



International Environmental  
Law Research Centre

# **SUPREME COURT OF INDIA**

**PETITION(S) FOR SPECIAL LEAVE TO APPEAL  
(CRL.) NO. \_/2003**

(From the Judgment and order dated 27.6.2003 in Sessions Case 248/02 of the Additional Sessions Judge, Fast Tract Court No.1, Vadodara, Gujarat)

**NATIONAL HUMAN RIGHTS COMMISSION**

**(PETITIONER(S))**

versus

**STATE OF GUJARAT & ORS.**

**(RESPONDENT(S))**

*This paper can be downloaded in PDF format from IELRC's website at  
<http://www.ielrc.org/content/c0402.pdf>*

O R D E R S

ITEM No.19 & 47

Court No.1

SECTION IIA

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No. \_\_\_\_\_/2003  
(From the Judgment and order dated 27.6.2003 in Sessions Case 248/02 of the  
Additional Sessions Judge, Fast Tract Court No.1, Vadodara, Gujarat)

NATIONAL HUMAN RIGHTS COMMISSION

Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

(Crl. M.P.No.6797/2003 for permissions to file SLP)

With

T.P. (Crl.) Nos.194-202/2003

(With appln. for ex-parte stay and exemption from filing copies of FIR)

Date: 08/08/2003 These Petitions were called on for hearing today.

CORAM: HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE S.B. SINHA  
HON'BLE MR. JUSTICE ARUN KUMAR

For the Petitioner:

Mr. P.P.Rao, Sr. Adv  
Mr.T.R. Andhyarujina, Sr. Adv  
Mr.S. Muralidhar, Adv.  
Mr. Somiran Sharma, Adv.

Mr. Rajat Khosla, Adv

For Respondent: Mrs. Hemantika Wahi, Adv

UPON hearing counsel the Court made the following:

O R D E R

Permission to file special leave petition is granted.

Application for impleadment of the Union of India is allowed.

This special leave petition under Article 136 of the Constitution of India has been filed against the judgment and order dated 27.6.2003 passed by the Addl. Sessions Judge, Fast Track Court No.1, Vadodara, Gujarat, in Sessions Case No.248/2002. The prayer in this petition is to grant special to appeal against the said judgment and further to set aside the judgment under challenge and further to direct fresh investigation through an independent agency and trial by a court situated outside the State of Gujarat.

When this matter was taken up it was brought to our notice that against the aforesaid judgment the State of Gujarat has preferred an appeal before the High Court. Under such circumstances, unless we see the grounds of appeal no effective order, as prayed in this special leave petition, can be passed.

However, the right to a reasonable and fair trial is protected under Articles 14 and 21 of the Constitution of India, Article 14 of the International Covenant on Civil and Political Right to which India is a signatory, as well as Article 6 of the European Convention for Protection of Human Rights and Fundamental Freedom.

On perusal of the allegations in the special leave petition and number of criminal cases coming to this Court, we are prima facie of the opinion that criminal justice delivery system is not in sound health. The concept of a reasonable and fair trial would suppose justice to the accused as also the victims. From the allegations made in the special leave petition together with other materials annexed thereto

as also from our experience, it appears that there are many faults in the criminal justice delivery system because of apathy on the part of the police officers to record proper report, their general conduct towards the victims, faulty investigation, failure to take recourse to scientific investigation etc. The Central Government with a view to carry on reforms of the criminal justice system appointed a Committee, headed by Justice Malimath. The terms of reference of the said Committee were as under:

“To examine the fundamental principles of criminal jurisprudence, including the Constitutional provisions relating to criminal jurisprudence and see if any modifications and amendments are required thereto.

To examine in the light of findings on fundamental principles and aspects of criminal jurisprudence as to whether there is a need to rewrite the Code of Criminal Procedure, the Indian Penal Code and the Indian Evidence Act to bring them in tune with the demand of the times and in harmony with the aspirations of the people of India;

To make specific recommendations on simplifying judicial procedures and practices and making the delivery of justice to the common man closer, faster, uncomplicated and inexpensive;

To suggest ways and means of developing such synergy among the judiciary, the prosecution and the police as restores the confidence of the common man in the Criminal Justice System, by protecting the innocent and the victim and by punishing unsparingly the guilty and the criminal.

