(IS)

IN THE SUPREME COURT OF INDIA
SLP (Crl) No./Diary No. 34207 OF 2018

Zakia Ashan Jafri&Anr.v. State of Gujarat &Ors.

Appearing for – Petitioner (AparnaBhat/TeestaSetalvad)

RELEVANT DATES

S.No.	Date	Event
1.	27.02.2002	S-6 Coach in Sabarmati Express set on fire. 56 persons were burned to death.
2.	28.02.2002-May 2002	Widespread Violence took place in 19 of the state's 25 Districts
3.	Mar-Jul 2002	NHRC enquired into acts of violence & deaths.
4.	1.04.2002; 31.05.2002; 01.07.2002	NHRC gave initial report on 1.4.02 & final report was given on 31.5.02 & 1.7.02. NHRC recommended transfer of investigation.
5.	06.03.2002	Guj Govt appointed a Single member Commission of Inquiry consisting of Justice K.G. Shah (retd) u/s 3 of Commissions of Inquiry Act, 1952.
6.	May 2002	Mr. KPS Gill was sent by Central Govt to quell disturbances.
7.	May 2002	Several citizens, including office bearers of the Citizens for Justice and Peace, approached SC seeking transfer of investigation to CBI placing reliance on NHRC report.
8.	21.05.2002	Guj Govt re-constituted Nanavati-Shah Commission.
9.	08.08.2002	Report of All Party Women's Parliamentary Committee studied cases of gender violence, violence against children, destruction of homes during the riots & made recommendations.
10.	16.08.2002	CEC prepared report indicting State Govt.
11.	26.03.2003	Haren Pandya, former minister of state for revenue, who appeared before the Concerned Citizens Tribunal, Crimes Against Humanity, Gujarat 2002, was assassinated.
12.	27.06.2003	All accused in Best Bakery Case were acquitted by Vadodara Sessions Court in Sessions Case No. 248/2002.
13.	Aug 2003	NHRC filed petition before SC seeking re-trial & transfer of Best Bakery Case. This petition was converted to PIL numbered as Writ Petition (Crl) No. 109/2003.
14.	19.09.2003	SC recorded statements openly made by Chief Secy& DGP, Guj& observed against Guj Govt.
15.	21.11.2003	SC issued notice in T.C. (Crl) No. 194-202/2003 filed by NHRC which sought transfer of trials. SC stayed 8 major trials.
16	26.12.2003	Guj H/C upheld the order of acquittal in Best Bakery Case in Crl. Appl. 956/2003.
17.	2003/04	This judgment was challenged in SC by Zahira Habibullah & Pet in Crl Appeal No. 446-49/04 with 450-52/04.
18.	12.04.2004	SC set aside the said judgment & directed re-trial & transferred the trial to Mumbai. This judgment is reported in (2004) 4 SCC 158.
19.	04.07.2004	SC passed order in WP (Crl) 109/03 that Guj had misdirected the Court enabling release of powerful accused on bail.
20.	17.08.2004	SC issued order re-opening over 2000 cases relating to Guj riots.
21.	08.06.2006	Pet No. 1 addressed complaint to DGP. **@6-73, Vol 3**
22.	01.03.2007	Aggrieved by inaction by police, Pet No. 1 filed Crl Appl. No. 421/2007 before Guj H/C seeking directions to DGP to register FIR.
23.	02.11.2007	H/C dismissed the aforesaid Appln in view of altenate remedy available u/s 190/200 of CRPC.
24.	03.03.2008	Being aggrieved, Pet filed SLP (Crl) No. 1088/2008 wherein SC issued notice.
25.	26.03.2008	SC appointed SIT to submit report on 9 trials which were stayed vide order dt 21.11.03.
26.	27.04.2009	SC directed SIT to investigate the Pet's complaint dt 8.6.06. Prashant Bhushan appointed Amicus
27.	01.05.2009	SC vacated stay on the 9 trials in view of supplementary charge-sheets filed by SIT. SIT was to continue further investigation & hearing of cases were to be done on day-to-day basis in all except the Gulberg trial.
28.	15.05.2009	SC Order inducting Paramveer Singh and AK Malhotra into the SIT on request of Amicus due to "increase in volume of work"
29.	19.06.2009	Statement of Smt. Zakia Naseem w/o Late Ahesan Jafri, Ex-MP, R/o, Surat at Annexure 1, Enquiry, Volume 1, Page 40195 of the SIT Investigation Papers
30.	27.06.2009 & 28.06.2009	Statement of Smt. Teesta Setalvad, Secretary, Citizens for Justice & Peace, Mumbai, at Annexure 1, Enquiry, Volume 1, Page 41134 & 14-24 of the SIT Investigation Papers
31.	Nov-December 2010	Petitioners in the DN Pathak Case (Cedric Prakash & Teesta Setalvad, also representatives of CJP) raise serious questions of the lackluster SIT Investigation in the ongoing trials, not producing statements etc before the Court in the chargesheet and trying to discredit the evidence.
32.	25.02.2010	Resignation of the Special PP RK Shah & Nayana Shah from the Gulberg Trial while it was ongoing making serious allegations of a)Conduct of the Spl Judge (who was

