had said that Muslims are a burden to India and they have no right to live in this country. If you get a chance, see that no Muslim remains alive.

Besides this, the accused (s) had made full preparations for killing the Muslims by means of kerosene, petrol and electric current. D.S.P Gehlot, at the time of the incident, had gone to the room of Mehmudmiya in Sheikh Vas the electric wires were pulled down with the help of wooden rods and were put inside the room through the window by tying the wire and iron rods. This is clearly evident in the testimony given by Sabirmiya Akumiya.

Moreover, the accused persons had conspired to kill muslims this is evident from the testimony of the witness No. 47, Ibrahim Rasoolbhai.

1. Witness No 47 – Ibrahimbhai Rasoolbhai

As per the testimony of the **witness No 47, Ibrahimbhai Rasoolbhai**, when Bashirabibi had gone to purchase flour in the village, accused no 7 Dahyabhai Vanabhai (Sec. Case No 120 / 08) had said, '**you will be able to eat bhajiyas only if you remain alive**'. It is clear from this that murderous attack on Muslims was planned and it was known to him. The conspiracy was preplanned by the village people.

Moreover, to succeed in their criminal conspiracy and in order not to face any difficulty in its realization, they had started direct electric current by climbing on electric pole. **Witness no 48, Sabirhussein Kadarmiya Sheikh had seen the accused (1) Patel Ambalal Maganbhai and the accused (2) Patel Amratbhai Somabhai** on 28-02-02 doing so.

As per the testimony of the above mentioned witness, Amratlal had climbed the electric pole and had joined the two ends of the tubelight. At that time, Ambalal (upon seeing Sabirhussein's father) had commented 'now we will enjoy killing bandiyas'. Thus, a very systematic plot was chalked out to attack Muslims of the village and it was organized as part of a criminal conspiracy.

Witness No 49 Iqbalmiya Rasoolmiya Sheikh had also mentioned in his testimony how the accused persons had tried to instigate the majority community against the Muslims and given them free hand in case riot takes place. As said by Iqbalmiya, three days before the event, Unjha MLA Lallubhai was present in a meeting held near the Mahadev Temple. At that time Naranbhai was heard speaking on the microphone thus 'the Government is yours. You may do as you like'. This statement is recorded in the testimony of the witness before the Hon. Court. Thus, it is seen that in the criminal conspiracy against the Muslims, politicians of the state were also involved.

That the attack on Muslims on the day of the event was part of a well organized conspiracy also becomes clear from the testimony of **witness no 54 Sharifkhan Bhikhumiya Sheikh** before the Hon. Court. In his testimony witness Sharifmiya had mentioned that on the day of the event, accused No 6 Amratbhai Somabhai (Sec. Case No 275 / 02) had fixed halogen lamp on the electric pole and had commented that they **will enjoy killing bandiyas today**. This happened at about 7 o'clock in the evening and after few hours, Patels of the village had very systematically started setting fire to the houses of Sheikh Vas with the help of kerosene and petrol. They also tried to kill Muslims on a large scale through electric shock. They had put the halogen lamp in such a way that its light fell directly on Sheikh mohalla. This was also stated by the **witness No 56, Aiyubmiya Rasoolmiya** in his testimony before the Hon. Court.

In his testimony before the Hon. Court **witness No 60, Bachubhai Imammiya** had mentioned the incident of switching the street light. **Witness no 60 Bachumiya** had also revealed the hidden conspiracy of the accused by referring to the incident which had taken place on 27-02-02, four days before the event. On that day Rafikbhai was sitting at his galla when the accused No 26 **Raghubhai Rewabhai** (Sec. Case No 275 / 02) came to Rafikbhai and told him that his cabin was touching his (Raghubhai's) house and he should remove it because in his (Raghubhai's) house bundles of dry grass (straw) were kept and he was afraid that they might get destroyed in fire. This means that the accused Raghubhai Rewabhai was knowing that in the coming days, they are going to burn houses and gallas of Muslims.

The testimony of the **witness no 63, Bhikhumiya Kalumiya** also makes it clear that arson, looting and ransacking of Muslim houses and cabins on a large scale was planned in advance. On 28-02-02, when the witness Bhikhumiya had gone to the market at about 4 o'clock in the evening, he had seen that one Shankarbhai was removing goods from his shop which was adjacent to the shop of Hanifbhai Abdulbhai, a Muslim. When he was asked why he was vacating his shop, he had replied that he wanted to hire another shop. He would keep goods in his shop in the compound of a temple. The same night crowds of Hindus had burnt down the gallas owned by Muslims. Thus, the precaution taken by Shankarbhai indicates that he knew about the upcoming large scale violence and arson against the Muslims. The testimony of Bhikhumiya makes it clear that Shankarbhai knew about the whole conspiracy.

After the tragic event of Godhra, situation in the whole of Gujarat was very tense. Large scale violence against Muslims was seen. Muslim houses were set on fire, looted and ransacked. To focus attention on this organized crime, we have the testimony of an independent and neutral witness no. 71 like **Mangabhai Ramabhai Raval**. On the day of the event, witness Mangabhai had seen the accused Natubhai Kachrabhai, Jayantibhai Ambalal and others. They were carrying kerosene and petrol from the tractor which was parked on the road near Ramabhai Mohanbhai Patel's house. As per the statement of the witness, the tractor had drums of kerosene and one drum of petrol in it. This important witness had sent that focus light was on and flares of fire were seen from Sheikh mohalla. Thus, in order to indulge in large scale arson, loot and violence, arrangement of drums filled with kerosene and petrol was made by interested person. No police or state legal agencies had taken note of such activities nor was any attempt to prevent them made.

The testimony of the witness no 78, Bashirabibi Bachumiya is also important because it shows how the communal riots against Muslims which erupted after the Godhra train incident were systematically planned and were part of an organized conspiracy. In her testimony Bashirabibi said that on 28-02-02, accused no 48 Jayanti Ambaram had come to her house and taken away accounts book from her husband. It was as if the

accused Jayantibhai Ambalal had the for knowledge of the riots and he wanted to take away the accounts book safely. Moreover, on the day of the event on 1-03-02 at about 5 o'clock in the evening Bashirabibi had gone to the shop of the accused No 7 Dahyabhai to purchase gram flour whereupon the accused asked her what she would do with the flour. The latter replied that she would prepare bhajiyas. The accused then commented 'today is the last day for you. Eat your bhajiyas today, otherwise you may not be able to eat them tomorrow as you may not live tomorrow'. Bashirabibi was very surprised when she heard such significant words and sentences. But this important dialogue was enough to reveal the large scale and systematically planned conspiracy.

When criminal conspiracy against the muslims community was planned on such a massive scale, it cannot be believed that the police were unaware of it. It is clear that the police had deliberately chosen not to prevent the atrocities and forcible actions against the minority community.

Surprisingly the village people kept halogen lamp, in the public meeting speeches were delivered, distribution of tridents was openly done, ordinary people of the village were worried about shifting their good away from Muslim houses or their property, the kirana shopkeeper of the village was knowing that the Muslims were going to die in near future, in spite of all this, it is strange to note that no preventive steps were taken by the state police or intelligence agencies of the state. For some strange reasons deliberate negligence was shown by the above agencies and one can hardly disbelieve that it was so.

In the testimonies of the witnesses before the Hon. Court, it was made clear that on 28-02-02, there was communal unrest in the village and cabins belonging to Muslims were set on fire. In spite of that no police bundobast was made nor any police protection given to Muslim dominated Sheikhvas. On the contrary, on 1-3-02 at about 9.30 pm, Hindu Patels of the village indulged in stone throwing and set fire to three cabins at the entrance of the mohalla, the police came but left within a very short time. This is revealed from the testimonies of the witnesses. In such a tense situation when stone-pelting and arson were widespread police did not provide any protection to the Muslim community. No police bundobast was provided. Had there been armed policemen posted thee, those 30 men, women and children who were roasted alive at night in the house of Mehmudmiya would not have died.

But because of the policy of not providing protection to the Muslim community which arose out of the lack of presence of mind and foresight, such a mean and cowardly event occurred. It could have been avoided, had police used foresight and made proper arrangement.

Attempt to discredit witnesses

The witnesses of this case have given their testimonies before the Hon. Court indicating numerous serious crimes committed by the accused persons. The witnesses belong to the same village where this murderous event has taken place. They are residents of Sheikhas, the place where the event occurred. The accused persons who carried out the cowardly attack on the witnesses also belong to the same village and therefore the latter knows them properly. The witnesses have given the names of the accused persons as early as possible after the event took place. They have given very important and trustworthy testimonies before the Hon. Court. The accused persons were identified before the Hon. Court. However, eight long years have passed since the event took place and some of the witnesses being poor – illiterate and physically infirm and at the same time many of the accused person's faces have undergone changes, those witnesses have found it difficult to recognize and identify the accused persons.

However, the defence party has attempted to raise doubts about the simple and natural testimonies of the witnesses by saying that they (the witnesses) were instigated by their community leaders or by discrediting various organizations which were trying to help them by providing legal assistance to get justice. Such childish and illegitimate attempts are not important in evaluating the testimonies of the witnesses before the Hon. Court because the testimonies include description of events which the witnesses have themselves seen or experienced which they have mentioned in their statements to the police.

During the communal riots in 2002, the minority community had to suffer and they had appealed to the police and the authorities, some of the evidences of that time are important and it is not possible to ignore those evidences when the situation created was such that the victims (and affected people) would not get proper justice. Some social service institutions came to their aid but these came very late, years after the incidents (communal riots) yet as these institutions have come to their aid and due to precious documentary evidences the present accused cannot save themselves from their involvements in the crime. It was doubtful whether the affected people (victims) would get proper justice for the atrocities committed against them in view of the fact that the investigating agency and powerful justice is denied to them. When the attention of the Hon. Supreme Court was drawn towards this fact, it has ordered to constitute Special Investigating Team. In order that the affected persons get justice, the Supreme Court has constituted SIT but as Supreme Court was not satisfied by its proceedings and style of functioning by the officers concerned, Supreme Court has expressed displeasure in this regard.

Thus, after the Godhra incident, Muslim community has suffered heavy losses in terms of life and property. The organizations / NGOs which are trying to provide help to the

victims are like a speck in the eyes of those who derive benefit by arousing communal hatred. When the court is ready to deliver justice against the accused persons who were involved in serious crimes, the vested interest groups raise allegations against the agencies which are trying to help the victims. They also raise questions such as this 'have the witnesses seen the event with their own eyes?' The vested interests have also leveled useless and unsubstantiated charges, so that the testimonies of the witnesses may not be believed or doubts may be raised about their accuracy. But such allegations are not likely to raise doubts against the testimonies of the witnesses.

When the event took place, persons who were involved in the crime, against them enough and reliable body of proof is available.

It is as follows:

Culprit No. 1 Rameshbhai Kanjibhai v/s testimonies of various witnesses submitted before the Hon. Court

- (1) Complainant Ibrahim Rasulbhai Sheikh – witness No 47 gave complaint the next day i.e on 2-3-2002 of the event which took place on 01-03-2002. The complaint is legitimate and is in the form of FIR. In that complaint, culprit Patel Kamleshbhai Kanjibhai is mentioned as a culprit. Moreover, complainant Ibrahimbhai had, in his testimony before the Hon. Court very clearly mentioned that Rameshbhai Kanjibhai was also a member of the crowd which was torching Muslim houses. The crowd had persons who were carrying scythes, swords, tridents, spears and cans full of petrol and kerosene.
- (2) Gulamali Akbarmiya Sheikh witness No. 68
Witness Gulamali had mentioned in his testimony before the Hon. Court that Rameshbhai was in the crowd carrying burning rags. Witness Gulamali Akbarmiya had identified the culprit Patel Rameshbhai Kanjibhai. The witness Gulamali Akbarali had in his statement before the police on 10-03-2002 given the name of the said culprit and that he was with burning rags.
- (3) Faridabann Ashikhussein Sheikh – witness No 73
Faridabaan is an injured witness. She had got burnt during the incident. She had lost her daughter Ashiyabann, aged 10 in the incident. She had identified culprit Patel Rameshbhai Kanjibhi before the Hon. Court. She had said that the culprit was known to her.

Thus, according to the testimonies of (1) complainant Ibrahimbhai, (2) complainant Gulamali Akbarmiya and (3) complainant Faridabibi Ashikhussein

Sheikh, there is enough proof against culprit No. 1 Rameshbhai Kanjibhai Patel before the Hon. Court and there is no valid reason to disbelieve the same.

Culprit No 2 Patel Chaturbhau (alias Bhuriyo) Vithalbai v/s testimonies of various witnesses before Hon. Court

(1) Complainant Ibrahim Rasulmiya Sheikh - witness No 47

In his complaint immediately after the incident his (Chaturbhai's) name is given. In his testimony before the Hon. Court Patel Chaturbhai (Bhuriyo) Vithalbai's name is mentioned. The crowd was armed with various weapons and was pelting stones on the houses of Muslims and was setting them to fire. Chaturbhai was there in the crowd and the complainant had told in his testimony before the Hon. Court that he knows him.

(2) Ashikhussein Bachumiya Sheikh – witness on the side of complainant

This witness, in his testimony before the Hon. Court says that the culprit Chaturbhai was present in the crowd with a pipe. The crowd was indulging in criminal activities. Witness Ashikhussein is an important witness, on the side of complainants. The police had recorded his statement on 02-03-2002 immediately after the event took place. In his statement also Ashikhussein had mentioned Patel Chaturbhai as a culprit. He had also identified Patel Chaturbhai in the Hon. Court and had stated in his testimony that he (Chaturbhai) was present with a pipe at the time of the event.

At this stage in the interest of justice, it is necessary to draw attention of the Hon. Court towards one important aspect of the testimony of witness No 55, Ashikhussein Bachhumiya. Ashikhussein Bachhumiya is a resident of Sardarpura Sheikh Vas, when the event occurred. In this gruesome event, 10 year old Ayeshabann, daughter of Ashikhussein was burnt alive. The 3 year old son and wife of Ashikhussein also sustained burnt injuries. His house was set on fire, and his jeep which was his source of livelihood was also destroyed in fire. Immediately after the incident on 02-03-2002, police had recorded his statement. In his statement, he had mentioned names of 24 culprits who were actively involved with the crowd which was indulging in grievous criminal acts. Witness Ashikhussein Bachubhai had given the same names in his testimony before the Hon. Court and of them 19 culprits were identified by him in the Court. Thus, witness Ashikhussein Bachumiya is an important witness and there is no reason why his testimony cannot be believed. He is a wholly reliable witness.

This witness had identified the following 19 culprits in his statement to the police. They are as follows: (1) Patel Ashwinbhai Baldevbhai – with a can (2) Patel

Pashabhai Mohanbhai – with a can (3) Chaturbhai Vitthalbhai – with pipe (4) Rajeshbhai Karsanbhai – with a pipe (5) Modhabhai Vitthalbhai – with a pipe (6) Rameshbhai Prabhabhai – with a scythe (7) Jayantibhai Mangalbhai (also known as Bakabhai) – with a sword (8) Kalabhai Bhikhabhai (9) Bhikhabhai Joitarambhai (10) Mangalbhai Mathurbhai (11) Rameshbhai Kantibhai (12) Prahladbhai Somabhai (13) Jayantibhai Jivanbhai (14) Jayanti Ambalal – with loose stones and brickbats (15) Bhavesh Kanubhai Patel (16) Sheetal Narayan Sindhi (17) Prajapati Dahyabhai Varavabhai (18) Prajapati Ramanbhai Ganeshbhai (21) Ravikumar Amrutbhai (22) Rohit Kumar Ramanlal (23) Patel Kacharabhai Tribhovandas (24) Ambalal Magan (25) Ramanbhai Ganeshbhai.

Out of the 25 names which are given, culprits nos 15 to 22 were with the weapons and culprit nos 23, 24, 25 were setting fire to his jeep. Following culprits were identified in the Hon. Court. (1) Jayantilal Ambalal (2) Gordhanbhai Revabhai Prajapati (3) Ashwinbhai Baldevbhai (4) Dahyabhai Varvabhai Prajapati (5) Ramanbhai Ganeshbhai (6) Rajeshbhai Karsanbhai (7) Magalbhai Mathurbhai (8) Bhikhabhai Joitaram (9) Ambalal Maganbhai (10) Amratlal Somabhai (11) Rameshbhai Kantibhai (12) Chaturbhai Vitthalbhai (15) Parshottambhai Mohanbhai (16) Rameshbhai Prabhudas (17) Prahladbhai Somabhai (18) Kalabhai Bhikhabhai (19) Madhabhai Vittalbai. The defence side sincerely believes that witness Ashikhussein Bachumiya has provided solid and reliable proof in the case.

Besides this witness, other witnesses whose testimonies are with the Hon. Court are as under:-

- (1) Witness No 51 Nasir Mohmud Akbarmiya
- (2) Witness No 68 Gulamali Akbarmiya
- (3) Witness No 59 Mohmud Sattar Bachumiya
- (4) Witness No 48 Sabirhussein Kadarmiya
- (5) Witness No 57 Mustafamiya Rasulmiya
- (6) Witness No 56 Ayubmiya Rasulmiya
- (7) Witness No 78 Bashirabibi Bachumiya
- (8) Witness No 49 Ikbalmiya Rasulmiya
- (9) Witness No 66 Akbarmiya Rasulmiya
- (10) Witness No 62 Fakirmiya Mohmudhussein
- (11) Witness No 63 Faridabann Ashikhussein
- (12) Witness No 52 Hizulmiya Kalumiya
- (13) Witness No 63 Bhikumiyaa Kalumiya
- (14) Witness No 67 Imtiaz Mohmudhussein

They are injured witnesses and their testimonies are very important. They had given their statements immediately after the event. They are residents of Sheikh

Mohulla of the village. They are reliable witnesses and their testimonials are sufficient as per the Hon. Supreme Court case of Chandra Shekher v/s State of Bihar AI 2001 S.C 4024 and based on their testimonies, the culprits can be punished.

The culprits can be punished for all the crimes committed by them on the basis of the testimonies provided by these witnesses.

(3) Mohmud Sattar Bachumiya – Witness No 59

Witness Mohmud Sattar Bachumiya had in his statement before SIT had mentioned name of culprit Chaturbhai and had identified him in the Hon. Court as involved in the crowd indulging in grievous crimes.

(4) Akbarmiya Rasulmiya Sheikh – Witness No 66

In his statement before the police on 10-03-2002, he had also mentioned Chaturbhai's name as one who was part of the crowd indulging in stone-pelting. He was identified as one of culprits of the crowd when the witness gave his testimony before the Hon. Court.

(5) Munsaf Khan Pathan – Witness No 70

In his statement before the police on 06-03-2002 Munsafkhan had given the name of Chaturbhai Vitthalbhai. In the Hon. Court Chaturbhai was identified as one involved in the crowd indulging in criminal activities.

(6) Faridabann Ashikhussein – Witness No 73

The witness is a woman and in her community, women usually do not go out of their house and hence it is possible that she may not know persons of different communities by their names. In this context, Faridabann identified the culprit as one whom she knows by his face and she had identified the culprit before the Hon. Court.

(7) Badrunnisa Akbarmiya – Witness No 77

In her statement before the police on 06-03-2002, she had given the name of the culprit and identified him before the Hon. Court as Chaturbhai alias Bhuriyo Vitthalbhai.

(8) Shaminbann Mehmudmiya – Witness No 79

The witness had stated before the Hon. Court that she knows the culprit Chaturbhai and had identified him in the Court.

The witness had stated before the Hon. Court the following:-

.....three days after the burning of train at Godhra, following incident took place in our locality. A crowd mostly of Patel caste came from the side of Mahadev temple, shouting and screaming to kill miyabhai (meaning Muslims). The crowd came at about 9.30 pm. They burnt down three cabins....The same crowd came again. They set fire to the house of Mannbhai Painter. Then, Akabarbai Nathubhai's house was set on fire. Like that they came inside the mohalla. I was at the house of my Abhumama. Then my Abhumama came and told us that those people who were setting fire to the houses had come close to our house. There was no window for us to go out. So he said, he would open the gate and all those who were there were asked to run away or get hidden. So, he opened the gate. All women of the mohalla had come to our pucca house to save themselves. The Patels surrounded our house from all sides. They threw kerosene, burning rags and petrol and set fire to the entire house. They broke open the terrace. I saw all this with my own eyes...They threw burning rags dipped in kerosene and petrol. "I had seen my mother, my two brothers Ifranbhai and Tipu Sultan and my sister Faridabann burning."

Thus the testimonies and evidences / proofs provided by 8 witnesses against the culprit Chaturbhai (alias Bhuriyo) Vitthalbhai are sufficient and trustworthy. The testimony of witness Ashikhussein Bachumiya cannot be treated lightly. All the proofs provided by the 8 witnesses are very important.

Accused No 5 Patel Jayantibhai Mangalbai v/s testimonies of various witnesses recorded before the Hon. Court

- (1) Plaintiff Ibrahim Rasulbhai Sheikh – witness No 47
Accused Jayantibhai Mangaldas was identified. He was in the crowd which was indulging in criminal acts.
- (2) Ashikhussein Bachumiya Sheikh
As per the statement of the witness, the accused was in the crowd with a sword in his hand. The crowd was indulging in serious types of criminal activities. In his statement to the police, witness Ashikhussein Bachumiya had given Jayantibhai Mangaldas's name as Bakabhai Mangaldas and in his testimony before the Hon. Court, he had clarified that Jayantibhai Mangaldas is the same person whose name he had given as Bakabhai Mangaldas. As mentioned earlier, witness Ashikhussein is an important witness.

(3) Mustafamiya Rasulmiya – witness No 57

This witness had identified the accused and said in his testimony before the Hon. Court that he was part of the crowd which was indulging in criminal activities.

The witness in his testimony before the Hon. Court had said as follows:

.....On 01-03-2002, a crowd consisting of Patels was shouting and screaming. They had weapons, petrol and kerosene tin pots in their hands. They attacked our mohalla, broke the cabins and set fire to them. The crowd disappeared when the police came. But the same crowd came again at night at about 11.00 o'clock. They were shouting that Muslims be killed. Further, they shouted that not a single miya (Muslim) should be left alive. They attacked our houses and set fire to them. At that time, members of our community ran towards Mahmudbhai's house. My wife and son Javedmiya had also gone to Mahmudmiya's house. Among those whom I saw, there were the following persons:- Laxmanbhai Dhulabhai Patel, Rameshbhai Dhulabhai Patel, Madhabhai Vitthalbhai Patel, Jayantibhai Mangaldas (alias Bako), Kacharabhai Tribhovandas, Ashwinbhai Baldevbhai Botham, Tulsibhai Girdharbhai Patel. They had gone towards Mahmudmiya's house where they burnt alive our men, women and children with petrol and kerosene. At that time, I was hiding behind the house of Bachumiya Imammiya.

(4) Mohmud Sattar Bachumiya Sheikh – witness No 59

This witness had mentioned in his testimony before the Hon. Court that he had seen the accused Jayantibhai Mangalbai in the crowd which was torching Muslim houses. The witness had seen the accused in the light of his burnt and broken jeep.

(5) Rafimiya Mohmud Hussein Sheikh – witness No 62:- This witness provides important proof. According to him,

.....The crowd turned towards the house of Akbarmiya Nathumiya. There I saw Ambalal Magan with a scythe, Kalabhai Bhikhabhai, Jayantibhai Mangalbai Pashabhai Mohanbhai, Joitaram Ramabhai (with a tin in his hand), Ashwinbhai Jagatbhai, Rajeshbhai Karsanbhai – these persons had sticks and pipes in their hands. Then, there were Kacharabhai Tribhovandas, Govindbhai Mohanbhai, Rameshbhai Kantilal. One by one all houses were set to fire. To save my life, I had gone inside the house of Ibrahimmiya Rasulmiya. All those men mentioned above went toward the house

of Mehmudmiya Husseinmiya where men, women and children of our mohalla had assembled. They surrounded the house, set it on fire and shouted and screamed.

Moreover, the witness Rafikmiya identified the accused before the Hon. Court. In his statement before the police on 10-03-2002, he also mentioned the name of the accused. Thus, the proofs provided by the witness are very strong and important.

(6) Akbarmiya Rasulmiya – witness No 66

The witness said in his testimony before the Court that on the day when the crowd was indulging in criminal activities, he had seen the Patels in it. He himself was hit by stones on his back, forehead and leg. Thereafter, he hid himself behind Bachubhai's car. He had seen village Patels setting fire to Mehmudbhai's house and coming towards him. In order to save himself from the crowd he had gone towards graveyard. One Patel saw him, so he got inside an open grave. During this time, he had seen accused Patel Jayanti Ambalal with a weapon in his hand. In his testimony before the Hon. Court, the witness had said that he knew the accused. This is mentioned in para no. 3 in his testimony before the Hon. Court.

(7) Mangalbhai Ramabhai Valand – witness No. 71

Though this witness does not belong to the riot-affected community, he is a neutral and an independent witness. He has given his testimony without any feeling of hatred.

This witness is an important neutral one. He has given his testimony before the Hon. Court stating that he had no enmity toward anyone and that he has no reason to give false testimony. In his testimony before the Hon. Court, he has stated that on 01-03-2002, at about 9.00 o'clock at night he had seen one tractor in front of Ramabhai Mohanbhai Patel. There were about three to four big drums full of kerosene and one drum containing petrol. He had seen accused Jayantibhai Ambalal carrying containers full of kerosene towards the house of Kantibhai Prabhudas. The witness said that when those accused passed by his house, smell of kerosene was emanating from them. Later at mid night, he had seen crowds of Patels in the focus of the electric light. He had seen flames coming out of Mehmudbhai's house. He had heard cries of men, women and children from Sheikh mohalla. They were crying to be saved. The crowd was very big so the witness was not able to go there. This very important witness has given very strong proofs. In the Hon. Court he had identified the accused. This witness is a neutral person. He has no enmity towards anyone. He has no reason to give false name of any person. There is no ground on which his testimony can be rejected. He has identified accused Jayantibhai in the court.

(8) Bashirabibi Bachumiya – witness no 78

Bashirabibi has lost her husband during the rioting. Her two sisters-in-law, brothers and niece were burnt down. She herself was badly burnt and her son Ilias was also burnt on his left ear and left leg. As her husband died during the event, according to Islamic custom she was observing Iddat and so she could give her statement to the police on 17- 04-02. In her statement before the police she had given Jayantibhai's name. In her testimony before the Hon. Court she has stated as follows:-

.....when they came inside setting fire to the building, my husband was struck with a stone. I had seen those persons face to face. Out of fear, we had gone to the house of Mehmud Husseinmiya. We had with me my husband, my brother, my sister-in-law (brother's wife), younger sister-in-law, my niece and three sons. The crowd had surrounded Mahmudmiya's house from all sides. They had broken the window and I had seen from inside that they were pouring kerosene, petrol and throwing burning rags. I had seen with my own eyes the following persons:- Rajeshbhai Punjabhai, Pashabhai Mohanbhai, Dahyabhai Vanabhai, Babubhai Vanabhai, Kanubhai Revabhai, Jayantibhai Ambaram, Mangalbhau Mathurbhai, Jayantibhai Mangalbhaj, Kantibhai Parbhudas, Kacharabhai, Tribhovanbhai, and Babubhai Kanjibhai. Our people had cried for help; we all shouted to save us; we had folded our hands in request but those people what they wanted to do. After that police came. Kacharabahi Tribhovanbahi had shouted that no one should be left alive. Thus, all were burnt down.

Witness Bashirabibi had identified Jayantibhai Mangalbhaj before the Hon. Court

Thus, there are enough proofs and evidences against the accused Jayantibhai Mangalbhaj. They are trustworthy and cannot be dismissed lightly. And he is liable to be punished for his crimes.

Culprit No 6 Amratlal Somabhai v/s testimonies of various witnesses before the Hon. Court

(1) Ashikkumar Bachumiya – witness No 55

In his important testimony, this witness had identified the accused before the Hon. Court. He was involved in heinous crimes as part of the crowd.

(2) Mohmud Sattar Bachumiya – witness No 59

This witness had identified the said accused before the Hon. Court in his testimony.

(3) Munsaf Khan – witness No 70

This witness has said in his testimony before the Hon. Court as follows:-

...at about 9 to 9.30 pm, a crowd consisting of Patels of the village was shouting and screaming that miyas (Muslims) be killed and that they be burnt alive. The crowd passed by my old house and came in front of Sheikh mohalla...The crowd again got together and had started pelting stones at my old house. I had seen Patel Rajeshbhai Punjabhai, Prahladbhai, Jagabhai...Amratbhai Somabhai...Babubhai Kantibhai and many others were there. Those people pelted stones at my house so we also tried to retaliate. Then they attacked Sheikh mohalla and set fire to the houses. Then, by about midnight Ashikmiya, son of Bachumiya driver came inside the mohalla and told me that Patels had set fire to his house and jeep and they had also burnt alive those men, women and children who had sought shelter there.

(4) Sabir Hussen Kadarmiya – witness No 48

He had identified the accused before the Hon. Court as one who was in the crowd. He said the following in his testimony.

Para No 2....on 28-02-2002...in front of our house were standing (1) Patel Ambalal Maganbhai (2) Amratbhai Somabhai Maherwadia from Kalupur Vas. They were standing near the electric pole. Amratbhai Somabhai had climbed the pole and he was trying to connect wires of the tube light so that he could switch on the tube light. At that time, Ambalal Maganbhai was standing near the pole. When he saw my father, he commented. 'Now we will be delighted to kill bandiyas (derogatory term used for Muslims). On that night Patels of our village had gathered together in front of their mohalla and they were talking about starting disturbances...on that night Patels of our village set fire to the cabins and shops belonging to Muslims and other communities.

....On 01-03-2002, Bharat bandh was declared. At about 10.00 pm, Patels of our village attacked Sheikh Mohalla with scythes, sticks, pipes and tin pots full of kerosene and petrol....They burnt down three cabins at the entrance of the Sheikh Vas...There was focus light in front of the mohalla. At that time, I had seen following persons of our village: Patel Ambalal Maganbhai, Kacharabhai Tribhovandas, Kanubhai Joitabhai, Rameshbhai Ramabhai, Jayantibhai Ambaram, Ashwinbhai Baldevbhai, Dineshbhai

Baldevbhai, Mathurbhai Ramabhai, Upendra Manilal, Becharbhai Odhavbhai, Madhabhai Vitthalbhai, Sanjay Kumar Ambalal, Ramanbhai Jivanbhai, Gandabhai Naranbhai, Sureshbhai Ranchodbhai, Chaturbhai Kanabhai and others. They were instigating the crowd and had started setting houses in Sheikh mohalla to fire. Pelting of stones was continuing. The Patel houses were high, whereas, houses in Sheikh mohalla were low, so Patels were throwing stones from their houses. There were Patels in the front portion of graveyard. Stones were coming from all sides...I was hit by a stone on my neck. All persons from the crowd had deadly weapons in their hands and they were intentionally entering Sheikh Mohalla. Our persons were hiding in Sheikh Mehmudmiya Hussein miya's house. Persons from the crowd were setting fire to the houses. They came near the house of Sheikh Mahmud miya, broke open its windows, threw petrol and kerosene inside and set it on fire. There was one iron rod which was joined with electric current and was kept in the house. Cries of 'save', 'save', were heard from the house. Thus, four witness have given testimonies in which they have identified the accused before the Hon. Court.

Accused No 8 Prajapati Rajeshkumar Amratbhai v/s testimonies of various witnesses before the Hon. Court

(1) Ashikhussein Bachumiya Sheikh – witness no 55

Witness Ashikhussein is an important witness. In his statement before the police on 02-03-2002, he gave the name of Rajesh Kumar Amratlal and had identified him before the Hon. Court. In his testimony, he had stated that...

....On 01-03-2002, I was at home with my family members. On that day, at about 9.30 pm, a crowd consisting of Hindu belonging to or village came from the side of Mahadev temple. There were shouts and screams from the crowd, saying 'kill Muslims', 'cut them', 'burn them'. They had come with weapons such as sticks, scythes, swords, pipes, tin pots full of kerosene and petrol and burning rags. They came near Sheikh Vas, set fire to three cabins and started looting, breaking sand setting fire to the gallas which were there. At that time, the police came and the crowd dispersed. When the police left, the crowd came again toward Sheikh Vas, screaming and shouting. They attacked the houses and started looting them. They threw stones and pieces of bricks. At that time, I saw persons among whom there were the following:- Ashwinbhai

Baldevbhai with a tin pot, Patel Pashabhai Mohanbhai, with a tin pot, Chaturbhai Vitthalbhai, Rajeshbhai Karsanbhai and Madhabhai Vitthalbhai with pipes. Ramabhai Prabhabhai, with a scythe, Jayantibhai Mangalbhai alias Bakabhai with a sword. Kalabhai Bhikhabhai, Bhikhabhai Joitabhai, Mangalbhai Mathurbhai, Rameshbhai Kantilal, Prahladbhai Somabhai, Jayantibhai Jivanbhai, Jayantibhai Ambalal – These persons were throwing stones and pieces of bricks. Bhavesh Kanubhai Patel, Sheetal Narayan Sindhi, Prajapati Dahyabhai Varvabhai, Prajapati Ramanbhai, Ganeshbhai, Gordhanbhai Revabhai, Rajesh Kumar Amrutbhai, Ravi Kumar Amrutbhai, Rohit Kumar Ramanlal – these persons were seen carrying weapons. After that my father asked me to take my wife, children and other members of our family to the pucca house (with terrace) of Mehmudmiya Husseinmiya or shelter there. So, I took them all there. Then my jeep was set to fire. I saw Kacharabhai Tribhovandas, Ambalal Magan and Rameshbhai Ganesh doing that. I saw the crowd was coming toward the house of Mehmudmiya Hussein miya.

(2) Dilawar Khan Abbas miya – witness no 81

Witness Dilawarkhan Abbasmiya was 12 years old at that time of the event. According to the testimony given by him before the Hon. Court, on 01-03-2002, a crowd consisting of Hindus had attacked with weapons Muslim houses of Sheikh Vas at night. About 50 persons had hid themselves in the house of Mehmud miya Hussein miya to save their lives and locked the door from inside. At that time, the window of the house was broken open and about 29 persons were set to fire with petrol, kerosene and chemicals. The unfortunate witness was also in the house. His father – mother and elder sister had died due to fire but he and his younger sister were saved from burning. When police came they were taken out. The witness said that he could identify the accused. So he identified the accused No 8 Prajapati Rajesh Kumar Amrutbhai before the Hon. Court.

Thus the evidence against the accused is very solid to prove the criminal charges against him.

Culprit No 9 Patel Bhavesh Kumar Kanubhai v/s testimonies of various witnesses before the Hon. Court

(1) Ashik Hussein Bachumiya – witness no 55

This witness had stated in the Hon. Court, as follows:-

....On 01-03-2002, I was at home with my family members. At about 9.30 at night, a crowd consisting of Hindus came from the side of Mahadev temple. The crowd was screaming and giving out

shrill cries, saying 'kill Muslims', 'cut them', 'set them to fire'. The persons in the crowd had weapons like sticks, scythes, swords, pipes, tin pots full of kerosene and petrol, and burning rags. Upon arrival, they set fire to three cabins and also destroyed and looted the galas which were at the entrance of Sheikh Vas. When the police came, the crowd disappeared but came back again when the police left. They were shouting and screaming. They pelted stones and pieces of bricks, looted and pulled down the houses. I had seen the crowd indulging in such activities. Among them were the following:- Patel Ashwinbhai Baldevbhai with a tin pot, Chaturbhai Vitthalbhai, Rajeshbhai Karsanbhai and Madhabhai Vitthalbhai with pipes, Rameshbhai Prabhobhai had a scythe with him. Jayantibhai Mangalbhai alias Bakabhai had a sword. Kalabhai Bhikhabhai, Bhikhabhai Joitabhai, Mangalbhai Mathurbhai, Rameshbhai Kantilal, Prahladbhai Somabhai, Jayantibhai Jivanbhai and Jayantibhai Ambalal were throwing stones and bricks. Bhavesh Kanubhai Patel, Sheetal Narayan Sindhi, Prajapati Dahyabhai Varvabhai, Prajapati Ramanbhai Ganeshbhai, Gordhanbhai Revabhai, Rajeshkumar Amrutbhai, Ravikumar Amrutbhai, Rohitkumar Ramanlal – these persons were in the crowd with the weapons. After that my father asked me to take my wife, children and other members of my family to the house of Mehmud miya Hussein miya which was at the end of the mohalla and which was a pucca house with terrace, so that they could be hidden there. So, I took them there. Meanwhile I saw my jeep being burnt down by Kacharabhai Tribhovandas, Ambalal Magan, and Ramanbhai Ganesh. The crowd was coming toward Mehmudmiya Hussein miya's house.

