# FRIDAY, FEBRUARY 24, 2006

### IN THE COURT OF SESSIONS FOR GREATER BOMBAY

# AT MAZGAON

#### **SESSIONS CASE NO. 315 OF 2004**

The State of Gujarat (at the instance of PI D.C.B. Police Station, Vadodara City, Gujarat State. (C. R. No. 248/ 2002 of Panigate Police Station		) ) ) )	Complainant
	Versus		
1.	Rajubhai Dhamirbhai Baria	)	
2.	Mahendra @ Nanu Langdo.	)	
3.	Haresh @ Tino Virendragir Gosai	)	
4.	Pankaj Virendragir Gosai.	)	
5.	Yogesh @ Painter Laxmansinh Varma	)	
6.	Pratapsinh Ravjibhai Chauhan.	) )	(Orig. a/10)
7.	Sanjay @ Bhopo Ratilal Thakkar.	)	(Orig. A/11)
8.	Bahadursinh @ Jitu Chandrasinh Chauhan	)	(Orig. A/12)
9.	Yasin Alibhai Khokhar.	)	(Orig. A/13)
10.	Jagdish Chunilal Rajput	)	(Orig. A/14)
11.	Dinesh Phulchand Rajbhar	)	(Orig. A/15)

12. Shanabhai Chimanbhai Baria ).. (Orig. A/16)

13. Tulsi Bhikabhai Tadvi ).. (Orig. A/17)

14. Shailesh Anupbhai Tadvi ).. (Orig. A/18)

15. Kamlesh Bhikabhai Tadvi ).. (Orig. A/19)

16. Suresh @ Lalo Devjibhai Vasava. ).. (Orig. A/20)

17. Ravi Rajaram Chauhan ).. (Orig. A/21)

..... Accused

Smt. Manjula Rao, Special Public Prosecutor for the State of Gujarat, with Advocate Shri A. R. Pandey and Advocate Shri J. P. Yagnik to assist her.

Shri. Adhik Shirodkar, Senior Advocate, with Advocate Shri D. S. Jambulikar for Accused Nos. 1 to 5, 10, 11 and 12.

Shri. Mangesh Pawar, Advocate for Accused Nos. 16, 17, 18, 19 and 21.

Shri V. D. Bichu, Advocate for accused Nos. 13, 14, 15 and 20.

Coram :- His Honour The

Addl. Sessions Judge Shri A. M. Thipsay

Date :- February 24, 2006.

#### OPERATIVE ORDER

All the accused are acquitted of the charge of an offence punishable under section 342 of the IPC read with section 149 of the IPC.

Accused Nos. 2, 3, 5, 12, 13, 17, 18, and 21 are acquitted of the charge of offence punishable under sections 143 of the I.P.C., 147 of the I.P.C., 324 of the I.P.C., read with 149 of the I.P.C., 326 of the I.P.C. read with 149 of the I.P.C., 392 of the I.P.C., read with 149 of the I.P.C., 435 of the I.P.C., read with 149 of the I.P.C., 436 of the I.P.C. read with 149 of the I.P.C., 395 of the I.P.C., 448 of the I.P.C., read with 149 of the I.P.C., 449 of the I.P.C., read with 149 of the I.P.C., and 451 of the I.P.C., read with 149 of the I.P.C., and 451 of the I.P.C., read with 149 of the I.P.C.

Accused nos. 2, 3, 5, 10, 13, 17 and 19 be set at liberty forthwith, unless required to be detained in some other cases.

The bail bond of accused no.31 stands discharged.

Accused No.1 – Rajubhai Dhamirbhai Baria, accused no.14 – Jagdish Chunilal Rajpur, accused no.16 – Shanabhai Chimanbhai Baria and accused no.18 – Shailesh Anupbhai Tadvi are acquitted of the charges of offences punishable under Sections 395 of the I.P.C., 448 of the I.P.C.,read with 149 of the I.P.C., 449 f the I.P.C., read with 149 of the I.P.C., 451 of the I.P.C., read with 149 of the I.P.C..

Accused No.1 – Rajubhai Dhamirbhai Baria, Accused No.4 – Pankaj Virendragir Gosai, Accused No.11 – Sanjay @ Bhopo Ratilal Thakkar, Accused No.12 – Bahadursingh @ Jitu Chandrasinh Chaujan, Accused No.14 – Jagdish Chunilal Rajpur, Accused No.15 – Dinesh Phulchand Rajbhar, Accused No.16 – Shanabhai Chimanbhai Baria, Accused No.18 – Shailesh Anupbhai Tadvi , and Accused No.20 – Suresh @ Lalo Devjibhai Vasava are convicted of an offence punishable under section 143 of the I.P.C. and each of them is sentenced to suffer rigorous imprisonment for 6 [six] months, and also to pay a fine of Rs.500/- [Rupees five hundred only] each, in default, to suffer further rigorous imprisonment for 15 [fifteen] days.

They are also convicted of an offence punishable under section 147 of the I.P.C. and each of them is sentenced to suffer rigorous imprisonment for 2 [two] years, and also to ay a fine of Rs.1,000/- [Rupees one thousand only] each, in default, to suffer further rigorous imprisonment for 1 [one] month.

They are also convicted of an offence punishable under Section 324 of the I.P.C. read with Section 149 of the I.P.C. and each of them is sentenced to suffer rigorous imprisonment for 3 [three] years, and also to pay a fine of Rs.1000/- [rupees One thousand only] each, in default, to suffer further rigorous imprisonment for 1 [one] month.

They are also convicted of an offence punishable under Section 326 of the I.P.C. read with Section 149 of the I.P.C. and each of them is sentenced to suffer imprisonment for life and also to pay a fine of Rs.5000/- [Rupees five thousand only] each, in default, to suffer further rigorous imprisonment for 5 [five] months.

