

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. OF 2006

IN THE MATTER OF

Citizens for Justice and Peace & Anr.

...Petitioners

Versus

The State of Gujarat & Ors.

...Respondents

A F F I D A V I T

I Rupaben W/o Dara Modi, aged 38 years, occupation house wife, formerly resident of 7/2, Gulbarg Society Flats, Chamanpura, Asarwa Road, Ahmedabad, at present resident of Rajvi Apartments, Bhaikakanagar, Thaltej, Ahmedabad, do solemnly declare on oath and solemnly affirm as under:-

1. I say and submit that the I was staying at my above address before 28th Feb, 2002. On 28th Feb, 2002 my husband Mr. Dara Minoo Modi had gone to Kamal Cinema at 9.00 am as he is chief operator. At about 10.30 am about six to seven persons shouting “Bajrang Dal Zindabad”, “ V. H. P. Zindabad” had started forcefully closing the shutting the shops of the area. The mob of six to seven persons had approached the shop named as Ankur Cycle Shop belonging to Habib Pathan. The son of the owner of the shop namely Yusuf Habib Pathan was standing outside the shop which was already closed in view of the bandh call. The miscreants had started beating with fisticuff blows and

at that time his brother Ayub Habib Pathan who happened to be standing nearby tried to save him and therefore the mob caused injury on his back with gupti, Ayub ran towards his house which is behind the cycle shop, whereas Yusuf Habib Pathan ran towards the Gulbarg society and hide himself in the house of Ehsaan Jafri, where ultimately he was burnt alive at about 3.00 pm on 28th Feb, 2002. These seven activists later on went to their area i.e., Ghanti Bus Stand, which was predominantly a area of majority community and shouted help, help. During all this scenario the about six to seven unarmed police was simply looking at the miscreants. Soon a mob started gathering and started stone pelting. Frantic phone calls were made by the Ex-M P Mr. Ehsan Jafri.

2. I say and submit that at about 11.00 to 11.30 am the police commissioner Mr. P. C. Pande and other armed police arrived in about 3 to 4 jeeps. Mr. Ehsan Jafri had talked to the police commissioner Mr. Pande who assured of deploying adequate police forces in the area. The police later on went away. The miscreants had stopped throwing stones. No arrests were made by the police.
3. I say and submit that my brother- in- law namely Mr. Farad Modi had gone to the police commissioner's office between 12.30 to 1.30 pm station and informed the police commissioner namely Mr. Pande regarding the attack by the mob. Mr. Pande informed that the police has already reached the scene of the offence and will soon take the rioters under its control.
4. However, infact despite being so informed the police had not arrived at the scene of the offence. I say and submit that had false assurances were not given by the police commissioner perhaps all of us had left the society in the morning itself i.e., at 11.00 am itself when Mr. Pande arrived at the society.
5. I further say and submit that Mr. Jafri had also informed the police commissioner Mr. Pande that suitable arrangement be made to shift all the families belonging to the minority community to safer place; however, the Pande assured that either arrangement would be made to shift all the people belonging to the minority community or steps shall be taken to stop the miscreants by deploying sufficient police force. However, despite this, no steps were taken by the police commissioner Mr. P. C. Pande. Late Mr. Jafri

himself informed me about the above communication between Mr. Jafri and Mr. P.C. Pande. I further say and submit that one of the neighbours namely Mr. Fakir Mohammed was also present at the time of above conversation and had informed me about the communications between Mr. Pande and Mr. Jafri. It was pursuant to this assurances all the people belonging to the minority community awaited the help of the police department. I further say and submit that Mr Ehsaan Jafri had also contacted some of the political leaders and friends telephonically. However, it was due to the assurances of the police perhaps no body could help us.

6. I say and submit that at about 12.30 pm my husband Mr. Dara Modi had gone to the Meghaninagar police chowky and could not find any police in the police chowky. My husband informed a lady constable about the seriousness of the surcharged atmosphere at the Gulberg Society in the Meghaninagar area. My husband waited at the police station for more than five hours. It was at around 5.00 pm the police arrived at the scene of the offence. I insisted the police to get my son Azar who was missing. I say and submit that police called for all the children sitting in the police station and therefore at about 5.45 pm the police arrived at the Gulberg Society with my husband and other children. I could not find my son. I submit that the police inspector Mr. K. G. Erda of the Meghaninagar Police Station was nowhere seen at in and around the society till late evening. I submit that no action or efforts whatsoever was made by the P.I. Mr. Erda to quell the mob.
4. In the month of July, 2003 Mr. Erda talked to me telephonically at my relative's home where I was residing at the relevant time. He asked me to reach Meghaninagar police station for recording a police statement. From Meghaninagar police station, I was taken in jeep to the court of magistrate at Meghaninagar and asked me to affirm a affidavit which was already prepared by Mr. Erda. I insisted on reading the affidavit and found that the affidavit averred that Mr. Erda had taken sufficient steps to quell the miscreants by firing at the mob and therefore I had heard the noise of firing. I refused to affirm the affidavit and therefore a fresh affidavit was prepared by the police inspector Mr. Erda stating that the police arrived at about 5.30 pm with 3 police vans. I informed him that I had seen only one police jeep, however I was told that other vans were already parked nearby. Thus, the second affidavit was affirmed by me. The contents of the above affidavit have been read over to me and explained to me in gujarati and the contents of its para 1 to 5 are true and correct to the best of my knowledge and belief and this affidavit was thereafter sworn and filed.

5. I say and submit that as a victim survivor who's only son is missing since that ghastly date, February 28, 2002, our faith in the Gujarat government, administration and police was snatched away by their callous behaviour. I and other victim survivors had filed affidavits in the Hon'ble Supreme Court in the Transfer petition filed by the National Human Rights Commission along with the Citizens for Justice and Peace who had intervened. Following hearings the Hon'ble Supreme Court has stayed the trial on November 21, 2003. One of the major reasons for the Hon'ble Supreme Court staying the trial was the calouous, unprofessional behaviour of the police and administration and the gpvernment where victim survivors continue to be singled out. Today we await the hearing of the Hon'ble Supreme Court on our plea for re-investigation by CBI and transfer of the Gulberg trial outside the Gujarat state.
6. In this period, the recent decision of the Gujarat government to appoint a man of the background of Sdhri PC Pandey as Director General of Police, Gujarat is shocking and in fact shakes what little faith we had of us living here in safety. This officer's conduct deserves inquiry, instead he has been rewarded by being appointed the highest and most efficient official in the state. No faith of victim survivors can remain in the process of justice if a person like him continues in his post.

Solemnly affirmed on this 28th day of April 2006 at Ahmedabad.

Identified by me,

(Deponent)

Before me.