(2) Ruksanabann Ibrahim miya – witness no 80

As per the testimony given by this witness before the Hon. Court, on the day of the event, they had got inside the house of Mehmudbhai to save themselves from the attack of the village people. The house was surrounded from all sides and it was set to fire with the help of kerosene and petrol. Persons inside the house were shouting for help and to be saved. The witness was injured in her right eye and knee. She had lost her mother, sister and other relatives in the fire. In her testimony – para – 3 she has stated that she could identify the persons who were in the crowd. She had identified the accused Bhavesh Kumar Kanubhai before the Hon. Court.

Thus, this witness has also provided solid evidence against the culprit and there is no reason why it should not be accepted.

Accused No 10 Patel Jayantibhai Jivanbhai v/s testimonies of various witnesses before the Hon. Court

This accused has died but at the time of the event he was part of the crowd indulging in criminal activities and witness Ashikhussein Bachumiya had mentioned his name in his testimony.

Accused No 11 Patel Jagabhai Davabhai v/s testimonies of various witnesses before the Hon. Court

- (1) Plaintiff Ibrahim Rasulbhai Sheikh – witness no 47

Plaintiff Ibrahimbhai Rasulbhai has proof / evidence against the accused

- (2) Mohmud Sattar Bachumiya Sheikh – witness no 59

The evidence given by witness Mohmud Sattar Bachumiya is very important because he had given the name of the accused immediately on 02-03-2002 to the police in his statement. In his testimony before the Hon. Court, he had stated as follows: On the day of the event at about 12 O'clock night, a crowd had come shouting and screaming. They were pelting stones and shouting 'kill Muslims', 'burn them alive', etc. The crowd came very near to him, so he hid himself in the house of Akbarmiya Rasulmiya to save his life. From there he saw that his jeep was burnt down near his house. In the light of the fire, he could recognize the accused. The witness Mohmud Sattar had seen the accused Patel Jagabhai Davabhai and he was identified before the Hon. Court.

- (3) Munsafbhai Khan – witness no 70

Witness Munsaf Khan has sufficient proof against the accused Jagabhai and the witness had identified the accused before the Hon. Court.

In his testimony before the Court he had stated as follows:-

.....At about 9 – 9.30 at night, a crowd consisting of village Patel had come behind my old house in front of the Sheikh mohalla. They were shouting 'kill miyas', 'burn them alive', etc.....the crowd again gathered and started pelting stones at my old house. I had seen Rajeshbahi Punjabhai, Prahladbhai Jagabhai...Jagabhai – Davabhai..Babubhai Kantibhai and others...Prahladbhai had a burning rag...

Those people had started pelting stones on my house, so we also threw stones in return. They then attacked Sheikh Mohalla and set fire to our houses. Late at night, son of Ashikmiya Bachumiya driver

came inside the mohalla and told me that Patels had set fire to my house and jeep and also burnt down men and killed women and children who were inside the house of Sheikh Mehmud miya.

Accused No 12 Patel Prahladbhai Sombhai v/s testimonies of various witnesses before the Hon. Court

(1) Ashikhussein Bachumiya – witness No 55

Witness Ashikhussein had given statement to the police on 02-03-2002 in which he had mentioned the name of the accused. He also gave testimony before the Hon. Court in which he had said the following:

....on 01-03-2002, I was at my house with my family members, when at about 9.30 at night, a crowd consisting of Hindus of our village came from the side of Mahadev temple screaming and shouting, 'kill Muslims', 'cut them to pieces', 'burn them down'. They had weapons in their hands: sticks, scythes, swords, pipes, tin pots full of kerosene and petrol and burning rags. They set fire to cabins and looted the gallas at the entrance of Sheikh Vas when the police came, the crowd ran away but came back after some time. They were shouting and screaming, looting and pulling down houses, throwing stones and pieces of bricks. Among them, I saw Patel Ashwinbhai Baldevbhai with a tin pot, Patel Pashabhai Mohanbhai with a tin pot, Chaturbhai Vitthalbhai (with pipes). Rameshbhai Prabhabhai had a scythe with him Jayantibhai Mangalbhai had a sword; Kalabhai Bhikhabhai, Bhikhabhai Joitabhai, Mangalbhai Mathurbhai, Rameshbhai Kantibhai, Prahladbhai Somabhai, Jayantibhai Jivanbhai, Jayantibhai Ambalal – These people were pelting stones and throwing pieces of bricks. Bhavesh Kanubhai Patel, Sheetal Narayan Sindhi, Prajapati Dahyabhai Varvabhai, Prajapati Ramanbhai Ganeshbhai, Gordhanbhai Revabhai, Rajeshkumar Amrutbhai, Ravi Kumar Amrutbhai, Rohitkumar Ramanlal – these people were in the crowd with weapons. Thereafter, my father asked me to take my wife, children and other members of our house to the pucca house (with terrace) of Mehmudmiya Husseinmiya and hide there. So, I took them there. Then they set fire to my jeep. I had seen Kacharabhai Tribhovandas, Ambalal Magan, and Rameshbhai Ganesh setting fire to my jeep. The crowd was coming towards the house of Mehmudmiya Husseinmiya.

This important witness Ashikhussein had identified the accused before the Hon. Court. The testimony of Ashikhussein is very important. He is a wholly reliable witness

- (2) Shamimbanu Mehmudmiya – witness 79 and witness no 80, Rukshanabanu Ibrahim miya – Their testimonies are there before the Hon. Court. Being women, they usually do not go out of their house and so it is not surprising that they do not know persons from the village by their names.

Witness Rukshanabanu is an injured witness. She had received injury on her eye and knee. When she had gone to the house of Mehmudmiya to take shelter from the people of her village. Those people had surrounded the house in which witness Rukshana and other persons were shouting to be saved. Villagers were setting fire to the house of Mehmudmiya with kerosene and petrol. There about 30 to 31 persons were burnt alive. Among the dead were the following: Jaydabanu, mother of witness Rukshana, sister Rajiyabanu, Parvinbanu, uncle Sheru miya, his wife, aunt's daughter Mumtaz, younger brother, grand father Akbarmiya, brother Idrish and sister-in-law Vahida – all members of her family were burnt to death. Whoever were involved in this heinous attack were identifiable. This was told by the witness Rukshana in her testimony – para 3 before the Hon. Court and she had identified accused Patel Prahladbhai Somabhai before the Hon. Court.

Witness no 79, Shamimbanu said the following in her testimony before the Hon. Court: A crowd consisting of Patels was shouting and screaming that miyabhai be killed, they be cut to pieces. They came at about 12 O'clock at night, set houses of Muslims on fire and came inside the Mohalla. All women of the mohalla and also Shamimbanu ran inside the pucca house of Mehmudmiya. Witness Shamimbanu had seen the event from her house in which she saw that the house of Mehmudbhai was surrounded from all sides and it was set on fire with kerosene and burning rags. The witness had seen the persons who set the house on fire but she does not know their names. But she could identify accused Patel Prahladbhai Somabhai before the Hon. Court.

Thus the evidence and proof against the accused are strong and believable and accusations against him are clear.

Accused No 14 Patel Kacharabhai Tribhovandas v/s Evidence contained in the testimony of various witnesses before the Hon. Court

In all 24 witnesses have given fairly large number of evidences against the accused Patel Kacharabhai Tribhovandas before the Hon. Court.

- (1) Plaintiff Ibrahimbhai – witness No 47

Witness had identified the accused before the Hon. Court. The witness gave the following testimony before the Hon. Court

...The crowd assembled again and was shouting 'kill the bandiyas' (derogatory term for Muslims), 'cut them to pieces', 'set them to fire', 'see that no one escapes'. Those people had scythes, swords, tridents, spears, tin pots full of kerosene and petrol and they had started setting fire to the houses. They burnt down the houses of Manubhai, Akbarbhai Nathubhai, Rasulmiya Nannumiya, Jamalbhai Dosabhai, Dilsha Jamiya Darji and Kesar miya. At that time, I had seen and could recognize the following: Patel Ambalal Maganlal, Rajeshbhai Punjabhai, Rameshbhai, Ramabhai, Pashabhai Mohanbhai, Tulshibhai Girdharbhai Ramabhai, Ashwinbhai Baldevbhai and Jayantibhai Ambalal, Dashrathbhai Ambalal, Dahyabhai Vanabhai, Babubhai Vanabhai, Jagabhai Davabhai, Kachrabhai Tribhovan, Kanubhai Joitabhai, Jayantibhai Mangaldas, Joitabhai Ramabhai, Chaturbhai Kanabhai, Rameshbhai Kantibhai, Baldevbhai Ranchodbhai, Sureshbhai Baldevbhai, Rameshbhai Pabhabhai, Chaturbhai Vitthalbhai, Bhikhabhai Kalabhai, Rameshbhai Kanjibhai, Prahladbhai Jagabhai, Vishnubhai Prahladbhai. In this crowd Kachrabhai Tribhovandas was instigating persons to kill bandiyas (Muslims), to burn them and not to allow a single one to escape. Others from the crowd were also saying the same i.e kill them, cut them to pieces, burn them down and don't allow anyone to be spared. They were setting fire to the buildings, looting and breaking the household things. Persons from our mohalla had come to my house to save themselves. Bachumiya Imammiya's jeep was burnt down. Patels were throwing stones from their houses. They were throwing stones from the side of the graveyard. The gate of my house was broken by the stones thrown at it. My wife, sons and other members of our mohalla took shelter in Mahemudmiya Hussein miya's house. The crowd surrounded the house and set it on fire with kerosene and petrol. I was struck by a stone on my head and was injured on the finger of my left leg. I had fallen down in my house. When men, women and children from Mohmudmiya's house were shouting to be saved, I could not go there, as I was injured....I had given complaint in civil.

(2) Ashikhussein Bachmiya – witness No 55

He gave testimony before the Hon. Court and also identified the accused in the court. As mentioned earlier, this witness is an important one and his evidences cannot be ignored.

.....my jeep was set to fire. I had seen Patel Kacharabhai Tribhovandas, Ambalal Magan and Rameshbhai Ganeshbhai setting fire to my jeep. The crowd was coming from the side of Mahemud miya's house....

(3) Ayyubmiya Rasulmiya – witness No 56

The witness gave his testimony before the Hon. Court. He said.

...At night around 9.30 a crowd consisting of Hindus came screaming and shouting 'kill Muslims', 'cut them to pieces'. They have burnt the train at Godhra. They then burnt down three cabins near Sheikh Mohalla. When police came, the crowd dispersed. Again the same crowd came, screaming and shouting to kill Muslims. They started throwing stones in Sheikh Mohalla. Then they started looting the houses and setting them to fire. A stone hit the head of my maternal uncle Ibrahim miya Rasul miya. My brother Iqbal miya Rasul miya was also hit on the head and right leg by stones. When I went to Mehmudmiya's house, I saw those persons in the crowd. They were Ramanbhai Ganeshbhai, Mathubhai Trikambhai, Rajeshbhai Punjabhai, Chaturbhai Kanabhai Madhabhai Vitthalbhai, Ashwinbhai Baldevbhai Botham, Dahyabhai Kacharabhai Tribhovandas. They said if you fold your hands and request us, we will let you go. We folded our hands but they did not leave us. They set fire to us. They had weapns. They had burning rags in their hands. They threw petrol and kerosene in the room and set it on fire. We were all shouting for help. They had chemical which when came in contact with water, it let out flames. After some time police came and we were taken out from the house of Mehmudmiya Husseinmiya. Firozabann Bachumiya, Farzanabann Bachumiya, my wife Sahinabann, my daughter Hinabann, my sister's husband Mannmiya Alammiya, one daughter and one son named Khushbu and Majjidmiya – we were all brought out alive. I was severely burnt. My wife was also burnt. I was burnt on both shoulders and neck.

This witness had identified the accused before the Hon. Court.

(4) Mustafamiya Rasulmiya – witness No 57

The witness gave his testimony before the Hon. Court in which he said

....On 01-03-2002, a crowd consisting of Patels came screaming and shouting. They had weapons, petrol and kerosene tin pots. They broke the cabins in front of our mohalla and set fire to them. When police came, the crowd disappeared but came again at night by about 11.30. They were screaming and shouting that no miya should go alive. They had come with weapons and tin pots. They set fire to our houses and tried to pull them down. At that time our men had gone towards Mehmudbhai's house. My wife and my son Javedmiya had gone to Mehmudmiya's house. The men I saw included the following: Laxmanbhai Dhulabhai Patel, Rameshbhai Dhulabhai Patel, Madhabhai Vitthalbhai Patel, Jayantibhai Mangaldas alias Bako, Kacharabhai Tribhovandas, Ashwinbhai Baldevbhai Botham, Tulsibhai Girdharbhai Patel. These persons had gone towards the house of Mehmudmiya and burnt alive our men, women and children with petrol and kerosene. At that time I was hiding behind the wall of Bachumiya Imammiya's house. Our people were crying for help which I had heard. I was hit by a stone, so I had hid myself.

This witness had identified the accused before the Hon. Court

(5) Sabir Hussein Imamsha – witness no 58

As per the testimony of this witness before the Hon. Court...On the day of the event, a crowd consisting of village Patels came shouting to kill miyabhai. They had weapons in their hands. Kacharabhai Tribhovandas was also among them. After that the accused had towards the nearby field. The crowd shouted, indulged in the houses and set them on fire. In the light, he was able to identify the accused and he had identified them before the Hon. Court. His testimony before the court is important and can be accepted as true.

The witness had identified the accused before the Hon. Court

(6) Mohmud Sattar Bachumiya Sheikh – witness no 59

This witness gave statement before the police on 2-3-02 and there, he had given the name of the accused. Before the Hon. Court, the witness had stated as follows:

...the crowd came at about 11 o'clock at night, shouting and screaming that Muslims be killed, they should be burnt alive. They have burnt alive Hindus in Godhra an so they too should be burnt alive. They pelted stones. We also threw stones at them...the car was burning. In its flames, I could see and identify the persons. Ambalal Maganlal had a scythe in his hand. Kacharabhai Tribhovanbhai had a bottle. I had seen them. They were

destroying and setting fire to the houses. They were going towards the house of Mehmudbhai. I again went back to my house. Cries of 'save', 'save' were coming from Mehmudbhai's house out of fear, I was hiding in my house. After some time, the crowd disappeared shouting the slogan 'Bharat mata ki jai'

This witness also identified the accused in the court.

(7) Bachumiya Imammiya – witness no 60

This witness had given testimony before the court in which he said that...

....At about 9 to 9.30 at night, people from our village came shouting 'Bharat Mata ki Jai'. They had weapons and kerosene – petrol tin pots. In the electric light I had seen Kacharabhai Tribhovanbhai, Ambalal Maganbhai, Kanubhai Sarpach, Joitabhai.....They set fire to the house of Jamalbhai Dosabhai. The crowd set fire o my jeep by sprinkling petrol and kerosene on it. It was Kacharabhai Tribhovandas and Ambalal Maganbhai who spread petrol / kerosene on it. Rajeshbhai Punjabhai had thrown burning rags out of which big flames had come up. The same crowd when towards Mehmudbhai's house, broke its windows and threw burning rags and set fire to 28 men, women and children.

This witness had identified the accused before the Hon. Court

(8) Shafikmiya Babumiya – witness no 61

These witnesses had stated in their testimonies before the court that the accused was indulging in criminal acts in the crowd.

..the same crowd had come again at 11.30, shouting that miyabhai be killed, they be cut to pieces, they be burnt down. They made heavy stone throwing on our Sheikh Mohalla. I was injured on my right leg due to stone throwing. The same crowd came inside our Sheikh Mohalla and set fire to our houses. I had seen Kacharabhai Tribhovanbhai with weapons...all seven had weapons...I was afraid, so I hid myself in the narrow lane of Bachumiya Imammiya. The crowd had gone toward the house of Mehmudmiya and surrounded it from all sides and set fire to it with petrol, kerosene and burning rags. Our people had shouted for help...

This witness had identified the accused before the Hon. Court

(9) Rafikmiya Mohmud Hussein – witness no 62

These witnesses had recorded their statement before the police on 10-03-2002. They had given names f the accused therein.

The evidences against the accused provided by the witness are very important. The witness had clearly said in his testimony before the Hon. Court that on the day of the event, a crowd of Patels had come at night shouting and screaming, saying 'kill Muslims', 'cut them to pieces'. They pelted stones. Persons in the crowd belonged to the village of the witness. In it, the witness had seen accused Kachara Tribhovandas. The crowd then went on burning nearby houses, reached the house of Mehmud miya Hussein miya, surrounded it and then burnt it down. The witness had identified the accused before the Hon. Court.

(10) Bhikumiya Kalumiya Sheikh – witness no 63

The witness had given the name of the accused Kacharabhai in his testimony. In his police statement, on 10-03-2002, also he had mentioned the name of the accused. In his testimony before the Hon. Court, the witness said that on 1-3-02, at about 11.30 at night, Patels of his village started pelting stones and burning houses. In the crowd, witness Bhikhumiya had seen accused Kachara Tribhovan. The witness was hit on the right and left sides of his head. The crowd was shouting 'kill bandiyas' (Muslims), 'cut them to pieces'. They set fire to the jeep which let out a big flame. The witness therefore rushed inside the house of Bachumiya. From there he came out into the gallery. The witness had identified the accused Kacharabhai Tribhovandas before the Hon. Court.

(11) Akbarmiya Nathumiya Sheikh – witness no 65

The witness had given important testimony against the accused before the Hon. Court and identified the accused.

(12) Akbarmiya Rasulmiya – witness no 66

This witness gave his statement before the police on 10-03-2002, in which he had given the name of the accused Kacharabhai Tribhovandas. In his testimony before the Hon. Court, the witness had said that on 1-3-02, a crowd consisting of village Patels had come, shouting to kill miyas and pelting stones. The witness was hit by stones on his back, forehead and feet. He got injured, so he hid himself behind the car. The village Patels were going towards the house of Mohmudmiya, setting fire to the houses on their way. The witness then ran towards the wall of graveyard. The crowd surrounded the house of Mehmudmiya and with petrol and kerosene set it on fire when the witness was sitting near the wall, one Patel saw him, so he ran, he hid himself behind the grave. When the police came, the witness came out and went towards Mehmudmiya's house. He saw the 28 dead bodies burnt down by the Patels with the help of petrol and kerosene. He had seen the Patels of his village indulging in this cowardly act. He had seen the accused Kacharabhai Tribhovandas with a bottle and tin pot. This is stated in Para – 3 of his testimony. He had identified the accused Kacharabhai Tribhovandas before the Hon. Court.

Thus the evidence provided by the witness is very important.

(13) Imtiaz Mohmud Hussein – witness no 67

This witness was staying in Sardarpura at the time of the event. When on 1-3-02, the crowd consisting of Hindus attacked Sheikh Mohalla with weapons, this witness was in front of the house of Ayyubmiya Rasulmiya. When the crowd was pelting stones and setting fire to the houses of Mannumiya Bhaimiya and Akbarmiya, he had seen the accused Kacharabhai Tribhovandas. The crowd had set the house of Mehmudbhai on fire. This witness had identified the accused Kacharabhai Tribhovandas before the Hon. Court.

(14) Gulamali Akbarmiya – witness no 68

The witness recorded his statement before the police on 10-03-02. He had given the name of the accused Kacharabhai Tribhovandas there.

....In his testimony before the Hon. Court, he had stated that on the day of the event, a crowd of Hindus had attacked Sheikhvas, set fire to cabins and houses, also pelted stones. After initial resistance the crowd had come inside. At that time, the witness Gulamali had identified the accused Kacharabhai Tribhovandas. He was with other accused. This witness then went into the small lane and stood behind the wall of Bachubhai. From there, he saw the crowd which was setting fire to house, then it went toward the house of Mehmud miya, surrounded it, broke the window and threw petrol and kerosene inside and then threw burning rags. Persons inside the house were shouting for help and to be saved. Thought he was there, he could not save them. The witness had seen the accused Kacharabhai Tribhovandas and he was identified before the Hon. Court. Thus, the testimony of this witness provides solid proof.

...We had tried to resist but the crowd was very large, about one thousand to fifteen hundred people. The crowd of Patels came inside and started setting fire to houses. Pelting stones was going on. The stone hit me on my left leg and left shoulder. When the crowd came in, I saw Ambalal Magan was instigating them. He had a scythe in his hand. Mathurbhai Trikambhai had stones in his hands. I had seen Kachara Tribhovan – Govindbhai Mohanbhai. I had gone in the narrow lane and was standing against the wall of Bachubhai. The crowd was coming toward the house of Mohmudbhai. They surrounded the house. I had come out and tried to see. The crowd had tried to break open the gate of Mehmud miya Hussein miya. Our men had gone to Mehmud miya's house. The Patels of the crowd went near and broke the window of the

house. They tried to break the terrace also. From the window they threw kerosene and petrol and burning rags. Our people cried for help and to be saved but we could not save them. The crowd was shouting 'kill them', 'cut them', 'burn them alive'. We could hear the cries of our people. At this stage, the witness remembered the event. The court allowed him to go for drinking water. The crowd of Patels was on all sides of Mehmudbhai's house. Kacharabhai Tribhovandas was telling that no one should be allowed to survive. People inside the house were burning. The Patels shouted, 'Bharat mata ki jai'.

While going, Kacharabhai Tribhovandas was commenting 'see that no one remains alive'.

(15) Mehmudmiya Hussein miya – Witness No 69

This witness, in his testimony before the Hon. Court had stated that on 1-3-02, a crowd had attacked Sheikh mohalla with stones and set fire to the houses. They had tried to break the door of his house and indulged in criminal acts. In this crowd there was accused Kacharabhai Tribhovandas.

The witness had also identified the accused before the Hon. Court. Thus the evidence presented by the witness is solid and cannot be ignored.

(16) Munsafkhan Yasinkhan Pathan – witness No 70

This witness had also testified against the accused and had identified Kacharabhai Tribhovandas before the Hon. Court.

....At about 9.30, a crowd consisting of Patels of the village had come, screaming and shouting, saying 'kill miyabhai', 'set them on fire'. The crowd had come to my old house in front of the Sheikh mohalla. I had seen Patel Kacharabhai...Praladbhai had a burning rag. They attacked our houses with stones, so we had also resisted their attack. They set fire to our houses. Late at night, son of driver Ashikmiya Bachumiya came in our mohalla and told me that Patels have set fire to the house of Sheikh Mohmudmiya. All those who were there in the house to save themselves have died of burns. This witness had identified the accused before the Hon. Court.

(17) Faridabanu Ashikhussein – witness no 73

This witness had clearly stated in her testimony before the Hon. Court as follows:

....I, alongwith my two sisters-in law (husband's sister) Firozabanu Bachumiya Sheikh and Farzanabibi Bachumiya Sheikh, my daughter Ayeshabann Sheikh, and my son Aftab had gone to the house of Mehmudmiya, where others were also present. I had seen

persons throwing kerosene, petrol and burning rags inside the house. We cried for help but no one came. We requested Patels to let us go but they said that 'today, we are going to kill you, set you on fire!' I had seen people of my village throwing kerosene and petrol. We were also getting burnt. I was scalded on my feet and hands. My son Aftab and daughter Ashiyana were also scalded...on my way to Mehsana my daughter Ashiyana had died. This witness had burns on her leg and hand. Her son Aftab and her daughter Ashiyana had also suffered burns. The daughter had died afterwards. When the police came, she was taken out. In her statement before the police on 2-3-02, she had given names of the accused but in the Hon. Court she identified the accused from their faces. She had identified accused Kacharabhai Tribhovandas before the Hon. Court.

Thus, Faridabanu is a wholly reliable witness. Her testimony is important and trustworthy and hence cannot be ignored. The witness has no reason to give names of accused wrongly.

(18) Firozabanu Bachumiya – witness no 75

The witness was unfortunately in the house of Mehmudmiya. The house was set on fire by Hindu crowd by breaking open its window. Persons inside the house were set on fire with petrol and kerosene. When police came, they were taken out after opening the door. When police opened the gate, electric current was on. The police had disconnected the wire with the help of the rifle. The wire was coming from the house of Natu Pawar. The witness was also injured.

The witness had said in her testimony before the Court – Para-3 – that she could recognize the persons she had seen on the day of the event. She had identified the accused Kacharabhai Tribhovandas before the Hon. Court

There is no valid reason not to believe the testimony of this witness.

(19) Badrunissa Akbarmiya – witness no 77

In her testimony before the Hon. Court, the witness had said that a crowd of Patels had come towards their houses and set them on fire. She had seen Bachubhai's jeep being torched. Among the accused there was Kacharabhai Tribhovandas. This witness had identified the accused Kacharabhai Tribhovandas before the Hon. Court.

There is no reason why her testimony cannot be believed.

(20) Bashirabibi Bachumiya Sheikh – witness no 78

This witness was observing Iddat period as her husband had died, so she could give her statement before the police on 17-4-02, after the expiry of mandatory Iddat period. She has given the name of the accused in her police statement.

She had said in his testimony that the accused Patel Kacharabhai Tribhovandas was indulging in serious criminal acts. She had identified the accused Kacharabhai Tribhovandas before the Hon. Court. The witness Bashirabibi had stated clearly in her testimony that when she was in the house of Mehmudbhai, the crowd had surrounded the house and broken open the window through which they had thrown kerosene, petrol and burning rags inside the house. Accused Kacharabhai was present there.

(21) Shamimbanu Mehmudmiya – witness No 79

The unfortunate witness was present in the house of Mehmudmiya on the day of the event. The crowd of Patels had surrounded the house from all sides. She had seen people throwing kerosene, petrol and burning rags inside. She could easily identify the accused, though she did not know their names. The witness had identified the accused Kacharabhai Tribhovandas before the Hon. Court.

Thus, the testimony of the witness is very important and there is no reason why it should not be believed.

(22) Sabirabibi Shabir Hussein – witness no 82

The witness in her testimony before the Hon. Court had said that on the day of the event, Patels of Sardarpura had come with pipes, scythes, sticks, spears and swords. They had set the houses of Muslims on fire. They were shouting and saying that Muslims be killed, they be burnt alive. The house of the witness was also burnt down. She had gone towards the fields and in the light of the house on fire, she was able to identify the accused. In Para -3 of her testimony – she has clearly stated that she had seen Kacharabhai Tribhovandas along with other people.

(23) Sharifabibi Sabir Hussein – witness No 83

This important witness had given her statement before the police on 3-3-02. In that she had given the name of the accused. The witness had identified the accused in the moonlight as well as the light of her burning house. She had seen the accused Kacharabhai Tribhovandas in the crowd.

(24) Sabir Hussein Kadarmiya Sheikh – witness no 48

The witness has given his testimony against the accused Patel Kacharabhai before the Hon. Court. His testimony is very important and cannot be ignored.

Accused No 16 Patel Mangalbai Mathubhai V/s Evidences provided in the testimonies before the Hon. Court against this accused

(1) Ashikhussein Bachumiya – Witness No 55

This witness is important because he has seen the event with his own eyes and he had given his statement to the police at the earliest. In his statement witness Ashikhussein had mentioned the name of accused Mangalbai Mathurbhai. In his testimony before the Hon. Court, he had stated that a crowd had attacked the house of Mahmudmiya. The crowd was shouting, ransacking and looting the houses of Sheikh Vas. The house of Mahmudmiya was set on fire. In that crowd accused Mangalbai Mathurbhai was also there. This witness had identified the accused Mangalbai Mathurbhai before the Hon. Court.

(2) Shabirhussein Imamsha – witness no 58

The witness had identified accused Mathurbhai Mangalbai before the Hon. Court. He was indulging in criminal acts on the day of the event.

(3) Bachumiya Imammiya Sheikh – witness no 50

The witness had given his testimony before the Hon. Court against the accused Mangalbai Mathurbhai and had identified him in the Hon. Court.

(4) Akbarmiya Rasulmiya Sheikh – witness no 66

The witness has stated in his testimony that the accused Mangalbai Mathurbhai was in the crowd along with weapon.

(5) Bashirabibi Bachumiya – witness no 78

The witness had confirmed in her testimony before the Hon. Court that the accused Mangalbai Mathurbhai was involved in the act. He was also identified by the witness before the Court.

(6) Rukshanabann Ibrahimiya Sheikh – witness no 80

On the day of the event, the accused Mangalbai Mathurbhai was in the crowd indulging in criminal acts. He was also identified before the Hon. Court by the witness.

(7) Sabirabibi Shabirhussein – witness no 82

The witness had identified the accused Mangalbai Mathurbhai before the Hon. Court as one who was in the crowd indulging in criminal acts.

(8) Shafirabibi Sabirhussein – witness no 83

The witness had identified the accused Mangalbai Mathurbhai before the Hon. Court. He was involved in criminal acts.

Thus, there are eight witnesses testifying before the Hon. Court against the accused for his criminal acts.

Accused No 17 Prajapati Gordhanbhai Revabhai V/s testimonies of various witnesses against him

(1) Ashikhussein Bachumiya – witness no 55

This important witness Ashikhussein had in his statement before the police on 2-3-02 given the name of Gordhanbhai Revabhai and before the Hon. Court, he had stated as follows:-

....On 1-3-02, I was with my family members at my house. On that day at about 9.30 at night a crowd consisting of Hindus from our village came from the side of the Mahadev temple, screaming and shouting, 'kill Muslims', 'cut them to pieces', 'burn them alive'. They had weapons like scythes, sticks, swords, pipes, petrol and kerosene tin pots and burning rags. They came in front of the Sheikh Vas, set fire to three cabins and ransacked and looted the galas. After sometime, the crowd came again and went towards Sheikh Vas, screaming and shouting. They ransacked the houses, looted and pelted stones. At that time, I had seen Patel Ashwinbhai Baldevbhai with tin pot....Gordhanbhai Revabhai..Rohitkumar Ramanlal. These people were in the crowd and they had weapons with them. The crowd was coming towards the house of Mahmudmiya Husseinmiya.

The witness had identified the accused Prajapati Gordhanbhai Revabhai before the Hon. Court. Witness Ashikhussein Bachumiya is a very important and wholly reliable witness. We request that his testimony should not be ignored.

(2) Hizbulmiya Husseinmiya – witness no 52

This witness had given the name of the accused at the earliest, on 10-03-02 after the event took place.

The witness had given testimony before the Hon. Court in which he had mentioned the name of the accused Prajapati Gordhanbhai Revabhai and had also identified him. Thus, the testimony of this witness is an important and solid evidence against this accused.

Accused no 18 Patel Bhikhabhai Joitabhai V/s Evidences from the testimonies against the accused before the Hon. Court

Against this accused following are the witnesses:

- (1) Witness No 56 Ashik Hussein Bachumiya
- (2) Witness No 66 Akbarmiya Rasulmiya
- (3) Witness No 68 Gulamali Akbarmiya
- (4) Witness No 71 Mangalbai Ramabhai Raval

Witness Mangalbai Ramabhai Raval had given testimony in which he said that, on the day of the event a crowd of Hindus, with weapons like sticks, scythes, pipes, swords, tin pots of petrol and kerosene had attacked Sheikhvas. The accused Bhikhabhai Joitabhai was among the crowd. This testimony was given by witness no 55 Ashikhussein before the Hon. Court. Supporting it, witness no 66 Akbarmiya Rasulmiya and witness no 68, Gulamali Akbarmiya also gave their testimonies before the Hon. Court and they had identified the accused Bhikhabhai Joitabhai before the Hon. Court.

Moreover, witness No 71, Mangalbai Ramabhai Raval gave his testimony in which he clearly stated that he did not belong to the adversely minority community (meaning Muslims). Still however, as a neutral and independent witness he has given his testimony without any malice towards anyone.

Being neutral, this witness is very important. He has no enmity or grudge against anyone and hence, he has no reason to give false testimony. This witness gave his testimony before the Hon. Court. According to that, he said that on 11-3-02, at about 9.00 at night Ramabhai Mohanbhai Patel had kept a tractor on the side of his house. It contained two, three or four big drums of kerosene, and one drum of petrol. He had seen the second accused Bhikhabhai Joitabhai walking on the road. They were taking kerosene drums to the house of Kantibhi Prabhudas. The witness said that when those accused were passing by, smell of kerosene was coming from them. Then at night, he had seen crowds of Patels. They were visible in the focus of light there. Then he had seen flames coming from the house of Mehmudbhai in Sheikh Mohalla. Cries of 'save', 'save' were coming but since the crowd was very big, the witness was not able to go there. Thus, the witness had given very strong evidence. He had also identified the accused in the court. This witness is neutral and independent. He has no enmity towards anybody and has no reason to given wrong name. His testimony, therefore, cannot be ignored. Moreover, the witness had identified the accused Bhikhabhai Joitabhai.

Thus, sufficient and solid evidence against Bhikhabhai Joitaram exists and it is sufficient to prove his criminal acts.

Accused No 19 Prajapati Rohitkumar Ramanbhai V/s Testimonies of various witnesses before the Hon. Court

(1) The accused is a minor – witness Ashikhussein Bachumiya has given his testimony indicating involvement of the accused.

Accused No 20 Prajapati Ravikumar Amratbhai V/s Testimonies of various witnesses before the Hon. Court against him

Following witnesses have testified against the accused before the Hon. Court

- | | | |
|-----|---------------|--|
| (1) | Witness No 52 | Hizbulmiya Husseinmiya |
| (2) | Witness No 55 | important witness Ashikhussein Bachumiya |
| (3) | Witness No 75 | Firozabanu Bachumiya |
| (4) | Witness No 81 | Dilavarkhan Abbasmiya |

Witness Dilavarkhan testified before the Hon. Court against the accused and said that he was part of the crowd which was indulging in criminal acts. Witness Dilavar Khan was a minor at that time of the event so he did not know the accused by their names. But witness Dilavar Khan was present in the house of Mahmudmiya and he could recognize the persons who were in the crowd who attacked them. He also identified accused Prajapati Ravikumar Amratlal. Dilavar Khan was 12 years old at the time of the event and he has not made mistake in identifying the accused.

Thus, there is enough evidence against the accused.

Accused No 21 Patel Babubhai Kantibhai V/s Evidences contained in the testimonies of various witnesses before the Hon. Court

- (1) Nazir Mohmud Akbarmiya – witness No 51

Witness has evidence according to which he says that on the day of the event, witness Nazir Mohmud had seen the accused with burning rags. He was part of the rioting crowd. He had identified the accused in the court by calling his name before the Hon. Court. This witness had given his testimony before the Hon. Court in which he said.

.....After some time, the crowd came near our mohalla. It was screaming and shouting, saying that 'miyabhai be killed', 'they have to be cut t pieces', 'they have to be burnt alive'. They attacked our mohalla, started pelting stones at us. I had seen Rameshbhai Kantibhai with a scythe, Rameshbhai Ramabhai also with a scythe, Dahyabhai Kacharabhai with stones, Babubhai Kantibhai with burning rags, Prajapati Ramanbhai Ganeshbhai with a kerosene tin pot, Patel Vishnubhai Prahladbhai with a scythe and Patel Joitabhai

Ramabhai Gangavat. These people had attacked our mohalla. There were other people also with them....I had seen these men ransacking and setting fire to our Muslim houses. This crowd had gone toward Mahmudmiya Husseinmiya's house. Our women and children, out of fear had gone inside Mahmudmiya Husseinmiya's house, thinking it was a safe place. At that time, I was hit by a stone from the crowd and I was injured on my left ankle and left eye. I had hid myself in my old house. The crowd had gone towards Mahmudmiya's house and after breaking open the windows, had thrown kerosene and petrol inside and set fire to the house.

(2) Mohmud Sattar Bachumiya Sheikh – witness no 59

The witness Mohmud Sattar had given his statement to the police as early as on 2-3-02 and had given the name of the accused. In his testimony before the Hon. Court he had given the name of Babubhai Kantibhai. He was in the crowd which was indulging in looting and ransacking the houses and setting fire to them. He had, in his hand a piece of brick. The witness had also identified the accused before the Hon. Court.

