

Edi.No.5645.

Witness No. 998

Name of witness : Rahul Sharma

Age :40 years

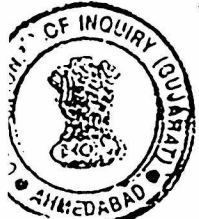
Designation : S.P., C.B.I.

At Gandhinagar.

I have filed before this Commission my affidavit dated July 1,2002. It bears my Signature. The contents thereof are correct. I have annexed to that affidavit the relevant document, which I have collected from the record of my office. On February 27<sup>th</sup>, 2002 and the period thereabout, I was D.S.P.Bhavnagar.

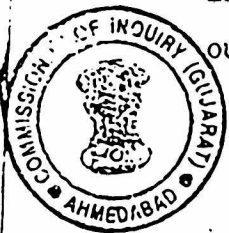
Cross by Mr. Mukul Sinha.

1. I have along with my affidavit produced mobile phone details and the mobile calls received and sent on my mobile phone. Asked as to why did I produce this, I say that at that time there were some complaints from some quarters that the complaints and information on mobile phone were not being received. In order to dispel that allegation, I have produced this document. At that time officially the D.S.P. Bhavnagar was issued the Government mobile phone. It is true that in the mobile phone statement produced by me alongwith my affidavit, I have not produced any details so far as mobile phones were received and sent on 27<sup>th</sup> and 28<sup>th</sup> February 2002. I say that in Bhavnagar District and in the city of Bhavnagar, the trouble started only on 1<sup>st</sup> March, 2002 and, therefore, there was no need to produce before this Commission the details of the mobile phones received and sent on 27<sup>th</sup> and 28<sup>th</sup> February, 2002.
2. On 27<sup>th</sup> February, 2002 I was on leave. On 28<sup>th</sup> February, 2002, I was on duty at Bhavnagar. On 27<sup>th</sup> February, 2002 I was out of Bhavnagar. I returned to Bhavnagar at 9-45 PM in the evening. The Spl. I.G.P. Junagadh range had informed me to resume the



charge. While going to Bhavnagar, I had inquired from my Dy.S.P. about the situation in Bhavnagar. I was told by him that everything was under control and that he would not expect any trouble. Even after when I reached Bhavnagar, I was not informed by anyone that there was any preparation going on for the purpose of committing any riots. I was only told that there was likelihood of rallies being taken out. There were rallies on 28<sup>th</sup> February. BJP, VHP and Bajrang Dal had taken out those rallies. In spite of the rallies, there was no trouble in Bhavnagar. Proper steps were taken to see that nothing happened on 28<sup>th</sup>. I did not receive any report regarding any emotional upsurge in the city of Bhavnagar as a reaction of Godhra incident on 28<sup>th</sup>. Asked as to what triggered riots in Bhavnagar, I say that the first factor was a Sandesh newspaper report dated 1<sup>st</sup> March, 2002 published in Bhavnagar edition of Sandesh daily. That report I have annexed to my affidavit. The second factor in my opinion was the rally taken out by Sadhu Samaj in Bhavnagar on 1<sup>st</sup> March, 2002 and third factor according to me was some inflammatory speeches made by some persons who had gathered outside the Collector's office.

3. The items which appeared in the Bhavnagar edition of Sandesh daily of 1<sup>st</sup> March, 2002, the copy of which I have filed with my affidavit would itself amount to an offence. However, as per the provisions of the Gujarat Police Manual, I was required to obtain the permission of the Government before starting any criminal prosecution against the person in charge of Sandesh daily. That Rule is contained in the Gujarat Police Manual Vol.III. I produce the copy of that Rule 53(10). It is Ex.5646. I did not take any preventive action pursuant to the said newspaper report because in spite of that newspaper report, the life in Bhavnagar was normal, shops were open and everything was done in usual manner till 5 P.M. With respect to the said writing I had written to the D.G.P. for necessary action.
4. I could not pursue the matter further because I was the S.P. of Bhavnagar District only till 26<sup>th</sup> March. I had contacted the editor in charge of the local edition as stated in my affidavit and he told me that they were going to publish more inflammatory writings but because "you are informing me not to do so, I will not now publish."
5. Kishor Bhatt was one of the persons who gave speeches and his speech was inflammatory. I had arrested him on the same day. Probably he was President of Bhavnagar Branch of Shiv Sena. I had started receiving information regarding gathering of mobs and some incidents of pelting stones. I had not received any information regarding any incident outside Bhavnagar City. I had moved with my staff throughout the City and we had