		subsequently removed from hearing the trial). The detailed letter also made serious allegations against the conduct of the SIT Officer Ashish Bhatia and his manner of conducting the investigation/recording of evidence and production of witnesses before the Court. In May 2010, the Gulberg Trial is also stayed by the Hon SC.
33.	4.06.2010	SC Order removing two officers, Shivanand Jha and Geeta Johri from the SIT due to adverse remarks/strictures by SC and they having figured in the Zakia Complainat dtd 8.06.2006
34.	26.10.2010	Investigation report against Jt CP M.K. Tandon& DCP P.B. Gondia was submitted to SC. Stay on Gulberg Trial also lifted by the Hon SC
35.	23.11.2010	Sr. AdvRajuRamchandran appointed as A.C. in SLP (Crl) 1088/08.
36.	15.03.2011	SC in SLP (Crl) 1088/08 passed order directing Chairman, SIT to examine all observations made by A.C. in interim report and conduct Further Investigation.
37.	11.04.2011 & 24.04.2011	Smt. Teesta Setalvad, Secretary, Citizens for Justice and Peace (CJP) statement under section161 recorded by Shri AK Malhotra (11.04.2011), SIT after which a letter was written to the SIT by Smt Setalvad dtd 24.04.2011
38.	05.05.2011	SC took on record the report of further investigation & statements of witnesses. A.C. was given SIT's reports & asked to independently conduct an assessment. **Report in Gulberg Society Case @79-158, Vol 3**
39.	25.07.2011	A.C. filed final report. **@159-189, Vol 3**
40.	12.09.2011	SC disposed of SLP (Crl) 1088/08 remitting back the matter to Ld. Magistrate & directed SIT to file its report u/s 173(2) CRPC along with entire investigation records. It was left open for the Pet to file objections if SIT filed closure report. Reported at (2011) 12 SCC 302. Relevant portion **@32-37, Vol 1**
41.		Complainants (Zakia Jafri & CJP) jointly write to the SIT Sept 29, November 16, 2012 & Jan 18,2012 requesting to be kept informed of any further investigations under Section 173(2) of the CRPC and expressing concerns about not being kept informed.
42.	08.02.2012	SIT filed closure report, however failed to provide requisite record to Pet. **@1334-1566, Vol 8**
43.	09.02.2012	Pet filed appln before SC against non-compliance of SC order by SIT as Closure Report was filed w/o investigation record/doc.
44.	15.03.2012	Pet No. 1 filed detailed appln. Before MM u/s 173(2) CRPC r/w Ss. 74 & 74 Evidence Act. **@710-721, Vol 5**
45.	10.04.2012	Ld MM allowed the Appln. & SIT was given time till 11.05.2012 to submit investigation papers. **@722-726, Vol 5**
46.	07.05.2012	SIT provided investigation records & docs
47.	10.05.2012	Pet No. 1 filed another Appln as records were incomplete. **@750-759, Vol 5**
48.	28.05.2012	SIT furnished docs that were missing.
49.	16.07.2012	Ld. MM partly allowed the said appln. **@760-765, Vol 5**
50.	Oct, 2012	Due to non-compliance of the directions in order dt 12.9.2011 passed by SC, Pet filed SLP (Crl) 8989/2012 seeking clarification and praying for access to Investigation papers and SIT reports.
51.	03.12.2012	SC directed Mr. R.K. Raghavan (head of SIT) to peruse the SLP and verify & apprise the SC whether SIT denied documents to Pet.