.....Today at about 11.30 or 12 o'clock, a crowd came. It was shouting and screaming, saying 'kill the musalmans', 'burn them alive', 'don't leave them because they have burnt our Hindus alive!' They pelted stones at us and we also retaliated. We resisted for some time...the car was burning. In its light, I had seen those men and recognized them. Ambalal Maganlal had a scythe in his hand. Babubhai Kantibhai had a piece of brick in his hand...I had seen those men. They were setting fire to our houses and ransacking them. They were coming towards Mehmudbhai's house. I had gone back to my house. Screams of 'save', 'save' were coming from Mehmud Khan's house. Out of fear, I had hid myself in my house.

(3) Munsaf Khan Pathan – witness No 70

The witness had said in his testimony before the Hon. Court that the accused Babubhai Kantibhai was in the crowd indulging in criminal acts. The witness had identified the accused before the Hon. Court.

Accused No 22 Patel Dineshkumar Baldevbhai V/s Evidences contained in the testimonies of various witnesses

(1) Mohmud Sattar – witness No 59

This witness had given his statement to the police at the earliest i.e. on 02-03-02. He had given the name of the accused in his statement. In his testimony before the Hon. Court he had stated that he had hid himself in the nearby house and was able to see from the window. His testimony is found in exhibit 557 before the Hon. Court. A jeep was set on fire near his house. In the light of the burning jeep, he had seen persons with weapons. He was able to recognize the accused. There was accused Dineshbhai Baldevbhai. The witness Mohmud Sattar had identified the accused Dineshbhai Baldevbhai.

This witness Mohmud Sattar is a wholly reliable witness and his testimony is perfectly trustworthy and reliable.

(2) Faridabanu Ashikhussein – witness no 73

The witness had burns on her leg and hand. Her Aftab and daughter Ashiya had also received burn injuries. The daughter later died. The police had pulled her out from the house. On 02-03-02, police had recorded her statement in which she had given names of the accused. Since much time has passed, so she could recognize the accused from their faces. She had identified accused Dinesh Kumar Baldevbhai.

Thus, this witness Faridabanu is a very important and wholly reliable witness. Her testimony is very important and trustworthy and her evidences cannot be ignored. She has no reason to give false names.

(3) Sabirhussein Kadarmiya – witness No 48

The witness had given his testimony before the Hon. Court against the accused and had stated that they were involved in criminal acts.

Accused No 25 Prajapati Dahyabhai Varvabhai V/s Evidences contained in the testimonies of various witnesses

Five witnesses have given testimonies against this accused before the Hon. Court

(1) Hizbulmiya Husseinmiya – witness no 52

The witness gave testimony before the Hon. Court and gave the name of the accused Dahyabhai Varvabhai. He was in the crowd and had a pipe in his hand. He was indulging in criminal activities. The witness identified the accused before the Hon. Court. In his testimony, the witness said the following:

....the crowd came again: It was shouting and screaming, saying 'kill Musalman', 'cut them to pieces'. It went towards Sheikh Vas....I was afraid, so I hid myself. The crowd had set fire to the galas and cabins. Our hoouses were also set on fire. They had gonetowards the home of Mahmudbhai. I had seen Patel Chaturbhai Kanabhai of our village. He had iron pipe in his hand. When those men were going, I was hit by a stone on my left wrist. The crowd set fire to our houses in Sheikh Vas. There were cries of our women and children coming from Mahmudmiya's house.

(2) Ashikmiya Bachumiya – witness no 55

The witness had mentioned accused Dahyabhai's name as one who was involved in serious criminal acts. The accused was identified in the court. The testimony of the witness against the accused cannot be ignored.

(3) Gulamali Akbarmiya – witness no 68

The witness described the event and mentioned that the accused was indulging in criminal actions. He was identified before the Hon. Court.

(4) Firozabanu Bachumiya – witness No 75

The witness had pointed her finger towards the accused.

(5) Rukshanabanu Ibrahimbhai – witness no 80

In her testimony before the Hon. Court, she had stated that village people had surrounded the house of Mehmudmiya from all sides and set it on fire with petrol and kerosene. In that fire, her mother layadabibi and two sisters had died. In para 3 of her testimony before the Hon. Court, she had said that she could identify the faces of persons involved in the crowd. In the court, she identified accused Dahyabhai Varvabhai. Thus, this witness is wholly reliable.

Accused No 26 Patel Raghubhai Revabhai V/s testimonies of various witnesses

(1) Mohmud Sattar Bachumiya Sheikh – witness no 59

The witness said in his testimony that out of fear, he had hid himself in the nearby house when the event took place. He had seen from the window that the crowd had set fire to the jeep and he could recognize the persons in the light of the burning jeep. He saw that accused Raghabhai Revabhai was also there.

(2) Shafikmiya Babumiya – witness no 61

He also gave the name of the accused in his testimony and also identified him.

.....Para No 2...The same crowd came back at about 11.30 at night, screaming and shouting, saying 'kill miyabhai', 'cut them to pieces', 'set them to fire, alive'. Then they resorted to heavy stone-pelting on our Sheikh Mohalla. I was hurt on my head and right leg due to stone throwing. The crowd came, setting fire to the houses. I had seen them and recognized them. They were with weapons. Raghubhai Revabhai...these seven were seen with their weapons... Thereafter, out of fear I hid myself in the narrow lane of Bachumiya Imammiya's house. The crowd went towards the house of Mehmudmiya, surrounded it from all sides and set it on fire with kerosene, petrol and burning rags. Our people cried for help and requested to be saved.

This witness had identified the accused by his name before the Hon. Court.

(3) Munsaf Khan Yasin Khan Pathan – witness no 70

The witness had seen the accused when he was indulging in the attack when the event took place. Before the Hon. Court, the witness submitted the following in his testimony.

.....at around 9.30 at night, a crowd consisting of Patels of the village got together. It was shouting 'set fire to miyas', 'kill them'. They came behind my old house and came towards the entrance of Sheikh Mohalla....The crowd came back again and started pelting stones on the side of my old house. I saw Rajeshbhai Punjabhai, Prahladbhai Jagabhai, Bababhai Kantibhai and others. Among them was Raghubhai Revabhai. He had stones with him...Those people pelted stones at our houses, so we also threw stones in return. Later, the crowd set fire to our houses in Sheikh Mohalla. Late at night, son of driver Ashikmiya Bachumiya came in the mohalla and told me that the Patels had set fire to my house and jeep. They had also burnt alive all those who were taking shelter in the house of Sheikh Mehmud Miya.

This witness had identified the accused before the Hon. Court.

(4) Firozabanu Bachumiya Sheikh – witness no 75

This witness also submitted in her testimony before the Hon. Court, involvement of the accused in the criminal acts.

Accused No 27 Patel Mathurbhai Ramabhai V/s Testimonies of various witnesses

(1) Mohmud Sattar Bachumiya – witness no 59

The witness had seen the accused in the light of burning jeep from his window. He could identify the accused Mathurbhai Ramabhai before the Hon. Court. In his testimony before the Hon. Court, he had stated as follows:

....The crowd came at about 11 to 11.30 at night. It was screaming and shouting 'kill Musalmans', 'burn them alive', 'don't let them escape because they have burnt alive our Hindus at Godhra'. They pelted stones. We also threw stones in return...the car was burning. I could see the persons. Among them were Ambalal Maganbhai with a scythe,.....Mathurbhai Ramabhai...I had seen those men. They were ransacking our houses and setting them on fire. They were coming towards Mehmudbhai's house. I had gone back in my house. From Mehmudbhai's house, cries of 'save', 'save' were coming. Out of fear, I had hid myself in my house. After sometime, the crowd shouted 'Bharat Mata ki jai' and then left.

(2) Rafikmiya Mohmud Hussein Sheikh – witness no 62

The witness had identified accused Mathurbhai as one who was involved in the criminal acts.

(3) Akbarmiya Nathumiya Sheikh – witness no 65

The witness had identified the accused Mathurbhai as one involved in the criminal acts.

(4) Gulamali Akbarmiya Sheikh – witness No 68

On the day of the event, Mathurbhai Ramabhai was in the crowd which was indulging in pelting stones and setting fire to the buildings. The witness identified the accused before the Hon. Court.

...we had tried to oppose but the crowd was very big – about one thousand to 15 hundred. We could not face them, so we shifted inside. The crowd came inside and started setting fire to houses. They pelted stones, as a result, I was hurt on the left leg's knee and left shoulder. When the crowd came inside, I saw Ambalal Maganlal was instigating the crowd. He had scythe in his hand. Mathurbhai Trikambhai had stones in his hands...Mathurbhai Ramabhai...Govindbhai Mohanbhai were there. I had gone inside the small lane and was leaning against the wall of Bachubhai. The

crowd of Patels went towards Mahmudbhai. The house was surrounded from all sides. I tried to come out and see. I could see that the crowd was trying to break open the gate of Mahmudmiya Husseinmiya's house. Our men, women had gone inside the house of Mehmudmiya. The crowd of Patels had gone to the house. They broke its window and even attempted to break the terrace. The crowd threw kerosene, petrol and burning rags inside the house. I could hear the cries of our people requesting to be saved but I could not go there and save them. The crowd was shouting 'kill them', 'cut them', 'burn them'. The cries of our people was continuing. At this stage, the witness remembered the entire event and became emotional so the judge allowed him to drink water. The witness said this and also identified the accused Mathurbhai Ramabhai before the Hon. Court.

(5) Munsaf Khan – witness no 70

The witness in his testimony gave the name of accused Mathurbhai Ramabhai. He was involved in stone pelting as part of the crowd. In his testimony, he said:-

....At about nine- nine thirty, a crowd of Patels came behind my old house; shouting to kill miyabhai and to burn them alive. The crowd again came and started throwing stones at my old house. I had seen Patel Rajeshbhai Punjabhai, Prahladbhai Jayabhai....Mathurbhai Ramabhai and Raghubhai Revabhai. He had stones with him....Babubhai Kantibhai and others were there. These people pelted stones at my house, so we also threw stones at them. So, they set fire to houses of Sheikh Mohalla. Late at night, the son of driver Ashikmiya Bachumiya came and he told me that the Patels have set fire to my house and jeep. They have burnt down the house of Mehmudmiya and all those who were taking shelter there were dead.

(6) Sabirhussein Kadarmiya Sheikh – witness No 48

The witness had given the name of Mathurbhai Ramabhai as one who was in the crowd and who was indulging in criminal acts. The accused was also identified before the Hon. Court.

....On 1-3-2002, Bharat Bandh was announced. At about 10.00 at night, the Patels of our village attacked Sheikh mohalla with scythes, sticks, pipes, kerosene and petrol. They set fire to three cabins which were near the entrance of the mohalla. There was focus light installed and I could see in its light that there was Patel

Ambalal Maganlal...Mathurbhai Ramabhai...Chaturbhai Kanabhai and others. They were instigating the crowd and setting fire to the houses. They were pelting stones from their houses because their houses were at a height. The Patels were pelting stones from the graveyard. The stones were coming from all sides... I was hit on my neck. All persons in the crowd had some weapons with them. They were entering the Sheikh mohalla with intention.....setting fire to houses. They were proceeding towards the house of Mehmudmiya Hussein miya. They broke open one window and from there, they threw kerosene, petrol and burning rags inside the house. There was one iron pipe and an electric wire was attached to it. This was kept in the room. Persons from inside the house were shouting for help and to be saved. The cries were heard outside.

Thus, the testimony of the witness is very important and cannot be ignored.

Accused No 28 Patel Sureshbhai Ranchodbhai Revabhai V/s Testimonies of various witnesses before the Hon. Court against the accused

- (1) Witness no 47 and complainant Ibrahimmiya has given evidence before the Hon'ble Court against the above mentioned accused.
- (2) The accused was involved in setting fire (with burning rags) to the houses in Sheikh Vas. This was reported by witness No 54 Sharifmiya Bhikhumiya, witness no 68, Gulamali Akbar miya Sheikh, and witness no 69 Mehmudmiya Husseinmiya before the Hon. Court. witness Gulamali had identified the accused before the Hon. Court.

Witness Gulamali Sheikh stated in his testimony as follows:

....We tried to resist but the crowd was big, consisting of about one thousand five hundred. So we could not face them. We went back and the crowd of Patels started setting our houses on fire. They were pelting stones. One stone hit me on my left leg and at the back of left shoulder. Then the crowd of Patels had come inside the mohalla. I had seen Ambalal Maganlal was instigating them. He had a scythe in his hand. Mathurbhai Trikambhai had stones in his hands....Sureshbhai Ranchodbhai had a burning rag in his hand. I had seen Govindbhai Mohanbhai. I had gone inside the small land and was standing against the wall of Bachubhai. This crowd of Patels had gone towards Mehmudbhai's house, setting fire to the houses on the way. They had surrounded

the house of Mehmudbhai. I saw after coming out that the crowd was trying to break open the gate of Mehmudbhai. Our men and women had gone inside that house. The crowd of Patels went towards the house, broke the window. They even tried to break the terrace. They poured kerosene, petrol and threw burning rags inside. Our people cried for help but we could not help them. The crowd was shouting, 'kill', 'kill', 'cut them to pieces', 'burn them alive'. At that time, we could hear our people's cries. At this stage, the witness remembered the incident. So the Hon. Court gave him permission to drink water. The crowd of Patels was on all sides of Mehmudbhai.

(3) Dilavarhussein Abbasmiya – witness no 81

The witness was a minor of 12 years only. He was inside the house of Mehmudmiya which was set on fire with kerosene and petrol. He had recognized the accused before the Hon. Court. Being a child witness, the testimony of this witness is more trustworthy and important.

(4) Sahirhussein Kadarmiya Sheikh – witness no 48

The witness had identified the accused Suresh Ranchodbhai before the Hon. Court as one who was in the crowd indulging in criminal activities. He said...

.....On 1-3-2002, Bharat Bandh was announced. At about 10 o'clock at night, Patels of our village attacked Sheikh mohalla with scythes, sticks, pipes and tin boxes full of kerosene and petrol. There were three cabins in front of the Sheikh mohalla which they had set fire to. In the focus light, I could see Patel Ambalal Patel who belonged to our village. Sureshbhai Ranchodbhai...Chaturbhai Kanabhai. They were instigating the crowd. The burning of houses and pelting of stones was going on. The houses of Patels were at a height. So they were throwing stones at our houses which were at a lower height. Patels were throwing stones from the graveyard. The stones were coming from all sides. One brick hit me on my neck. These people had murderous weapons and with that they were coming. While setting the houses on fire, they came towards the house of Sheikh Mehmud miya Hussein miya where our people were hiding. They broke open the window and threw petrol and kerosene inside. There was one iron pipe which was connected with a live wire. It was kept inside the room. Cries of 'save', 'save' was coming from the house.

Thus, the witness has provided sufficient evidence before the Hon. Court.

Accused No 29 Patel Chaturbhai Kanabhai Girdharbhi V/s Testimonies of various witnesses before the Hon. Court, against the accused

There are ten witnesses who have testified against the accused. Three of them (1) witness 47, Ibrahim miya Rasulmiya (2) witness no 49, Iqbalmiya Rasulmiya and (3) witness no 52, Hizbulmiya Hussein miya have told in their testimonies that they had seen the accused indulging in criminal activities. Whereas Iqbalmiya Rasulmiya and Hizbulmiya Hussein miya had seen the accused carrying pipe with him.

(4) Ashikhussein Bachumiya Sheikh – witness no 55

This important witness had identified the accused before the Hon. Court

(5) Aiyub miya Rasulmiya – witness no 56

On the day of the event, the accused was in the crowd with a pipe in his hand. This was stated by the witness. The witness had received injuries on the day of the incident.

(6) Mahmad Sattar Bachumiya – witness no 59

This witness had seen accused Chaturbhai Kanabhai from the window in the light of the burning jeep and he had identified the accused before the Hon. Court. In his statement before the police on 2-3-2002, he had given the name of the accused and had identified him before the Hon. Court. Thus, the witness's testimony is very important and wholly reliable.

(7) Shafikmiya Babamiya – witness no 61

This witness had said in his testimony before the Hon. Court that he had seen the accused with a weapon, indulging in criminal activities alongwith the crowd. He had also identified the accused before the Hon. Court. In his statement he had said.

.....The same crowd came at about 11.30 at night, shouting 'kill miyabhai', 'cut them to pieces', 'set them on fire'. Then they pelted stones on our Sheikh mohalla. I was injured on my right leg. I had seen the crowd setting fire to our houses in our mohalla. They had weapons with them...Chaturbhai Kanabhai...After that, out of fear, I hid myself in the small lane of Bachubhai Imambhai. The crowd went towards the house of Mehmudmiya, setting fire to the houses on its way. Then they surrounded the house of Mehmudmiya from all sides, and set it on fire with kerosene, petrol

and burning rags. Our people who were inside, were shouting to be saved.

(8) Badrunisha Akbarmiya Sheikh – witness no 77

This witness has also identified the accused before the Hon. Court as one who was indulging criminal activities as a member of the crowd.

(9) Rukshana banu Ibrahim miya Sheikh – witness no 80

In her testimony – para no 3 – before the Hon. Court, she has stated that she could recognize those who were in the crowd from their faces and she had identified accused Chaturbhai Kanabhai before the Hon. Court.

(10) Sabirhussein Kadar miya Sheikh – witness no 48

The witness had given the name of the accused and identified him before the Hon. Court.

...on 1-3-02, Bharat Bandh was announced. At about 10 o'clock at night, Patels of our village attacked our Sheikh mohalla with scythes, sticks, pipes and cans full of kerosene, petrol and some chemicals...they burnt down three cabins in front of Sheikh mohalla..In the focus of the light kept outside the mohalla, Patel Ambalal Maganbhai..Chaturbhai Kanabhai and others of our village were shouting. They were instigating the crowd. They had started burning houses in Sheikh mohalla. They were throwing stones. The Patels had their houses at a certain height whereas houses in Sheikh mohalla were at a lower height. They were pelting stones from their houses and from the graveyard. At that time....I was hit by a stone on my neck. Members of the crowd – each one had weapons in their hands and they were setting fire to our houses and coming towards the house of Mehmudmiya Hussein miya where our people had taken shelter. They broke open its window, threw kerosene and petrol inside and set it on fire. At that time, there was one iron pipe in the room with which live electric wire was attached. Cries of 'save', 'save' were heard from the house.

Thus, the witness has provided very trustworthy evidence.

Accused No 30 Patel Tulsibhai Girdharbhai V/s Testimonies of various witnesses against the accused

Against this accused there are 11 witnesses who have given testimonies against him before the Hon. Court. among them (1) Plaintiff – Ibrahimbhai – witness no 47 and (2) Nazir Mohmad Akbarmiya – witness no 51 have stated in their

testimonies before the Hon. Court that the accused was in the crowd at the time of the event and witness Nazir Mohmud had seen him in the crowd with burning rags.

(3) Mustafamiya Rasulmiya – witness no 57

The witness was injured during the event. He had seen the witness during the event and had also identified the accused before the Hon. Court. In his testimony, he had stated as follows:

...A crowd of Patels had come on 1-3-02. It was shouting and screaming. It had weapons, kerosene and petrol filled cans. They had set fire to cabins in front of our mohalla. When police came, the crowd got dispersed. Again at 11.30 at night, the crowd came shouting. They shouted that not a single miya should remain alive. They came with weapons and cans of petrol and kerosene. They set fire to houses in our mohalla and ransacked the houses. Our people had gone to the house of Mehmudbhai. My wife and son Javedmiya had gone towards Mehmudbhai's house. I had seen the men in the crowd. There were Laxmanbhai Dhulabhai Patel, Rameshbhai Dhulabhai Patel, Madhabhai Vitthalbhai Patel, Jayantibhai Mangaldas alias Bako, Kacharabhai Tribhovandas, Ashwinbhai Baldevbhai Botham, Tulsidbhai Girdharbhai Patel. These people had gone towards Mehmudmiya's home. They set fire to our people with petrol and kerosene. At that time, I was hiding behind the house of Bachumiya Imammiya. Our people were crying for help and to be saved. I had heard their cries. I was hit by a stone and was hiding.

(4) Shafikmiya Babu miya – witness no 61

In his testimony before the Hon. Court, the witness had said that he had seen the accused in the crowd. He was with weapons. He was also identified by the witness before the Hon. Court.

....The same crowd came at about 11.30 at night and was shouting 'kill miyabhai', 'burn them alive'. They made heavy stone-throwing on our Sheikh mohalla. I was injured on my right leg. The same crowd came in Sheikh mohalla, set fire to houses. I had seen Kacharabhai Tribhovan...Tulsi Girdhar...all seven had weapons with them. I was afraid, so I hid myself in the small lane of Bachubhai Imambhai. The crowd went towards Mehmudmiya's house, setting houses on fire on their way. They surrounded the house from all sides and set it on fire with kerosene, petrol and burning rags. Our people were crying for help.

(5) Akbarmiya Nathumiya Sheikh – witness no 65

At the time of the event, the accused was in the crowd with burning rags in his hand. He was indulging in various criminal acts. The witness had identified the accused before the Hon. Court.

.....Para 2 ...At about 9 o'clock at night, a crowd of Patels came from the side of Mahadev temple, shouting 'kill miyabhai', 'set them to fire'. They set fire to three cabins in front of Sheikh mohalla.....The crowd came again, shouting 'kill miyabhai', 'set them on fire'. They ransacked the house of Painter Manubhai. I saw accused Rameshbhai Gangavati with a scythe, Madhabhai Vithalbhai with a stick, Jayantilal Ambalal with a stick, Rajeshbhai Punjabhai with a stick, Ashwinbhai Jagabhai with a tinpot, Patel Tulsibhai Girdharbhai with a burning rag. Pavan Mulli Vasanvala was instigating, saying 'kill miyabhai', 'cut them to pieces'.

(6) Akbarmiya Rasulmiya – witness no 66

This injured witness gave his testimony before the Hon. Court, according to which the accused was in the crowd indulging in criminal acts. He had weapons with him.

(7) Imtiazbhai Mohmud Hussein Sheikh – witness no 67

This injured witness had in this testimony before the Hon. Court said that the accused was in the crowd indulging in criminal activities. He was identified by the witness before the Hon. Court. In his testimony he said:-

....Para – 3 – The crowd had set fire to Manumiyabhai miya's house. I was standing in front of Ayyubmiya Rasulmiya's house. At that time, I had seen these persons: Tulsi Girdhar, Pasha Mohan, Kachara Tribhovan, Raman Jivan, Dinesh Hivanbhai, Rajesh Punja. After that, to save my life, I had hid myself in the house of Sherumiya Rasulmiya. The Patels had set fire to the house of Mehmudmiya and....

(8) Gulamali Akbarmiya – witness no 68

This injured witness gave his testimony. According to it, the accused was with the crowd which was indulging in ransacking the houses. The accused was with burning rags. The witness said in his testimony as follows:

...Para No 3 – we tried to resist but they were a crowd of fifteen hundred or so. We could not face them and we had to step back.

The crowd of Patels set fire to our houses and entered our mohalla. Pelting of stones was going on. They also continued to set our houses on fire. I was hit by a stone on my left leg and ankle, another stone hit me on my left shoulder. I saw in the crowd Ambalal Magan was instigating it. He had a scythe in his hand. Mathurbhai Tribhovan...Tulsibhai Girdharbahi Mohanbhai. I was inside the by-lane, standing against the wall of Bachubhai. The crowd came towards Mehmudmiya's house, surrounded it from all sides. I came out and tried to see. I could see that the crowd was trying to break the gate of Mehmudbhai's house. Our people had gone inside Mehmudbhai's house. The crowd broke the window of the house. I tried to break the terrace but could not do so. They poured petrol and kerosene and burning rags in the house through the window. Our people were shouting for help but we were unable to save them. The crowd was shouting 'kill them', 'cut them', 'burn them alive'. Our men and women were crying for help. At this stage, the witness recollected the event so the judge gave him permission to drink water. The crowd of Patels was on all sides of Mehmudbhai.

(9) Badrunisha Akbarmiya Sheikh –witness No 77

The witness stated in her testimony that the accused Tulsibhai Girdharbhai was in the crowd which was indulging in rioting. He was also identified before the Hon. Court. She said in her testimony...

....Para – 2...After sometime, that crowd came from Mahadev temple, shouting 'kill them', 'cut them to pieces'. They came near Sheikh mohalla and started pelting stones. My husband put me to Bachu miya Nathumiya's house. Then the crowd came towards our houses and set fire to them. They set fire to Bachubhai's jeep. I had seen them. They were Ambalal Kapur, Rameshbhai Ganeshbhai, Chaturbhai Vitthalbhai, Chaturbhai Kanabhai, Pashabhai Mohanbhai, Kacharabhai Tribhovandas, Tulsi Girdharbhai. Then my husband took me to the field behind Mehmudbhai's house. From there, we heard the cries of 'save', 'save' from our people. The flames of fire were also visible. The crowd had left after shouting 'Bharat Mata ki jai'. Once the situation calmed down, we came back and saw that 29 dead bodies were lying inside Mehmudbhai's house. My house and all pieces of furniture therein was burning. Ornaments consisting of zarizari costing Rs. 10 thousand and other gold ornaments and cash were missing. They had taken away everything. I had suffered a loss of Rs. 1 lakh.

(10) Shamimbanu Mehmudmiya Sheikh – witness no 79

The witness stated in her testimony before the Hon. Court that she had personally seen the event and she could identify the accused from their faces. She had identified the accused Tulsibhai Girdharbhai before the Hon. Court.

....Para – 2 – again....the same crowd returned. Then they set fire to Manubhai Painter's house and Akbarbhai Nathubhai's house. They thus entered our mohalla, setting fire to other houses. I was in the house of Abhumama. Then my Abhumama came and told me that those people have come near and there is no window from where I can go. So, he said he would open the gate and asked us to hide wherever possible. All women from the mohalla had come to our pucca house to take shelter. I was in my own house. The Patels surrounded our house from all sides. They poured kerosene, petrol and threw burning rags inside the house and set the house on fire. They broke the terrace. I saw all that with my own eyes.... They had thrown rags dipped in kerosene in our house. They poured petrol. I had seen my mother, my two brothers Ifranbhai and Tipu Sultan and my sister Faridabanu burning alive.

(11) Dilavar Hussein Abbasmiya – witness no 81

The witness was a minor at the time of the event but he had seen persons who had set fire to the house of Mehmudmiya with petrol and kerosene as he was in that house at the time of the event. He had identified accused Tulsibhai Girdharbhai before the Hon. Court. Thus, there are eleven trustworthy witnesses who have testified against the accused and the evidences presented by them cannot be ignored.

Accused No 31 Patel Ramanbhai Jivanbhai Vajabhai V/s Testimonies of various witnesses before the Hon. Court

(1) Mohmud Sattar Sheikh – witness no 59

This witness has provided very trustworthy evidence. At the time of the event, he had seen from the window and was able to recognize the accused Ramanbhai Jivanbhai in the light of the burning jeep and he had identified the accused before the Hon. Court. In his testimony before the Hon. Court he has stated clearly...

....Today at about 11.30 or 12.00 at night, a crowd came shouting and screaming – 'kill Musalmans', 'burn them alive', 'they should not be let to go today because they have burnt alive our Hindus in

Godhra'. They started pelting stones. We also retaliated. The jeep was burning, in its light I had seen those people and recognized them. Ambalal Maganlal had a scythe in his hand...Ramanbhai Jivanbhai – I had seen those people. They were ransacking our houses and setting fire to them. They were coming towards Mehmudbhai's house. I had gone inside my house. Screams and cries of save, save were coming from Mehmudbhai house. Out of fear, I hid myself in my house. After some time, the crowd left, shouting 'Bharat Mata Ki Jai'.

(2) Gulamali Akbarmiya – witness no 68

This injured witness had stated in his testimony before the Hon. Court that the accused was in the rioting crowd and he was also identified.

(3) Sabir Hussein Kadar miya – witness no 48

The witness had stated in his testimony before the Hon. Court that the accused was involved in the criminal acts of the rioting crowd and he had identified him before the Hon. Court. In his testimony, he had stated that...

....On 1-3-02, there was Bharat Bandh...at about 10 o'clock at night, Patels of the village came and attacked Sheikh Mohalla with scythes, sticks, pipes and cans full of kerosene, petrol and some chemicals... They set fire to three cabins which were at the entrance of Sheikh mohalla. In front of the mohalla, there was a focus light fitted. I saw that Patel Ambalal Maganbhai belonging to our village...Ramanbhai Jivabhai, Chaturbhai Kanabhai were there. They were instigating the crowd. They started burning houses of the mohalla and pelted stones. Since houses belonging to Patels were at a higher level and houses in Sheikh Mohalla were at a lower level, Patels were throwing stones at our houses. Stones were also coming from the graveyard side. At that time...I was hit by a stone on my neck. People of this crowd had weapons in their hands. They were coming deliberately towards Sheikh mohalla setting fir to our houses. They came towards the house of Mehmudmiya Hussein miya where our men and women had taken shelter and hid themselves. They broke open the window of that house, poured kerosene and petrol inside and set it on fire. They had kept an iron rod which was fitted with a live electric wire. Cries of 'save', 'save' were coming from the house.

Thus, the testimony of this witness provides solid evidence against the accused.

Accused No 32 Patel Rajeshbhai Karshanbhai V/s Testimonies of various witnesses before the Hon. Court against the accused.

Against this accused, there is solid evidence produced

(1) by the witness Ashikhussein Bachumiya – witness no 55.

The witness had identified the accused. In his police statement on 2-3-02, the witness had given the name of the accused. He had also identified the accused before the Hon. Court. In his testimony before the Hon. Court, he had stated as follows:

...on 1-3-02, I was at home with my family. On that day, a crowd of Hindus came from the side of Mahadev temple, shouting and screaming, saying 'kill Musalmans', 'cut them', 'burn them'. They came with weapons in their hands. They had scythes, sticks, swords, pipes, kerosene and petrol cans and burning rags. They set fire to three cabins in front of Sheikh Vas. They broke ad ransacked the galas. They set fire to them. When the police came, the crowd dispersed but came back again when the police left. They came, looted and ransacked the houses, they threw stones. I saw among them Patel Ashwinbhai Baldevbhai with a tin pot, Patel Pashabhai Mohanbhai with tin pot, Chaturbhai Vitthalbhai, Rajeshbhai Karsanbhai, Madhabhai Vitthalbhai with pipes, Rameshbhai Prabhahbai with a scythe, Jayantibhai Mangalbai alias Bakabhai with a sword, Kalabhai Bhikhabhai, Bhikhabhai Joitabhai, Mangalbai Mathurbhai, Rameshbhai Kantibhai, Prahladbhai Somabhai, Jayantibhai Jivanbhai, Jayantibhai Ambalal – these people were throwing stones and pieces of bricks. Bhavesh Kanubhai Patel, Shital Narayan Sindhi, Prajapati Dahyabhai Varvabhai, Prajapati Ramanbhai Ganeshbhai, Gordhanbhai Revabhai, Rajeshkumar Amrutlal, Ravikumar Amrutlal, Rohitkumar Ramanlal – these people had weapons in their hands. Thereafter, my father asked me to take my wife, children and other members of the family to the pucca house of Mehmudmiya Hussein miya situated at the end of the mohalla and hide there. So, I put them there. Then they set my jeep on fire. I had seen Patel Kacharabhai Tribhovan, Ambalal Magan, Ramanbhai Ganeshbhai setting fire to my jeep. The crowd was coming towards the house of Mehmud miya Hussein miya.

(2) Rafik miya Mohmud Hussein Sheikh – witness no 62

This injured witness gave on oath the name of accused Rajeshbhai Karshanbhai and identified him in the court. The witness provided the following witness to the Hon. Court.

....Para No 3...after that around 11 – 11.30 pm, a huge crowd came yelling and screaming, 'kill the Muslims', 'cut them to pieces' and they started pelting stones. First, they destroyed the house of Bhai miya, Allahmiya and set it on fire. Then they went towards the house of Akbarmiya Nathumiya together with several men from our village which included Ambalal, Magan with sickles, Kalabhai Bhikhabhai, Jayantibhai Mangalbai, Pashabhai Mohanbhai, Joitaram Ramabhai (with a tin in his hand), Ashwinbhai Jagabhai, Rajeshbhai Karshanbhai – all these men had sticks and pipes with them. Then Kachrabhai Tribhhovandas, Govindbhai Mohanbhai, Rameshbhai Kantibhai were also there. One by one, the houses were set on fire. In order to save myself, I went towards the house of Ibrahimmiya Rasulmiya. These men saw me and in order to save myself, I went into the house of Ibrahim Rasulmiya. Then these men went towards the house of Mehmudmiya Husseinmiya, where our people had gathered and then these men surrounded the women, children and houses and we could hear the shouts and screams everywhere. After that, these men said 'Bharat Mata Ki Jai' and began leaving the place.

(3) Gulamali Akbarmiya Sheikh – witness no 68

This injured witness, in his testimony before the Hon. Court had given the names of the accused as one who was part of the rioting mob and had burning rags in his hand. He was also identified before the Hon. Court by the witness. In his testimony before the Hon. Court the witness said –

....Para No 3 – we had tried to resist but the mob was quite big – about 1500 persons, so we could not face them. We went inside and they came in our mohalla. The Patels in the crowd were setting fire to the houses. At the same time, stone pelting was going on. I was hit on the knee of my left leg. My left shoulder was also hit. When the crowd came in, I had seen Ambalal Magan was instigating the people. He had a scythe in his hand. Mathurbhai Trikambhai had stones in his hands..Rajesh Karshanbhai Mukari...came with a burning rag...I had seen Govindbhai Mohanbhai. I had gone inside the lane and was standing against the wall of Bachubhai. This crowd of Patels was going

towards the house of Mehmudbhai, burning houses on the way. They had surrounded the house of Mehmudbhai. When I came out I saw that the crowd was trying to break the gate of Mehmudbhai's house. Our people had gone inside the house of Mehmudbhai. The crowd broke open the window and also tried to break the terrace. Then they poured kerosene, petrol and burning rags inside the house through the window. We heard cries of 'save', 'save' but we could not do anything. The crowd of Patel was shouting, 'kill them', 'cut them to pieces', 'burn them alive'. Our people were crying for help. At this stage, the witness recollected the incident, so the judge gave him permission to drink water. The crowd of Patels was on all sides of Mehmudbhai's house.

Accused No 33 Patel Rameshbhai Kantibhai V/s Testimonies of various witnesses against the accused

(1) Plaintiff Ibrahimbhai – witness no 47

This witness had given his testimony against the accused and given evidence that the accused was in the rioting mob, himself involved in criminal activities.

(2) Nazir Mahmud Akbarmiya – witness no 51

According to the testimony of this injured witness, accused Ramesh Kantibhai was in the rioting mob. He had a scythe with him and he was involved in criminal activities. The witness also identified the accused before the Hon. Court.

In his testimony he says,

....That crowd rushed inside our mohalla. It was shouting and screaming 'kill miyabhai', 'cut them', 'burn them alive'. They mad heavy stone throwing on our mohalla. At that time, I had seen Rameshbhai Kantibhai with a scythe. I had also seen Patel Joitabhai Ramabhai Gangavat. They had attacked our mohalla. I had seen them setting fire to our houses and ransacking them. I had seen the crowd going toward the house of Mehmudmiya Husseinmiya. Our women and children had gone in that house, thinking it was a safe house. At that time, I was hit by a stone on the elbow of the left hand and eyeball of the left eye and was injured. I was hiding myself in my old house. The crowd had gone towards the house of Mehmudbhai and breaking open the window, it had set it on fire with kerosene and petrol.

(3) Ashik Hussein Bachumiya – witness No 55

This is an important witness as he had given his statement before the police on 02-03-02. In that statement, he had given the name of the accused saying he was indulging in serious criminal actions as part of the rioting mob. He was also identified as an accused before the Hon. Court by the witness. In his testimony before the Hon. Court, the witness said.