They are also convicted of an offence punishable under Section 302 of the I.P.C. read with Section 149 of the I.P.C. and each of them is sentenced to suffer imprisonment for life and also to pay a fine of Rs.5,000/- [Rupees five thousand only] each, in default, to suffer further rigorous imprisonment for 5 [five] months.

They are also convicted of an offence punishable under Section 188 of the I.P.C. and each of them is sentenced to suffer simple imprisonment for a period 1 [one] month.

Accused No.4 – Pankaj Virendragir Gosai, Accused No.11 – Sanjay @ Bhopo Ratilal Thakkar, Accused No.12 – Bahadursinh @ Jitu Chandrasinh Chauhan, Accused No.15 – Dinesh Phulchand Rajbhar, and Accused No.20 – Suresh @ Lalo Devjibhai Vasava are convicted of an offence punishable under Section 435 of the I.P.C. and each of them is sentenced to suffer rigorous imprisonment for 6 [seven] years, and also to pay a fine of Rs.5,000/- [Rupees five thousand only] each, in default, to suffer further rigorous imprisonment for 5 [five] months.

They are convicted of an offence punishable under Section 436 of the I.P.C. and each of them is sentenced to suffer imprisonment for life, and also to pay a fine of Rs.10,000/-[Rupees ten thousand only] each, in default, to suffer further rigorous imprisonment for 10 [ten] months.

They are also convicted of an offence punishable under section 395 of the I.P.C. and each of them is sentenced to suffer rigorous imprisonment for 10 [ten] years and also to pay a fine of rs.500/- [Rupees five hundred only] each, in default, to suffer further rigorous imprisonment for 15 [fifteen] days.

They are also convicted of an office punishable under Section 448 of the I.P.C. read with Section 149 of the I.P.C. and each of them is sentenced to suffer rigorous imprisonment for 1 [one] year and also to pay a fine of Rs.500/- [Rupees five hundred only] each, in default, to suffer further rigorous imprisonment for 15 [fifteen] days.

They are also convicted of an offence punishable under Section 449 of the I.P.C. read with Section 149 of the I.P.C. and each of them is sentence to suffer rigorous imprisonment for 10 [ten] years and also to pay a fine of Rs. 500/- (Rupees five hundred only) each, in default, to suffer further rigorous imprisonment for 15 (fifteen) days.

They are also convicted of an offence punishable under section 450 of the I.P.C. read with Section 149 of the I.P.C. and each of them is sentenced to suffer rigorous imprisonment for 10 (ten) years and also to pay a fine of Rs. 500/- (Rupees five hundred only) each, in default, to suffer further rigorous imprisonment for 15 (fifteen) days.

They are also convicted of an offence punishable under Section 451 of the I.P.C. read with Section 149 of the IPC and each of them is Sentenced to suffer rigorous imprisonment fro 2 (Two) years and also to pay a fine of Rs. 500/- (Rupees five hundred only) each, in default, to suffer further rigorous imprisonment for 15 (fifteen) days.

Accused No. 11 – Sanjay @ Bhopo Ratilal Thakkar, Accused No. 12 – Bahadursinh @ Jitu Chandrasinh Chauhan, Accused No. 13 – Dinesh Phulchand Rajbhar, Accused No. 16 – Shanabhai Chimanbhai Baria and Accused No. 20 – Suresh @ Lalo Devjibhai Vasava are convicted of an offence punishable under Section 144 of the I.P.C. and each of them is sentenced to suffer rigorous imprisonment for 2 (two) years, and also

to pay a fine of Rs. 500/- (Rupees five hundred only) each, in default, to suffer further rigorous imprisonment for 15 (fifteen) days.

They are also convicted of an offence punishable under Section 148 of the I.P.C. and each of them is sentenced to suffer rigorous imprisonment for 3 (three) years, and also to pay a fine of Rs. 1,000/- (Rupees one thousand only) each, in default, to suffer rigorous imprisonment for 1 (one) month.

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

The accused shall be entitled for set off as per section 428 of the Code of Criminal Procedure.

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

No order for the disposal of the property is passed at this stage, as the case against the original accused Nos. 6, 7, 8 and 9 is pending.

Issue notices to Nasibulla Habibulla Shaikh (P.W. 30), Nafitulla Habibulla Shaikh (P.W. 31), Smt. Saherunissa Habibulla Shaikh (P.W. 35), Smt. Saherabanu Habibulla Shaikh (P.W. 40) and Smt. Zahira Habibulla Shaikh (P.W. 41) to show cause why each of them should not be tried summarily, for giving false evidence and punished for the offences punishable under Section 193 of the I.P.C., as contemplated under Section 344 of the Code of Criminal Procedure, returnable on 20/03/2006.

If fine is realised, an amount of Rs. 20,000/- (Rupees twenty thousand only) each shall be paid to each of the injured witnesses – i.e. Taufel Ahmed Habibulla Siddiqui (P.W. 26), Raees Khan Nankau Khan (P.W. 27), Shehzad Khan Hasan Khan Pathan (P.W. 28) and Sailun Hasan Khan Pathan (P.W. 32), under section 357(1) (b) of the Code of Criminal Procedure.

Out of the fine imposed on accused nos. 4, 11, 12, 15 and 20, it realised, an amount of Rs. 60,000/- (Rupees sixty thousand only) shall be paid to Smt. Sharjahan Kausarali Shaikh (P.W. 34) and from the remaining amount, an amount of Rs. 40,000/- (Rupees forty thousand only) (or such other amount as may be available) shall be paid to Aslambhai Haroonbhai Shaikh (P.W. 42), under section 357 (1) (c) of the Code of Criminal Procedure.

(A.M. Thipsay) Addl. Sessions Judge, Greater Bombay (Mazgaon)