52.	10.12.2012	SC passed order recording the grievances of Pet & referred to appropriate bench which had passed the order dt 12.9.2011.
53.	05.01.2013	Verification report on missing and illegible docs filed by SIT.
54.	07.02.2013	SC passed order directing supply of copies of SIT's reports dt 12.5.2010, 17.11.2010 & 24.04.2011. Pet was granted 8 weeks time to file protest petition.**@38-41, Vol 1**
55.	15.04.2013	Pet filed protest petition. **@195-709, Vol 3-5**
56.	26.12.2013	Ld. MM, accepted the closure report filed by SIT & rejected the protest petition filed by Pet. **@174-378, Vol 1-2**
57.	15.03.2014	Aggrieved, Pet filed Crl Rev Appl No. 205/2014 before H/C. **@794-1333, Vol 6-7**
58.	05.10.2017	H/C partly allowed the revision only interfering with the finding of the trial court that it did not have powers to direct further investigation as there was already an investigation by SIT. (**1-153**) • Facts **@1-41** • Submissions **@44-55** • Relied on the following judgments on revisional jurisdiction: *JagganathChoudhary&Ors. v. Ramayan Singh &Anr* (2002) 5 SCC 659, *K. Chinnaswamy Reddy v. State of A.P. D. Stephen v. Nosibolla*AIR 1951 SC 196, *LogendrathanJha v. Shri PolailalBiswas*AIR 1951 SC 316, *Amar Chand Agarwalla v. Shanti Bose &Anr Etc.* AIR 1973 4 SC 799, *ShlokBhardway v. RenukaBhardway, SuryakantDadasahebBitalev.DilipBajrang Kale, Rajindersingh v. State of H.P.* **@59- 70** • Ld. Magistrate was in error in limiting its jurisdiction in as much as he held that he has no power of further investigation in the matter. **@para 12.1, pg78-79** • Relied on judgments on further investigation: *Jagdishram v. State of Rajasthan, SheonondanPaswan v. State of Bihar &Ors., S.K. Sinha, CEO v. Videocon International*

		Ltd. &Ors., SatyanaryanMusadi v. State of Bihar @80- 83 • Detailed reasonings were given by Ld. Magistrate who on being satisfied with the detailed report submitted by SIT accepted the closure report and nothing in law precluded the magistrate to direct further investigation. **@para 13, pg 80** • Neither the complaint nor the protest petition could have been treated as a complaint or FIR and since an FIR had already been lodged in the Gulberg case, therefore the Ld. Trial court did not find any need to register the complaint at all. **@para 92-93** • Presence of Mr. Sanjiv Bhatt in the meeting with the CM was not proved and there were no minutes of meeting. **@95-126** • Allegation that 2 ministers namely Late Shri Ashok Bhatt & I.K. Jadeja were posted in DGP officer & police control room was based on conjectures & surmises. **@126-127** • Allegation that communal riots happened because of hate speech of CM,has been dealt with SIT wherein it is of the opinion that statements of CM have been twisted. **@127-128** • Ld. Trial Court has taken into consideration not only the version of the prosecution & witnesses but also details submitted in protest petition and had accordingly made a comparative chart. This court can arrive at a different conclusion however it is not exercising appellate jurisdiction. **@133-134** • Conclusion **@134-153**
59.	10.09.2018	SLP filed.