....on 1-3-02, I was at home with my family. On that day about 9.30 at night, a crowd of Hindus came from the side of Mahadev temple. It was screaming and shouting 'kill Musalmans', 'cut them', 'burn them alive'. They had weapons in their hands – sticks, scythes, swords, pipes, kerosene and petrol cans, burning rags. They came near Sheikh Vas, set fire to three cabins and ransacked the galas and looted them. The police came, so the crowd dispersed but came again when the police left. The crowd was shouting and throwing stones as well as ransacking the houses in Sheikh mohalla. I had seen Patel Ashwinbhai Baldevbhai with a tin pot, Rameshbhai Kantibhai....those persons were throwing stones and pieces of bricks. Thereafter, my father asked me to escort my wife, children and members of the family to the pucca house of Mehmudmiya Husseinmiya which was at the end of the mohalla and had a terrace. So I escorted my family members there and asked them to hide. Then my jeep was set to fire. I saw Patel Kacharabhai Rameshbhai, Ambalal Magan and Rameshbhai Ganeshbhai doing that. The crowd was coming towards Mehmudmiya Husseinmiya's house.

(4) Mahmud Sattar Bachumiya Sheikh – witness no 59

This witness had seen the accused from the window in the light of the burning jeep. The accused had a scythe with him. The witness had also identified the accused before the Hon. Court.

....In his testimony before the Hon. Court, the witness said...the same crowd came at about 11.30 or 12.00 at night, shouting – 'kill Musalmans', 'burn them alive and don't let them go as they have set fire to our Hindus in Godhra'. They pelted stones and we also threw stones against them...the jeep was burning and in its light I had seen Ambalal Maganbhai with a scythe, Rameshbhai Kantibhai with a scythe. These people were setting fire to our houses and ransacking them. They were coming towards Mehmudbhai's house. I had gone back to my house. I heard cries of 'save', 'save' from

Mehmudbhai's house. Out of fear, I was hiding in my house. After some time, the crowd left, shouting 'Bharat Mata Ki Jai'.

(5) **Bachumiya Imammiya Sheikh – witness no 60**

In his testimony, the witness said that the accused was involved in criminal activities as a member of the rioting mob.

.....At night at about 9.30, a crowd came from inside of Mahadev temple, shouting 'Bharat Mata ki Jai'. They had weapons, petrol and kerosene cans with them. In the light, I saw Kacharabhai Tribhovanbhai....Rameshbhai Kantibhai...Then they poured petrol in my jeep and set it on fire. There were Kacharabhai Tribhovanbhai...Rameshbhai Kantibhai who poured kerosene on my jeep. Rajeshbhai Punjabhai had thrown burning rags on it which resulted in big flames. The same crowd had gone towards Mehmudbhai's house. It broken the window and threw kerosene and petrol, threw burning rags as a result 28 men, women and children were burnt alive.

(6) **Rafikmiya Mohmud Hussein – witness no 62**

This injured witness had given the names of the accused in his testimony before the Hon. Court. In his testimony, he said.

...Para 3 – Thereafter, members of the crowd came at about 11 to 11.30 at night, shouting and screaming – 'kill Musalmans', 'cut them to pieces'. They started pelting stones at us. The first house of Bhaimiya Alammiya wa ransacked and set on fire. Second house of Akbarmiya Nathumiya was attacked. At that time, I saw Ambalal Magan of our village with a scythe...Rameshbhai Kantibhai...and others. One by one the houses were burning. To save my life, I went to Ibrahimmiya Rasulmiya's house. Thereafter, the crowd went towards Mehmudmiya Husseinmiya's house where our women, men and children were hiding. The crowd surrounded the house and set it on fire. We heard our people's cries for help. Then the crowd shouted 'Bharat Mata ki Jai' and left.

(7) **Akbarmiya Rasulmiya – witness no 66**

This injured witness had given before the Hon. Court the name of the accused and had said that he was indulging in criminal acts as a member of the rioting mob. In his testimony before the Hon. Court, the witness had stated...

....Once again the crowd which had come on 1st of March came again at 11.30 night and shouted 'kill miyabhai', 'cut them', 'burn

them alive'. Patels of our village started pelting stones and setting our houses on fire. We also pelted stones at them. One stone hit me on my right leg. I was hit on the back of my forehead and ankle of my foot. I was hiding behind the car of Bachubhai. Persons from our village were coming towards the house of Mehmudmiya, on the way setting fire to houses. I had run towards the graveyard. They had surrounded the house of Mehmudmiya. They were trying to break it with a big hammer. Its noise was heard. Then they threw petrol and kerosene. I was sitting behind the wall. One Patel saw me and pointed at me, so I hid myself in the hollow part of the grave and threw thorns over it. They came looking for me but I could be found. Then they threw a burning rag in the graveyard as a result, some dry grass started burning but it died down some 10 feet away from where I was hiding. After sometime, the crowd left shouting 'Bharat Mata ki Jai'.

(8) Gulamali Akbarmiya Sheikh – witness no 68

This injured witness gave the name of the accused and identified him before the Hon. Court as one who was in the rioting mob, indulging in criminal activities.

In his testimony before the Hon. Court, the witness said –

...Para no 3 – we tried to face them but they were a crowd of about 1000 to 1500 persons, so we could not oppose them. As we retreated, the crowd of Patels came inside the mohalla and set fire to the houses. Pelting of stones was going on. I was hit on the knee of left leg and left shoulder. When the crowd came in, I saw Ambalal Magan was instigating them. He had scythe in his hand, Mathurbhai Trikambhai had stones in his hands....Rameshbhai Kantibhai...Govindbhai Mohanbhai. I had seen them. had gone inside the small lane and was standing against the wall of Bachubhai. The crowd of Patels went towards the house of Mehmudbhai, on their way setting fire to houses. They surrounded his house. I tried to see after I came out. They were trying to break the gate of Mehmudbhai's house. Our people had gone inside Mehmudbhai's house. The crowd tried to break the window of the house. They even tried to break the terrace. After breaking open the window, they poured petrol and kerosene inside and threw burning rags in the house. We heard the cries of 'save', 'save' from our people but could not save them. All the while the Patels were shouting 'kill them', 'slaughter them', 'set them to fire'. We heard cries of our persons. At this

stage, the witness recollected the event, so he was allowed to drink water. The crowd of Patels was on all sides of Mehmudbhai.

(9) Sabirmiya Akumiya Pathan – witness no 46

He gave his testimony before the Hon. Court. He said on 28-2-02, Vishwa Hindu Parishad gave a call for Gujarat Bandh...Madhabhai Vitthalbhai's shop is situated...On seeing me, they cried out 'kill these bandiyas', 'cut them to pieces'. Accused Rameshbhai Kantibhai was present there.

Thus, there is ample evidence against the accused and it is reliable. The testimonies of witness Ashik Hussein Bachumiya and witness Mohmad Sattar Bachumiya cannot be ignored.

Accused no 34 Patel Madhabhai Vitthalbhai V/s Testimonies of various witnesses

There are 10 witnesses who have given testimony against the accused.

(1) Plaintiff Ibrahim – witness no 47

In his testimony, he had given the name of the accused as one involved in the criminal acts along with the riotous crowd.

(2) Iqbalmiya Rasulmiya Sheikh – witness no 49

The witness is injured and he had given the name of the accused who was present at the time of the event with a pipe in his hand. He was also identified before the Hon. Court by the witness. In his testimony before the Hon. Court, he had stated..

..... at about 11.30, a crowd had come, shouting and screaming, 'kill bandiyas', 'cut them to pieces', 'burn them alive'. The crowd came forward, looting and ransacking and setting fire to the houses. I had seen Ramanbhai Ganeshbhai with a tin pot in his hand...Madhabhai Vitthalbhai had a pipe...Rameshbhai Kacharabhai was the leader of the crowd. He was instigating and telling others not to spare anybody. At that time, I was hit by a stone on my head and was bleeding. To save myself, I had gone to the house of Ibrahim Rasulmiya. The crowd went towards Mehmudmiya Husseinmiya's house and surrounded it from all sides, broke the windows and set fire to all men, women and children after pouring petrol and kerosene inside.

(3) Nazir Mahmud Akbarmiya Sheikh – witness no 51

This is an injured witness. He had identified accused Madhabhai Vitthalbhai who was in the crowd and was indulging in criminal acts.

(4) Ashikhussein Bachumiya – witness no 55

This very reliable and important witness had, in his testimony before the Hon. Court identified the accused as one who was in the crowd and was indulging in criminal activities. This witness Ashikhussein had given his statement before the police on 2-3-02 and from the very beginning given the name of the accused Madhabhai Vitthalbhai. This is very important. In his testimony before the Hon. Court, he had said.

..on 1-3-02, when I was at my home with my family members, a crowd of Hindus came from the side of Mahadev temple, screaming and shouting, 'kill Musalmans', 'cut them', 'burn them alive'. They had in their hands weapons like sticks, scythes, swords, pipes, kerosene and petrol filled tin pots. They set fire to three cabins in the front of Sheikh Vas. They looted and ransacked the galas and set fire to them. As the police came, the crowd left the place but when the police left, the crowd again came back, screaming and shouting. It started pelting stones, ransacking and looting houses. I had seen Ashwinbhai Baldevbhai with a tin pot...Madhabhai Vitthalbhai with a pipe...Rohitkumar Ramanlal. They were all in the crowd with weapons. After my father asked me to escort my wife, children and other family members to the pucca house of Mehmudmiya Husseinmiya which was at the end of the mohalla and had a terrace and let them hide themselves there. I escorted them to that house. Meanwhile, my jeep was set on fire by Patel Kacharabhai Tribhovandas, Ambalal Magan, Ramanbhai Ganesh. The crowd was coming towards Mehmud miya Husseinmiya's house.

(5) Aiyyubmiya Rasulmiya – witness no 56

This witness was an injured one. In his testimony before the Hon. Court, he had given the name of the accused. He was in the crowd with a scythe in his hand. He was identified by the witness. The witness was scalded on his shoulder and neck. He said that the crowd had set him on fire. In the crowd he had seen the accused Madhabhai Vitthalbhai and had identified him before the Hon. Court. He had said.

..the same crowd came again screaming and shouting 'kill them'. They pelted stones at us, started looting and ransacking our

houses and setting fire to them. My maternal uncle Ibrahimmiya Rasulmiya was hit on his head. On seeing the crowd, I went towards the house of Ibrahimmiya Rasulmiya. My brother Iqbalmiya Rasulmiya was also hit by a stone on his head and right leg. He went towards the house of Ibrahimmiya. I went towards Ibrahimmiya's house. On the way, I had seen Ramanbhai Ganeshbhai...Madhabhai Vitthalbhai..Kacharabhai Tribhovan. They said, 'If you fold your hands, we will let you go'. We did that but they did not allow us to go. They set us on fire. They had weapons with them...Madha Vitthal had a scythe in his hand...They had burning rags in their hands which they threw in the room along with kerosene, petrol and chemical. They set us on fire. We were crying to be saved. I got burnt. My wife also got burnt. I had burns on both shoulders and neck.

(6) Mustufamiya Rasulmiya Sheikh – witness no 57

This injured witness testified before the Hon. Court that the crowd came with weapons and tin pots of kerosene. They ransacked our houses and set fire to them. According to the witness, he had seen the men in the crowd. There was accused Madhabhai Vitthalbhai whom he had identified before the Hon. Court. The witness said in his testimony...

...Again, the same crowd came at around 11.30 at night shouting and screaming to kill the miyas, not a single miya should be left alive. They all came with weapons and tin pots of kerosene. They ransacked the houses in our mohalla and set fire to them. Our persons had gone towards the house of Mehmudbhai. My wife and son Javedmiya had gone towards Mehmudbhai's house. I had seen those men, among whom were Laxmanbhai Dhulabhai Patel..Madhabhai Vitthalbhai Patel..Tulsibhai Girdharbhai Patel. Those people had gone towards Mehmudmiya's house. They set on fire our people, by pouring kerosene and petrol. At that time, I was hiding beside the house of Bachumiya Imammiya. Our people were crying to be saved. At that time, I was hit by a stone, so I was hiding.

(7) Akbarmiya Nathumiya Sheikh – witness no 65

As per the testimony of the witness, a crowd of Hindus had come shouting 'kill miyabhai', 'cut them', 'burn them alive'. They set fire to Manubhai Painter's house, ransacked it. Witness Akbarmiya Nathumiya had seen the accused Madhabhai Vitthalbhai and he was identified before the Hon. Court. In his testimony before the Hon. Court, he had said.

...again the crowd of Hindus came and shouted 'kill miya bhai', 'slaughter them', 'set them on fire'. They set fire to Painter Manubhai's house and ransacked it. There I saw accused Rameshbhai Gangavat with a scythe, Madhabhai Vitthalbhai with a stick...Pavan Murli Vasanwala was instigating – 'kill miyabhai', 'cut them to pieces'. As I was afraid, I took my wife from Bachumiya Nathumiya's house after passing by Mehmudmiya's house and went inside Raval Vas and hid there.

(8) Akbarmiya Rasulmiya Sheikh – witness no 66

In his testimony before the Hon. Court, the witness had said that at the time of the event, he was hit by stones on the forehead, on the right leg and at the back. He was hiding behind the vehicle of Bachubhai. At that time, Patels of the village were moving towards Mehmudmiya's house. He had seen Patels of the village in the crowd among whom accused Madhabhai Vitthalbhai was also there with a weapon. The witness had recognized the accused. In his testimony before the Hon. Court, he had said.

...The crowd which had come on 1-3-02 came again. It shouted 'kill miyabhai', 'cut them to pieces', 'burn them alive'. They pelted stones and set fire to our houses. They were Patels from our village. We were throwing stones at each other. I was hit by a stone on my right leg. I was also hit on my back, forehead and knee of the leg. I was hiding behind Bachubhai's car. At that time, Patels of the village were going towards Mehmudmiya's house on their way setting fire to other houses. I ran towards the graveyard. They had surrounded the house of Mehmudmiya and were trying to break it with a big hammer. I could hear its noise. Then they poured petrol and kerosene. I was sitting behind a wall. One Patel saw me. He said 'one bandiyo is here'. He followed me. I went inside the graveyard and hid inside a hollow grave and put thorns over it. They came looking for me but they could not find me. Thereafter, the Patels threw a burning rag in the graveyard. It lit the dry grass and then got extinguished at about 10 ft. distance. After some time, they shouted 'Bharat Mata ki Jai' and left.

Madhabhai Vitthalbhai was in the crowd with a weapon. The witness said this in his testimony before the court.

(9) Gulamali Akbarmiya Sheikh – witness no 68

This injured witness said in his testimony before the Hon. Court that the crowd of Patels was setting fire to the houses and throwing stones at us. The witness was injured on his left leg and on the shoulder. When the crowd came inside, the witness saw from Bachumiya Imammiya's wall and he could recognize Madhabhai Vitthalbhai. Moreover, the witness had also recognized the accused before the Hon. Court. As per his testimony before the Hon. Court

...Para -3..... We tried to oppose but the crowd was very big – about one thousand to fifteen hundred persons. We could not face them and moved inside. The crowd of Patels came in and set fire to the houses. They started pelting stones at us. I was hit on the knee of my left leg and left shoulder. When the crowd of Patels came in, I saw Ambalal Magan was instigating them. He had a scythe with him. Mathurbhai Trikambhai had stones in his hand...Madhabhai Vitthalbhai..Govindbhai Moahnbai were there. I had gone inside the lane and was standing against the wall of Bachubhai. This crowd was going towards the house of Mehmudbhai setting fire to houses on their way. They had surrounded the house of Mehmudbhai. I came out and saw that the crowd was trying to break open the gate of Mehmudbbhai's house. Our people had gone inside the house of Mehmudbhai. The crowd of Patels broke open the window and also attempted to break the terrace. Through the window they poured kerosene and petrol along with burning rags. Our people were shouting for help and to be saved but we were unable to save them. The crowd was shouting 'kill them', 'cut them', 'burn them alive'. Our people's screams were also heard. At this stage, the witness remembered the whole scene so he was allowed to drink water. The crowd of Patels was on all sides of Mehmudbhai's house.

(10) Sabir Hussein Kadarmiya Sheikh – witness no 48

As per his testimony before the Hon. Court, the witness said that at about 10 o'clock at night, the Patels of the village attacked Sheikh Mohalla with scythes, sticks, pipes and tin pots of kerosene, petrol and some chemical. A focus light was fitted in front of Sheikh Mohalla. In that light, I could see that there were persons of our village including Patel Ambalal Maganbhai. Madhabhai Vitthalbhai..Chaturbhai Kanabhai and others. They were instigating the crowd. They started burning houses of Sheikh mohalla. Stone pelting was also going on. The Patel houses were on a high level whereas houses on Sheikh mohalla were low in height. They were throwing stones from their houses. Stones were coming from the graveyard and from all sides. At that time, I was hit by a brick on my

neck. All men in the crowd had weapons in their hands and they were deliberately coming in the Sheikh mohalla. Our people were hiding inside the house of Mehmudmiya Husseinmiya, so the crowd, after setting fire to houses came near Mehmudmiya's house, broke open its window and poured kerosene and petrol inside and set it on fire. At that time, there was one iron rod which was fitted with electric current. It was kept in the room. Cries of 'save', 'save' were coming from the houses.

(11) Sabarmiya Akumiya Pathan – witness no 46

This witness in his testimony before the Hon. Court, stated as follows:

Before the event of..

...2002, VIP leader Haresh Bhatt had visited our village. He had held a meeting of youths of Patel community near Mahadev temple (from where the crowd had come on that night)...There was a big crowd of Patel youths when Haresh Bhatt came. Haresh Bhatt gave a very provocative lecture in which he said that those Muslims were a burden on India. They have no right to live in India. If we get a chance and if riot takes place, not a single Muslim should remain alive. He then distributed tridents (trishuls). He gave trishuls to five persons. Among them one was accused Madhabhai Vitthalbhai.

....on 28-02-02, VHP gave a call for Gujarat Bandh. Madhabhai Vitthalbhai's shop is situated ...on seeing me, they shouted 'kill these bandiyas'. Madhabhai Vitthalbhai was one of them.

Thus, there is huge evidence of 10 witnesses against the accused.

Accused no 35 Patel Sureshbhai Baldevbhai V/s Testimonies of various witnesses

(1) Hizbul Husseinmiya Sheikh – witness no 52

The witness is an injured one. On 1-3-02, when he was sitting with his family members after dinner, crowds of Patels belonging to the village had gathered. They were creating uproar and setting fire to cabins belonging to Muslims. When the police came, the crowd ran away. But they came again and attacked Sheikh Vas. The witness was afraid and so he hid himself but saw the men setting fire to the cabins and houses. He had seen them going to Mehmudbhai's house. There were the other accused but also the present accused which name the witness had given before the SIT. In his testimony, he had said follows:-

....The same crowd came, shouting 'kill Musalmans', 'cut them to pieces'. It had advanced towards Sheikh Vas and started pelting stones. Our men, women and children rushed into the house of Mehmudmiya to save themselves from stone-pelting. The crowd continued stone throwing. Meanwhile Ibrahim fell down as he was hit by a stone. I had hid myself behind the wall of Sheikh Akbarbhai's house. Out of fear, I had gone hiding. The men in the crowd were setting fire to our houses and galas. They had gone towards Mehmudbhai's house. The men I saw included Chaturbhai Kanabhai Patel of our village. He had a pipe, Patel Sureshbhai Baldevbhai....when these people were going, I was hit by a stone on my wrist. The crowd had set fire to our houses and I had heard cries of women and children which was coming from Mehmudbhai's house. My wife Hussenabibi and son Rifakat had hid themselves in the house of Mehmudbhai. They were burnt alive. My daughter Saida was injured.

(2) Rafikmiya Mohmad Hussein – witness 62

The injured witness was present in his mohalla on the day of the event. A crowd of Patels had attacked his mohalla. They were stone-pelting, looting and setting fire to the houses. The crowd was shouting and screaming. The accused Sureshbhai Baldevbhai was present in the crowd.

(3) Munsafbhai Yasinkhan – witness no 70

In his testimony, the witness Munsafkhan had stated that the accused Suresh Baldevbhai was present in the crowd which was setting fire to and pelting stones at the houses in their mohalla. The witness had identified the accused before the Hon. Court.

....at about 9.30, a crowd of village Patels had come shouting 'kill miyabhai', 'burn them alive'. It came behind my old house and started pelting stones. Patel Rajeshbhai Punjabhai, Prahladbhai Jagabhai, Sureshbhai Baldevbhai..Babubhai Kantibhai and others were there.

These people were throwing stones at us, we were also throwing stones at them. In return they attacked Sheikh Mohalla and set fire to the houses. On that day, late at night, son of Ashikmiya Bachumiya driver came in our mohalla and told me that the crowd of Patels has set for to my jeep and my house and those persons who were taking shelter in the house of Sheikkh Mehmudmiya were also burnt alive.

(4) Sabir miya Akumiya Pathan – witness no 46

This witness clearly states in his testimony before the Hon. Court that...

....Before the event of 2002, some 20 – 25 days back, Vishwa Hindu Parishad (VHP) lead Haresh Bhatt was in the village. He had held a meeting of youths, belonging to Patel caste, near the Mahadev temple (from where the crowd had come at night)...the crowd of Patel youth was there when Haresh Bhatt had come...Hareshbhai made provocative lecture in which he said that Muslims are a burden for India and they have no right to live in India. If you get a chance and if riot occurs, no Muslim should be left alive. Then Haresh Bhatt distributed tridents (trishuls)..five persons were given trishuls. One of them was Sureshbhai. Baldevbhai...on 28-02-02, a call was given by VHP for Gujarat bandh...Madhabhai Vitthalbhai's shop is situated...They saw me and shouted 'kill bandiyas', 'cut them'. Among those who were shouting, accused Sureshbhai Baldevbhai was there.

Accused No 36 Patel Dashrathbhai Ambalal V/s Evidences recorded before the Hon. Court

(1) Ibrahimbhai Rasulbhai – witness no 47

The witness had given his testimony and stated that the accused was in the rioting mob.

(2) Rafikmiya Babumiya Sheikh – witness no 64

In his testimony before the Hon. Court, the witness had stated that the accused Dashrathbhai was also present in the rioting mob which had come on the day of the event. The mob was screaming and shouting 'kill', 'kill', 'slaughter', 'slaughter' and was setting fire to the houses in the mohalla. The mob also set fire to the house of Mehmudmiya where men, women and children of the mohalla were taking shelter. The house was surrounded. They set it on fire and the crowd shouted 'Bharat mata ki jai'. The witness has given the name of the accused. Dashrathbhai and he was also identified before the Hon. Court.

(3) Samimbanu Mehmudmiya – witness No 79

On the day of the event, all women of the mohalla had rushed to her house. Samimbanu was also in her house. The Patels had surrounded the house from all sides and had thrown kerosene and petrol. Then it was set on fire. As per her testimony before the Hon. Court, she had observed the event with her own eyes. She could identify the accused but did not know their names. Before the Hon. Court, the witness had identified the accused Dashrathbhai Ambalal.

Thus, the evidence provided by the witness is very important and cannot be brushed aside.

(4) Rukshanabanu Ibrahimbai – witness no 80

The witness was present in the house of Mehmudbhai which was set on fire after the crowd poured kerosene and petrol inside. As per her testimony, village people had attacked the house. They pelted stones, looted and ransacked the houses. She was injured on her eye and knee due to stone throwing. To save her life, she had rushed inside the house of Mehmudbhai. That house was set on fire with the help of kerosene and petrol. People inside were shouting for help but no one saved them. About 30 persons were burnt alive in the house of Mehmudbhai. Her mother Jaydabibi, her younger sister Raziyanu, Parveenbanu, uncle Sherumiya, his wife, her paternal aunt's daughter Mumtaz, and small brother, her grand father Akbarmiyabhai Idrish, brother's wife Vahida were all burnt alive. The witness was in the house but being woman, she did not know the names of the accused but she was able to identify them from their faces. This she told before the SIT. In her testimony before the Hon. Court, Para No 3 – She has clearly stated that she was able to identify the persons who were in the crowd and witness Rukshanabanu had very accurately identified the accused Dashrathbhai Ambalal.

Accused No 37 Vishnubhai Prahladbhai V/s Evidences recorded before the Hon. Court

(1) Plaintiff Ibrahimbai Rasulbhai Sheikh – witness no 47

This injured plaintiff and witness has given his detailed testimony against this accused.

(2) Nasir Mohmad Akbarmiya – witness no 51

According to the testimony of this witness against this accused, on the day of the event on 1-3-02, there was a Bharat Bandh. The witness was with his family members when Patels of the village came in a mob, started shouting and pelting stones on Sheikh Mohalla. The mob was shouting, 'kill miyabhai', 'slaughter them', 'burn them alive'. Those people had weapons with them. The accused Vishnubhai had scythe in his hand. This witness Nasir Mohmad had in his statement before the police on 10-03-02 had stated that the accused Vishnubhai was in the crowd and had a scythe with him.

In his testimony, the injured witness had stated...

...This crowd had come in front of our mohalla. It was shouting and screaming and demanding 'kill miyabhai', 'slaughter them', 'burn them alive'. They started pelting stones indiscriminately. At that

time, I had seen that Rameshbhai Kantibhai had a scythe with him..Patel Vishnubhai Prahladbhai also had a scythe...and Patel Joitabhai Ramabhai Gangavat was present there. Those people had attacked us. They had ransacked our Muslim houses, and set them on fire. I had seen the crowd going towards Mehmudmiya Husseinmiya's house. Men, women and children of our mohalla, out of fear had rushed inside the house of Mehmudmiya Husseinmiya, thinking it to be a safe place. At that time, I was hurt on the elbow of my left hand and eye ball of left eye due to the stone thrown by the crowd. At that time, I had hid myself in my old house. The crowd then moved towards the house of Mehmudbhai, broke its windows, poured kerosene and petrol inside and set it on fire.

(3) Rafikmiya Babumiya Sheikh – witness no 64

As per the testimony of this witness, he was at home with his family members on the day of Bharat Bandh. At that time at night, a Hindu mob came and shouted 'kill miyabhai', 'slaughter them' and started throwing stones at Sheikh Mohalla. They set houses on fire. People of the mohalla – men, women and children hid themselves in the house of Mehmudmiya. The crowd was setting fire to the houses and cabins. This witness saw that the Sarpanch of the village Kanubhai Joitabhai was instigating the crowd. As a result, the crowd set fire to the house of Mehmudbhai. In that crowd was accused Vishnubhai Prahladbhai. The witness had also identified the accused Vishnubhai. In his statement before the police, witness Rafikmiya Babumiya had given names of the accused Vishnubhai.

Accused No 38 Patel Rajeshkumar, Rajesh Punjabhai Tribhovandas V/s Evidences of testimonies of various witnesses

Against this accused 13 witnesses have given solid evidences:

(1) Plaintiff Ibrahimbhai – witness no 47

As per the testimony of the witness, accused Rajesh Punjabhai was present when 28-02-02 at about 7.00 o'clock in the evening, crowds consisting of village people were moving about and setting cabins on fire. Accused Rajeshbhai Punjabhai had kept a burning rag under the cabin belonging to Ibrahimbhai. The witness Ibrahimbhai, in his testimony Para – 3, last two to three lines clearly states this fact. As stated above, witness Ibrahimbhai is a very important witness and his complaint was recorded by the police on 2-3-02. In that important FIR, plaintiff Ibrahimbhai has given the name of accused Rajesh Punjabhai. In his testimony before the Hon. Court, this witness has given the

name of Rajesh Punjabhai. Moreover, witness Ibrahimbhai has also identified accused Rajesh Punjabhai before the Hon. Court.

(2) Iqbalmiya Rasulmiya – witness no 49

According to the testimony of this injured witness, on the day of the event, a Hindu mob had come shouting 'kill these bandiyas', 'slaughter them', 'burn them alive'. They came in front of Sheikh Mohall and started pelting stones, looted and ransacked the houses and set them on fire. The witness had seen accused Rajeshbhai Punjabhai with a scythe. When the accused were introduced in the Hon. Court, this witness had stated that the witnesses were finding it difficult to see the accused because of the type of sitting arrangement made for them (accused). This is mentioned in Para No 5 of his testimony. Even then, the witness had identified accused Rajeshbhai Punjabhai. By mistake, his name is given as Babubhai Kanabhai.

(3) Ayyubmiya Rasulmiya – witness no 56

This injured witness is very important. He has seen the screaming and shouting of Hindu mobs on the day of the event. The mob was setting fire and looting houses and he had seen accused Rajeshbhai Punjabhai, alongwith other accused. In his testimony, witness Ayyubmiya has stated that accused Rajeshbhai Punjabhai had a scythe in his hand. In his statement, before the police on 10-03-02, the witness had also given the name of the accused and added that he was carrying a scythe in his hand. Moreover, the witness had also identified the accused before the Hon. Court.

(4) Mohmad Sattar Bachumiya Sheikh – witness no 59

Police has recorded the statement of this witness on 2-3-02 i.e at the earliest. In that statement, witness Mohmad Sattar had mentioned that the accused was in the crowd, with a stick in his hand. Moreover, in his testimony before the Hon. Court, the witness had stated that a crowd consisting of Patels had come at the time of the event. The crowd was shouting and screaming 'kill', 'slaughter'. It was indulging in stone-throwing, looting and setting fire to the houses. The witness was hiding in the house of Akbarmiya Rasulmiya. From the window of the house, he had seen that the crowd had set fire to the jeep in front of that house. In the light of the burning jeep, the witness had seen accused Rajesh Punjabhai in the crowd, carrying a stick in his hand. This important witness had identified accused Rajesh Punjabhai. Thus, witness Mohmad Sattar is an important witness and provides very solid evidence against the accused Rajesh Punjabhai.

5. Bacchumiya Imammiya – Witness No 60

The witness said before the Hon. Court that the accused Rajeshbhai Punjabhai had thrown a burning rag on the jeep which had caused big blaze of light. The crowd had come

....at about 11 o'clock at night and started pelting stones while they were on the road. The first house which was set on fire belonged to Manumiya Alammiya alias Bhaimiya. The second house which was set on fire was that of Akbarmiya Nathumiya. The third house was that of Bachumiya Nathumiya. Then the houses of Rasulmiya Nanumiya and Jamalbhai Dosabhai were set on fire. Later, the crowd poured petrol and kerosene on my jeep and set it on fire. Those who poured kerosene and petrol were Kacharabhai Tribhovan and Ambalal Maganbhai. Rajeshbhai Punjabhai had thrown burning rag which caused a blast on the jeep. The crowd had then gone towards Mehmudbhai's house, broken open the window and thrown burning rags along with kerosene and petrol inside. As a result, 28 men, women and children had died.

6. Rafikmiya Mohmud Hussein – Witness No 62

This injured witness was in his mohalla (locality) on 1-3-2002, which was declared as Bharat Bandh. The crowd consisting of Patels was shouting that no Muslim should be allowed to live. They were asking people to close shops and cabins. They had gone to the cabin of the witness and forced him to close it otherwise they threatened him to set it on fire. The witness said that he closed his cabin but Patels had used abusive words and had tried to rough him up. Among them was Rajesh Punjabhai. Afterwards, the witness Rafikmiya had gone to his house. At night, the crowd had burnt down the cabins belonging to Muslims. The witness had identified the accused Rajesh Punjabhai before the Hon. Court.

7. Akbarmiya Nathumiya : Witness No 65

In his testimony before the Hon. Court, the witness said that on 28-02-2002, the accused Mathurbhai Trikambhai (wireman), Kanubhai Sarpanch and Becharbhai Odhavbhai had fixed focus-light on the street light. On 1-2-2001 Bharat Bandh was announced and hence these persons were at their home. On that day, in the evening between 4 and 5, Sarpanch Kanubhai, Becharbhai, Odhavbhai and Mathurbhai Trikambhai had switched on the electricity in front of their houses. After that at about 9.30 at night, a crowd came from the side of Mahadev temple. It was shouting 'kill miyabhai, burn them alive'. 'cut them to pieces'. The crowd set fire to cabins in front of Sheikh mohalla. At that time, the witness was standing at the entrance of the mohalla. The crowd again came shouting the same slogans and ransacked the houses and set fire to them. Witness Akbarmiya had seen accused Rajesh Punjabhai with a stick in his

hand. When he was all this, the witness was afraid so he hid himself in the Rawalvas, taking his wife with him. The witness had identified the important accused Rajesh Punjabhai before the Hon. Court. Thus the witness had presented solid proof against the accused.

8. Akbarmiya Rasulmiya – witness No 66

Police have taken down statement of his injured witness on 10-3-2002. According to that statement, he had stated that the accused Rajesh Punjabhai was in the crowd with a stick in his hand. In his testimony before the Hon. Court, he stated that on the day of the event, the Patels of the village were coming toward the house of Mehmudmiya, setting fore to the houses on their way. This witness was hiding behind the car of Bachubhai. When the crowd came near, he ran toward the graveyard. From there, he saw that the crowd had surrounded Mehmudmiya's house and were pouring kerosene and petrol inside it. One Patel saw him and followed him, so he went towards the graveyard and hid inside the grave. He threw the thorns on it. The witness had seen people in the crowd indulging in serious criminal acts. He said that he had seen Rajesh Punjabhau with a stick in his hand.

9. Intiazbhai Mohmad Hussein – witness 67

This witness was living at Sardarpur on the day of the event. On 1-3-2002, a Hindu mob had attacked Sheikh Mohalla with weapons. At that time, the witness was standing near Ayubmiya Rasulmiya's house. The mob was pelting stones and it had set fire to the house of Manumiya Bhaimiya and Akbarmiya. The witness had seen Rajesh Punja in the crowd setting fire to Mehmudbhai's house. The witness had identified the accused before the Hon. Court.

(10) Gulamali Akbarmiya Sheikh – witness no 68 This injured witness, in his testimony before the Hon. Court had given the names of the accused as one who was part of the rioting mob and had burning rags in his hand. He was also identified before the Hon. Court by the witness. In his testimony before the Hon. Court the witness said – Para No 3 – we had tried to resist but the mob was quite big –about 1500 persons, so we could not face them. We went inside and they came in our mohalla. The Patels in the crowd were setting fire to the houses. At the same time, stone pelting was going on. I was hit on the knee of my left leg. My left shoulder was also hit. When the crowd came in, I had seen Ambalal Magan was instigating the people. He had a scythe in his hand. Mathurbhai Trikambhai had stones in his hands..Rajesh Karshanbhai Mukari...came with a burning rag...I had seen Govindbhai Mohanbhai. I had gone inside the lane and was standing against the wall of Bachubhai. This crowd of Patels was going towards the house of Mehmudbhai, burning houses on the way. They had surrounded the house of Mehmudbhai. When I came out I saw that the crowd was trying to break the gate of Mehmudbhai's house. Our people had gone inside the house of Mehmudbhai. The crowd broke

open the window and also tried to break the terrace. Then they poured kerosene, petrol and burning rags inside the house through the window. We heard cries of 'save', 'save' but we could not do anything. The crowd of Patel was shouting, 'kill them', 'cut them to pieces', 'burn them alive'. Our people were crying for help. At this stage, the witness recollected the incident, so the judge gave him permission to drink water.

The crowd of Patels was on all sides of Mehmudbhai's house.

11. Mehmudmiya Husseinmiya Sheikh – witness No 69

The witness had stated before the Hon. Court that on the day of the event, Patels of the village had attacked houses of our mohalla and set them on fire. Residents of the Sheikh Mohalla had come to his house to save themselves from the mob. They were about 40 persons. The mob which came to the mohalla had scythes, kerosene and burning rags with them and they were trying to open the door of the house by kicking at it. At that time, the witness was standing under the tin cover of Bababhai's house. He had seen that many people had climbed the terrace of the house and were trying to break it open. Among them was accused Rajesh Punjabhai. He was breaking the terrace with the help of a big hammer. The witness being crippled on both legs was not able to stand in the witness box and so special sitting arrangement was made for him in it while sitting in the witness box, he was not able to identify the culprits sitting far away in the court room. So, the court had requested the accused sitting in the front rows to lower their heads, so that the witness could see those accused sitting at a distance from him. It was difficult for the witness to identify the accused, so it took him about 20 minutes to do so. In spite of that he was not able to identify the accused Pashabhai Mohanbhai and Rajeshbhai Punjabhai in the court.

12. Munsafbhai Jasinkhan- witness no 70

The person is an important witness and his statement was recorded on 6-3-02. In that statement he has mentioned the name of Rajesh Punjabhai. In his testimony before the Hon. Court, he had mentioned that he had seen Rajesh Punjabhai in the crowd, with a stick in his hand. Moreover, he had identified the accused before the Hon. Court.