dispersed the mobs. At about 8-0 P.M. I noticed that the mobs were getting violent. They had started attacking on shops. While we were trying to disperse a crowd attacking on shops, the Collector and District Magistrate of Bhavnagar was also with me. At that time we had received a message that one restaurant named, White Rose was also set on fire. Therefore, I had told the Collector to impose curfew. He immediately passed an order declaring curfew to be made effective from 8-30 P.M. Imposition of curfew had not become effective immediately. When we used to tell mobs that curfew has already been imposed, they were responding to it partially. Compared to the mob required to be dealt with, the staff was highly inadequate. It was disbursed all over the district and in Bhavnagar City there was only about 180 policemen as stated in my affidavit. They were asking for more help but it was not possible for me to get more outside help. Therefore, I had thought it fit to give them few instructions. I had told them to use maximum force while dealing with the violent mobs. After about 10 minutes I clarified that they should resort to firing whenever that was necessary. I had also told them that if anybody asked for more help without resorting to firing, then he would be suspended. Because of the last message there were no further requisitions for providing more manpower from the field officers. According to me, my instructions had effect of controlling the riots. As every policeman did not have facility of receiving wireless messages, it took time for my instructions to reach them. The head constables and constables were on the road or in the field. I say that by issuing directions I was only reminding my subordinates about the directions contained in Rule 55, Vol.III of the Gujarat Police Manual.

6. On that day at about 10-22 P.M. I had contacted DGP for making more force available to me. The DGP had told me that he would be able to give one SRP Company by next day morning and if possible he would make some Border Wing Home Guards and army whenever they become available. He also told me not to look for more help as the bureaucracy had been completely neutralised. I cannot say what the DGP meant by saying that bureaucracy was completely neutralised. I did get one Company of SRP on 2<sup>nd</sup> at about 8-0 A.M. On the night of March 3, 2002 I had also received one Company of BSF. Because of the firing resorted to by the police, they were able to control the riots substantially during the night between 1<sup>st</sup> and 2<sup>nd</sup> March, 2002. On 2<sup>nd</sup> March, 2002, at about 2-30 P.M. I received a message from my field officer who was posted near the Akvada Madresa, which is situated about 14 Kms away from Bhavnagar City, that more



help should be made available to him. In view of my previous instructions I had thought that some serious situation must have developed otherwise such a request could not have been made. I, therefore, reached there and saw that a big crowd had gathered there. They were pelting stones and also throwing fire balls. Warnings were given to them to disperse and I fired at the mob, as a result of which some persons were injured. The firing had the desired effect and the crowd dispersed from that place. I had thereafter called local leaders including Sarpanch but Sarpanch was absent. Some other leaders had come and I told them to convince the people in the mob not to create any disturbance. After giving such instructions, I had left for Bhavnagar City as there was a meeting of Ekta Samiti at about 4-30 P.M. Again the mob had collected near the Madresa at about 6-0 P.M. The Inspector was present there and he resorted to bursting of tear gas shells.. Even after firing of 22 shells, the situation had not improved and, therefore, he had resorted to firing. As a result thereof, one person died and the mob dispersed. In view of the serious situation, I had decided to shift the inmates of the Madresa. I found that the mob was in a systematic manner trying to block my way to Madresa by keeping burning logs and tyres on the road. However, I was able to negotiate my way through that road and I could reach the Madresa. We had decided to shift the children from the Madresa and, therefore, necessary arrangements by way of sufficient vehicles was also made. I remained at the Madresa with my gunman and sent the entire striking force along with the convey to take the children to Ibrahim Masjid in Bhavnagar City. I had instructed my force not to retaliate to any type of confrontation with the mobs so that they could reach the destination safely. The whole attack on Madresa appeared to me as an organised one. As the police had not come in contact with the persons in the mob, they were not identified and, therefore, only those who were injured were arrested. Thereafter, except for small incidents within the City the situation was under police control. Even with little force, I was able to control the situation because I and my policemen had promptly used force against the mob and that had the desired effect. We had taken the steps to see that the force was effectively used. In my efforts to control the riots, I did not encounter any political interference. I had received one telephone call from Mr. Rajendrasinh Rana, the President of the Gujarat B.J.P. that I should save the children of Madresa and shift them to safe place within the City. I received that message from him sometime in the evening. I do not know how Mr. Rajendrasinh Rana got the information regarding the attack on the Madresa. As I remember I had not tried to contact Home Secretary. The Chief Minister had not contacted me during that

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period. One minister of State Shri Gordhan Zadapia had contacted me. That was on 4<sup>th</sup> evening. That was in connection with visit of Mr. L.K. Advani. He had again contacted me on 16-3-2002 at about 10-10 A.M. He had told me that while I had done a good job at Bhavnagar, the ratio of deaths as a result of police firing was not proper. What I understood thereby was that he was complaining about more number of deaths of Hindus compared to Muslims as a result of police firing in Bhavnagar City. I had told him that that would depend upon the situation of the mobs at which firing was resorted to.

