

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.583 OF 2006

1. Rajubhai Dhamirbhai Baria)
Age: 45 years, (Ori.Accused No.1))
R/o Hanuman Tekdi, Daboli Road,)
Vadodara, State - Gujarat.)
)
2. Pankaj Virendragir Gosai)
(Ori. Accused No.4))
R/o as above)
)
3. Sanjay Ratilal Thakkar)
(Original Accused No.11))
R/o Mahesh Mangal Society,)
Waghodia Road, Vadodara, State-)
Gujarat.)
)
4. Bahadursinh @ Jitu Chandrasinh)
Chauhan (Ori. Accused No.12))
R/o Behind Bhabha Plan,)
C-Ramnagar Road, Sainathnagar,)
Mohd, Talao, Vadodara, State -)
Gujarat.)

APEAL 583/2006, 584/2006 & 585/2006
WITH APPA 571/2011, 572/2011 & 573/2011
WITH APPA 198/2012, 199/2012 & 200/2012

All the above Appellants are)
presently undergoing sentence at)
Kolhapur Central Prison at Kolhapur)
Maharashtra) Appellants.

Versus

1. The State of Gujarat)
2. The State of Maharashtra)
3. Taufel Ahemed Habibulla)
Siddiqui)
4. Raees Khan Nankau Khan)
5. Shehzad Khan Hasan Khan)
Pathan)
6. Sailun Hasan Khan Pathan)
7. Smt. Sharjahan Kasusarali)
Shaikh.)
8. Aslambhai Haroonbhai Shaikh) Respondents.

WITH
CRIMINAL APPEAL NO.584 OF 2006

1. Jagdish Chunilal Rajput)
(Ori. Accused No.14))

Age 40 years,)
R/o Ranmukteshwar Road, Tejab)
Mill Chawl, Pratap Nagar, Opp.)
Bhataji Temple, Vadodara, Sate -)
Gujarat)
2. Dinesh Phulchand Rajbhar)
(Ori Accused No.15))
R/o Daboi Road, Ansuya Nagar,)
Opp. Bhataji Temple, Vadodara)
State- Gujarat)
)
3. Suresh @ Lalo Devjibhai Vasava)
(Ori. Accused No.20))
R/o as above.)
Appellants 2 and 3 are)
presently undergoing sentence at)
Kolhapur Central Prison at)
Kolhapur, Maharashtra. Appellant)
No.1 (Orig Accused No.14) has been)
released on bail on medical ground) ... Appellants.

V/s

1. The State of Gujarat)
2. The State of Maharashtra)
3. Taufel Ahemed Habibulla)
Siddiqui)

APEAL 583/2006, 584/2006 & 585/2006
WITH APPA 571/2011, 572/2011 & 573/2011
WITH APPA 198/2012, 199/2012 & 200/2012

4. Raees Khan Nankau Khan)
5. Shehzad Khan Hasan Khan)
Pathan)
6. Sailun Hasan Khan Pathan)
7. Smt. Sharjahan Kausarali)
Shaikh.)
8. Aslambhai Haroonbhai Shaikh) Respondents.

WITH
CRIMINAL APPEAL NO. 585 OF 2006

1. Shanabhai Chimanbhai Baria)
(Orig. Accused No.16))
Age 42 years,)
R/o at Soma Talao, Daboi Road,)
Zopadpatti, Vadodara, State -)
Gujarat.)
)
 2. Shailesh Anupbhai Tadv)
(Ori. Accused No.18))
R/o Hanuman Tekdi, Daboi Road,)Appellants.
Vadodara, State-Gujarat)
)
- All the above Appellants are)
presently undergoing sentence at)
Kolhapur Central Prison at)

APEAL 583/2006, 584/2006 & 585/2006
WITH APPA 571/2011, 572/2011 & 573/2011
WITH APPA 198/2012, 199/2012 & 200/2012

Kolhapur, Maharashtra)

Versus

1. The State of Gujarat)
2. The State of Maharashtra)
3. Taufel Ahemed Habibulla)
Siddiqui)
4. Raees Khan Nankau Khan)
5. Shehzad Khan Hasan Khan)
Pathan)
6. Sailun Hasan Khan Pathan)
7. Smt. Sharjahan Kausarali)
Shaikh.)
8. Aslambhai Haroonbhai Shaikh) Respondents.