13. Bashirabibi Bachumiya Sheikh – witness no 78

The husband of this lady had died during the event and as per the custom of her community she had to remain inside her house, observing iddat. She gave her testimony before SIT on 22-5-2008. In that she had stated that she had given her statement to the police on 17-4-2002. In that statement she had mentioned names of 10 accused one of whom was Rajesh Punjabhai. In her testimony before the Hon. Court, she stated that on the day of the event, a crowd of Patels had come near Sheikh Mohalla. It was shouting slogans, like 'kill miyabhai', 'no one should be spared'. Those in the crowd were setting houses on fire and looting the same. The witness had seen all this with her own eyes. She was afraid and so she had gone to Mehmudmiya's house to save her life. Her husband Bachumiya Nathumiya, her brother's wife,

nephews, and three sons were with her. Mehmudmiya's house was surrounded from all sides by the mob. They were trying to break the window of the house and were throwing petrol and kerosene inside, alongwith burning rags. The witness had seen accused Rajesh Punjabhai. In this attack, her husband Bachumiya, her elder brother Abbasmiya, sister-in law Ruksanabibu, sister-in law Mumtazbibi, niece Sairabibi were all burnt alive. The witness was also injured. Her legs and face had suffered burn injuries. Her small son Ilias had also received burn injuries, on his left ear and left leg. The witness had identified accused Rajesh Punjabhai before the Hon. Court.

Thus, there is enough proof against the accused of his involvement in the event.

Accused No 39 Accused Baldevbhai Ranchodbhai Dwarkadas – Evidences presented against him by various witness

1. Ibrahimbhai Rasulbhai – witness no 47

Evidences presented by the complainant against the accused are solid.

2. Hizbulmiya Husseinmiya – witness No 52

The witness says in his testimony -

.....the same crowd had returned shouting slogans like 'kill the muslims', 'cut them to pieces'. They all came toward Sheikh Mohalla and started pelting stones to save themselves from stone throwing, our men, women and children – all ran towards the house of Mehmudbhai. The house had a terrace. When the pelting of stones was going on, Ibrahimbhai fell on the ground. I hid myself behind the wall of Akbarbhai's house out of fear. The crowd was setting fire to the houses and was advancing towards Mehmudbhai's house. I had seen Patel Chaturbhai Kanabhai (of my village) with pipes...Baldevbhai Ranchodbhai had a sword in his hand. When these men were passing by, I was hit by a stone on my wrist. The men in the crowd had set fire to our houses. I had heard screams of men, women and children who were taking shelter in Mehmudbhai's house...my wife Husenabibi and my son Rifakat who were in the house were roasted alive. My daughter Saheeda was also injured.

3. Gulamali Akbarmiya – witness no 68

The evidence presented by this injured witness is before the Hon. Court. As per his statement the accused was present in the crowd which was indulging in criminal activities on the day of the event

Para no 3 – we tried to resist but they were about thousand or fifteen hundred men. As they came inside, we started going back in the mohalla. The crowd was indulging in stone throwing and setting houses on fire. I was hit by stones on the knee of the left leg and on left shoulder. I had seen Ambalal Magan instigating the crowd. He had a scythe in his hand, Mathubhai Trikambhai had stones in his hands....Baldevbhai Ranchodbhai...Govindbhai Mohanbhai...I had seen them. I had gone inside the narrow lane and was standing against the wall of Bachubhai. The crowd was setting fire to houses on the way. The men of the crowd surrounded the house of Mehmudbhai. I tried to see what the crowd was doing and I saw that they were trying to break open the gate of the house. Our men, women and children were inside the house. The crowd broke the window of the house. They poured kerosene, petrol and burning rags through the window. Our crowd was shouting slogans like 'kill them', 'cut them to pieces'. We were present there but were not able to save them. At that stage, the witness remembered the scene of the event and he was allowed to drink fresh glass of water. The crowd of Patels was on all sides of Mehmudbhai.

4. Sabirmiya Akkumiya Pathan – witness no 46

The witness stated in his testimony before the Hon. Court that on 28-02-02, VHP had given a call for Gujarat Bandh....Madhabhai Vitthalbhai's shop is situated...when they saw me, they shouted (using derogatory word 'bandiyo' for Muslim) that Muslim should be killed and cut to pieces. Accused Baldevbhai Ranchodbhai was one among those who were shouting.

Accused No 40 Patel Prahladbhai Jagabhai – Testimonies presented by the witnesses before the Hon. Court

1. Ibrahimbhai Rasulmiya – witness no 47

The complainant had stated in his complaint against the accused that on the day of the event, he was involved in looting, stone throwing and setting fire to the houses.

2. Hizbulmiya – witness no 52

The witness gave the name of the accused and said that he was in the crowd indulging in criminal activities.

3. Sharifmiya Bhikhumiya – witness no 54

The statement of this witness was taken by the police as early as on 6-3-2002 and in that statement he had mentioned the name of the accused Prahladbhai Jagabhai. In his testimony before the Hon. Court, the witness had stated that on 1-3-2002, Bharat

Bandh call was given. He was going to his house at about 7 o'clock in the evening. At that time, halogen lamp was fixed on the electric pole. H had heard accused Amrutbhai Somabhai saying 'today we will enjoy killing Bandiyas (Muslims)'. The witness felt afraid when he heard that and he went to the house of Bachumiya Imammiya in Sheikh Mohalla. On that night the Hindus attacked Sheikh Mohalla with stones and set the houses on fire. In the mob the witness had seen accused Prahladbhai Jagabhai whom he had also identified before the Hon. Court also.

4. Ayubmiya Rasulmiya – witness no 56

In his testimony before the Hon. Court, this injured witness had given the name of the accused and said that he was in the crowd which was indulging in criminal activities.

In his testimony, the witness stated that .

...once again the crowd came shouting slogans, saying 'kill them', 'cut them to pieces'. They started pelting stones at our houses and indulged in looting and setting fire to them. One stone hit my maternal uncle Ibrahimmiya Rasulmiya on his head. On seeing the crowd, I had gone to the house of Ibrahimmiya Rasulmiya who was also hit by stones on his head and on his right leg. I then went to the house of Mehmudmiya. There I saw Ramanbhai Ganeshbhai...Prahladbhai Jagabhai....They had burning rags in their hands. They threw them in the house and poured petrol and kerosene inside. We were shouting for help. I and my wife got burnt. I got burnt on my two shoulders and neck.

5. Mohmud Sattar Bachumiya Sheikh – witness no 59

This witness had himself seen the serious crime committed on 1-3-2002. When the crowd of Patels was burning houses and throwing stones, he was very much scared and so he went into Akbarmiya Rasulmiya's house and hid there. He saw from the window that the crowd had set fire to his car. In the light of the burning car, he could see accused Prahladbhai Jagabhai. He had also identified him before the Hon. Court.

...The same crowd had come at about 12 o'clock at night, shouting slogans that no Muslim will be allowed to leave alive because they had burnt alive our Hindus in Godhara. They pelted stones. We also retaliated... The car was burning and in its light I had seen those people and was able to identify them. Ambalal Maganlal had a scythe in his hand....Prahlad Jagabhai...I had seen them. They were setting fire to our houses and were coming towards the house of Mehmudbhai. I had gone back to my house. I could hear the cries of 'save', 'save' from Mehmudbhai's house. Out of fear, I was

hiding in my house. After some time, the crowd shouted 'Bharat Mata Ki Jai' and dispersed.

6. Mehmudmiya Husseinmiya Sheikh

This important witness is crippled on both his legs. He had given the name of the accused Prahladbhai in his statement to the police on 6-3-02. On the day of the event, the crowd had come to his mohalla and was pelting stones and setting fire to the houses. The crowd came near his house and started breaking the door. Prahladbhai Jagabhai was also in the crowd. He had burning rags in his hand. The accused was identified by the witness.

7. Munsafkhan Yasinkhan Pathan – witness no 70

The statement of the witness was taken by the police on 6-3-2002 and he had mentioned accused Prahladbhai Jagabhai; name in it. He had also said that the accused had burning rags in his hand. In his testimony before the Hon. Court, the witness said that village Patels were looting Muslim houses and setting them on fire. Prahladbhai was also in this crowd with burning rags in his hands. The witness had also identified the accused before the Hon. Court.

Thus, Hon. Court has enough solid evidences against the accused.

Accused No 41 Patel Rameshbhai Ramabhai – Testimonies of the witnesses against the accused before the Hon. Court

1. Complainant Ibrahimbhai Rasulmiya – witness no 47

Complainant Ibrahimbhai has mentioned the name of the accused in the FIR. In his testimony before the Hon. Court, he had stated that the accused was in the crowd indulging in arson and stone pelting.

2. Nazir Mohmud Akbarmiya – witness no 51

In his statement before the police on 10-03-02, this witness had mentioned the name of this accused as one who was in the crowd with a scythe in his hand. He was also in the crowd with a scythe which had come shouting on the day of the events. The witness stated this in his testimony before the Hon. Court.

3. Sabir Hussein Imamsha – witness no 58

This important witness had given his statement before the police on 3-3-02 in which he had mentioned the name of the accused Rameshbhai Ramabhai. In his testimony before the Hon. Court, the witness had stated that the said accused was also in the crowd which had come on the day of the event and was shouting 'kill miyabhai', 'cut them to pieces', 'burn them alive'. The accused was trying various ways to hide himself so that the witness may not be able to identify him before the Hon. Court. Ordinarily the accused have to sit in front of the Hon. Court and the police, security guards and

advocates have to sit on the side of the Hon. Court. This accused Rameshbhai Ramabhai had skillfully sat along with the advocates and police, so that the witness may not be able to locate him and identify him. This accused Rameshbhai Ramabhai had put on a wig and glasses and worn a tie to appear like a lawyer and he was sitting with lawyers, with files in his hands. This way of cheating the Court and obstructing the due process of law initiated the witness to submit a petition under section 560. The witness had also submitted another petition under section 554 stating that the accused were sitting in the Court in such a manner that it was difficult for him to see clearly, half of them. Because of these difficulties, the witness was not able to identify the accused.

4. Bhikhumiya Kalumiya Sheikh – witness no 63

In his testimony before the Hon. Court, the witness had stated that on the day of the event, the Patels of the village had indulged in stone throwing and setting fire to houses. Accused Rameshbhai Ramabhai was also present in the crowd indulging in criminal activities. The witness also identified the accused before the Hon. Court.

5. Akbarmiya Rasoolmiya – witness no 66

This witness had stated in his testimony that on the day of the event, the Patels of the village had attacked Sheikhas and pelted stones. He was also hit by a stone on the back and his leg. He had hid himself behind the car of Bachubhai. At that time, the Patels of the village were coming towards the graveyard. The crowd had surrounded Mehmudmiya's house and they were pouring petrol and kerosene inside. One Patel saw him sitting in the graveyard, so in order to save himself he hid himself in an open grave and threw thorns on it. The witness could see that along with Patels of the village, the accused Rameshbhai Ramabhai was also there and he was identified before the Hon. Court.

6. Akbarmiya Nathumiya – witness no 65

The police statement of the witness was recorded on 10-3-02 in which he had mentioned the name of the accused Rameshbhai Ramabhai who had a scythe in his hand. In his testimony before the Hon. Court, the witness had stated that the accused was standing at the front of the mohalla. The crowd of Hindus, was shouting slogans 'kill miyabhai', 'set them to fire'. It was indulging in arson and ransacking the houses. The witness had seen the accused Rameshbhai Ramabhai Gangawat with a scythe in his hand. The witness had also identified the accused before the Hon. Court.

7. Gulamali Akbarmiya Sheikh – witness no 68

This injured witness had recorded his statement before the police on 10-03-03 and therein, he had given the name of the accused Rameshbhai, who was carrying a scythe in his hand. In his testimony before the Hon. Court, the witness had stated that on the day of the event, the Patels of the village had indulged in stone-throwing and arson. They were shouting to kill the bandiyas (Muslims). The crowd had gone toward the

house of Mehmudmiya. The accused Rameshbhai Ramabhai was also in it with a scythe in his hand. The witness had identified the accused Rameshbhai Ramabhai Gangawat before the Hon. Court.

8. Munsafkhan Yasinkhan Pathan – witness no 70

This witness had recorded his statement before the police on 6-3-02 and in that he had given the name of the accused Patel Rameshbhai Ramabhai. On the day of the event, when the crowd was indulging in arson and looting and shouting slogans like 'kill them', 'burn them alive', the accused Rameshbhai Ramabhai Gangawat was one of them and the witness had identified him before the Hon. Court.

9. Hamidabibi Akbarmiya – witness no 78

According to the testimony given by this witness, on the day of the event, the crowd had started pelting stones, so she got frightened and hid herself in the house of Ibrahimbhai Rasalbahi. From there, she had seen a crowd going toward the house of Mehmudbhai. She had spotted accused Rameshbhai Ramabhai in that crowd. The witness identified him in the court. He was sitting in the last row of the state.

10. Saberabibi Sabir Hussein Fakir – witness no 81

The police statement of this important witness was recorded as early as on 3-3-02. She had mentioned the name of Patel Rameshbhai Ramabhai. On the day of the event Patels of Sardarpur village had started burning cabins. They were shouting 'kill them', 'cut them to pieces'. They had sticks, scythes, pipes, arrows, swords in their hands. The witness had seen the accused Ramesh Rama in the crowd. Since the event took place long back, the witness was not able to identify the accused. Moreover, being very old, illiterate and doing casual labour, it was understandable that she could not identify the accused.

11. Sabir Hussein Kadarmiya – witness no 48

This one is an important witness. His statement was recorded by the police on 6-3-02. In his statement, the witness had mentioned that the accused Rameshbhai Ramabhai was in the crowd with a scythe in his hand. In his testimony before the Hon. Court, the witness had stated that on the day of the event, Patels of the village had attacked Sheikh Mohalla at about 10 o'clock at night, with scythes, sticks, pipes, kerosene and petrol filled tin boxes. They had set fire to the houses of the mohalla. There was focus-light in front of the mohalla and in its light, he had seen accused Rameshbhai Ramabhai. When the witness identified those who were in the crowd, he also identified accused Rameshbhai Ramabhai Gangawat before the Hon. Court.

Thus, there are 11 witnesses with solid proof against the accused.

Accused no 42 Patel Parshottambhai Mohanbhai alias Pasha Mohan: Evidences against him presented before the Hon. Court

1. Ibrahimbhai – witness no 47

As per his testimony in the Hon. Court, the accused was in a crowd which was indulging in criminal activities.

2. Sharifmiya Bhikhumiya – witness no 54

This witness is very important. In his statement to the police on 6-3-02, he had said that the accused Pashabhai Mohanbhai was in a crowd of Hindus which was indulging in stone pelting and shouting to burn and kill Muslims. The crowd was armed with weapons and Pashabhai Mohanbhai had a tinbox (dabba) with him.

3. Ashikhussein Bachumiya – witness no 55

This witness is important. The police had recorded his statement as early as on 2-3-02. In his statement, the witness had given the name of accused Parshottambhai Mohanbhai who was carrying a tinbox. In his testimony before the Hon. Court, the witness had said that on the day of the event, a crowd of Hindus had gathered together. They had weapons in their hands. They were shouting, 'kill Muslims', 'cut them to pieces', 'burn them alive'. The men in the crowd had petrol, kerosene and burning rags. They were ransacking and looting the houses in Sheikh Mohalla. This witness had seen those men and among them was the accused Pashabhai Mohanbhai. He was carrying a tinbox with him. The witness had identified the accused before the Hon. Court also.

4. Sharifmiya Babumiya – witness no 61

In his testimony before the Hon. Court, the witness had said that on the day of the event, a crowd had entered the Sheikh Mohalla. The men in the crowd were setting houses on fire and going towards the house of Mehmudmiya with kerosene, petrol and burning rags. The accused Pashabhai Mohanbhai was also among them. He was identified by the witness before the Hon. Court.

...The same crowd came at 11.30 at night, screaming and shouting, 'kill miyabhai', 'cut them to pieces', 'burn them alive'. Then they started throwing stones at Sheikh Mohalla. One stone hit me on my right leg. The same crowd came inside Sheikh Mohalla and set fire to our houses. I had seen Kacharabhai Tribhabhai, Pashabhai Mohanbhai...all seven had weapons in their hands. I got frightened, so I hid myself in the lane of Bachumiya Imammiya's house. The crowd went towards the house of Mehmudmiya, on its way setting fire to houses. They surrounded the house of Mehmudmiya, and set it on fire with burning rags after pouring petrol and kerosene inside it. Our men, women and children had raised cries of help.

5. Rafikmiya Mohmud Hussein – witness no 62

This injured witness had given his statement to the police on 10-3-02 in which he had mentioned the name of the above accused. Moreover, this witness gave his testimony before the Hon. Court in which he stated that on the day of the event, a crowd consisting of Patels of the village had started pelting stones and ransacking the houses of Muslims. These men were shouting 'kill Muslims', 'cut them to pieces'. They then went towards the house of Mehmudmiya Husseinmiya and set fire to it. In the crowd the witness Rafikmiya Mohmud Hussein had seen the accused Pashabhai Mohanbhai.

6. Akbarmiya Rasoolmiya – witness no 66

This witness had given his testimony before the Hon. Court. He said that he had seen the event personally. He was hiding behind the car of Bachubhai. At that time, he was injured on the back, on his forehead and on leg. He had seen the Patels of the village coming towards the house of Mehmudmiya. On the way they were setting fire to the houses. Out of fear, the witness had hid himself in a grave of the graveyard. He had also identified the accused Parshottam Mohanbhai before the Hon. Court.

7. Gulamali Akbarmiya – witness No 68

This witness gave his testimony before the Hon. Court in which he stated that on the day of the event, a crowd came towards Sheikh Mohalla. It was pelting stones and setting fire to the houses. The witness was injured on his leg and shoulder. When the crowd came, he was standing in the lane of Bachumiya Imammiya. He had seen the accused Pashabhai Mohanbhai in the crowd. This crowd had gone towards the house of Mehmudbhai, burning houses on the way. The house was surrounded on all sides. They were trying to break the gate of the house but failing that they broke open the window and threw petrol, kerosene and burning rags inside the house. Our people were shouting for help. Though the witness was present there, he could not save them. He said all this in his testimony. The crowd which was indulging in arson also included accused Pashabhai Mohanbhai.

8. Mehmudmiya Husseinmiya – witness no 69

The police recorded the statement of this witness on 6-3-02. In his testimony before the Hon. Court, he stated that on the day of the event, residents of Sheikh Mohalla had sought refuge in his house in order to save themselves. The crowd which had weapons had entered Sheikh Mohalla and accused Pashabhai Mohanbhai was one of them. He had a tinbox of kerosene in his hand. Since the witness was crippled by his legs, he was finding it difficult to identify the accused from the witness box. The Hon. Court had asked those sitting in the front rows to lower their heads, so that the witness could see the accused sitting on the last row. In spite of that, the witness found it difficult to identify them.

9. Munsafkhan Yasinkhan Pathan – witness no 70

This witness had mentioned the name of the accused Prahladbhai Mohanbhai in his statement before the police. The accused was in the crowd with a tinbox of kerosene in his hand. The crowd was indulging in stone pelting, arson and looting.

10. Badrunisha Akbarmiya – witness no 77

This witness had stated in her testimony before the Hon. Court that the accused Pashabhai Mohanbhai was present in the crowd which was indulging in various criminal activities.

11. Bashirabibi Bachumiya – witness no 78

This injured witness was observing iddat period as her husband had died during the event and so she could not come out of her house. She gave her statement before the SIT on 22-5-2008. In that statement she mentioned that she had given names of 10 accused to the police on 17-4-2002. One of them was the accused Pashabhai Mohanbhai. In her testimony before the Hon. Court, she had clearly stated that on the day of the event, a crowd consisting of 'Patels' had come near Sheikh Mohalla, shouting slogans 'kill miyabhai', 'don't allow any one to go alive'. They started setting fire to the houses and indulged in looting. She had seen the accused with her own eyes. She was frightened, so she went to the house of Mehmudmiya. With her were her husband Bachumiya Nathumiya, her brother, her maternal aunt, junior sister-in law, nephew and three sons. The house of Mehmudmiya was surrounded from all sides. Its window was broken open and the crowd poured petrol, kerosene and burning rags inside the house. The witness had seen accused Pashabhai Mohanbhai. In this attack witness Bashirabibi's husband Bachumiya, her elder brother Abbasmiya, sister-in law Ruksanabibi, sister-in law Mumtazbibi and niece Sairabibi were roasted alive. The witness also received burn injuries on both legs and on her face. Her son Iliyas also received burn injuries on his left ear and left leg. The witness had mentioned the name of accused Pashabhai Mohanbhai as he was part of the crowd which was indulging in criminal activities.

12. Dilawarkhan Abbasmiya Sheikh – witness no 81

This person is an important witness in that, at the time of the event he was a small boy of 12 years. he is a resident of Sardarpura. When the crowd of Hindus attacked Sheikh Mohalla, about 50 persons had gone to the house of Mehmudmiya to save their lives. This boy of tender age was also one of them. The house of Mehmudbhai was closed but the crowd poured petrol, kerosene and chemicals through the window (which they had broken) and set it on fire. About 29 persons were burnt alive. Among the dead were father, mother and elder sister of the young witness. They died in his presence. His younger sister had received burn injuries on both her legs. When police came, the injured were taken out of the house. The witness had seen those who were involved in the criminal act and he was able to identify them. At the time of his testimony, he was

17 years old. He had identified all the accused one by one including the accused Parshottambhai Mohanbhai before the Hon. Court. As a child witness his testimony is very important.

Accused No 43 Patel Ashwinbhai Jagabhai – Testimonies of various witnesses before the Hon. Court

1. Ibrahim Rasoolbhai Sheikh – witness no 47

Complainant Ibrahimbhai Rasoolmiya had filed an FIR regarding the event of 2-3-2002. In that FIR, it was mentioned that a crowd of Patels was shouting slogans like 'kill the bandiyas', 'cut them to pieces', 'no one should be allowed to escape'. They attacked the houses of Sheikh Mohalla and set fire to cabins. The crowd was well armed with weapons. The witness had seen accused Ashwinbhai Jagabhai Patel in the crowd.

2. Hizbulmiya Husseinmiya – witness no 52

This witness Hizbulmiya Husseinmiya had given his statement to the police on 10-3-02. In his statement he had mentioned the name of the accused Patel Ashwinbhai Jagabhai. He was in the crowd which was setting fire to the houses and looting them. The crowd was armed with weapons. In his testimony before the Hon. Court, the witness Hizbulmiya had stated that on the day of the event, he was sitting at his house after supper. At that time, crowds of Patels came out shouting slogans – 'kill Musalman', 'cut them to pieces'. At about 9 o'clock, at night, they started setting fire to cabins and gallons but when police arrived, the crowd disappeared. But it came again after some time, shouting the same slogans. It came towards Sheikh Vas and started pelting stones. Residents of Sheikh Vas hurried inside the house of Mehmudmiya to save their lives. This witness hid himself behind the house of Akbarbhai. From there, he could see that along with others Patel Ashwinbhai Jagabhai was also there.

Attention of the Hon. Court was drawn as per Sect. 514 that due to the unfavourable sitting arrangement, the witness was finding it difficult to identify the accused. The Hon. Court was requested to let the witness go near the accused and identify them but the court did not accept the request. Hence the witness could not identify the accused Ashwinbhai Jagabhai.

3. Sharifmiya Bhikumiya – witness no 54

The statement of this witness was recorded by the police on 6-3-2002 and therein he had mentioned that the accused was in the crowd with burning rags in his hands.

In his testimony before the Hon. Court the witness had stated that on the day of the event, the accused Ashwinbhai Jagabhai was in the crowd of Hindus – the crowd which was indulging in arson and looting.

4. Mohmud Sattar Bachumiya – witness no 59

In his testimony before the Hon. Court, the witness had stated clearly that on 1-3-2002, a call for Bharat Bandh was given. On that day at about 11.30 to 12 o'clock at night, a crowd of Patels came out shouting loudly to kill Muslims because they had burnt alive Hindus in Godhra. The crowd indulged in arson, looting and stone throwing, targeting houses of Muslims. All residents of the Mohalla got frightened, so they took their family members to the house of Mehmudbhai. Out of fear, this witness also hid himself in the nearby house of Akbarmiya Rasoolmiya. He could see from the window of the house that someone had set fire to the jeep kept in front of that house. In the light of the burning jeep, the witness could see the accused Patel Ashwinbhai Jagabhai. The same accused was identified by the witness before the Hon. Court.

5. Rafikmiya Mohmud Hussein – witness No 62

This injured witness had given his statement to the police on 10-3-2002 and in that he had given the name of accused Ashwinbhai Jagabhai.

In his testimony before the Hon. Court, this witness has said that the accused Ashwinbhai Jagabhai was also there in the crowd of Patels which had come out at night on the day of the event and was shouting loudly to kill Muslims and cut them to pieces. The crowd thereafter had gone to the house of Mehmudmiya Husseinmiya and set fire to it.

This witness also identified the accused before the Hon. Court.

6. Akbarmiya Nathumiya Sheikh – witness no 65

This witness had given his statement to the police on 10-3-2002 in which he had mentioned the name of the accused Ashwinbhai Jagabhai. In his testimony before the Hon. Court, the witness said that when he was standing at the entrance of the mohalla, he had seen Kanubhai Sarpanch, Becharbhai Odhavbhai and Mathurbhai Trikambhai switching on the electricity in front of their houses. On that night, a crowd of Hindus had come out and shouted slogans like 'kill them', 'cut them to pieces', 'burn them alive'. The crowd indulged in looting, ransacking and burning houses. Accused Ashwinbhai Jagabhai was there in the crowd with a tinbox.

7. Mehmudmiya Husseinmiya Sheikh – witness no 69

The police recorded the statement of this important witness on 6-3-2002. The event (of burning 29 men, women and children) took place in his house. On that day i.e on 1-3-02 a call for Bharat Bandh was given and at about 9.30 pm, a crowd threw burning rags in this house. Patel Ashwinbhai Jagabhai was in this crowd. The witness was standing under the tin cover of Bababhai's house. He was observing all this from that place.

This important witness had identified the accused Patel Ashwinbhai Jagabhai before the Hon. Court.

8. Firozabanu Bachumiya Sheikh – witness no 75

On the day of the unfortunate event, this witness was in the house of Mehmudmiya. The Hindus had broken the window of the house and set it on fire, with the help of kerosene and petrol. When the police came, they opened the gate and brought the men and women outside. This woman had also received injuries. In her testimony before the Hon. Court, para no 3, she had stated that she could identify the persons whom she had seen in the crowd. She also identified the accused Ashwinbhai Jagabhai before the Hon. Court.

There is no reason why the testimony of this witness cannot be believed.

Accused No 44 Patel Ambalal Maganbhai Kapur: Evidences presented against him before the Hon. Court

1. Ibrahimbhai Rasoolbhai Sheikh – witness no 47

Complainant Ibrahimbhai gave his testimony before the Hon. Court in which he mentioned that on the day of the event, a crowd was indulging in arson, looting and rioting. The accused Ambalal Maganbhai was in the crowd. The complainant also identified the accused before the Hon. Court.

2. Sharifmiya Bhikhumiya Sheikh – witness no 54

The statement of this witness by the police was obtained on 6-3-2002 in which he had mentioned that accused Ambalal Maganbhai was in the crowd with a scythe in his hand. The witness also added that the accused was a resident of Sardarpura village and was an owner of a cabin setting pan – bidi.

On 1-3-02 at about 7 o'clock in the evening, the witness saw Amratbhai Somabhai Maherwadia fixing a halogen lamp on an electric lamp post. He (Somabhai) commented that on that day, they would enjoy killing bandiyas (muslims). On hearing this, the witness got frightened, so he along with his family members went to the house of Bachumiya Imammiya in Sheikh Mohalla. At about 9 o'clock at night a crowd of Hindus, armed with scythes, pipes and swords came to Sheikh Mohalla, shouting and screaming. The crowd set fire to 3 cabins at the entrance of Sheikh Mohalla but left the place when police came. After the police left, the crowd again gathered. It was shouting, 'kill miyabhai', 'burn them alive' and pelting stones.

This crowd set houses on fire and looted them. Accused Ambalal Maganbhai was also in the crowd with a scythe in his hand.

The witness also identified the accused Ambalal Maganbhai before the Hon. Court.

There is no reason why the testimony of this witness which is reliable cannot be accepted.

3. Ashikhussein Bachumiya – witness no 55

This witness mentioned in his testimony before the Hon. Court that on 1-3-02, he was at home with his family members. At that time, about 9.00 pm, a crowd of Hindus came

shouting and screaming. They had weapons in their hands. They attacked the cabins at the entrance of the Sheikh Mohalla and set fire to them with petrol, kerosene and burning rags. When the police came, the crowd disappeared but came back again when the police left. This time, they attacked houses in Sheikh Mohalla and pelted stones and looted houses and galas. Accused Ambalal Maganbhai was in the crowd. Patel Kacharabhai Tribhovandas set fire to the jeep. There were accused Ambalal Maganbhai and Ramanbhai Ganeshbhai. When he saw them the witness ran towards Pathan Mohalla.

The witness also identified the accused before the Hon. Court.

4. Sabir Hussein Imamsha – witness no 58

This is a very important witness in that his police statement was recorded as early as 03-03-2002. In that statement, the witness had given the name of the accused Ambalal Maganbhai. In his testimony before the Hon. Court, witness Sabir Hussein said that on 1-3-02, at about 8.30 at night, he was sleeping in his house, when he heard shouts and screams. He came out and saw that a crowd of Patels from his village was there, shouting loudly to kill miyabhai and burn them alive. They had weapons like sticks, scythes, pipes and swords in their hands and were looming toward his house. He could see accused Ambalal Maganbhai in the crowd.

The witness Sabir Hussein also identified the accused Ambalal Maganbhai before the Hon. Court.

5. Mohmud Sattar Bachumiya Sheikh – witness no 59

This witness is very important evidences against the accused. This witness had recorded his police statement of the event of 1-3-2002 as early as 2-3-02 in which he had given the name of the accused who was present on that day of the event with a scythe in his hand. In his testimony before the Hon. Court, he said that on 1-3-02, he was at his house. At about 9.30 to 10.00 at night, a crowd of Patels came at the entrance of Sheikh Mohalla. They were shouting loudly to kill Muslims. They ransacked and set fire to three cabins located at the entrance of the Mohalla. When the police came, the crowd ran away but came back again at about 11.00 pm. They shouted 'this time we will not allow Musalmans to go scott free. They have burnt alive Hindus in Godhra, so we will burn them here'. They pelted stones and set fire to our houses. The Muslim families were frightened so they took shelter in the pucca house of Mehmudbhai. This witness went to the house of Akbarmiya Rasoolmiya as he was also frightened. From there he could see from the window that his jeep was torched by the crowd. In the burning light of the jeep, he could see the men in the crowd. He could see the accused Ambalal Maganbhai with a scythe in his hand.

Moreover, the witness also identified the accused Ambalal Maganbhai before the Hon. Court.

Thus, the witness had solid proof of the involvement of the accused Ambalal Maganbhai in the event.

6. Bachumiya Imammiya – witness no 60

As per the testimony given before the Hon. Court, this witness had stated that on 28-02-2002, wireman Mathurbhai Trikambhai had fixed a focus light on a street electric pole. The focus light was put on a pole near the graveyard in such a manner that its light was falling on the Sheikh Mohalla. On 28-02-2002 at night cabins were set to fire. On 1-3-2002, a call for Bharat Bandh was given. So all members of Sheikh Mohalla were at home. On that day, a crowd came with petrol and kerosene. In that crowd was accused Ambalal Maganbhai Patel. The crowd indulged in setting fire to the cabins but it dispersed when the police came.

The same crowd came again at about 11 o'clock at night and started pelting stones. The jeep of the witness was set on fire after sprinkling petrol and kerosene on it. Kacharabhai Tribhovandas was present there. Accused Ambalal Maganbhai had poured kerosene and petrol and Rajesh Punjabhai had thrown burning rag on it which led to a big blast. Thereafter the crowd had gone toward the house of Mehmudbhai. The window of that house was broken and from there, petrol, kerosene and a burning rag was thrown inside, as a result about 28 men, women and children were burnt alive. The witness had identified the accused Ambalal Maganbhai before the Hon. Court. Thus the testimony of this witness provides trustworthy proof against the accused.

7. Sifikmiya Babumiya – witness No 61

In his testimony before the Hon. Court, the witness had stated that on the day of the event, a crowd came screaming and shouting. Its members had weapons with them and they started pelting stones on Sheikh Mohalla. The witness was hit on his right leg. The crowd came inside the Sheikh Mohalla setting fire to the houses. There was accused Ambalal Maganbhai whom the witness had seen and identified. The crowd had gone toward the house of Mehmudmiya. The house was surrounded from all sides and kerosene, petrol and burning rags were thrown inside. As a result, mother and wife Faridabanu of the witness had died, whereas his daughter Suhana got burn injuries and died later. This witness identified the accused Ambalal Maganbhai (as per para 3 of his testimony before the Hon. Court) and identified him before the Hon. Court. Thus, the witness has provided important evidence against the accused.

8. Rafikmiya Mohmud Hussein – witness No 62

This injured witness had given the name of the accused in his statement before the police on 10-03-2002. In his testimony before the Hon. Court, the witness had stated that he was forced to close his cabin, he had gone to his house. On the day of the event, Patels of the village had gathered in the evening and burnt down the cabins of the Muslims. Later, on 1-3-2002, crowds of Patels had come out at about 9.30 in the evening. They were shouting to kill Muslims and burn them alive. They set fire to the cabins, one of which belonged to the witness. When police came, the crowd had disappeared.

The same crowd came at about 11.00 - 11.30 at night and started shouting and screaming. They pelted stones and ransacked the houses and set fire to them. The witness had seen the accused Ambalal Maganbhai with a scythe in his hand. Later, the crowd advanced towards the house of Mehmudmiya in which men, women and children of the Mohalla were taking refuge. The house was set on fire and those taking shelter inside were screaming and shouting for help.

The witness had identified the accused Ambalal Maganbhai before the Hon. Court.

Thus, the testimony of this witness is very important and cannot be brushed aside.

9. Bhikhumiya Kalumiya Sheikh – witness no 63

This witness had given his statement to the police on 10-3-2002 in which he had mentioned the name of the accused. In his testimony before the Hon. Court, he had statement that on 1-3-2002, at about 11.30 pm Patels of the village had started throwing stones and set houses on fire. Accused Ambalal Maganbhai was in the crowd and he was seen by the witness Bhikhumiya. The latter (Bhikhumiya) was also injured on the right and left side of his head. The crowd was shouting and urging all to kill the bandiyas (Muslims) and burn them alive. They set fire to the jeep which resulted in big blast. The witness then rushed into the house of Bachumiya but due to gaseous atmosphere, he had gone to the gallery.

This witness had identified the accused Ambalal Maganbhai before the Hon. Court.

10. Rafikmiya Babumiya Sheikh – witness no 64

On the day of the event, the witness was at his residence as there was a call for Bharat Bandh. At night a crowd consisting of Patels came at about 9.00 pm. They were shouting 'kill miyabhai', 'cut them to pieces'. They set fire to three cabins. The same crowd came again at about 11.30 pm. They pelted stones and set fire to the houses. Men, women and children of the mohalla had hid themselves in the pucca house of Mehmudbhai. The men of the crowd had gone toward Mehmudmiya's house and set it on fire. Those seeking shelter inside the house were burnt alive. There were about 28 such persons. As per the testimony of the witness accused Ambaram Kapur was in the crowd and he was identified before the Hon. Court.

11. Akbarmiya Nathumiya Sheikh – witness no 65

As per the testimony of the witness, on the day of the event, he was standing at the entrance of his mohalla. At that time a crowd of Hindus attacked the houses of his mohalla, ransacked them and set fire to the house of Mehmudmiya. He said he was able to recognize the men in the crowd (his testimony before the Hon. Court, para 4) and that accused Ambalal Maganbhai was in the crowd. The witness identified the accused before the Hon. Court.