7. Bhavnagar was quiet till 22<sup>nd</sup>. A rumour had been spread on the 22<sup>nd</sup>, which was handled well by the police. However on 23<sup>rd</sup> a serious situation had developed. A mosque was attacked in the Chavdi Gate area. 21 persons were arrested by the police and the leaders of that locality wanted them to be released on bail early. I came to know that the Inspector in charge of the police station and probably the Dy.S.P. had promised them that the arrested persons would be released by evening. When I came to know about this, I had made it very clear to my subordinates as also to the local leaders that the accused would not be released on bail and even if there is an order from the court they would be arrested again by way of preventive measures. The local leaders did not like this and, therefore, they had arranged for a Gherao of "A" Division police station by the women. They also told me that this would lead to very bad situation and communal riots would break out again. In spite of the indirect threats of the local leaders, I had instructed the officer in charge of the police station to take strict action even against the women if that becomes necessary. As I gave this instruction in presence of the local leaders, they immediately dispersed from that place and possibly passed this information to the women who were trying to come near the police station. Therefore, there was no Gherao by the women of the police station. Those who were dissatisfied with my order had contacted the higher officers and that appears to be the reason that the DGP had asked me to report about the incident. I had some professional differences of opinion with my higher officers as regards the manner in which the issue of the release of the accused was to be handled. I had sent a report of the incident to the DGP, as directed by him by way of my letter which is annexed as one of the Annexures to my affidavit. I had not identified those local leaders. After that incident was over, a political leader of the BJP had come to me and told me that I had done good thing by not succumbing to the pressure of the local leaders. He also told me that this was being resorted to, to keep the issue alive till elections. For that reason and also because of



the manner in which the incident had happened, I could infer that it was an organised attempt on the part of the local BJP leaders to keep the issue alive. My transfer order was issued on 24<sup>th</sup> and I got relieved on 26<sup>th</sup>. I was transferred to Ahmedabad City, as DCP, Control Room. I joined that office on 8<sup>th</sup> April, 2002. I do not know why I was transferred from Bhavnagar.

8. The D.G.P had asked for the report regarding that incident on 23<sup>rd</sup>. I had a professional difference of opinion with the District Magistrate, the Junagadh Range IGP and the D.G.P. on the issue of release of the arrested persons. Those officers believed that if the persons arrested were not released on bail then that by itself might lead to some trouble. I was not directed by anyone to release them but they did hold that opinion. I do not know who those local BJP leaders were with whom I had difference of opinion on this issue. I do not remember who that person was who came and told me that I had done right thing by not releasing those arrested persons.
9. After my transfer as DCP, Control room, I did not have continuous field duty. I had not given any instructions to any field officer not to report to the control room after I had taken over charge as DCP Control. No such instructions were given even by my superior officers. I have not come across about any such instructions given before I took over as DCP Control.
10. Even while I was working as DCP Control room, I was entrusted with the work of assisting in the investigations, which were being conducted by the Crime Branch of Ahmedabad police Commissionerate. I was asked to assist the investigation by Mr. P.C.Pande on 7<sup>th</sup> May. The investigation of Naroda - Patia case and Gulbarg Society case were with Mr. S.S.Chudasama who was then the ACP in Crime Branch. Mr. Surolia was supervising the office. I was supposed to assist Mr. Surolia in supervising all these cases. In the sensitive cases, during the course of investigation, more and more political leaders were being involved. Therefore, what was to be done was to find out who were really involved and who were being falsely involved. Ordinarily, in riot cases, we arrest the persons who are named but these cases being of different type, we thought it fit to collect evidence before we took action. We had, therefore, collected data from the AT&T and CelForce the details regarding all the calls received or sent by all persons holding mobile phone within the City of Ahmedabad. The information we had sought from AT&T was received within about a





week's time and the CelForce had taken about 3 weeks in sending the information. After this information was received by the Crime Branch. Mr. P.P. Pandey who was then Joint Commissioner of Police had handed over the said information to me. Since I had called for that information, those CDs were handed over to me. Since those CDs were really a part of information received during the investigation, I had requested Mr. Pandey to keep the original CDs along with the case file. I had prepared one copy of that information and that has remained with me. [At the request of the learned counsel, witness produced two copies of the CDs prepared by him. They are taken on record. (It is made clear that these CDs are not the original CDs but this is a copy prepared by the witness himself from the original CDs after "zipping" the data of the original CDs.))]