ALONGWITH
CRIMINAL APPLICATION NO.571 OF 2011
IN
CRIMINAL APPEAL NO.583 OF 2006

Yasmeen Banu Ismail Sheikh)
Adult, Occ: Nil)
Residing at : Ganjifalia,)
Chhotapudepur, District: Baroda,)
Gujarat) Petitioner/Applicant.
(Original Witness No.29)

APEAL 583/2006, 584/2006 & 585/2006
WITH APPA 571/2011, 572/2011 & 573/2011
WITH APPA 198/2012, 199/2012 & 200/2012

V/s

1. The State of Gujarat)
2. The State of Maharashtra)
3. Rajubhai Dhamirbhai Baria)
Hanuman Tekdi, Daboi Road)
Vadodara) Respondents
(No.3 Original Accused)

WITH
CRIMINAL APPLICATION NO.572 OF 2011
IN
CRIMINAL APPEAL NO.584 OF 2006

- Yasmeen Banu Ismail Sheikh)
Adult, Occ: Nil)
Residing at : Ganjifalia,)
Chhotapudepur, District: Baroda,)
Gujarat) Petitioner/Applicant.
(Original Witness No.29)

V/s

1. The State of Gujarat)
2. The State of Maharashtra)
3. Jagdish Chunilal Rajput)
Ramukteshwar Road, Tejab)

APEAL 583/2006, 584/2006 & 585/2006
WITH APPA 571/2011, 572/2011 & 573/2011
WITH APPA 198/2012, 199/2012 & 200/2012

Mill Chawl, Pratap Nagar,) Respondents
Vadodara) (No.3 Original Accused)

WITH
CRIMINAL APPLICATION NO.573 OF 2011
IN
CRIMINAL APPLICATION NO. 585 OF 2006

Yasmeen Banu Ismail Sheikh)
Adult, Occ: Nil)
Residing at : Ganjifalia,)
Chhotapudepur, District: Baroda,)
Gujarat) Petitioner/Applicant.
(Original Witness No.29)

V/s

1. The State of Gujarat)
2. The State of Maharashtra)
3. Shanabhai Chimanbhai Baria)
Soma Talao, Daboi Road)
Zopadpatti, Vadodara) Respondents
) (No.3 Original Accused)

ALONGWITH
CRIMINAL APPLICATION NO.198 OF 2012
IN
CRIMINAL APPEAL NO.583 OF 2006

Teesta Setalvad)
Residing at "Nirant", Juhu Tara)
Road, Mumbai - 400049) Applicant.

Verus

1. The State of Gujarat)
2. The State of Maharashtra)
3. Yasmeen Banu Ismail Sheikh)
Adult Occ. Nil,)
Residing at, Ganjifalia, Chhota)
Udaipur, Baroda, Gujarat)
4. Rajubhai Dhamirbhai Baria)
(Ori. Accused No.1))
5. Pankaj Virendragir Gosai (Ori)
Accused No.4))
6. Sanjay Ratilal Thakkar (Ori)
Accused no.11))
7. Bahadursinh Chandrsinh)
Chauhan (Ori. Accused No.12))
The Respondent Nos. 4 to 7)
are presently undergoing)
sentence at Kolhapur Central)
Prison at Kolhapur, Maharashtra) Respondents.

WITH

APEAL 583/2006, 584/2006 & 585/2006
WITH APPA 571/2011, 572/2011 & 573/2011
WITH APPA 198/2012, 199/2012 & 200/2012

CRIMINAL APPLICATION NO.199 OF 2012

IN

CRIMINAL APPEAL NO.584 OF 2006

Teesta Setalvad)
Residing at "Nirant", Juhu Tara)
Road, Mumbai - 400049) Applicant.

Verus

1. The State of Gujarat)
2. The State of Maharashtra)
3. Yasmeen Banu Ismail Sheikh)
Adult Occ. Nil,)
Residing at, Ganjifalia, Chhota)
Udaipur, Baroda, Gujarat)
4. Jagdish Chunilal Rajput)
(Ori. Accused No.14))
5. Dinesh Phulchand Rajbhar (Ori)
Accused No.15))
6. Suresh Devjibhai Vasava (Ori)
Accused no.20))
The Respondent Nos. 4 to 6)
are presently undergoing)
sentence at Kolhapur Central)
Prison at Kolhapur, Maharashtra) Respondents.

APEAL 583/2006, 584/2006 & 585/2006
WITH APPA 571/2011, 572/2011 & 573/2011
WITH APPA 198/2012, 199/2012 & 200/2012

WITH
CRIMINAL APPLICATION NO.200 OF 2012
IN
CRIMINAL APPEAL NO. 585 OF 2006

Teesta Setalvad)
Residing at "Nirant", Juhu Tara)
Road, Mumbai - 400049) Applicant.