12. Akbarmiya Rasoolmiya Sheikh – witness no 66

Police had taken down the statement of the witness in which he had mentioned the name of the accused Ambalal Maganbhai. As per his testimony before the Hon. Court, a crowd of village Patels had come shouting and screaming to kill miyabhai. They were pelting stones. The witness was hurt as the stones hit his back and leg. He hid himself behind the car of Bachubhai. The men in the crowd had gone towards Mehmudmiya's house, setting fire to houses on the way. The witness had gone inside the graveyard. Meanwhile, the crowd had surrounded Mehmudmiya's house and set fire to it with kerosene, petrol and burning rags. The witness was sitting behind the wall when a Patel saw him and followed him. He therefore hid himself inside a hollow grave and came out when the police came. When he went to Mehmudmiya's house, he saw that about 28 dead bodies were there. They were burnt down by the village Patels with the help of petrol and kerosene. The witness had seen those who had indulged in this heinous act. One of them was the accused Ambalal Maganbhai. He had a scythe with him. This he has stated in his testimony – para 3. He had also identified accused Ambalal Maganbhai before the Hon. Court.

Thus, the testimony of this witness provides solid evidence against the accused.

13. Gulamali Akbarmiya – witness no 68

This witness had mentioned the name of the accused in his statement before the police on 10-3-2002.

Moreover, in his testimony before the Hon. Court, he had stated that 27-2-02 when the train incident occurred at Godhra, he was working in front of the Jain Derasar of Sardarpura. It was 4 o'clock in the evening when the accused Ambalal Maganlal Kapur and another accused Becharbhai Odhavbhai were passing by and talking with each other. The witness overheard them saying, 'cut these bandiyas to pieces'.

On 28-2-2002, they set the cabins on fire. The atmosphere in the village was tense. On 1-3-2002, a call for Bharat Bandh was given. So, the witness was at home. The Patels of the village had gathered to form a crowd. The accused Ambalal Maganbhai, Rameshbhai Rambhai Gangavat, Rameshbhai Kantibhai and Mathurbhai Trikambhai were making provocative conversations.

In his statement before the police on 1-3-2002, the witness had said that the crowd which was indulging in stone-pelting, arson and looting was instigated by accused Ambalal Maganbhai. He had a scythe in his hand. The crowd of Patels then went towards the house of Mehmudmiya. They surrounded his house, broke open the windows and poured kerosene and petrol and threw burning rags inside. Those taking shelter inside were charred to death. This witness had recognized the accused Ambalal Maganbhai and identified him before the Hon. Court.

Thus, the testimony of this witness provides solid proof of the involvement of the accused in the heinous act.

14. Mehmudmiya Husseinmiya Sheikh – witness no 69

This important witness had given his statement to the police on 6-3-02, in which he had mentioned the name of the accused Ambalal Maganbhai.

Besides this, in his testimony before the Hon. Court, he had stated that on 1-3-2002, at about 11.30 at night, a crowd came to Sheikh Mohalla and started pelting stones and set houses of Sheikh Mohalla on fire. These men came to the house of the witness and tried to break open the gate by kicking it. They were shouting and screaming loudly to kill and burn the people of the mohalla. They threw burning rags inside the house and continued to burn it. Accused Ambalal Kapur was one among the crowd. He had a scythe in his hand.

As per para-3 of his testimony, the witness had identified the accused. Thus, the evidences presented by the witness cannot be ignored.

15. Munsafkhan Yasinkhan Pathan – witness no 70

In his testimony before the Hon. Court, the witness had stated that on the day of event, a crowd consisting of Patels of the village was shouting slogans and pelting stones. They were setting fire to houses of the Sheikh Mohalla by throwing burning rags in them. They burnt alive persons hiding in the house of Mehmudmiya. In the crowd was accused Ambalal Maganbhai. The witness had identified him before the Hon. Court.

16. Firozabanu Bachumiya – witness no 75

This important witness was staying in Sardarpura village at the time of the event and her statement was recorded by the police as early as on 2-3-2002. In that statement also, the witness had mentioned the name of the accused. On the day of the event at about 11.00 to 11.30 at night, a crowd was indulging in arson, stone-pelting and ransacking of houses. The witness had hid herself in the house of Mehmudmiya. At that time the crowd of Hindus had broken the iron bar of the window and poured petrol and kerosene inside. Then they set fire to the house as a result about 26 persons were burnt alive. Some of them had received burn injuries. The witness was also injured during the incident. In her testimony she had clearly stated that she had seen the accused Ambalal Kapur in the crowd. Moreover, she also identified the accused which cannot be ignored.

17. Hamidabibi Akbarmiya – witness no 76

Testimony of this witness was recorded before the Hon. Court. According to that, on the day of the event, she had hid herself inside the house of Mehmudbhai as she was frightened. She had seen that the crowd had come towards Mehmudmiya's house and those who had taken refuge inside it were burnt alive. The crowd was screaming and shouting – 'kill bandiyas', 'cut them to pieces'. This witness was injured on her left knee and right side of the head. She had identified the accused Ambalal Maganbhai before the Hon. Court.

18. Badrunissa Akbarmiya Sheikh – witness No 77

This important witness had recorded her statement to the police on 6-3-02. In that statement, she had mentioned the name of the accused.

In her testimony before the Hon. Court, she had described the event of that day and said that a crowd of Patels had come towards their (Muslims) houses and set fire to them. She had seen the accused Ambalal Kapur when he set Bachubhai's jeep. The witness also identified the accused Ambalal Kapur before the Hon. Court.

There is no reason why the testimony of this witness cannot be believed.

19. Saberabibi Sabirhussein – witness no 82

Police statement of this important witness was recorded on 3-2-02 in which she had mentioned the name of this accused.

In her testimony before the Hon. Court, she had stated that on the day of the event, Patels of Sardarpura had come out in large numbers. They were shouting and screaming 'kill Musalmanns', 'cut them to pieces', 'burn them alive'. They had sticks, scythes, pipes, spears and swords. These people had set here house to fire. This witness had fled to her field and from there, in the light of the burning houses, she was able to recognize the people indulging in the crime. In para – 3 of her testimony, she had stated clearly that the persons she had seen in the light of burning houses included the accused Ambalal Kapur. The witness said that since too much time has elapsed, she was not in a position to identify him.

20. Sharifabibi Sabirhussein Sheikh – witness no 83

This witness had seen the persons in the moonlight and light of the burning houses those who had set fire to the houses. Among them was accused Ambalal Kapur and she was able to recognize him.

21. Sabir Hussein Kadarmiya Sheikh – witness no 48

This is an important witness and he had recorded his statement to the police as early as on 6-3-02. In that statement, he had mentioned the name of the accused. Moreover, in his testimony before the Hon. Court, the witness had clearly stated that on 8-2-02, he was at his home. That day at about 7.30 pm, Ambalal Maganbhai and Amrutbhai Somabhai Maherwadia from the Kapur Vas were standing near the electric pole. Amrutbhai Somabhai climbed the electric pole and joined tube light with the electric wires and had switched on lights. At that time, Ambalal Maganbhai was standing near the electric pole. He was heard saying 'now we will enjoy killing bandiyas'.

As per the statement of the witness Patels of the village had assembled at the entrance of their mohalla and were talking about starting riot. They had set fire to the cabins of Muslims and other communities. The witness added in his testimony that on 1-3-2002, Bharat Bandh was declared and so, he was at home. At around 11 o'clock at night, Patels of the village had attacked Sheikh Mohalla and set fire to cabins kept at the entrance of the mohalla. The focus light in front of the mohalla was on and in its light,

the witness had seen accused Ambalal Maganbhai alongwith other accused persons. They were instigating the crowd, setting fire to the houses, the men of the crowd alongwith weapons had got towards the house of Mehmudmiya. They had broken the window and thrown petrol, kerosene in it and set it on fire. This incident occurred at 10.pm and continued upto 2 o'clock at night. Those who were in the house were shouting and screaming for help. At about 2.30 at night the police came, so those involved in the incident ran away.

In his testimony (para 5) the witness stated that he was able to recognize persons in the crowd as well as the accused Ambalal Maganbhai.

Describing the cruel manner in which innocent men, women and children were burnt alive, many witnesses were not able to control their emotions and they had cried copiously. The witness also cried and due to choking of chest, he was offered a glass of water to drink. The court observed a 5 minutes break at that time.

22. Sabirmiya Akumiya Pathan – witness no 46

The witness clearly states in his testimony before the Hon. Court.

About 20 – 25 days before the event of

...2002, Haresh Bhatt, VIP leader had come to our village and had held a meeting at the Mahadev Temple (the place from where the crowd had come at the night on the day of the event). The youth of Patel caste were in the meeting...there were young people present when Haresh Bhatt had come...Hareshbhai gave a very strong-worded lecture. He had said 'these Muslims are a burden to our country. They have no right to live in India. In case, riot takes place, don't allow a single Muslim alive'. Thereafter Haresh Bhatt had distributed Trishuls (trident). He gave trishul to 5 persons. Among the five was the accused Ambalal Maganbhai.

Accused No 46 Patel Ramesh Prabhabhai – Testimonies of various witnesses and evidences thereof, before the Hon. Court.

1. Ibrahim Rasoolbhai Sheikh – witness no 47

This witness gave his complaint on 2-3-2002 and in that he had given the name of the accused.

In his testimony before the Hon. Court, he had stated that on the day of the event a crowd of Patels armed with weapons had attacked Sheikh Mohalla and ransacked houses and set them on fire. The crowd was shouting 'kill them', 'cut them to pieces', 'no one should escape'. In the crowd was the accused Rameshbhai Prabhabhai. The crowd had gone towards Mehmudmiya's house setting fire to Muslim houses on its way.

They burnt down men, women and children in Mehmudmiya's house with the help of kerosene and petrol.

2. Ashikhussein Bachumiya – witness no 55

As stated earlier, this witness is a WHOLLY RELIABLE one. His statement was recorded by the police on 2-3-2002 and he had given the name of the accused in it. The said accused was with a scythe in his hand.

In his testimony before the Hon. Court the witness had clearly stated that on the day of the event he was at his home with members of his family. On that day at about 9.00 o'clock at night, a mob of Hindus came to Sheikh Vas with weapons in hand. They were shouting 'kill them', 'cut them to pieces', 'set them to fire'. They pelted stones, ransacked the cabins in front of the Sheikh Vas and set fire to them. The mob ran away and came back after some time. Again they started attacking houses in the Sheikh Vas, pelted stones at them and ransacked them. The accused Rameshbhai Prabhabhai was in the crowd with a scythe in his hand. The crowd had gone toward Mehmudmiya's house when men, women and children were hiding. The crowd had burnt down the jeep of the witness. His daughter Ashianabanu was burnt alive. His wife and one child had received burn injuries. His second daughter Shahinbanu was hit by a stone on her right ear. This witness had given his statement to the police as early as on 2-3-02 in which he had given the name of the accused Rameshbhai Prabhabhai. He was there with a scythe in his hand. Moreover, the witness had identified the accused before the Hon. Court. thus the testimony given by the witness is very clear and worth believing and there is no reason to disbelieve it.

Accused no 47 Patel Jivandas Dwarkadas – Testimonies against the accused of various witnesses before the Hon. Court and evidences / proofs therefrom.

1. Bachumiya Imammiya – witness no 60

Witness no 60 – Bachumiya Imammiya has given his testimony in which he said that on the day of the event he was living in Sheikh Mohalla. On that day, a Hindu mob had attacked Sheikh Mohalla, pelting stones, ransacking the houses and setting fire to them. Accused Jivanbhai was present in the mob. This was stated by the witness in his testimony.

2. Shamimbanu Mehmudmiya Sheikh – witness no 79

Witness no 79 – Shamimbanu Mehmudmiya Sheikh gave her testimony before the Hon. Court. accordingly, a crowd of Patels came to Sheikh Mohalla on the day of the event at about 12 o'clock at night. They entered the Mohalla, setting fire to the houses. To save their lives women of the mohalla had rushed inside the house of the witness, because it was a pucca building. The crowd surrounded the house from all sides, set it on fire with the help of petrol, kerosene and burning rags. The men, women and children were all inside the burning house and the witness had seen it all with her own eyes. In her

testimony before the Court, the witness admitted that she did not know the names of the accused but she could identify them from their faces. She identified many accused present in the court and among them accused Jivanbhai Dwarkadas was also identified. Thus, the evidences provided by the witnesss are very trustworthy and provide solid proof against the accused.

3. Dilawarhusein Abbasmiya Sheikh – witness no 81

Witness no 81 – Dilawarkhan Abbasmiya is a child witness. At the time of the event, he was 12 years old. On 1-3-2002, he was living is Sheikh Vas. He was at home, since 1-3-2002 was declared Bharat Bandh. On that day Hindu Patels of the village had attacked houses of Sheikh Vas with weapons. About 50 people had gone to the home of Mohmudmiya Husseinmiya to seek shelter there. The crowd outside had bolted the gate of the house from outside and had broken the window and poured petrol / kerosene / chemicals inside it and set it on fire. The witness was in that house at the time it was burning. As a result about 29 people were roasted alive at that place. Father, mother and elder sister of the child witness had died in his presence due to fire but his younger sister had survived, though she had received burn injuries on both her legs. Three hours after such gruesome event, the police came and brought all those who were in the house. The witness said that he was able to recognize the men who were in the crowd. He also identified many of them one by one before the Hon. Court. Among them was accused Jivanbhai Dwarkadas whom the witness had identified before the Hon. Court.

Accused No 48 Jayantibhai Ambalal – Testimonies of various witnesses before the Hon. Court against the accused and proof / evidence therefrom.

1. Ibrahim Rasoolmiya- witness no 47

Witness no 47 – Ibrahimmiya Rasoolmiya has given his complaint as early as possible and in that he had given the name of the accused. Moreover, in his testimony before the Hon. Court, he had clearly stated that on the day of the event, the accused was in the crowd which was indulging in serious criminal acts.

2. Ashikmiya Bachumiya Sheikh – witness no 55

Witness Ashikmiya Bachumiya Sheikh is an important witness who has given his testimony before the Hon. Court. he has said that on the day of the event, the accused was part of the crowd and he was throwing stones and brickbats. The witness had also identified the accused before the Hon. Court.

3. Mohmud Sattar Bachumiya – witness no 59

Witness no 59 – Mohmud Sattarmiya is an important witness. In his testimony before the Hon. Court, he had stated that on the day of the event when the Hindu crowd had attacked Sheikh Mohalla and was indulging in arson and looting, he had seen the

accused Jayantibhai Ambalal with brick bat in his hand, through the window of Akbarmiya Rasoolmiya. The crowd had torched his jeep and in the light of the burning jeep he was able to recognize the accused. The men in the crowd were coming toward the house of Mohmudmiya. The witness had identified the accused Jayantibhai Ambalal before the Hon. Court.

4. Bachumiya Imammiya Sheikh – witness no 60

Witness no 60 – Bachumiya Imammiya Sheikh, in his testimony before the Hon. Court had stated that on the day of the event, men of the village had attacked Sheikh Vas. He gave detail description of how the crowd was indulging in arson, looting and ransacking the houses in Sheikhvas. He gave the names of the persons who torched his jeep. Among them he mentioned the name of accused Jayantilal Ambalal. The witness is an old man of 68 years and eight years after the event, as well as due to his physical and psychological weaknesses, he was not able to recognize the accused who have also got some changes in their faces. These are valid reasons for his failure to recognize the accused.

5. Akbarmiya Nathumiya – witness no 65

This important witness had recorded his statement before the police on 10-3-2002 in which he had mentioned that the accused was in the crowd which was indulging in criminal activities on the day of the event. The accused had a stick in his hand. Moreover, in his testimony before the Hon. Court, he had mentioned that the accused Jayantilal Ambalal was standing at the entrance of the Sheikh Mohalla along with the crowd which was indulging in arson and ransacking of the house and shouting slogans like 'kill miyabhai', 'set them to fire' etc. The accused had a stick in his hand. The witness had also identified the accused before the Hon. Court.

6. Akbarmiya Rasoolmiya Sheikh – witness no 66

This injured witness had identified the accused before the Hon. Court. The accused was one of the active members of the crowd consisting of village Patels who were indulging in various criminal activities. The accused was identified by the witness before the Hon. Court.

7. Gulamali Akbarmiya Sheikh – witness no 68

Witness no 68 – Gulamali Akbarmiya Sheikh has said in his testimony before the Hon. Court that on the day of the event, accused Jayantibhai Ambalal was among the crowd of village Patels. They were indulging in stone throwing, arson and looting. This witness was hit by stones on his left leg, knee and back of the left shoulder. When the crowd of Patels entered the Mohalla, the witness was standing in the narrow lane of Bachumiya Imammiya. From there he was able to recognize the accused, among whom the accused Jayantibhai was also there. The crowd then went toward the house of Mehmudbhai and surrounded it. They tried to break the gate but could not, so they

broke open the window and threw petrol, kerosene and burning rags inside. Our men, women and children who were inside the house, were shouting for help. We were present there but could not save them. The testimony of the witness is before the Court. The witness had also identified the accused Jayantibhai Ambalal before the Hon. Court. Thus, the proof / evidence provided by this witness is worth believing. It is a very solid evidence against the accused.

8. Munsafkhan Yasinkhan Pathan – witness no 70

In his testimony before the Hon. Court, this important witness had given a detailed description of the criminal acts of the crowd consisting of village Patels on the day of the event. He also told that the accused was in the crowd. The witness also identified him before the Hon. Court.

9. Mangabhai Ramabhai – witness no 71

This is an important and neutral witness. He has given his testimony before the Hon. Court. He has no enmity with any of the accused and he has no interest in giving false testimony against any of them. As per his testimony, on 1-3-02 at about 9.00 o'clock at night, the tractor belonging to Ramabhai Mohanbhai Patel was parked in the side of his house. It had about three or four big drums full of kerosene and another full of petrol. The witness had seen the accused Jayantibhai Ambaram along with another accused going in front of his (witness) house. He (the witness) had seen the accused going toward the house of Kantibhai Prabudas with drums of kerosene. When the accused were passing near the house of the witness, the latter could smell kerosene. Late at night, in the light of focus, he (the witness) had seen mobs of Patels going toward the house of Mehmudbhai in Sheikh Mohalla. He had also seen blast of light and heard screams of men, women and children, urging to be saved. The crowd was very large and the witness was not able to go near the building. This important witness had identified the accused before the Hon. Court. The witness is a neutral person. He has no enmity with any of the accused and has no interest in falsely implicating any of the accused. Hence his testimony cannot be ignored.

10. Bashirabibi Bachumiya – witness no 78

This witness had seen her husband Bachumiya, brother Abbasmiya, sister-in law Ruksanabanu, sister-in law Mumtaz, niece Sairabanu, nephew Firozmiya being burnt alive by the Hindu mob. She herself had also received burn injuries for which she had got treatment in Mehsana Civil Hospital. As her husband had died, she had to observe iddat during which she could not leave her house. In her statement to the police, she had given the name of the accused. In her testimony before the Hon. Court she had stated that on the day of the event, she along with her husband and other relatives had sought refuge in the house of Mehmudbhai in order to save their lives. She had seen the people who had surrounded the house of Mehmudbhai. They had broken the window of the house and poured kerosene, petrol and burning rags inside. She had

seen the accused Jayantibhai Ambaram and during her testimony before the Hon. Court had identified the accused Jayantibhai Ambalal.

Thus, the evidence presented by this witness is very trustworthy, solid and important and cannot be ignored.

11. Sabirhussein Kadarmiya Sheikh – witness no 48

This witness is a very important one. In his statement before the police, he had given the name of the accused Jayantibhai Ambalal. In his testimony before the Hon. Court, he had described that his galla was burnt down and the crowd consisting of village Patels had attacked Sheikh Mohalla at night and started throwing stones on the houses set them to fire. The crowd was armed with weapons and had petrol, kerosene and chemicals with which they torched the houses. The crowd had gone toward the house of Mehmudmiya where our men, women and children were hiding. They broke open the window of Mehmudmiya's house and set it on fire by pouring petrol, kerosene inside. According to the witness, those inside the house had shouted for help from 10 to 12 o'clock at night but no one could save them. This witness had identified the accused men among whom he identified the accused Jayantibhai Ambalal.

Thus this witness had provided very strong and trustworthy evidence before the Hon. Court.

Accused No 49 Kanubhai Joitaram Patel – Testimonies of various witnesses against the accused

Some 16 witnesses have given testimonies before this accused and they have identified him before the Hon. Court

1. Ibrahimmiya Rasoolmiya – witness no 47

Besides witness No 47, Ibrahimmiya Rasoolmiya following witness have also given their testimonies against the accused and said that he was in the crowd indulging in serious criminal acts. They have also identified before the Hon. Court. Witness No 56 - Aiyubmiya Rasoolmiya, Witness No 58 - Sabirhussein Imamsha, Witness No 59 - Mohmud Sattar, Bachumiya – Witness No 60, Bachumiya Imammiya – Witness No 63, Bhikumiya Kalumiya – witness No 64, Rafikmiya Babumiya – witness no 65, Akbarmiya Nathumiya – witness No 66, Akbarmiya Rasoolmiya – witness no 68, Gulamali Akbarmiya – witness No 70, Munsaf Khan Yasinkhan – witness no 74 - Sikandarmiya Rasoolmiya. All these witnesses had said in their testimonies before the Hon. Court that the said accused was in the crowd the day of the event and was indulging in serious criminal activities. They all had identified the accused before the Hon. Court.

2. Aiyubmiya Rasoolmiya – witness no 56

This injured witness had stated in his testimony before the Hon. Court that on 1-3-02, a call for Bharat Bandh was given and he was at home. At about 5.00 pm, he had gone

to the house of Munsafkhan where the accused Kanubhai Sarpanch was present. He had told us to make arrangement for our own defence. Witness Aiyubmiya had seen the accused coming toward his house. The halogen light was focused on Sheikh Mohalla. When the witness asked the accused Kanubhai Sarpanch about the light, he had said the light bill been paid. He added that now they will enjoy killing Muslims. According to this witness, wireman Mathurbhai had climbed the electric pole and had switched on the light. At about 9.00 o'clock at night a crowd of Hindus had come out shouting and burning cabins but when police came it disappeared. The same crowd came again and after sometime, they started pelting stones on the houses of Sheikh Mohalla. They indulged in arson and looting. In this crowd the witness had seen accused Kanubhai Sarpanch. The same accused Kanubhai Joitaram was identified before the Hon. Court by the witness.

3. Witness No 58 – Sabirhussein Imamsha Fakir

This is a very important witness. In his testimony before the Hon. Court, he had stated that on 1-3-02 at about 8.30 pm, he was in his house. At that time, he heard screams and shouting of the crowd. He saw that Patels of village had come out, with weapons like sticks, scythes, pipes, swords. They were shouting 'kill', 'cut them to pieces', 'burn them alive', etc. The crowd was coming toward his house. He had seen accused Kanubhai Sarpanch. Witness Sabirhussein had identified the accused Kanubhai Joitaram Sarpanch before the Hon. Court.

4. Mohmud Sattar Bachumiya Sheikh – witness no 59

This witness provides important testimony against the accused and is therefore an important witness. He had given his statement to the police regarding the event of 1-3-02 as early as on 2-3-02. He had mentioned accused Kanubhai Sarpanch in his statement. Moreover, in his testimony before the Hon. Court, he had state that on 1-3-02, he was at his house. At that time, at about 9.30 to 10.00 pm a crowd of Patels had come to Sheikh Mohalla. They shouted slogans, set fire to three cabins and when the police came, it disappeared. The same crowd came at about 11 o'clock at night. They were shouting 'this time the Muslims will not be allowed to go unhurt. They have set Hindus on fire at Godhra. So, they will also be burnt alive'. With these shouts they started pelting stones at Muslim houses, set them to fire and ransacked them. Muslim men had sent their family members to take shelter in the pucca house of Mehmudbhai. This witness had hid himself in the house of Akbarmiya Rasoolmiya. From the window of that house, he could see that his jeep was set to fire by the crowd. In the light of the burning jeep, he could se and recognize those who were present in the crowd. He had recognized accused Kanubhai Sarpanch.

Moreover, he had identified the accused Kanubhai Sarpanch before the Hon. Court.

Thus the testimony of the witness provides solid and trustworthy proof against the accused Kanubhai Sarpanch.

5. Bachumiya Imammiya Sheikh – witness no 60

In his testimony before the Hon. Court, the witness had stated that on the day of the event, wireman Mathurbhai had started direct light on the electric pole located at the entrance of the Sheikh Mohalla. At that time the accused Kanubhai Sarpanch was standing near the electric pole. The focus light was put on the electric pole near graveyard. The light of this focus lamp was falling on the Sheikh Mohalla. On 1-3-02, when the village Patels attacked Muslims with kerosene and petrol, the witness had seen the men in the crowd because of the focus lamp. He had also seen the accused Kanubhai Sarpanch in the crowd. In his testimony before the Hon. Court (para – 3) he had mentioned the name of the accused Kanubhai Srpanch and had identified him before the Hon. Court.

6. Bhikhumiya Kalumiya – witness no 63

In his statement given to the police on 10-3-02, the witness had mentioned the name of the accused Kanubhai Joitaram. Moreover, in his testimony before the Hon. Court, he had stated that on the day of the event, the Patels of the village had attacked Sheikh Mohalla with weapons. They had set fire to many Muslim houses. In the crowd the accused was also there. The witness had also identified the accused before the Hon. Court. Thus, the testimony of this witness is very important.

7. Rafikmiya Babumiya Sheikh – witness no 64

In his statement to the police, this witness had given the name of the accused Kanubhai Joitabhai Sarpanch. In his testimony before the Hon. Court, the witness had stated that on the day of the event at about 11.30 pm, a crowd consisting of Hindu Patels had come towards Sheikh Mohalla. Those who were in the crowd were shouting 'kill miyabhai', 'cut them to pieces' etc. They were throwing stones on the houses of Sheikh Mohalla. As per the statement of the witness, accused Kanubhai Joitabhai Sarpanch was instigating the crowd. He was also identified by the witness before the Hon. Court.

8. Akbarmiya Nathumiya Sheikh – witness no 65

As per his testimony before the Hon. Court, the witness had stated that on 1-3-02, a call for Bharat Bandh was given. He was at his home with his family members. On that day at about 4 to 5 o'clock in the evening, Kanubhai Sarpnch Becharbhai Vodhavbhai, Mathurbhai Trikambhai had fixed electric light in front of their house. Thereafter, at about 9.30 pm, a crowd of village Patels came, set fire to the cabins. The witness was able to recognize the accused and was also identified before the Hon. Court. as per the statement of the witness, the accused was involved in criminal activities of serious kind.

9. Akbarmiya Rasoolmiya Sheikh – witness no 66

This injured witness had given his testimony before the Hon. Court. According to that, on 1-3-02, a crowd of village Patels had come, shouting slogans like 'kill them', 'butcher them', 'burn them alive', and pelting stones at them. The witness was injured on his

back and bone of the leg due to stone throwing and due to that he hid himself behind the jeep of Bachumiya. The village Patels were coming towards the house of Mohmudbhai, setting fire to houses on their way. On seeing them he ran inside the graveyard hid himself behind a wall. The villages had surrounded the house of Mehmudmiya and were pouring petrol and kerosene inside it. At that time one Patel saw him and ran after him, so he slipped inside a hollow grave. He came out only when the police came. He then went to the house of Mehmudmiya and saw about 28 dead bodies. The village Patels had set them to fire by pouring petrol and kerosene in the building. The witness had seen the accused Kanubhai Joitaram among those who were responsible for this heinous crime and he had stated it in his testimony (para 3) before the Hon. Court. The witness had also identified the accused before the Hon. Court. Thus, the testimony of this witness provides solid proof against this accused.

10. Gulamali Akbarmiya Sheikh – witness no 68

This injured witness had stated in his testimony before the Hon. Court that on the day of event, a crowd of village Patels had come in which accused Kanubhai Joitaram was also present. The crowd was indulging in stone throwing, slogan shouting, arson and loot. The witness was hurt on his left leg, knee and back of the left shoulder. When the crowd came inside the mohalla, the witness went inside the small lane in front of the house of Bachumiya. From there he had seen the accused persons and recognized them. The crowd had gone toward the house of Mehmudmiya and surrounded it. On the way the crowd had set fire to the houses. The men in the crowd had tried to break the gate of Mehmudbhai's house but they could not do it so they broke open the window. They tried to break the terrace. From the window, they threw petrol, kerosene and burning rags and set the house on fire. The men, women and children inside the house were crying for help. The witness and his men were present there but they were not in a position to save them. The witness had stated this clearly in his testimony before the Hon. Court. he had also stated that he was knowing the accused Kanubhai Joitaram and identified him before the Hon. Court.

Thus, the testimony of the witness provides solid and trustworthy evidences against the accused.

11. Shamimbanu Mehmudmiya Sheikh- witness no 69

This witness is the daughter of Mehmudmiya whose house was set on fire by the crowd. On the day of the event, she was a minor and she was present in the house. Her house was surrounded from all sides and was set on fire by the mob with the help of petrol and kerosene and burning rags. She had seen all that with her own eyes.

In her testimony before the Hon. Court, she had stated that she could recognize all the accused from their faces but she did not know their names. This is but natural because the witness was a child and a girl.

The witness had identified the accused before the Hon. Court. Thus, she was an important witness and she had no intention to implicate anyone falsely.

12. Munsafkhan Yasinkhan Pathan – witness no 70

This important witness had stated in her testimony before the Hon. Court that on the day of the event, a crowd of Patel had indulged in criminal activities and in that crowd was Kanubhai Joitabhai. The witness had identified the accused before the Hon. Court.

13. Saberabibi Hussein Fakir – witness no 82

This witness had given her testimony before the Hon. Court in which she had clearly stated that after the Godhra incident, Gujarat Bandh was declared on the second day. The village Patels had set fire to the galas on that day. On the second day, they had come with scythes, pipes, swords and attacked us. Her house was also set on fire. In its light, the witness had recognized the accused persons. Among them was Kanubhai Joitabhai Sarpanch. As many years have passed since the incident occurred and the witness was quite old, she was not able to identify the accused before the Hon. Court.

14. Shafirabibi Sabirhussein Fakir – witness no 83

This witness had given her testimony before the Hon. Court. Accordingly, on the day of the event, Patels of Sardarpura had set cabins on fire. They were shouting 'kill miyabhai', 'butcher them', 'burn them alive' and coming towards her house. So, she silently left the house and hid herself in the nearby fields. She said that she saw in the moonlight that her house was set on fire. Later in the light of the burning house, she recognized the persons who were in the crowd. Among them was accused Kanubhai Joitabhai and she also identified before the Hon. Court.

15. Sabirhussein Kadarmiya – witness no 48

This witness also said in his testimony before the Hon. Court that the accused was in the crowd which was indulging in criminal activities while describing the heinous crimes committed by the crowd. The witness had tears in his eyes. He had also identified the accused before the Hon. Court.

Thus the evidences provided by the witnesses against the accused are very strong and cannot be brushed aside.

Accused no 50 Prajapati Ramanbhai Ganeshbhai – Testimonies of various witnesses against the accused before the Hon. Court

1. Iqbalmiya Rasoolmiya – witness no 49

This injured witness had given his statement to the police on 10-03-02 in which he had stated that the accused along with a tinpot was with the crowd which was indulging in unlawful activities. Moreover, in his testimony before the Hon. Court, he had stated that on the day of the event at about 11.30 pm, a crowd of Hindus was indulging in stone throwing, loot and arson. They had surrounded the house of Mehmudmiya from all sides and had set the men, women and children to fire by pouring petrol and kerosene inside

it. The accused was present in the crowd and he had a tinpot in his hand. The witness also identified the accused before the Hon. Court.

Thus, the testimony of the witness against the accused is trustworthy and cannot be ignored.

2. Nazir Mohmud Akbarmiya – witness no 51

This injured witness had given his statement to the police on 1-3-02. Accordingly, on the day of the event, the accused was present with a tinpot in his hand. In his testimony before the Hon. Court, the witness stated that on the day of the event, a crowd was indulging in arson, loot and slogan shouting. Accused Ramanbhai Ganeshbhai was in the crowd with a tinpot in his hand. The crowd had attacked Muslim Mohalla. The house of Mehmudmiya was also attacked. Its window was broken and after pouring petrol in it, the house was set on fire. When the crowd was pelting stones, the witness was injured on the elbow of his left hand and left eye ball. The witness had identified the accused before the Hon. Court.

3. Hizbulmiya Husseinmiya Sheikh – witness no 52

As per his testimony before the Hon. Court, on 1-3-02, Patels of the village had come out in a crowd and started shouting slogans against Muslims. They were setting Muslim houses on fire. So, many Muslims sought refuge in the house of Mehmudmiya as it had a terrace. This witness hid himself behind the wall of Akbarbhai. The men in the crowd were going towards the house of Mehmudbhai, while setting fire to houses of the way. This witness had seen accused Ramanbhai Ganeshbhai among other accused indulging in unlawful activities. The witness had also identified the accused before the Hon. Court.

4. Ashikhussein Bachumiya Sheikh – witness no 55

This important witness had given his statement to the police on 2-3-2002 and he had mentioned the name of this accused in it. In his testimony for the Hon. Court, the witness said that on the day of the event, a crowd of Hindus had attacked Sheikh Vas, ransacked the house, threw stones and set them on fire. The witness said that the accused Prajapati Ramanbhai Ganeshbhai was in the crowd. He was also among those who torched his (witness) jeep. This important witness had identified the accused before the Hon. Court.

5. Aiyubmiya Rasoolmiya – witness no 56

This injured witness had given his statement to the police on 10-3-02, in which he had given the name of the accused. Moreover, in his testimony before the Hon. Court, he had stated that, on the day of the event, the accused persons were shouting, screaming and indulging in loot and arson. They were going toward the house of Mehmudmiya. There they poured petrol and kerosene and set it on fire. Those inside the house were

shouting to be saved. In the Hindu crowd which was involved in such heinous crimes, accused Ramanbhai Ganeshbhai was there with a tinpot in his hand.

6. Akbarmiya Nathumiya – witness no 65

This witness had given his statement to the police on 10-03-02 in which he had mentioned the name of the accused. In his testimony before the Hon. Court, he had stated that on the day of the event, he was standing at the entrance of his mohalla. A focus lamp was put on the electric pole. A crowd of Hindus was out on the road shouting slogans like 'kill miyabhai'. It was indulging in arson and ransacking of houses. Accused Ramanbhai Ganeshbhai was in the crowd with his tinpot and the witness had seen him.

7. Firozbanu Bachumiya Sheikh – witness no 75

As per her testimony before the Hon. Court, on the day of the event, at about 9.00 pm Patels of the village had set fire to the cabins. Again at about 11 to 11.30 pm, the crowd of Hindus was indulging in stone throwing and arson. Girls and women had gone to the house of Mehmudmiya to save themselves from the attack. The Hindus broke the metal bar of the window and threw petrol, kerosene and burning rags inside. The witness had seen accused Prajapati Ramanbhai Ganeshbhai. In her testimony before the Hon. Court, the witness said that she had given the names of the accused to the police in her statement to them. The witness had also seen the accused setting fire to her commander jeep. The accused persons were ransacking the houses, pouring kerosene and setting fire with the help of matchstick. They included Ambalal Kapur, Kachra Tribha and Rohitkumar Ramanbhai. The witness had seen Prajapati Ramanbhai Ganeshbhai and she had identified the accused before the Hon. Court.

Accused No 51 Marwadi Ashutosh alias Pavankumar Murlidhar

Testimonies of various witnesses before the Hon. Court against the accused

1. Iqbalmiya Rasoolmiya Sheikh – witness No 49

This injured witness has given the name of this accused in his statement to the police on 10-03-02. In his testimony before the Hon. Court, he had stated that on the day of the event at about 11.30 at night, a crowd of Hindus was indulging in stone throwing, looting, ransacking and setting fire to houses. The men in the crowd had gone to the house of Mehmudmiya, surrounded it from all sides, broke open the window, threw petrol and kerosene inside and burnt alive women and children who were taking shelter inside. The accused Pavanbhai Marwadi was in that crowd with a pipe in his hand. The witness had identified the accused before the Hon. Court. The witness had received injuries for which treatment was also given. Thus, the testimony of this witness is worth believing.

2. Akbarmiya Nathumiya – witness No 65

The police report of this witness was taken on 10-03-02 in which the name of this accused was mentioned. Moreover, in his testimony before the Hon. Court, the witness had stated that the accused Pavan Murli Vasanvala was instigating the crowd. He was saying 'kill miyabhai', 'butcher them' etc.