To suggest sound system of managing, on professional lines, the pendency of cases at investigation and trial stages and making the Police, the Prosecution and the Judiciary accountable for delays in the respective

domains.”

Justice Malimath Committee has since submitted its report. The recommendations of the said Committee, however, are yet to be implemented. No law has yet been enacted, not even a scheme has been framed by the Union of India or by the State Government for giving protection to the witnesses. For successful prosecution of the criminal cases, protection to witnesses is necessary as the criminals have often access to the police and the influential people. We may also place on record that the conviction rate in the country has gone down to 39.6% and the trial in most of the sensational cases do not start till the witnesses are won over. In this view of the matter, we are of the opinion that this petition be treated to be one under Article 32 of the Constitution of India as public interest litigation leaving the question about admissibility of this special leave petition to be decided later on.

Issue Notice to the State of Gujarat and also to the Union of India.

Mrs. Hemantika Wahi, Advocate, accepts notice on behalf of the State of Gujarat.

She prays and is allowed three weeks time to file counter affidavit. In the said counter affidavit the State of Gujarat shall clearly indicate as to the steps, if any, taken by it for extending protection to the lives of victims, their families and their relations; if not, the same would be done. The counter affidavit shall also indicate as to whether any action has been taken by the State against those who are said to have extended threat or coercion to the witnesses, as a result whereof allegedly the witnesses change their statements before the court. The State shall also file a copy of Memo of Appeal lodged before the High Court against the acquittal of accused in Best Bakery Case and also the statements of witnesses who turned hostile under section 161 Cr.PC and before the Sessions Judge.

The Union of India would also file a counter affidavit as to the steps taken by it to implement the recommendations of Justice Malimath Committee, the proposal,

if any, to enact a law for grant of protection to the witnesses, as is prevalent in several countries, and other steps sought to be taken for implementing the criminal justice delivery system.

Until further orders we direct the State of Gujarat to provide full and complete protection to the witnesses, their families and their relations, in the following cases:

- (i) Criminal Case Nos.1-6/2003, pending in the Court of Special Judge, POTA, Ahmedabad (titled State vs. Mohmad Rafudan Ansari & Ors);
- (ii) Crime No.09/2002 pending in the Juvenile Court, Godhra (State vs. Junia Farooq Hassan & Ors);
- (iii) Criminal Case No.275/2002 arising out of FIR No.46/2002 dated 28.2.2002 of Police Station Bijaypur, pending in the Court of Sessions Judge, Mehsana, Gujarat (titled State v. Patel Rameshbhai Kanjibhai & Ors);
- (iv) Sessions Case No.152/2002 (titled State v. Kailash Lalchand Bhai Dbobi & Ors) pending in the Court of Sessions Judge, Bhadra, Ahmedabad;
- (v) Criminal Case No.1720/2002 (titled State v. Shankarji Hakaji Mali & Ors) pending in the Metropolitan Magistrate Court No.XI, Ahmedabad;
- (vi) Criminal Case No.296/2003 (titled State v. Sandeep alias Sonu Ghunghru Val Valo & Ors) pending in the Metropolitan Magistrate Court No.XI, Ahmedabad;
- (vii) Criminal Case No.524/2002 (titled State vs. Vishal Badrilal Nayee & Ors) pending in the Juvenile Court No.IV, Ahmedabad)
- (viii) Criminal Case No.982/2002 pending in the Metropolitan Magistrate

Court No.XI, Ahmedabad (titled State v. Naresh Amarsingh Chhara &  
Ors;

(ix) Criminal Case No.1662/2002 pending in Metropolitan Magistrate Court  
No.XI, Ahmedabad (titled State v. Padmendra Singh & Ors)

TRANSFER PETITION (CRIMINAL) NOS.194-202/2003:

At present we are not disposed to pass any order. Tag these transfer petitions with  
the petition arising out of CrI.M.P.No.6797/2003.

List these matters after four weeks.