Verus

1. The State of Gujarat)
2. The State of Maharashtra)
3. Yasmeen Banu Ismail Sheikh)
Adult Occ. Nil,)
Residing at, Ganjifalia, Chhota)
Udaipur, Baroda, Gujarat)
4. Shanabhai Chimanbhai Baria)
(Ori. Accused No.16))
5. Shailesh Anupbhai Tadv (Ori)
Accused No.18))
The Respondent Nos. 4 to 5)
are presently undergoing)
sentence at Kolhapur Central)
Prison at Kolhapur, Maharashtra) Respondents.

ALONGWITH

APEAL 583/2006, 584/2006 & 585/2006
WITH APPA 571/2011, 572/2011 & 573/2011
WITH APPA 198/2012, 199/2012 & 200/2012

CRIMINAL APPLICATION NO.408 OF 2012

IN

CRIMINAL APPEAL NO. 583 OF 2006

Pankaj Gir Virendra Gir Gosai)
(Aged 33 years, presently serving)
sentence of life imprisonment)
at Kolhapur Central Prison as)
convict Prisoner No.C 3623)Applicant.

V/s

1. The State of Gujarat)
2. The State of Maharashtra)
3. Taufel Ahemed Habibulla)
Siddiqui)
4. Raees Khan Nankau Khan)
5. Shehzad Khan Hasan Khan)
Pathan)
6. Sailun Hasan Khan Pathan)
7. Smt. Sharjahan Kausarali)
Shaikh.)
8. Aslambhai Haroonbhai Shaikh) Respondents.

Mr. Adhik Shirodkar, Sr. Counsel, for the Appellants in all the
above appeals.

APEAL 583/2006, 584/2006 & 585/2006
WITH APPA 571/2011, 572/2011 & 573/2011
WITH APPA 198/2012, 199/2012 & 200/2012

Mr. D. S. Jambaulikar, for the Appellant Nos. 1, 2, 3 & 4 in Cri. Appeal No. 583/2006.

Mr. V. D. Bichu, for the Appellant Nos. 1, 2 & 3 in Cri. Appeal No. 584/2006.

Mr. Mangesh Pawar, for Appellant Nos. 1 & 2 in Cri. Appeal No. 585/2006.

Mrs. Manjula Rao, Spl. Public Prosecutor for the State of Gujrat with Advocates Mr. J. P. Yagnik and Anoop Pandey.

Mrs. P. H. Kantharia, APP for the State of Maharashtra.

Mr. Mihir Desai, Sr. Counsel a/w Chetan Mali, for the Applicant in APPA Nos. 198/12, 199/12, 200/12

Mr. J. P. Yagnik, APP for the State of Maharashtra in APPA No. 408/2012 (through jail).

Mr. Mahesh Jethmalani, Sr. Counsel a/w Ms. Chitra Pawar i/b Mr. Madhusudan Paresh & Hemant Yadke, for the Applicant in APPA No. 571/2011.

Mr. V. T. Tulpule, Sr. Counsel, Spl. P. P. for the State of Gujrat.in APPA No. 571/2011

Mr. J. P. Yagnik, APP for the State of Maharashtra in APPA No. 571/2011.

Mr. Adhik Shirodkar, Sr. counsel i/b Mr. D. S. Jambaulikar, for Respondent Nos. 1, 2, 3 & 4 in APPA No. 571/2011

Mr. Mahesh Jethmalani, Sr. Counsel a/w Ms. Chitra Pawar i/b Mr. M. Paresh & Hemant Yadke, for the Applicant in APPA No. 572/2011.

APEAL 583/2006, 584/2006 & 585/2006
WITH APPA 571/2011, 572/2011 & 573/2011
WITH APPA 198/2012, 199/2012 & 200/2012

Mr. V. T. Tulpule, Sr. Counsel, Spl. P. P. for the State of Gujrat
in APPA No. 572/2011

Mr. J. P. Yagnik, APP for the State of Maharashtra in APPA
No. 572/2011.

Mr. Adhik Shirodkar, Sr. Counsel i/b Mr. V. D. Bichu, for
Respondent Nos. 1, 2 & 3 in APPA No. 572/2011.

Mr. Mahesh Jethmalani, Sr. Counsel a/w Ms. Chitra Pawar i/b
Mr. M. Paresh & Hemant Yadke, for the Applicant in APPA
No. 573/2011.

Mr. V. T. Tulpule, Sr. Counsel, Spl. P. P. for the State of Gujrat
in APPA No. 573/2011

Mr. J. P. Yagnik, APP for the State of Maharashtra in APPA
No. 573/2011.

Mr. Adhik Shirodkar, Sr. Counsel i/b Mr. Mangesh Pawar, for
Respondent Nos. 1, 2.

CORAM: V.M. KANADE & P.D. KODE, JJ.