Accused No 52 Patel Dahyabhai Kachrabhai – Testimonies of various witness and evidences against him

1. Iqbalmiya Rasoolmiya Sheikh – witness no 49

This injured witness had given the name of this accused in his statement to the police on 10-03-02. In his testimony before the Hon. Court, the witness had said that on the day of the event, at about 11.30 pm, a crowd of Hindus had come. It was throwing stones and indulging in looting arson and ransacking the houses. The men in the crowd had gone toward the house of Mehmudmiya, surrounded it from all sides, broke the window, poured petrol and kerosene inside. As a result, men, women and children taking shelter in the house were roasted alive. The men involved in this heinous crime included accused Dahyabhai Kachrabhai, who had a pipe in his hand. This witness had identified the accused Dahyabhai Kachrabhai before the Hon. Court. The witness had received injuries for which he had taken treatment.

Thus, the testimony of this witness is very important and worth believing.

2. Nazir Mohmud Akbarmiya – witness no 51

This important witness had also given the name of this accused in his statement of 10-03-2002. In his testimony before the Hon. Court he had stated that on the day of the event, a crowd was indulging in arson, looting and slogan-shouting. Accused Dahyabhai Kachrabhai was in the crowd with a stone in his hand. The men in the crowd had attacked Sheikh Vas, broken the window of Mehmudmiya's house and set it on fire with the help of petrol and kerosene. In the stone throwing, the witness was hurt on the elbow of his left hand and eyeball of the left eye. The accused was identified by the witness before the Hon. Court. Thus this witness is very important.

3. Aiyubmiya Rasoolmiya Sheikh – witness No 56

In his statement to the police on 10-03-02, the witness had given the name of the accused. Moreover, he had said that on the day of the event, the accused was part of the crowd with a pipe in his hand. The crowd was indulging in unlawful acts. At the time of the event, the witness was in the house of Mehmudmiya where he had received burn injuries. His wife also got burnt in his presence. The witness had seen Dahyabhai Kachrabhai in the crowd and he was also identified before the Hon. Court. Thus, the testimony of this witness is very important and cannot be dismissed.

4. Prahladbhai Nathabhai Raval – witness no 72

This important witness had given his testimony before the Hon. Court. The witness has no enmity with anyone and hence there no reason for him to give false testimony. As per his statement, on the day of the event, crowds of Patels had gathered in the village. The witness was at home at about 10 to 10.30 pm. The crowd had broken the shop of Memon Jan Mohmud and from there the men had rushed inside the house of Valikaka. They were shouting, 'kill Bandiyas', 'cut them to pieces'. The witness had given the names of those who had attacked the house of Valikaka before the Hon. Court. There were many others but the witness could not remember them. In his testimony (para no 4) before the Hon. Court, the witness had said that among those who had indulged in ransacking Valikaka's house, accused Dahyabhai Kachrabhai was one and he was also identified before the Hon. Court.

5. Ruksanabanu Ibrahimbai – witness no 80

This witness (No 80) Ruksanabanu Ibrahimbai had given her testimony before the Hon. Court. Accordingly, on the day of the event, people of the village had attacked the house of Mehmudmiya in which Muslims had taken shelter in order to save themselves from it. Men of the village had surrounded the house and set it on fire by pouring kerosene and petrol. At that time, this witness and others were shouting and crying to be saved. The witness was injured on her right side and on her knees. She had lost her mother, sisters and many other dear ones of her family. In her testimony (para 3) she had clearly stated that she could recognize the persons who were in the crowd from their faces. She had identified the accused Dahyabhai Kachrabhai before the Hon. Court. thus, her testimony provides important evidences against the accused and there is no reason to disbelieve her.

Accused No 53 Patel Rameshbhai Baldevbhai: Testimonies recorded before the Hon. Court by the witnesses against the accused

1. Faridabanu Ashikhussein – witness no 73

This witness had lost her daughter Ashiyabanu in the unfortunate event that took place in Sheikh Mohalla. She also got burn injuries on her hands and feet. Her statement was recorded on 2-3-02. Her son Aftab had also received burn injuries.

On the day of the event at about 11 to 12 o'clock at night a crowd consisting of Patels of the village had come shouting slogans 'kill miyabhai', 'burn miyabhai'. They attacked Sheikh Mohalla. This witness had hid herself inside the house of Mehmudbhai. She had heard people saying that those people had to be burnt alive. She had seen of the village pouring petrol and kerosene. In her statement to the police, she had given the name of the accused but so much time has passed since the event took place and so she was not able to remember the name of the accused but she could recognize them from their faces. And she identified the accused Rameshbhai Baldevbhai before the Hon. Court.

Thus, the testimony of this witness is very important and cannot be dismissed.

2. Dilavarkhan Abbasmiya Sheikh – witness no 81

As stated earlier, this witness was a minor (of 12 year's age) at the time of the event. So he was a CHILD WITNESS and was in the house of Mehmudmiya on the day of the event. He has lost his father, mother and elder sister. His younger sister had received burn injuries on her feet. As per the statement of the witness, Hindus of his village had attacked Sheikh Vas with weapons, so about 50 of them hid themselves in the house of Mehmudmiya. The men in the crowd had closed the min gate and by breaking open the window of the house poured petrol, kerosene and some chemicals and set it on fire. The witness had seen men of the crowd indulging in the attack and he was able to recognize the accused Rameshbhai Baldevbhai and he also identified him before the Hon. Court. Thus, this CHILD WITNESS is an important witness and he has presented solid proof against the accused.

Accused No 54 Patel Matharbhai Trikambhai – Testimonies of various witness before the Hon. Court against the accused

1. Iqbalmiya Rasoolmiya – witness no 49

This injured witness had given his statement to the police on 10-3-02 in which he had mentioned the name of the accused Patel Mathurbhai Trikambhai. In his testimony before the Hon. Court, the witness had said that, on the day of the event, a crowd of Hindus had gathered at about 11.30 at night. They were pelting stones, looting and ransacking the house. They had gone towards the house of Mehmudmiya, surrounded it, poured petrol and kerosene inside and set it on fire. As a result men, women and children were roasted alive. In this heinous act Patel Mathurbhai Trikambhai was also there. He had a scythe in his hand. The witness had identified the accused before the Hon. Court. The witness had identified the accused before the Hon. Court. The witness had also received burn injuries during the event for which he had got treatment.

Thus, the testimony of this witness is very important and worth believing.

2. Aiyubmiya Rasoolmiya – witness no 56

In his statement before the police on 10-03-02, the witness had mentioned the name of the accused. Moreover, in his testimony before the Hon. Court, he had stated that at the time of the event, he was in the house of Mehmudmiya. He had received burn injuries and his wife was also burnt. Thus he was himself present at the site of the event. He had seen the accused Mathurbhai Trikambhai with a scythe in his hand. He had also identified the accused before the Hon. Court.

3. Sabirhussein Imamsha – witness no 58

In his testimony before the Hon. Court, the witness said that he had seen the accused indulging in criminal activities. He had also identified the accused Mathurbhai

Trikambhai before the Hon. Court. Thus the witness had provided solid evidence against the accused.

4. Bachumiya Imammiya Sheikh – witness no 60

This witness had given a very elaborate testimony. He had said that on 28-02-02, wireman Mathurbhai Trikambhai had started direct electric power from the electric pole situated in front of the mohalla. Thus, the accused was fully involved in the conspiracy. The witness had also identified the accused before the Hon. Court. Thus, there is no reason to disbelieve the testimony of this witness. The proof against the accused provided by the witness is fully trustworthy.

5. Bhikumiya Kalumiya Sheikh

This injured witness had given his testimony before the Hon. Court in which he had said that on the day of the event when Patels of the village had set fire to their (Muslims) houses the accused Mathurbhai Trikambhai was there and the witness had seen him. The witness had received injuries on his head and left side of the body. At the time of giving his testimony he was 75 years old and as about 8 years have elapsed since the event took place and because of his inability to see clearly, he was not able to identify the accused.

6. Rafikmiya Babumiya Sheikh – witness no 64

This witness had given the name of the accused in his statement to the police. In his testimony before the Hon. Court, he had said that on the day of the event, their houses were attacked, ransacked and set to fire. They had tried to resist but ultimately our women and children had hid themselves in the pucca house of Mehmudmiya....The men who were in the crowd had gone toward the house of Mehmudmiya and the accused was in that crowd.

7. Akbarmiya Nathumiya – witness no 65

In his testimony before the Hon. Court, the witness had clearly stated that on the day of the event i.e on 1-3-02, between 4 to 5 o'clock in the evening Kanubhai Sarpanch, Becharbhai Odhavbhai alongwith the accused Mathurbhai Trikambhai had switched on the electric light near their house. Thereafter, at night a crowd of Patels had come shouting 'butcher miyabhai', 'burn them alive' etc. They set fire to the cabins. They indulged in many serious criminal acts. It was a conspiracy in which they had provided all types of facilities so that they can carry out their activities against a specific class of people. The witness had identified the accused before the Hon. Court.

9. Gulamali Akbarmiya – witness no 68

This is an injured and important witness. In his statement of 10-03-02 before the police he had given the name of the accused Mathur Trikam. At the time of the event, the witness had received injuries. Thus, he had himself seen the event. As per his

description, on the day of the event, a crowd of Patels had attacked Sheikh Mohalla. The witness was injured on his left knee and backside of the shoulder due to stone-throwing. As the crowd was pushing inside, the witness went to the house of Bachumiya Imammiya and stood behind the wall. When the crowd came inside the Mohalla, the witness could see them all. Along with other accused persons, accused Mathurbhai Trikambhai was there with stones in his hand. This witness also identified the accused Mathur Trikambhai before the Hon. Court.

Thus, this important testimony of the witness is before the Hon. Court.

10. Sharifabibi Sabirhussein – witness no 83

As per the testimony of this witness, on the day of the event, the crowd was shouting objectionable slogans. On seeing that, she hid herself in the field. She saw that her house was set on fire. In the light of the burning house, she could recognize accused Mathurbhai Trikambhai. She also identified him before the Hon. Court.

Accused no 55 Patel Ashwinbhai Baldevbhai Joitabhai Gadiwala

Testimonies of various witnesses against him before the Hon. Court

1. Sharifmiya Bhikhumiya – witness no 54

As per his statement and later on testimony before the Hon. Court, on the day of the event, accused Ashwin Baldevbhai was in the crowd which was engaged in criminal activities. He was with a tinbox. The witness had also identified the accused Ashwin Baldevbhai before the Hon. Court. In his statement before the police on 6-3-02, he had mentioned the name of the accused.

2. Sabirhussein Kadarmiya – witness no 48

This important witness had given his statement to the police on 6-3-02 in which he had mentioned the name of the accused. He had also seen the accused Ashwin Baldevbhai in the crowd which was indulging in criminal activities on the day of the event. The witness also identified the accused Ashwin Baldevbhai before the Hon. Court.

Two important witnesses have given their testimonies against this accused. Both of them have given the name of the accused as early as on 6-3-02 in their statements before the police. Not only that, both witnesses had seen the accused indulging in criminal activities while he was in the crowd. Both the witnesses have identified the accused before the Hon. Court.

Accused No 1 Patel Babubhai Vanabhai – Testimonies of various witnesses against the accused before the Hon. Court

1. Ibrahim Rasoolbhai – witness no 47

This injured witness had given his testimony against the accused Babubhai Vanabhai and in that he said that he was there in the crowd which was indulging in illegal activities. The witness also identified the accuse Babubhai Vanabhai before the Hon. Court.

2. Bashirabibi Bachumiya – witness no 78

This injured witness gave evidences against the accused and they are very important. In her testimony before the Hon. Court, she said that.

...The same crowd came again and started pelting stones, setting fire to the houses and indulged in ransacking the houses....They came inside, burning houses on the way. At that time my husband was hit by a stone. I had seen them with my own eyes. We were afraid so we went to the house of Mehmudmiya to save our lives. With me were my husband, my sister-in law, junior sister in-law, one nephew, and three sons. We were in Mehmudmiya's house. The crowd had surrounded the said house from all sides. They broke open the window and I saw that they poured kerosene and petrol inside, threw burning rags and set the house on fire. Rajeshbhai Punjabhai...Babubhai Vanabhai...I had seen them with my own eyes. Our people were screaming to be saved. We folded our hands, requested them to be saved but those people did what they wanted to do. Then, police came...At that time all were roasted alive. Everything over over. Kachrabhai Tribhovandas shouted 'Bharatmata ki jai'. When police came, they announced their arrival and asked all those who had survived to come out. When I came out, I saw my elder brother Abbasmiya Kesharmiya was dead. My sister-in law Ruksanabibi Abbasmiya, my sister-in law Mumtazbibi Makbulmiya, my niece Saherabibi Abbasmiya and my husband – all were dead. Then we were also taken to Mehsana in police van. There I received treatment. Both my legs and mouth were burnt. My small son Iliyas had received burn injuries on his left ear and left leg. From Mehsana we were brought to Ilol. I stayed there with my sister-in law and observed the Iddat there. The witness was in the house of Mehmudmiya on the day of the event. She had seen the accused from the broken window. She had received burn injuries

on her legs and face and she was treated at the hospital in Mehsana. She had also identified the accused before the Hon. Court.

Accused No 2 Patel Rameshbhai Kachrabhai – Testimonies of various witnesses against him before the Hon. Court

1. Iqbalmiya Rasoolmiya – witness No 49

As per his testimony before the Hon. Court, the witness said that on the day of the event, at about 11.30 at night, a crowd of Hindus had come pelting stones and ransacking the houses. They had come to Mehmudmiya's house and surrounded it from all sides. They threw petrol and kerosene and set fire to men, women and children who were inside the house. The witness was also injured during the event. Accused Rameshbhai Kachrabhai was in the crowd. He was instigating the crowd, saying 'let no one escape alive'. The witness had identified the accused before the Hon. Court. Thus, the testimony of this witness against the accused is very important and cannot be neglected.

2. Dilavarhusein Abbasmiya – witness no 81

As stated earlier, this witness was a minor (only 12 years old) at the time of the event. This CHILD WITNESS was in Mehmudmiya's house on the day of the event. He lost his father, mother and elder sister. His younger sister received burn injuries on her leg.

As per his testimony, Hindu Patels of the village had attacked Sheikh Vas with weapons. So they sought refuge in Mehmudmiya's house in order to save their lives. About 50 people were hiding in Mehmudmiya's house. The crowd had bolted the gate from outside and set it on fire after pouring petrol and kerosene inside. The witness had seen the people who were in the crowd and he can recognize them. Accused Rameshbhai Kachrabhai was involved in setting fire to the building and that is how he was identified by the witness before the Hon. Court.

Thus, this CHILD WITNESS is very important and he presented solid evidence against the accused.

Accused no 3 Accused Patel Babubhai Kanji – Testimonies of various witnesses against the accused before the Hon. Court

1. Iqbalmiya Rasoolmiya – witness no 49

As per the testimony of this injured witness, on the day of the event, at about 11.30 at night a crowd of Hindus had come, pelting stones and indulging in looting and ransacking houses. They came to the house of Mehmudmiya and surrounded it from all sides. Then they poured petrol and kerosene inside and set fire to the house in which women and children were hiding. In the crowd there was the accused Babubhai Kanabhai who was instigating the crowd by saying that no Muslim should be allowed to

go alive. The witness had received injuring at that time. He also identified the accused Babubhai Kanjibhai before the Hon. Court. Thus, the testimony of this accused is very important and trustworthy and cannot be ignored.

2. Hizbulmiya Husseinmiya – witness no 52

As per the testimony of this witness, on the day of the event, accused Babubhai Kanjibhai was in the crowd involved in illegal activities. It was difficult for this witness to identify the accused from a distance and he had given an application as per Section 514 to go near the accused but the Hon. Court had rejected it.

3. Faridabanu Ashikhussein – witness no 73

This important witness had given her testimony before the Hon. Court. Accordingly, she had described how a crowd had come indulged in arson and looting and thrown petrol, kerosene and burning rags and set fire to the houses. She, her son Aftab and her daughter Ashiyabanu had received burn injuries. She said in her testimony that she had given the name of all the accused in her statement to the police. She said she was able to recognize the accused and she did identify him before the Hon. Court.

Thus, the testimony of this witness provides solid evidence against the accused.

4. Bashirabibi Bachumiya – witness no 78

This injured witness had given her testimony before the Hon. Court. Accordingly, on that day a crowd had come shouting slogans, setting fire to the houses and ransacking them. She had seen the accused with her own eyes and to save her life, she had sought refuge at the house of Mehmudmiya Hussein miya but the crowd had surrounded the house and pouring kerosene and petrol in that house, had set it on fire. The witness had seen the accused Babubhai Kanjibhai alongwith other accused persons.

5. Dilavarhussein Abbarmiya – witness no 81

As a CHILD WITNESS, this witness is very important. On the day of the event, he had seen the men who were part of the attacking crowd. In his testimony, he has said that he is able to recognize those accused who were indulging in criminal activities. This important witness had identified the accused Babubhai Kanjibhai. Thus, the testimony of this witness Dilavarhussein is a wholly reliable and solid as per our humble opinion.

Accused No 4 Patel Kanubhai Revabhai: Testimonies of various witnesses against the accused presented before the Hon. Court

1. Mohmud Sattar Bachumiya – witness no 59

The testimony of this witness provides important evidence against this accused. As per his testimony, a crowd of Patels had come on the day of the event. It was indulging in arson, loot and shouting slogans against Muslims, pelting stones and ransacking their

houses. The witness had hid himself in the house of Akbarmiya Rasoolmiya and from its window he had seen that the crowd had set fire to his jeep. In the crowd was the accused Kanubhai Revabhai. The men in the crowd were going towards the house of Mehmudbhai. On their way, they were setting fire to houses. The witness gave this information in his testimony before the Hon. Court and also identified the accused.

2. Bashirabibi Bachumiya : Witness no 78

This injured witness has provided important evidence against the accused in her testimony before the Hon. Court. She has stated

.....the same crowd came again, pelted stones, ransacked the houses and looted them. They came inside, setting houses on fire on their way. At that time a stone hit my husband also. I had seen the accused with my eyes. We were frightened, so in order to save our lives, we went inside the house of Mehmudmiya Husseinmiya. With me my husband, my brother, my brother's wife, my younger brother's wife, my niece and three sons were there. We were in Mehmudmiya's house which was surrounded by the crowd from all sides. The crowd broke open the window and they were throwing kerosene, petrol and burning rags inside...Rajeshbhai Punjabhai...Kanubhai Revabah...I had seen them with my own eyes. Our people were crying and screaming for help. We folded our hands, requested them to save us but those people – they did what they wanted to do. Thereafter, police came...Those inside the house were roasted alive. Later Kachrabhai Tribhovandas shouted 'Bharat Mata Ki Jai'. When police came they asked all those who were alive to come out. So we came out. I saw that my elder brother, Abbasmiya Kesharmiya, my sister-in law Ruksanabibi Abbasmiya, my second sister-in law Mumtazbibi Mukbulmiya were all dead. The police took us to Mehsana in a van. There I was provided treatment for the burn injuries I received on my legs and face. My small son Iliyas also had burn injuries on his left ear and left leg. From Mehsana we were brought to Ilol in police van. There I observed my iddat period at the house of my niece.

The witness also identified the accused before the Hon. Court. Thus, this witness has provided solid and important evidence against the accused.

3. Dilawarkhan Abbasmiya – witness no 81

As stated earlier the present witness was a child at the time of the event. Thus, he is an important CHILD WITNESS. He had sent eh men in the crowd who had attacked them. The witness told before the Hon. Court that he could identify them. He also identified the

important accused Kanubhai Revabhai. Besides this witness, testimonials of other witnesses before the Hon. Court also provide strong evidences against the accused.

Accused No 5 Patel Natwarlal Kachrabhai – Testimonies of the witnesses before the Hon. Court against the accused

1. Mohmud Sattar Bachumiya – witness no 59

This important witness had given his testimony before the Hon. Court in which he had said that, on the day of the event, he had hid himself inside the house of Akbarmiya Rasoolmiya. From the window of the house he had seen that his jeep was burnt by the crowd. In the light of the burning jeep, he had seen and recognized the men who were part of the crowd. Among them was the accused Natwarbhai Kachrabhai, when he had identified before the Hon. Court. Thus, this witness can be accepted as a WHOLLY RELIABLE witness.

2 Mangabhai Ramabhai Raval – witness No 71

This is a very neutral and important witness. He has no enmity against any of the accused and therefore he has no reason to give false testimony against them. The riots which occurred throughout Gujarat after Godhra killing were part of a systematically organized conspiracy. The testimony of this witness also throws light on one such conspiracy. On the day of the event, late at night Patel Ramabhai Mohanbhai had parked his tractor near his house. In the tractor there were drums full of kerosene and one drum of petrol. Natubhai Kachrabhai Patel, Jayantibhai Ambaram Patel, Kalabhai Bhikhabhai Patel, Bakabhai Mangalabhai Patel, Kantibhai Prabhudas, Jitendra Kantilal, Bhikhabhai Joitabhai – all of them had come out on the road which is besides the house of the accused. The witness had seen those people carrying tinpots of kerosene with them. They had passed by his house. The smell of kerosene was coming from those people. Late at night, the witness saw crowds of Patel. They were clearly visible in the focus lamp. There were guts of flame from Sheikh Vas and bursting of fire near the house of Mehmudbhai.

The testimony of this witness is very important because it lays bear the involvement of the accused in the conspiracy. The witness had identified the accused Patel Natwarbhai Kachrabhai before the Hon. Court.

Accused No 6 Patel (Nagar) Ashwinbahi Baldevbhai – Testimonies of various witnesses against the accused

About 10 witnesses have given testimonies against this accused before the Hon. Court and they are all listed as solid evidence before the Hon. Court

1. Ibrahim Rasoolbhai Sheikh – witness No 47

This witness was one who had filed his FIR as early as on 2-3-02 and in that he has mentioned the name of the accused. In his testimony before the Court, the witness had stated that on 1-3-02, members of VIP (Vishwa Hindu Parishad) had given a call for Bharat bandh. On that day crowds of Patels of the village were roaming the village. They were shouting 'kill bandiyas', etc. They were carrying scythes, swords, tridents and tin pots of kerosene and petrol. They had torched houses. At that time, the witness had seen the accused Ashwinbhai Baldevbhai. He was also identified by the witness before the Hon. Court.

2. Iqbalmiya Rasoolmiya – witness no 49

This injured witness had given his testimony before the Hon. Court in which he had stated that, on the day of the event a crowd of Hindus was shouting 'kill bandiyas' etc. They were pelting stones and setting fire to the houses. In that crowd was the accused Ashwinbhai Botham. He had a tinpot in his hand. They were all going towards the house of Mehmudbhai. In his testimony (para 5) before the Hon. Court, the accused was identified as Ashwinbhai Baldevbhai Botham. It must be noted that in his statement before SIT, the witness had made clear that the accused Patel (Nagar) Ashwinbhai Baldevbhai is known as Ashwinbhai Baldevbhai Botham.

3. Ashikhussein Bachumiya Sheikh – witness no 55

This important witness has given his important statement to the police in which he has mentioned the name of the accused Ashwinbhai Baldevbhai. In his statement before SIT on 19-5-08, he has given the name of the accused as Ashwinbhai Baldevbhai Nagar (Botham). In his testimony before the Hon. Court, the witness had stated that on the day of the event, a crowd of Hindus was shouting 'kill Musalmans', 'cut them to pieces', 'burn them alive' etc. It was indulging in arson and ransacking of houses. The crowd had gone toward the house of Mehmudmiya. There a jeep of this witness was set to fire. The Muslims in the house of Mehmudmiya were set on fire by the Hindus. Daughter Ashiyanabanu of the witness also died due to burns in that house.

4. Aiyubmiya Rasoolmiya – witness no 56

This injured witness has stated that on the day of the event the accused was in the crowd which was indulging in serious crimes like arson, looting and stone throwing.

...the crowd came again screaming and shouting 'kill Musalmans', 'burn them alive' etc. They were pelting stones on Sheikh Mohalla. Then they ransacked and looted our houses. A stone hit my maternal uncle Ibrahimmiya Rasoolmiya. On seeing the crowd, I went to the house of Ibrahimmiya Rasoolmiya. There I found my brother Iqbalmiya Rasoolmiya was hit by stones on his head and right leg. From there I had gone to the house of Mehmudmiya. In the crowd I had seen Ramanbhai Ganeshbhai...Madhabhai

Vitthalbhai....Kachrabhai Tribhovandas...They said if you fold your hands and request, we will let you go. We did as they had asked us to do but they did not leave us. They set us on fire. They had weapons in their hands...Ashwinbhai Baldevbhai Botham had a tin pot...they had burning rags. They poured petrol and kerosene in the room and set us on fire. We were crying for help...I had received serious burns. My wife had also received serious burns. I had received burn injuries on my shoulders and neck.

5. Mustafamiya Rasoolmiya – witness No 57

This injured witness had given his testimony before the Court in which he clearly stated that on the day of event, Vishwa Hindu Parishad had given a call for Bharat Band. On that night, at about 11.30 Patels of the village had gathered in a crowd. They were screaming and shouting 'kill miyabhai', 'let no a single one escape'. They pelted stones and ransacked houses in our mohalla. They had weapons and tinpots of kerosene. The crowd had gone toward the house of Mehmudmiya. Among the crowd, along with other accused persons, Ashwinbhai Baldevbhai Botham was also there.

The witness had also identified the accused before the Hon. Court.

6. Bachumiya Imammiya – witness no 57

As per the statement of the witness, on the day of the event, the accused was in the crowd indulging in various criminal activities.

....At about 9 to 9.30 at night a crowd came from the side of Mahadev Temple and cried out 'Bharat Mata ki Jai'. The men in the crowd had weapons in their hands as well as tinpots of kerosene and petrol. In the light of the lamp, we saw Kachrabhai Tribhovanbhai, Ambalal Maganbhai, Kanubhai Sarpanch Joitabhai, Jivanbhai Davabhai, Rameshbhai Kantibhai, Jayantilal Ambalal, Mangalbhai Mathurbhai, Ashwinbhai Baldevbhai Nagar and Rajeshbhai Punjabhai. There were three cabins in front of our mohalla. The crowd burnt down these cabins. When the police came, the crowd dispersed. The same crowd came again at about 11.30 at night. It started pelting stones and setting houses on fire. The first house of Manumiya Alammiya was set on fire. The second house was that of Akbarmiya Nathumiya. The third one was that of Bachumiya Nathumiya. Then the house of Rasoolmiya Nanumiya and Jamalbhai Dosabhai were torched. After that my jeep was set on fire by pouring petrol and kerosene on it. At that time Kachrabhai Tribhovandas and Ambalal Maganbhai had poured petrol and kerosene. Rajeshbhai Punjabhai had thrown burning rags on it which burst into flames. The same crowd had gone toward the house of Mehmudbhai. Its window was broken and after pouring

petrol and kerosene inside threw burning rags which resulted in the death of 28 men, women and children.

This witness is an old man aged 68 years. About 8 years have passed since the event took place. Physically and mentally he is very weak and is not able to recognize the faces of the accused persons as many of them have also got changed in the faces in course of time. These, we think are valid reasons why the old man is not able to identify the accused persons.

7. Akbarmiya Nathumiya – witness no 65

As per the testimony of this witness before the Hon. Court, on the day of the event, a crowd of Hindus had gathered at the entrance of the mohalla. They were shouting 'kill miyabhai', 'cut them to pieces', 'burn them alive'. They had started setting houses on fire. In the crowd, the witness had seen the accused Ashwin Baldevbhai Botham. He had a tinpot in his hand.

8. Gulamali Akbarmiya – witness no 68

This injured witness is a very important one. On the day of the event, he had seen all that had happened. On 1-3-02, a crowd of Patels had collected and after shouting 'Bharat Mata ki Jai', it proceeded toward the mohalla of the witness. The crowd set fire to the cabins at the entrance of the mohalla. When the police came, it dispersed but came back again and started burning Muslim houses and pelting stones at them. The witness was hurt on his leg and left shoulder due to stone throwing. He was standing by the narrow lane of Bachubhai Imambahi's house. The crowd had come inside the mohalla. At that time, the accused Ashwin Baldev Botham was in the crowd. The crowd had gone toward the house of Mehmudmiya. They broke open the window and threw petrol and kerosene inside and set it on fire. Among those who were in the crowd Ashwinbhai Baldevbhai Botham was there and the witness had identified the accused before the Hon. Court.

9. Mehmudmiya Hussein – witness no 69

The statement of this important witness was recorded by the police on 6-3-02 in which he has mentioned that this accused was in the crowd with a tinpot of kerosene in his hand. Before the Hon. Court, the witness had described the entire in detail. According to him, a crowd had attacked the mohalla and set fire to houses and burnt alive men, women and children. The witness also said that the accused Ashwinbhai Baldevbhai was there in the crowd with a tinpot of kerosene in his hand. The witness also identified the accused before the Hon. Court. During trial it was recorded that there are two persons No 1 Patel (Nagar) Ashwinbhai Baldevbhai Sec. Case No 120 / 08 is accused No 6 and he is also known as Botham. He was arrested by SIT on the last bench of the court room. The witness had identified this accused Patel (Nagar) Ashwinbhai Baldevbhai who is accused under Sec. Case No 120 / 08. The accused is also known

as Botham and other witnesses had also identified him as Botham and referred to him as Botham in their testimony.

10. Faridabibi Ashikhuessen – witness no 73

This injured witness had seen the entire event with her own eyes. She stated that on the day of the event, those who were in the crowd were indulging in serious criminal acts and she is able to identify them from their faces. This she said in her testimony before the Hon. Court. The witness had hid herself in the house of Mehmudmiya on seeing the crowd of Patels setting houses on fire with the help of petrol and kerosene. The house of Mehmudmiya was set on fire by the crowd and the witness said that she was able to identify those who were in the crowd. She identified the accused Ashwinbhai Baldevbhai who was sitting in the last bench of the Court as he was not released on bail and as per the arrangement he was in the custody as accused under Sec. Case No 120 / 08 and as per record he is Patel (Nagar) Ashwinbhai Baldevbhai Botham.

Besides this witness no 57, Mustafamiya Rasoolmiya also identified the accused Ashwinbhai Baldevbhai Nagardas as Ashwinbhai Baldevbhai Botham. He is known by that name.

Accused no 7 Patel Dahyabhai Vanabhai – Testimonies of witnesses against the accused before the Hon. Court

1. Ibrahimbhai Rasoolmiya – witness no 47

This witness as a complainant had submitted his testimony before the Hon. Court against the accused. In that he had stated that, on the day of the event the crowd was indulging in unlawful acts and the accused was present in the crowd. The witness also identified the accused before the Hon. Court since the complainant and the accused are from the same village, identification of the accused by the complainant is very important and an important proof against the accused.

2. Faridabibi Ashikhussein – witness no 73

This injured witness had given her testimony before the Hon. Court. Accordingly, the Patels of the village were shouting slogans and setting fire to the houses of Muslims. At that time, the witness had sought refuge in the house of Mehmudmiya to save her life. The crowd had poured petrol and kerosene in that house and set it on fire. The witness was present in that house, so she had seen the people who had poured petrol and kerosene. She herself had received burns on her hands and feet. Her son Aftab and daughter had died on the way to civil hospital in Mehsana. She had given the names of the accused at a time when she had given her statement to the police. But due to the passage of time, she does not recollect the names. However, she can recognize the accused from their faces. She had identified the accused Dahyabhai Vanabhai. Thus, the testimony of this witness is very important and provides solid evidence against the accused.

3. Bashirabibi Bachumiya – witness no 78

This injured witness had given her testimony before the Hon. Court in which she had stated that on the day of the event, she had gone to the shop of the accused Dahyabhai Vanabhai to purchase gram flour. He asked 'what will you do with it?' The witness said that was to prepare 'bhajiya' out of it. To that the accused said, 'today is your last day. Eat your bhajiyas today. Tomorrow you may not be able to eat as you are not going to live that long'. The crowd consisting of Patels of the village had come, pelting stones, setting houses on fire and ransacking them. The witness had seen the men indulging in arson with her own eyes. As she was frightened, she had sought refuge in the house of Mehmudmiya. That house was surrounded from all sides by the crowd. The witness saw from inside that men in the crowd were throwing petrol, kerosene and burning rags inside the house. She had seen the accused Dahyabhai Vanabhai in the crowd. The witness also identified the accused before the Hon. Court. Thus this witness has provided solid evidence against the accused.

4. Rukshanabanu Ibrahimbahi – witness no 80

This injured witness had given her testimony before the Hon. Court in which she had stated that, on the day of the event, she had sneaked into the house of Mehmudmiya in order to save herself from the attackers. That house was surrounded from all sides by the crowd. They were pouring petrol and kerosene inside and set it on fire. The witness and others in the house were shouting for help but village people shouted 'jai' and left. There were about 30 to 31 persons in the house. They all died due to burns. The witness lost her mother, sisters, uncles, uncle's daughters, father's elder brother. Others also lost their near and dear ones. In her testimony (para No 3) she had stated that she could recognize the men who were in the crowd. The witness identified the accused Dahyabhai Vanabhai before the Court. Thus, this witness Ruksanabibi is very important and the evidences she has presented cannot be ignored. At the time of the event, she had received burn injuries for which she was given treatment at the Civil Hospital, Mehsana.

Accused No 8 Patel Joitabhai Ramabhai: Testimonies of various witnesses before the Hon. Court against the accused and evidences derived from the testimonies

1. Ibrahimbhai Rasoolbhai – witness no 47

This man is a complainant as well as an injured witness. He has given his testimony before the Hon. Court in which he had stated that on the day of the event, the accused was in the crowd participating in criminal activities in which the crowd was indulging. He was identified before the Hon. Court and as per para No 5 of his testimony, he had stated that he can recognize the accused and he did identify Joitaram Ramabhai (the accused) before the Hon. Court. There is no reason why the witness should wrongly identify the accused and therefore his testimony is worth believing.

2. Nazir Mohmud Akbarmiya – witness no 51

This injured witness is very important. On the day of the event, he was present in the mohalla. At that time, a crowd of Patels of the village came shouting and screaming. They were throwing stones and setting fire to the houses. In his testimony before the Hon. Court, the witness had stated that after setting fire to Muslim houses, the crowd had gone toward the house of Mehmudmiya. The witness was hurt on the elbow of his hand and on his left eye due to stone throwing, so he had hid himself in his house. The crowd had gone toward Mehmudmiya's house and after breaking its window had poured petrol and kerosene and set it on fire. As stated in Para No 4 of his testimony, the witness said that he knew the men who were in the crowd and he also identified the accused before the Hon. Court.

Thus, the testimony of the witness is very important and provides strong evidence against the accused.

3. Sabirhussein Imamsha – witness no 58

As per the testimony given by the witness before the Hon. Court, on the day of the event he was at home. At that time a crowd consisting of Patels had come shouting slogans like 'kill miyabhai', 'cut them to pieces' etc. The men in the crowd had weapons in their hands. There was the accused Joitaram Ramabhai in the crowd and the witness had recognized him. Upon seeing the crowd the witness had gone inside the nearby field. When the crowd had come toward his house, shouting slogans, the witness had recognized the accused. The men in the crowd were setting fire to the houses and ransacking them. In the light of the burning houses, the witness had recognized the accused persons. And he had stated so in his testimony before the Hon. Court. Thus, this testimony of the witness is very important and worth believing.

4. Rafikmiya Mohmud Hussein – witness no 62

This injured witness had mentioned in his testimony before the Hon. Court that on the day of the event, Patels of the village had come together and they were shouting and screaming as well as indulging in arson and looting. At that time, the witness had seen the accused Joitaram Ramabhai among other members of the village. He had a tinpot in his hand. Later, he had gone with other accused persons toward the house of Mehmudmiya Husseinmiya. There they had surrounded the said house, set it on fire alongwith women and children inside.

Thus this testimony of the witness is worth believing.

Accused no 1 Patel Kantibhai Prabhudas: Testimonies of various witnesses before the Hon. Court, against the accused

1. Zakirhussein Kadarmiya Sheikh – witness no 50

This witness had given his testimony before the Hon. Court. According to it, on the day of the event, a crowd of Hindus had come near the Sheikh mohalla and had set fire to the cabins there. When the police came, the crowd had run away. It again came and started indulging in ransacking the houses and pelting stones in Sheikh Mohalla. The accused Kantibhai Prabhudas was instigating the crowd by shouting slogans like 'kill miyabhai', 'cut them to pieces', 'burn them alive'. The witness said that he had seen the above accused instigating the crowd in Sheikh Mohalla. As the witness got frightened, he had run toward the field. From there he had seen the crowd and heard the cries of 'save', 'save'. After the police came, the witness had come to the village.