(A.S. BISHT)  
COURT MASTER

(SURAJ PRAKASH)  
COURT MASTER

ITEM No.11                      Court No.1                      SECTION PIL  
SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Writ Petition No.109/2003 (For Preliminary Hearing)  
NATIONAL HUMAN RIGHTS COMMISSION                      Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.                      Respondent(s)

(With Appln(s). for intervention)

With

(T.P.(CrI) No.194-202/2003 (for prel. Hearing) (National Human Rights  
Commission v. State of Gujarat & Ors) (with appln(s) for stay and exemption from  
filing copies of FIR), SLP (CrI.) No.3770/2003 (Citizens for Justice & Peace & Ors  
v. State of Gujarat & Ors), (with appln(s) for filing addl. Facts and documents and  
for directions and with office report), WP (CrI.) No.D17953/2003 (for prel. Hearing)  
(Umed Singh Gulia v. Union of India & Anr) (with office report)

Date: 12/09/2003                      These Petitions were called on for hearing today.

CORAM: HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE BRIJESH KUMAR  
HON'BLE MR. JUSTICE S.B. SINHA

UPON hearing counsel the Court made the following:

## O R D E R

Having heard the matter and seeing the facts and circumstances of the case, we are of the view that it is necessary to summon the Chief Secretary to the Govt. of Gujarat as well as the Director General of Police, Gujarat. We order accordingly.

List all these matters on 19<sup>th</sup> September, 2003 at 10.30 am before this Bench. On that day, both the officers shall be present in the Court. Learned counsel appearing for the State of Gujarat shall communicate this order to the aforesaid officers.

(D.P.WALIA)  
COURT MASTER

(SURAJ PARKASH)  
COURT MASTER

ITEM No.301                      Court No.1                      SECTION PIL  
SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Writ Petition No.109/2003 (For Preliminary Hearing)

NATIONAL HUMAN RIGHTS COMMISSION

Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

(With Appln(s). for intervention and exemption from filing O.T.)

With

(T.P.(Crl) No.194-202/2003 (for prel. Hearing) (National Human Rights Commission v. State of Gujarat & Ors) (with appln(s) for stay and exemption from filing copies of FIR), SLP (Crl.) No.3770/2003 (Citizens for Justice & Peace & Ors v. State of Gujarat & Ors), (with appln(s) for filing addl. Facts and documents and for directions and with office report),

Date: 19/09/2003                      These Petitions were called on for hearing today.



CORAM: HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE BRIJESH KUMAR  
HON'BLE MR. JUSTICE S.B. SINHA

UPON hearing counsel the Court made the following:

O R D E R

Statements of Shri P.K. Laheri, Chief Secretary to Government of Gujarat and Shri K. Chakravarthi, Director General of Police, Gujarat State, recorded without oath being administered.

An affidavit has been filed by the Chief Secretary to Government of Gujarat. Learned Additional Solicitor General appearing for the State of Gujarat prays for and is allowed two weeks' time to file a further affidavit.

List these matters on 9<sup>th</sup> October, 2003 at 10.30 am before this Bench.

(D.P.WALIA)  
COURT MASTER

(SURAJ PARKASH)  
COURT MASTER

(Signed statements of Shri P.K. Laheri, Chief Secretary to Government of Gujarat and Shri K. Chakravarthi, Director General of Police, Gujarat State, recorded without oath being administered, are attached)

ITEM No.32 Court No.1 SECTION PIL  
SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Writ Petition No.109/2003 (For Preliminary Hearing)  
NATIONAL HUMAN RIGHTS COMMISSION Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS. Respondent(s)  
(With Appln(s). for intervention and exemption from filing O.T.; and intervention and with office report)

With

(T.P. (Crl) No.194-202/2003 (for prel. Hearing) (National Human Rights Commission v. State of Gujarat & Ors) (with appln(s) for stay and exemption from filing copies of FIR and impleading party and office report)

WP (Crl.) No.D17953/2003 (for prel. Hearing) (Umed Singh Gulia v. Union of India & Anr) (with office report); and

SLP (Crl.) No.3770/2003 (Citizens for Justice & Peace & Ors v. State of Gujarat & Ors), (with appln(s) for filing addl. facts and documents and for directions and permission to file addl. documents on record)

WP (C) No.221/2002 (Mallika Sarabhai & Ors v. Union of India & Ors) (with appln(s) for amendment of the petition and interim relief)

SLP (C) No.7951/2002 (Viraj Tra Desai v. State of Gujarat & Ors) (with appln(s) for exemption from filing c/c of the impugned judgment and permission to place addl. documents on record.