11. I was given only oral order to assist in the investigation. Therefore, when Mr. Surobha left, I stopped assisting in the investigation. However, on 27<sup>th</sup> May I was again called by Mr. P.P. Pandey and told to assist in the investigation. This was again an oral order. During the night between 27<sup>th</sup> and 28<sup>th</sup>, some accused involved in the Naroda-Patia and Gulburg society incidents came to be arrested. Since I was not informed about the raid and arrest of those persons, I had met Mr. P.P. Pandey on 28<sup>th</sup> May morning and had told him that if I have to be a part of the investigation team, then I should be informed about such things and I should be a part of it. On the same day I had met Mr. Kaushik who had taken over as Commissioner of Police, Ahmedabad City and I told him that if I was not allowed to involve myself at all stages of the investigation, then I would like to withdraw from the investigation. After our discussion, Mr. Kaushik passed an order on that very day for assisting in the investigation of cases which had been entrusted to the Crime Branch. It appears to me that Mr. P.P. Pandey was not happy because of the order passed by Mr. Kaushik. Mr. Kaushik was also not happy with chargesheet that came to be filed in respect of Gulburg society case on 3<sup>rd</sup> June, 2002. It seems he had conveyed his feelings to Mr. P.P. Pandey about the chargesheet. I was contacted on telephone by Mr. Pandey on 4<sup>th</sup> June and he wanted me to see him immediately. I, therefore, went to Mr. Pandey's office. He called for the Naroda-Patia case papers. All the investigation papers were shown to me and I was asked to assess whether the investigation was proper. I told him that since I was not associated with the investigation of the case, it was not possible for me to go through the papers and give my opinion about it. But as he insisted, and as he was my superior officer, I could not say "no". While going through the case papers, I found that in the

chargesheet, it was stated that because one person ran over a person of another community by a truck, whole mob got provoked and thereafter serious incidents had happened. I did not agree with that assessment and I had expressed my opinion to Mr. Pandey about it. There was serious difference of opinion between me and Mr. Pandey and other investigating officers i.e., Mr. Vanzara and Mr. Chudasama and the discussion had lasted for about 2 hours. I had told them that since they were the investigating officers and Mr. Pandey was superior, it was for them to decide what to do. Whatever difference I had was put in writing by me and handed over to Mr. Kaushik by way of a letter dated 4/6/2002. I am producing a copy of that letter. It is Exh. 5647. It appears that Mr. Kaushik was not satisfied with the chargesheets filed and, therefore, he had called me again after about 10 to 15 days. He told me to scrutinise the casepapers of both these cases thoroughly and point out the discrepancies to him. He also instructed Mr. P.P. Pandey to send the case papers of these two cases to his office. After Mr. Pandey brought those case papers and produced before Mr. Kaushik, xerox copies were prepared and they were handed over to me. I had noticed that the FIR and the chargesheet were not consistent with each other, and that assessment of mine applies to both the cases. My assessment of the whole case was that firing by Mr. Jafri was not the cause for subsequent attack on the residents of Gulburg society. My assessment regarding Naroda-Patia case was that it was not because of the truck incident that the violence had followed. I say that my assessment regarding both the cases is based upon the reading of the FIR and the casepapers, which were supplied to me. On 5<sup>th</sup> July I was transferred and, therefore, I did not have an opportunity to go through all the case papers and, therefore, I had not communicated my assessment of these cases to Mr. Kaushik. I do not know whether the information in the CDs was analysed or not. I did not find any paper in the case papers on the basis of which I can say that they were analysed. The copy of the CDs, which I have produced, contains the data which we wanted for the purpose of verification and investigation. I did not have enough time to make my study and to know the contents thereof.





12. In July, 2002 I was posted as Commandant, SRP Group XI at Vav near Surat. I cannot say why I was transferred to Vav.

Dated: 30/10/04

The above deposition is truly recorded  
as deposed by me. Date : 30-10-2004.

*Rahul Sharma*  
(Rahul Sharma)

Recorded.

*[Signature]*  
Chairman

*[Signature]*  
Member,

Date, 30/10



1 True Xerox Copy

*[Signature]*  
Asstt. Under  
Secretary.

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