DATES: 4/7/2012, 5/7/2012, 9/7/2012 & 10/7/2012

P.C.:-

For the reasons separately recorded, the following
order is passed:-

ORDER

Appeals filed by Accused No.1 - Rajubhai Baria, Accused No. 18 - Shailesh Anupbhai Tadvi, Accused No.4 - Pankaj Virendragir Gosai, Accused No.14 - Jagdish Chunilal Rajput and Accused No.20 - Suresh @ Lalo Devjibhai Vasava are allowed. They are acquitted of the offence punishable under sections 143, 147, 324 r/w 149, 326 r/w 149, 302 r/w 149 and 188 I.P.C. Further, Accused No.4 - Pankaj Virendragir Gosai is also acquitted of the offence punishable under sections 435 r/w 149, 436 r/w 149, 395, 448 r/w 149, 449 r/w 149, 450 r/w 149 and 451 r/w 149 I.P.C. Further, Accused No. 20 Suresh Lalo Devjibhai Vasava is also acquitted of the offence punishable under sections 144 and 148 I.P.C. The Judgment and Order of the Trial Court is set aside only to the extent of convicting A-1, A-18, A-4, A-14 and A-20 for the aforesaid offences. A-1, A-18, A-4, A-14 and A-20 shall be released forthwith, unless they are otherwise required in any other case. The fine amount paid by these accused, if any, be refunded to them. A-14 - Jagdish Chunilal Rajput has already been released on bail on medical ground. His bail bond stands cancelled.

Appeals filed by accused No.11 - Sanjay Thakkar, Accused No.15 - Dinesh Rajbhar, Accused No.12 - Bahadursinh Chauhan and Accused No. 16 - Shanabhai Baria are dismissed. Their conviction under sections 143, 147, 324 r/w 149, 326 r/w 149, 302 r/w 149 and 188 I.P.C. is confirmed. Further, the conviction of Accused No.11, Accused No.12 and Accused No.15 under following sections viz sections 435 r/w 149, 436 r/w 149, 395, 448 r/w 149, 449 r/w 149, 450 r/w 149, 451 r/w 149, 144 and 148 of I.P.C is also confirmed. However, it is clarified that the sentences imposed upon them by the Trial Court so far as other offences are concerned shall run concurrently alongwith the sentence of life imprisonment which is imposed upon them and the judgment and order of the Trial Court is modified to that extent. We also direct that all these accused whose conviction has been confirmed by this Court shall be kept in prison in State of Gujarat and not in State of Maharashtra.

All the three Criminal Applications viz Criminal Application Nos. 571 of 2011 in Criminal Appeal No.583 of 2006, 572 of 2011 in Criminal Appeal No.584 of 2006 and 573 of 2011 in Criminal Appeal No. 585 of 2006 taken out by the applicant Yasmeeen Sheikh are dismissed.

APEAL 583/2006, 584/2006 & 585/2006
WITH APPA 571/2011, 572/2011 & 573/2011
WITH APPA 198/2012, 199/2012 & 200/2012

Similarly, all three Criminal Applications viz Criminal Application Nos. 198 of 2012 in Criminal Appeal No.583 of 2006, 199 of 2012 in Criminal Appeal No.584 of 2006 and 200 of 2012 in Criminal Appeal No.585 of 2006 taken out by Mrs Teesta Setalvad are also dismissed.

Criminal Application No. 408 of 2012 taken out by Accused No.4 in Criminal Appeal No.583 of 2006 is dismissed as the same does not survive in view of disposal of the above appeals.

We also direct the State of Gujarat to pay compensation of Rs 3,00,000/- (Rupees Three lacs only) to each of the following victims viz (1) Nasibulla Habibulla Shaikh, (2) Sailum Hasan Khan Pathan, (3) Taufel Habibulla Shaikh, (4) Raees Khan Nankau Khan (5) Shehzad Khan Hasan Khan Pathan, (6) Yasmin Nafitulla Habibulla Shaikh so also to the wife and children of two deceased persons viz Kausarali Shaikh and Arshad @ Lulla Hasanbhai Shaikh whose bodies were not found till today. The amount of compensation which is directed to be paid to these victims be deposited by the State of Gujarat in this Court within 8 weeks from today and these victims are allowed to

APEAL 583/2006, 584/2006 & 585/2006
WITH APPA 571/2011, 572/2011 & 573/2011
WITH APPA 198/2012, 199/2012 & 200/2012

withdraw the said amount, after producing a proof of their identity.

All the observations which are made by the Trial Court against the learned Senior Counsel Mr. Adhik Shirodkar and his team are expunged.

All these Criminal Appeals and Criminal Applications taken out therein are accordingly disposed of.

(P.D. KODE, J.)

(V.M. KANADE, J.)