WP (Crl.) Nos.37-52/2002 (Devendrabhai N. Pathak & Ors v. State of Gujarat & Ors) (with applns for amendment of the petition and permission to submit addl. documents and exemption from filing OT and interim directions and office report).

WP (C) No.530/2002 (Mahashweta Devi & Ors v. Union of India & Ors) (with appln(s) for directions and office report) and

WP (Crl.) Nos.11-15 (Aleque Padamsee & Ors v. Union of India & Ors) (with appln(s) for permission to submit additional documents and directions and office report)

Date: 9/10/2003      These Petitions were called on for hearing today.

CORAM:                      HON'BLE THE CHIEF JUSTICE  
   HON'BLE MR. JUSTICE S.B. SINHA  
   HON'BLE MR. JUSTICE AR. LAKSHMANAN

UPON hearing counsel the Court made the following:

O R D E R

W.P.(Crl) No.109/2003

An affidavit has been filed by the Chief Secretary to Government of Gujarat on 7<sup>th</sup> October 2003. The said affidavit discloses that the State has moved to the High Court for amending the criminal appeal filed against the judgment passed by the Sessions Court acquitting the accused and the Court has permitted the appeal to be amended. In the aforesaid view of the matter, we feel that in this case an Amicus Curiae is required to be appointed. We request Shri Harish N. Salve, Sr. Advocate to appear in this case as amicus Curiae, which he has accepted. MR. Bhargava V. Desai, Advocate-on-Record is also appointed as Amicus Curiae to assist MR. Harish N. Salve, Sr. Advocate.

List this matter as also TP (CrI.) Nos.194-202/2003, WP (CrI.) No.D17953/2003, SLP (CrI.) No.3770/2003. SLP (C) No.7951/2002 and WP (CrI.) Nos.11-15/2003 on 17<sup>th</sup> October 2003. Counter affidavit filed today in Court on behalf of respondent nos.2 to 22 in SLP (C) No.3770/2003 be taken on record.

Let a complete set of paperbooks be given to the learned Amicus Curiae within 48 hours by the State of Gujarat.

**WP (C) No.221/2002, WP (CrI.) Nos.37-52/2002 and WP (C) No.530/2002**

Mr. Mukul Rohtagi, learned Additional Solicitor General who appears for the State of Gujarat, prays for and is allowed six weeks' time to file counter affidavit in these matters. Rejoinder, if any, be filed within two weeks thereafter.

List these matters after eight weeks.

(D.P.WALIA)  
COURT MASTER

(JANKI BHATIA)  
COURT MASTER

ITEM No.301

Court No.1

SECTION PIL

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Writ Petition No.109/2003 (For Preliminary Hearing)

NATIONAL HUMAN RIGHTS COMMISSION

Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

(With Appln(s). for intervention and exemption from filing O.T. and intervention and office report)

With

(T.P.(Crl) No.194-202/2003 (for prel. Hearing) (National Human Rights Commission v. State of Gujarat & Ors) (with appln(s) for stay and exemption from filing copies of FIR and impleading party and office report),

SLP (Crl.) No.3770/2003 (Citizens for Justice & Peace & Ors v. State of Gujarat & Ors), (with appln(s) for filing addl. Facts and documents and for directions and with office report),

SLP (C)No.7951/2002 (for prel. Hearing) (Viraj Tra Desai v. State of Gujarat & Ors) (with appln(s) for filing c/c of the impugned judgment and permission to place addl. documents on record) and

WP (Crl.) Nos.11-15 (Aleque Padamsee & Ors v. Union of India & Ors) (with appln(s) for permission to submit additional documents and directions and office report)

Date: 17/10/2003 These Petitions were called on for hearing today.

CORAM: HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE S.B. SINHA  
HON'BLE MR. JUSTICE AR. LAKSHMANAN

UPON hearing counsel the Court made the following:

#### O R D E R

In SLP (Crl.) No.3770/2003, the petitioners have annexed an affidavit dated 15.10.2003 of petitioner no.2 Teesta Atul Setalvad with Crl. MP No.9351/2003 (page 196 of the paper book) and have also filed in Court today another affidavit dated 17.10.2003 of petitioner no.2. The affidavit-dated 17.10.2003 be taken on record. Learned Additional Solicitor General appearing for the State of Gujarat prays for and is allowed time till 31<sup>st</sup> October 2003 to file a response to the said affidavit dated 15.10.2003 and to para 7 of the affidavit dated 17.10.2003.