The witness had identified the accused Kantibhai Prabhudas before the Hon. Court. Thus, the testimony of this witness is very straight forward trustworthy.

2. Kulsumbibi Kadarmiya – witness no 53

This witness had given her testimony before the Hon. Court in which she had said that on the day of the event, a crowd of Patels of the village had come and was indulging in arson, looting and ransacking of houses. The witness had sent he accused Kantibhai Prabhudas instigating the crowd by saying 'kill them', 'butcher them', 'burn them alive'. To save her life, the witness had run away toward the field. From there she had heard the cries of 'save', 'save' from Sheikh Mohalla. She had also seen the accused in the light of the burning houses indulging in unlawful acts along with the crowd.

3. Mangalbhai Ramabhai Raval – witness no 71

This witness is independent and neutral and so his testimony is very important. On the day of the event i.e on 1-3-02, he had seen a tractor near to his house. It had some drums filled with kerosene and one drum filled with petrol. Alongwith other accused persons, accused Kantibhai Prabhudas was also going on that road. They all had gone toward Kapurvas with tinpots of kerosene. Late at night focus lamp was lighted and in its light, crowds of people were going towards the house of Mehmudmiya in Sheikh Mohalla. There were flames of fire and shouts and screams of people, crying for help and to be saved. Patels of village had given threats to the witness not to give testimony but the witness disregarded the threats and has given testimony. Thus, his testimony is without any rancour and therefore very important.

4. Bashirabibi Bachumiya – witness 78

On the day of the event, this witness had sent he violent crowd with her own eyes. She had rushed into the house of Mehmudmiya. The crowd had broken the window and

poured petrol, kerosene and burning rags inside the house and set it on fire. The witness had recognized the accused Kantibhai Prabhudas. He was in the crowd which was indulging in criminal activities. In her testimony before the Hon. Court, she had said that due to old age, she was having very limited vision and therefore she was not able to identify the accused.

The testimony of this witness is very important and worth believing.

Accused No 2 Laxmanbhai Dhulabhai – Testimonies of various witnesses before the Hon. Court

1. Mustafamiya Rasoolmiya – witness no 57

This injured witness has given important testimony against the accused before the Hon. Court. According to that testimony, on the day of the event, he was at his home. On that day at night a crowd of Patels had come toward the mohalla with weapons as well as petrol and kerosene tins in their hands. The crowd was shouting 'don't let a single miyabhai alive'. They ransacked the houses, looted and set fire to them. The witness had seen the accused Laxmanbhai Dhulabhai in the crowd. He had gone to Mehmudmiya's house along with the crowd. He was also identified by the witness before the Hon. Court. This testimony of the witness is very important since he has no reason to give false testimony against the accused.

Accused No 3 Maheshbhai Jivabhai : Testimonies of various witnesses against the accused submitted before the Hon. Court

1. Mohmud Sattar Bachumiya Sheikh – witness no 59

This is an important witness. As stated in his testimony before the Hon. Court, on the day of the event, he had seen a crowd of Patels shouting objectionable slogans and indulging in arson, loot and stone-throwing. Out of fear, the witness had hid himself in the house of Akbarmiya Rasoolmiya. From the window of that house he had seen that the crowd had set fire to his jeep. The crowd had then gone towards Mehmudmiya's house, setting fire to houses on its way. The witness had seen the accused Maheshbhai Jivanbhai. Moreover, he had also identified the accused before the Hon. Court.

2. Bachumiya Imammiya – witness no 60

As per the testimony of the witness before the Hon. Court, on 28-02-02, a Gujarat wide bandh call was given. A crowd had come to him to force him close his galla. The accused was in that crowd and he was an active member of the entire conspiracy.

The witness is an old man of 68 years, physically and mentally he is very weak. Moreover, about 8 years have passed since the event took place. Faces of many accused have also changed during this time. So it is quite understandable that he was

not able to identify the accused. We request the Hon. Court to consider these as adequate reasons for his inability to identify the accused.

3. Gulamali Akbarmiya – witness no 68

This injured witness had given his testimony before the Hon. Court. Accordingly, the accused was in a crowd of Patels which was indulging in criminal activities. On the day of the event, the same crowd was busy pelting stones and ransacking the houses of Sheikh Mohalla and setting fire to them. The witness was standing in the narrow lane of Bachumiya Imammiya's house. At that time, he had seen the crowd of Patels entering the mohalla. The accused Maheshbhai Jivanbhai was also in the crowd.

Thus, the witness has clearly identified the accused and there is no reason why his testimony should not be believed.

Accused no 5 Prajapati Prahladbhai Varvabhai: Testimonies of various witnesses before the Hon. Court against the accused

1. Hizbulmiya Husseinmiya – witness no 52

According to the testimony of this important witness, on the day of the event, he was at his house, when at about 9.00 o'clock at night, a crowd of Patels from the village had come. They were shouting slogans, 'kill musalmanns', 'butcher them' etc. They were setting fire to gallas. When the police came, the crowd disappeared. But it came again after sometime. The witness had hid himself behind the wall of Akbarbhai's house. The men in the crowd were setting fire to cabins, houses and going towards the house of Mehmudmiya. Alongwith other accused persons, accused Prajapati Prahladbhai Varvabhai was also there. He was instigating the crowd.

The witness had identified the accused before the Hon. Court. Thus, the testimony of this witness is very important and there is no reason to disregard it.

2. Sabirabibi Sabirhussein – witness no 82

As per the testimony given by the witness before the Hon. Court, on the day of the event, the Patels of Sardarpura had attacked and set fire to gallas and houses. The house of the witness was also burnt down. In the light of the burning house, she had sent the men indulging in unlawful acts, accused Prahlad Varva Kumbhar was also there. The witness had pointed him out as the one involved in criminal activities.

3. Shafirabibi Sabirhussein – witness no 83

As per her testimony before the Hon. Court, on the day of the event, a crowd had come shouting slogans 'kill them', 'butcher them', 'burn them alive'. The witness was hiding in the fields and from there in the light of the moon and the light of the burning houses, she had seen the men and recognized them. Among them was the accused Prajapati Prahladbhai also.

Thus, there are three witnesses who have testified against the accused and their testimonies are worth believing.

Accused No 6 Patel Jagabhai Jivanbhai: Testimonies of various witnesses against the accused before the Hon. Court

1. Zakirhussin Kadarmiya – witness no 50

The testimony of the witness is before the Hon. Court. As said by the witness, on the day of the event, a crowd of Hindus belonging to the village had attacked Sheikh mohalla and it was pelting stones. Among other accused persons, accused Jagabhai Jivanbhai was also there. He was instigating the crowd and shouting 'kill miyabhai', 'cut them to pieces', 'burn them alive'.

2. Hizbulmiya Husseinmiya – witness no 52

As per the testimony given by the witness before the Hon. Court, on the day of the event, a crowd was indulging in burning of the houses in Sheikh Mohalla and going toward the house of Mehmudbhai. In that crowd was the accused Jagabhai Jivanbhai with a bottle of acid. The witness had seen him in the crowd which was involved in unlawful activities.

Thus, the testimony of the witness provides evidence involving the accused in criminal activities.

Accused No 7 Patel Upendra Manilal: Testimonies of witnesses against the accused before the Hon. Court

1. Zakirhussein Kadarmiya – witness no 50

In his testimony against the accused, the witness had said that on the day of the event, a crowd burnt three cabins at the entrance of the Sheikh mohalla but when the police came, it disappeared. Again they came and entered Sheikh mohalla, ransacked the houses, set them on fire and shouted slogans 'kill miyabhai', 'cut them to pieces', 'burn them alive'. The accused was in the crowd with those who were instigating the crowd. Thus, there is clear evidence of the involvement of the accused in the criminal activities.

2. Sabirhussein Kadarmiya – witness no 48

This important witness has given very valuable testimony against the accused. Accordingly, on the day of the event, a crowd was indulging in stone throwing. The witness was hit by a brick on his neck so he went inside the house of Akbarmiya Rasoolmiya. The witness had started weeping while describing the event. He submitted before the Hon. Court that he had sent the men who were in the crowd and he knew them. Along with other accused persons, he identified the accused before the Hon. Court. The men in the crowd had fatal weapons in their hands and they had intentionally entered Sheikh Mohalla. They were seen setting fire to the houses and going toward the

house of Mehmudmiya Husseinmiya. There, they broke the window of the house, poured petrol and kerosene in side and set it on fire. Alongwith other accused person, the accused Upendra Manilal was also there.

The witness had also identified the said accused before the Hon. Court.

Thus, the testimony of this witness provides solid evidence against the accused.

Accused No 8 Patel Sanjay Ambalal: Testimonies of various witnesses against eh accused before the Hon. Court

1. Sabirhussein Kadarmiya – witness no 48

This important witness has given very valuable testimony against the accused. Accordingly, on the day of the event, a crowd was pelting stones. He resisted for some time but when he was hit by a brick on his neck, he went inside the house of Akbarmiya Rasoolmiya. The witness was crying while narrating the event of the day. Before the Hon. Court, he had stated that he knew the people who were in the crowd. Alongwith other accused persons, he had identified the accused Sanjay Ambalal Patel. The witness had sent he men in the crowd in the light of focus lamp alongwith their fatal weapons, entering the Sheikh Mohalla with very specific intention. They were going toward the house of Mehmudmiya Husseinmiya, setting fire to other houses on their way. There they broke open the window of the house, poured petrol and kerosene and set the house on fire. At that time, the accused Sanjay Ambalal was there along with other accused persons.

The witness had identified the accused before the Hon. Court. Thus the testimony of the witness is WHOLLY RELIABLE. It provides solid evidence against the accused and the evidence is worth believing.

Accused no 9 Patel Kalabhai Bhikhabhai: Testimonies of various witnesses against the accused presented before the Hon. Court

1. Ashikhussein Bachumiya – witness no 55

As per the testimony given by this important witness before the Hon. Court, on the day of event, a crowd consisting of Hindus of the village had attacked houses in Sheikh Mohalla with weapons. They indulged in ransacking the houses, arson and looting. Among other accused, accused Kalubhai was also there. The witness had identified him before the Hon. Court. Thus, the testimony of this witness against the said accused provides important evidence and it should be accepted as such without any doubt.

Thus, this witness is WHOLLY RELIABLE and provides strong and believable evidence.

2. Gulamali Akbarmiya – witness no 68

This injured witness gave his testimony before the Hon. Court. According to that, a crowd of Patels had come on the day of the event, shouting slogans against the Muslims and indulging in stone pelting. The witness had received injuries due to that.

As the crowd came inside, the witness had gone near the house of Bachumiya Imammiya and was standing in the narrow lane. Among the crowd was the accused Kalabhai Bhikhabhai. The crowd had gone toward the house of Mehmudmiya and surrounded it from all sides. The window of the house was broken and the house was set on fire after they poured petrol and kerosene as well as burning rags inside. The witness had identified the accused Kalabhai Bhikhabhai before the Hon. Court.

Thus, this witness has provided very valuable and solid evidence against the accused.

3. Mangabhai Ramabhai Raval – witness no 71

This independent and neutral witness had given his testimony before the Hon. Court. According to that testimony, the witness had seen the accused Kalabhai Bhikhabhai going with other accused alongwith a tractor in which drums of kerosene and petrol were kept. The accused persons were carrying tinpots of kerosene. The focus light was on and crowds of Patels were roaming all around. There were flares of fire seen from the Sheikh mohalla and cries were heard from the house of Mehmudbhai.

The testimony of this witness is very important and there is no reason for him to give false testimony.

4. Sabirhussein Kadarmiya – witness no 48

This witness has given his testimony before the Hon. Court. While giving his testimony in detail, the witness had become very emotional and felt broken down. He said that the accused persons had come with fatal weapons and criminal intention. They came toward the house of Mehmudmiya where men, women and children were hiding. The window of that house was broken and was set on fire after pouring petrol and kerosene inside. An iron rod was also kept in which electric current was flowing. The witness gave a very painful description about how the iron rod was placed. The witness said that he knew the accused persons and he identified the accused Kalabhai Bhikhabhai before the Hon. Court. Thus, the testimony of this witness against the accused is very important and it cannot be dismissed.

Accused No 10 Patel Govindbhai Mohanbhai – Testimonies of various witnesses presented before the Hon. Court against the accused

1. Rafikmiya Mohmudhussein – witness no 62

The testimony of this injured witness Rafikmiya Mohmudhussein was present before the Hon. Court. Accordingly, on the day of the event, a crowd of Patels had shouted slogans against Muslims and had attacked Sheikh Mohalla, setting fire to the houses. In that crowd there were many persons from the village. Among them was the accused Govindbhai Mohanbhai. The crowd had surrounded the house of Mehmudmiya and set it on fire. Cries and screams from that house were heard. This important witness had identified the said accused before the Hon. Court. Thus the testimony of this witness is

very important and cannot be ignored. He has no reason to give false testimony and the testimony is without any suspicion and can be believed completely.

2. Gulamali Akbarmiya – witness no 68

The witness had given his testimony before the Hon. Court. Accordingly a crowd of Patel had attacked their (Muslims) mohalla and pelted stones. They came inside the mohalla setting fire to other houses on their way. The witness was standing in the narrow lane near the house of Bachumiya Imammiya. At that time he had seen the accused standing along with other accused persons. The crowd had gone to the house of Mehmudmiya. They broke the window and threw kerosene and petrol inside and set fire to the house. As a result all men, women and children in the house were roasted alive. The witness was present there but he was not able to save them. the witness had clearly identified the accused Govindbhai Mohanbhai before the Hon. Court. Thus, the testimony of this witness is very important and the evidence presented by him cannot be dismissed.

3. Rukshanabanu Ibrahimbhai – witness no 80

This injured witness had given her testimony before the Hon. Court. Accordingly, on the day of the event a crowd from the village had come to Sheikh mohalla and set fire to the cabins. After some time, the same crowd came again, started shouting 'slogans against Muslims and ransacked their houses, set fire to them and indulged in looting'. The witness was injured on her eye and knee. To save herself, she had hid herself in the house of Mehmudmiya's house. The crowd surrounded the house of Mehmudmiya, poured petrol and kerosene in it and set it on fire. There were about 30 to 31 persons in that house. They were burnt alive. Among them, mother, sisters and other family members of the witness were there. The witness is a woman. As told by her in her testimony before the Hon. Court, she is able to recognize those who were in the crowd. Thus, this important witness had identified the accused Govind Mohanbhai before the Hon. Court.

In this way, three witnesses have identified the accused before the Court and their testimonies provide important evidences against him

Accused no 11 Patel Babubhai Gokaldas: Testimonies and evidences therefrom of various witnesses against the accused before the Hon. Court

1. Iqbalmiya Rasoolmiya – witness no 49

As per the testimony given by this witness before the Hon. Court, on the day of the event, a crowd shouting objectionable slogans against the Muslims had come out. It was indulging in ransacking and looting the houses as well as setting them on fire. The accused was leading the crowd. As a leader of the crowd, he was instigating those who were in the crowd by saying 'let no one escape'. As given in para no 5 of his testimony, the accused was sitting in such a manner that it was difficult to identify him.

Thus, the testimony of the witness Iqbalmiya Rasoolmiya is worth believing.

Important judgements of Supreme Court / High Courts regarding crimes of the above mentioned types:-

In this case, on the day of the event after the Godhra incident, it was as if the accused persons were given free reign to attack Muslims. They formed illegal gathering, shouted objectionable slogans like 'kill', 'cut to piece', 'burn alive the bandiyas', 'let no one escape alive'. They indulged in serious crimes to achieve their intention and burnt alive 33 Muslim men, women and children. The witnesses have given their testimonies before the Hon. Court in which they have mentioned that they had seen the accused persons indulging in heinous crimes in a crowd. Therefore, their intention as members of illegal gathering was to kill Muslims and carry out arson, looting and ransacking their houses. To carry out their intention, they had committed serious crimes. All those who were in that crowd were thus responsible for crimes committed by the crowd as a whole and therefore each one is liable to be punished. It is not necessary that the accused has to over-react. This is clearly stated in the law.

Important Judgments of Supreme Court / High Courts regarding crimes of the above mentioned types(1) (1995), 4, Supreme Court Case 392 Ranbir Yadav v/s State of Bihar

Moreover, if the accused persons of the crowd had not over reacted, even then, if the intention of the illegal gathering was to indulge in serious criminal acts, then they can be held guilty as per IPC Section 302 and 436. Similar judgement of (1992) the Hon. Supreme Court in Case No 727 of Mukteswarai and others against the State of Bihar is before us.

If the accused persons are part of a gathering and if they commit murder of a particular community then no detail description is necessary nor are subsequent events important. It is sufficient that the accused persons were in that gathering therefore they can be treated as guilty. In this case, Hon. Supreme Court Judgment **AIR 1999 S.C. 382** is important.

A crowd which killed members of a particular community by using sticks, pelting stones and burning them alive, then those of the crowd who were seen by the witnesses were punished by the Hon. Court as per Section 147, 302 / 149 436 / 149 323 / 149 and 307 / 149 **AIR 1997 / S.C Page 1654.**

The fact that the accused persons have not over-reacted or that they have not played any specific role is not important. The accused persons were in the crowd which was

indulging in serious criminal activities is sufficient and they can be punished under Sec. 149 as per the Hon. Supreme Court Judgement **AIR 2004 S.C. Page 4570**.

Moreover, since the witnesses were injured, their presence cannot be doubted. They are also residents of the village for the past many years. They stay in the same mohalla where the event had taken place. The accused persons also belong to the same village and therefore the witnesses know them. A majority of the witnesses were injured due to stone-throwing or had received burn injuries when the house of Mehmudbhai was set on fire, on the day of the event. Therefore, it is meaningless to doubt their present at the time of the event. In this case the judgement of Hon. Supreme Court **A.I.R 1993 S.C. Page 1544** is important.

Reasons why testimonies of the witnesses before the Hon. Court be considered wholly reliable

After Godhra incident, on 28-02-02 and 1-03-02 communal riots had taken place at Sardarpura village. The complainants had got the FIR filed in which they had given the names of the accused persons. There is no possibility that they have given the names of the accused persons wrongly or due to someone's instigation or past enmity. Those who committed collective atrocities like loot, arson and killing on the minority community are residents of the same village. The victims of the atrocities know them without any doubt. They (the witnesses) had given their names to the people when the latter took their statements on 2-3-02 and 10-03-02. There was no possibility that their leaders or some social workers influenced or instigated them. After the event, the witnesses had given the names of the accused persons at the earliest and therefore, the names of the accused given by the witnesses cannot be wrong. There was no intention on the part of the witnesses to give wrong names.

The witnesses had seen with their own eyes in their presence, members of their families being killed or roasted alive. Allowing such real culprits scot free and to believe that they gave the names of innocent persons or implicated such persons is ridiculous.

The accused persons had fixed halogen lamps facing Muslim mohalla, so that they can fulfill their intention as part of the criminal conspiracy. On the day of the event, a majority of houses of Sheikh Mohalla were set on fire and in the light of the burning houses, the perpetrators of the criminal acts were easily recognized. They were also identified before the Hon. Court. The accused persons were in large numbers. They had attacked the house with weapons in which many witnesses had taken shelter. They had also made a hole in the window and set the house on fire. In such a chaotic situation, it is possible that due the injuries inflicted on them, all these witnesses may not be able to maintain consistency in their testimonies. In the light of the judgement of the Hon. Supreme Court No **(8) 1994 Cr. L.L. Page 1103** in similar situation is cited here. In this case also the witnesses were injured while in the house in which they were taking shelter. The window of the house was broken and the house was set on fire. At that

time the witnesses had seen the accused persons and their testimonies should be judged in the background of this situation. This is our humble request.

While the accused person was active member of the illegal gathering, he cannot be declared innocent, believing that he had not taken active part in the criminal activities. He has to be punished under **I.P.C. Sec 149** as he was a member of the illegal gathering which was involved in crimes. Following judgment of the Hon. Supreme Court in this case **(9) 1989 Cri. L.J. Page 850** can be cited here.

It is not necessary to know whether or not an accused person had played active role when the entire crowd of which he was a member was involved in serious criminal activities. All accused persons are considered responsible for the criminal activities of the crowd.

If the name of the accused person is mentioned in the FIR as member of the illegal crowd, it is sufficient. The judgement of the Hon. Supreme Court No **(10) (1994) 4 S.C.C. 397** is well known in this context.

In one of its important judgments, the Hon. Supreme Court in its report **(11) A.I.R 1995 S.C. Page 1748** had clarified that when accused persons in large numbers attack the witness cannot describe the part played by each individual accused. At that time, the accused persons came in a crowd with weapons and attacked other party with intention to kill them is sufficient evidence and they all are liable to be punished as per Sections 302 and 149.

In the present case, one helpful judgment is by Delhi High Court **(12) 1998 Cri. L.J. Page 988 (Delhi High Court)**. According to this judgment, in case where the intention is to form an unlawful gathering and to indulge in murder, loot and arson it is not necessary to show the criminal act at the individual level. If the accused persons wanted to kill persons of a specific community and to set fire to their property and houses and if the investigation was carried out in doubtful manner in such a way that no weapons or dead bodies were received then it is not necessary to prove criminal acts at individual level.

In such circumstances it is not very important if some names of the accused persons are not included in FIR.

There is one more important judgement of the Hon. Supreme Court **(13) AIR 2002 S.C. 1965**. In that case, in the heinous attack 35 persons were killed, some were injured and there was panic in the area. The attack by the group was very severe. In that case, testimonies of one or two witnesses were considered sufficient. Here, more than the number of witnesses, what is important is the quality of evidence. In the above case, Hon. Justice Arijet Pasayat had made an important observation in his judgement (para 94) that when considerable amount of time has passed and when the witnesses had become mentally nervous because they had observed fearful and abnormal scenes of

the event, it is likely that their testimonies may appear contradictory. It is for the Hon. Court to decide which contradiction should be considered important.

One more helpful judgement of the Hon. Court is the following: **(14) AIR 1997 S.C 1654**. The Hon. Court has observed that when in a riot situation, many people die. In order to paint the event a larger one, witnesses often give their testimonies which are at times contradictory. But if the case is one of riot and many witnesses are presented, then the testimonies of the witnesses should not be rejected if the evidences provided by them are not consistent. Such a thing is natural.

This is stated in para 32 of the judgment of the Hon. Supreme Court. the same should be taken into account while evaluating the testimonies of the witnesses.

With reference to the identification of the accused persons, Hon. Supreme Court has noted in its judgment **(15) A.I.R 1997 S.C. Page 322 that** when there are many witnesses identification by one witness is sufficient. But when there are many accused in an unlawful gathering, the court may insist on identification by two reasonable witnesses. In the present case, more than two witnesses have identified the accused. The witnesses have identified the accused persons but in some case their names were not mentioned.

In such cases, the following judgement of the Hon. Supreme Court **Dana Yadav v/s State of Bihar (16) A.I.R 2002 S.C. Page 3325** states that there is no law which does not allow the testimony to be accepted.

Looking at the evidences against the accused it becomes clear that the witnesses and the accused persons belong to the same village. The witnesses have no past enmity with the accused persons that they would wrongly implicate them. Moreover, many of the witnesses have given their statements to the police at the earliest, after the event occurred. The said accused persons were also identified before the Hon. Court. The testimonies of such witnesses when evaluated then it becomes clear that the said testimonies are fully trustworthy and beyond any doubt. Some witnesses did experience difficulty in identifying the accused persons.

The accused persons on their part had resorted to various tactics so that the witnesses may not identify them. In this case, a petition as per Sec. 560 was also given. Complaining about the sitting arrangement of the accused persons which did not allow the witnesses to see the accused persons clearly, another petition under Sec. 514, 556 was also given.

It is clear that due to investigating agencies and partisan and malicious role of the State, proper investigation in case of 2002 riots has not been done. Attempts were made so that the victims of the riots do not get justice and real perpetrators of the crime remain

outside the hands of the law. Therefore, the victims of the riots had complained to the Supreme Court against the investigating agencies of the State. The Hon. Court found truth in the petition and therefore SIT was formed. However, after the formation of SIT, doubts have arisen regarding the investigation carried out by the SIT officials. It is found that instead of the riot affected victims getting the benefit of help and guidance of the investigating agencies, the perpetrators of the heinous crimes were getting the benefit of the investigation. In such a situation Hon. Supreme Court notes **[(17) Baladin and others V/s State of U.P. A.I.R. 1956 S.C. 181]]** when the police investigation is doubtful, contradiction and omissions in the testimonies of the witnesses should not be given importance. In such a situation, the testimony of the witness assumes importance. The Hon. Court has to evaluate the trustworthiness of the testimony. Moreover, in order to distract the process of justice, irrelevant allegations by powerful vested interests are made and attempts are made to raise doubts about the testimonies of the witnesses. Nothing is left undone to derail the process of justice. The Hon. Court has to minutely observe all this. In this large scale communal violence, the victims have lost their near and dear ones. The violence which took place without any attempt to prevent it, its perpetrators should be punished properly. Only then similar attempts of vested interests to create communal tension frequently can be prevented. Only then such elements will desist from playing with lives of innocent people and their property. In the absence of harsh punishment, those who are every ready to rush in when communal disturbances takes place will feel as if they have got licence to do anything they like. For the sake of poor people who have lost everything, the illiterate and the weak and those who are crying to get justice, the criminals need to be punished severely.

Besides this, the prosecutor had provided following evidences against the accused persons. (1) Place where the crime took place, Panchnama of various items recovered (2) F.S.L. reports and medical certificates (reports) (3) videography of the place of crime and photographs (4) P.M. notes of dead bodies.

We adopt the arguments and legal documents presented by the prosecutor in this regard.

Important Judgments of Supreme Court / High Courts regarding crimes of the above mentioned types

(1) (1995), 4, Supreme Court Case 392 Ranbir Yadav v/s State of Bihar

In this case, on the day of the event after the Godhra incident, it was as if the accused persons were given free reign to attack Muslims. They formed illegal gathering, shouted objectionable slogans like 'kill', 'cut to piece', 'burn alive the bandiyas', 'let no one escape alive'. They indulged in serious crimes to achieve their intention and burnt alive 33 Muslim men, women and children. The witnesses have given their testimonies before the Hon. Court in which they have mentioned that they had seen the accused

persons indulging in heinous crimes in a crowd. Therefore, their intention as members of illegal gathering was to kill Muslims and carry out arson, looting and ransacking their houses. To carry out their intention, they had committed serious crimes. All those who were in that crowd were thus responsible for crimes committed by the crowd as a whole and therefore each one is liable to be punished. It is not necessary that the accused has to over-react. This is clearly stated in the law.

(2) Moreover, if the accused persons of the crowd had not over reacted, even then, if the intention of the illegal gathering was to indulge in serious criminal acts, then they can be held guilty as per IPC Section 302 and 436. Similar judgement of **(1992)** the Hon. Supreme Court in Case No 727 of Mukteswarai and others against the State of Bihar is before us.

(3) If the accused persons are part of a gathering and if they commit murder of a particular community then no detail description is necessary nor are subsequent events important. It is sufficient that the accused persons were in that gathering therefore they can be treated as guilty. In this case, Hon. Supreme Court Judgment **AIR 1999 S.C. 382** is important.

(4) A crowd which killed members of a particular community by using sticks, pelting stones and burning them alive, then those of the crowd who were seen by the witnesses were punished by the Hon. Court as per Section 147, 302 / 149 436 / 149 323 / 149 and 307 / 149 **AIR 1997 / S.C Page 1654.**

(5) The fact that the accused persons have not over-reacted or that they have not played any specific role is not important. The accused persons were in the crowd which was indulging in serious criminal activities is sufficient and they can be punished under Sec. 149 as per the Hon. Supreme Court Judgement **AIR 2004 S.C. Page 4570.**

(6) Moreover, since the witnesses were injured, their presence cannot be doubted. They are also residents of the village for the past many years. They stay in the same mohalla where the event had taken place. The accused persons also belong to the same village and therefore the witnesses know them. A majority of the witnesses were injured due to stone-throwing or had received burn injuries when the house of Mehmudbhai was set on fire, on the day of the event. Therefore, it is meaningless to doubt their present at the time of the event. In this case the judgement of Hon. Supreme Court **A.I.R 1993 S.C. Page 1544** is important.

(7) Moreover, in one of its important judgements, the Hon. Supreme Court has ruled that with reference to riot cases, consistent testimonies of three or more wholly reliable witnesses is sufficient to award punishment. **A.I.R 2002 S.C Page 4024**

Reasons why testimonies of the witnesses before the Hon. Court be considered wholly reliable

After Godhra incident, on 28-02-02 and 1-03-02 communal riots had taken place at Sardarpura village. The complainants had got the FIR filed in which they had given the names of the accused persons. There is no possibility that they have given the names of the accused persons wrongly or due to someone's instigation or past enmity. Those who committed collective atrocities like loot, arson and killing on the minority community are residents of the same village. The victims of the atrocities know them without any doubt. They (the witnesses) had given their names to the people when the latter took their statements on 2-3-02 and 10-03-02. There was no possibility that their leaders or some social workers influenced or instigated them. After the event, the witnesses had given the names of the accused persons at the earliest and therefore, the names of the accused given by the witnesses cannot be wrong. There was no intention on the part of the witnesses to give wrong names.

The witnesses had seen with their own eyes in their presence, members of their families being killed or roasted alive. Allowing such real culprits scot free and to believe that they gave the names of innocent persons or implicated such persons is ridiculous.

The accused persons had fixed halogen lamps facing Muslim mohalla, so that they can fulfill their intention as part of the criminal conspiracy. On the day of the event, a majority of houses of Sheikh Mohalla were set on fire and in the light of the burning houses, the perpetrators of the criminal acts were easily recognized. They were also identified before the Hon. Court. The accused persons were in large numbers. They had attacked the house with weapons in which many witnesses had taken shelter. They had also made a hole in the window and set the house on fire. In such a chaotic situation, it is possible that due the injuries inflicted on them, all these witnesses may not be able to maintain consistency in their testimonies. In the light of the judgement of the Hon. Supreme Court No **(8) 1994 Cr. L.L. Page 1103** in similar situation is cited here. In this case also the witnesses were injured while in the house in which they were taking shelter. The window of the house was broken and the house was set on fire. At that time the witnesses had seen the accused persons and their testimonies should be judged in the background of this situation. This is our humble request.

While the accused person was active member of the illegal gathering, he cannot be declared innocent, believing that he had not taken active part in the criminal activities. He has to be punished under **I.P.C. Sec 149** as he was a member of the illegal gathering which was involved in crimes. Following judgment of the Hon. Supreme Court in this case **(9) 1989 Cri. L.J. Page 850** can be cited here.

It is not necessary to know whether or not an accused person had played active role when the entire crowd of which he was a member was involved in serious criminal

activities. All accused persons are considered responsible for the criminal activities of the crowd.

If the name of the accused person is mentioned in the FIR as member of the illegal crowd, it is sufficient. The judgement of the Hon. Supreme Court No **(10) (1994) 4 S.C.C. 397** is well known in this context.

In one of its important judgments, the Hon. Supreme Court in its report **(11) A.I.R 1995 S.C. Page 1748** had clarified that when accused persons in large numbers attack the witness cannot describe the part played by each individual accused. At that time, the accused persons came in a crowd with weapons and attacked other party with intention to kill them is sufficient evidence and they all are liable to be punished as per Sections 302 and 149.

In the present case, one helpful judgment is by Delhi High Court **(12) 1998 Cri. L.J. Page 988 (Delhi High Court)**. According to this judgment, in case where the intention is to form an unlawful gathering and to indulge in murder, loot and arson it is not necessary to show the criminal act at the individual level. If the accused persons wanted to kill persons of a specific community and to set fire to their property and houses and if the investigation was carried out in doubtful manner in such a way that no weapons or dead bodies were received then it is not necessary to prove criminal acts at individual level.

In such circumstances it is not very important if some names of the accused persons are not included in FIR.

There is one more important judgement of the Hon. Supreme Court **(13) AIR 2002 S.C. 1965**. In that case, in the heinous attack 35 persons were killed, some were injured and there was panic in the area. The attack by the group was very severe. In that case, testimonies of one or two witnesses were considered sufficient. Here, more than the number of witnesses, what is important is the quality of evidence. In the above case, Hon. Justice Arijet Pasayat had made an important observation in his judgement (para 94) that when considerable amount of time has passed and when the witnesses had become mentally nervous because they had observed fearful and abnormal scenes of the event, it is likely that their testimonies may appear contradictory. It is for the Hon. Court to decide which contradiction should be considered important.

One more helpful judgement of the Hon. Court is the following: **(14) AIR 1997 S.C 1654**. The Hon. Court has observed that when in a riot situation, many people die. In order to paint the event a larger one, witnesses often give their testimonies which are at times contradictory. But if the case is one of riot and many witnesses are presented, then the

testimonies of the witnesses should not be rejected if the evidences provided by them are not consistent. Such a thing is natural.

This is stated in para 32 of the judgment of the Hon. Supreme Court. the same should be taken into account while evaluating the testimonies of the witnesses.

With reference to the identification of the accused persons, Hon. Supreme Court has noted in its judgment **(15) A.I.R 1997 S.C. Page 322 that** when there are many witnesses identification by one witness is sufficient. But when there are many accused in an unlawful gathering, the court may insist on identification by two reasonable witnesses. In the present case, more than two witnesses have identified the accused.

The witnesses have identified the accused persons but in some case their names were not mentioned. In such cases, the following judgement of the Hon. Supreme Court **Dana Yadav v/s State of Bihar (16) A.I.R 2002 S.C. Page 3325** states that there is no law which does not allow the testimony to be accepted.

Looking at the evidences against the accused it becomes clear that the witnesses and the accused persons belong to the same village. The witnesses have no past enmity with the accused persons that they would wrongly implicate them. Moreover, many of the witnesses have given their statements to the police at the earliest, after the event occurred. The said accused persons were also identified before the Hon. Court. The testimonies of such witnesses when evaluated then it becomes clear that the said testimonies are fully trustworthy and beyond any doubt. Some witnesses did experience difficulty in identifying the accused persons.

The accused persons on their part had resorted to various tactics so that the witnesses may not identify them. In this case, a petition as per Sec. 560 was also given. Complaining about the sitting arrangement of the accused persons which did not allow the witnesses to see the accused persons clearly, another petition under Sec. 514, 556 was also given.

It is clear that due to investigating agencies and partisan and malicious role of the State, proper investigation in case of 2002 riots has not been done. Attempts were made so that the victims of the riots do not get justice and real perpetrators of the crime remain outside the hands of the law. Therefore, the victims of the riots had complained to the Supreme Court against the investigating agencies of the State. The Hon. Court found truth in the petition and therefore SIT was formed. However, after the formation of SIT, doubts have arisen regarding the investigation carried out by the SIT officials. It is found that instead of the riot affected victims getting the benefit of help and guidance of the investigating agencies, the perpetrators of the heinous crimes were getting the benefit of the investigation. In such a situation Hon. Supreme Court notes **[(17) Baladin and others V/s State of U.P. A.I.R. 1956 S.C. 181]]** when the police investigation is

doubtful, contradiction and omissions in the testimonies of the witnesses should not be given importance. In such a situation, the testimony of the witness assumes importance. The Hon. Court has to evaluate the trustworthiness of the testimony. Moreover, in order to distract the process of justice, irrelevant allegations by powerful vested interests are made and attempts are made to raise doubts about the testimonies of the witnesses. Nothing is left undone to derail the process of justice. The Hon. Court has to minutely observe all this. In this large scale communal violence, the victims have lost their near and dear ones. The violence which took place without any attempt to prevent it, its perpetrators should be punished properly. Only then similar attempts of vested interests to create communal tension frequently can be prevented. Only then such elements will desist from playing with lives of innocent people and their property. In the absence of harsh punishment, those who are every ready to rush in when communal disturbances takes place will feel as if they have got licence to do anything they like. For the sake of poor people who have lost everything, the illiterate and the weak and those who are crying to get justice, the criminals need to be punished severely.

Mehsana.

Date.