Rejoinder thereto may be filed by the next date of hearing.

From the record, we find that the criminal appeal filed before the High Court has been amended and the amended appeal has been admitted and is posted for hearing on 1<sup>st</sup> December 2003. We also find that the notices issued have also been served and the paper books as directed by the Court will be made ready. We hope that the hearing of the appeal will commence on 1<sup>st</sup> December 2003 and the matter will be decided expeditiously. The State of Gujarat shall continue to inform this Court as also the learned Amicus Curiae about the development of the prosecution of the appeal. At present, no further orders is required to be passed.

However, we may clarify that we have not expressed any opinion or made any observation as regards the merits of the criminal appeal pending in the High Court. In case any observation has been made by this Court, that will not come in the way of the High Court in deciding the appeal on merits.

Learned Amicus Curiae has submitted today a Note before this Court. The State of Gujarat shall also file a response to the said Note by 31<sup>st</sup> October 2003.

The State of Gujarat shall submit a Status Report and the list of witnesses in the other nine cases, a copy of which shall also be given to the learned Amicus Curiae, in a sealed cover.

List all these matters on 7<sup>th</sup> November 2003.

(D.P.WALIA)  
COURT MASTER

(SURAJ PARKASH)  
COURT MASTER

ITEM No.301, 302 & 303

Court No.1

SECTION PIL, IX  
XVIA, IIA & X

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Writ Petition No.109/2003

NATIONAL HUMAN RIGHTS COMMISSION

Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

(With Appln(s). for intervention and exemption from filing O.T. and Office Report)

With

WP (Cr.) Nos.11-15/2003 (Cr.) No.194-2002/2003, SLP (Cr.) No.3770/2003, SLP  
(C) No.7953/2002, W.P. (Cr.) No.D17953/2003  
(With (with appln(s) for stay, exemption & impleading party, permission to submit  
additional documents, directions, exemption from filing CC & Office Report)

&

SLP (Cr) 4409/2003 (with office report)  
WP (Cr) D.No.21993/2003

&

SLP (Cr.) \_\_\_\_\_ Cr.M.P.10319/2003 (with applns for permission to file SLP &  
Office Report)

Date: 21/11/2003 These Petitions were called on for hearing today.

CORAM: HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE S.B. SINHA  
HON'BLE MR. JUSTICE AR. LAKSHMANAN

UPON hearing counsel the Court made the following:

O R D E R

TP (Cr) 194-202/2003

Issue notice.

Notice has been accepted by Ms. H. Wahi, learned counsel appearing for  
respondent no.1 State of Gujarat. She prays for and is allowed two weeks' time to  
file counter affidavit. Notice to the remaining respondents shall be served through  
the State of Gujarat within a period of two weeks.

Until further orders, the trial in the following cases shall remain stayed:

1. ARISING OUT OF FIR NO.09/2002 DATED 27.2.2002 OF POLICE  
STATION GODHRA  
(i) Criminal Case Nos.1-6/2003 titled State v. Mohmad Rafudan Ansari &

Ors pending in the Court of Special Judge, POTA, Ahmedabad;

- (ii) Crime No.09/2002 pending in the Juvenile Court, Godhra (State vs. Junia Farooq Hassan & Ors);

2. Criminal Case No.275/2002 arising out of FIR No.46/2002 dated 28.2.2002 of Police Station Bijaypur, titled State v. Patel Rameshbhai Kanjibhai & Ors; pending in the Court of Sessions Judge, Mehsana, Gujarat.

3. ARISING OUT OF FIR NO.67/2002 DATED 28.2.2002 OF POLICE STATION MEGHANINAGAR:

- (i) Sessions Case No.152/2002 (titled State v. Kailash Lalchand Bhai Dbohi & Ors) pending in the Court of Sessions Judge, Bhadra, Ahmedabad;

- (ii) Criminal Case No.1720/2002 (titled State v. Shankarji Hakaji Mali & Ors) pending in the Metropolitan Magistrate Court No.XI, Ahmedabad;

- (iii) Criminal Case No.296/2003 (titled State v. Sandeep alias Sonu Ghunghru Val Valo & Ors) pending in the Metropolitan Magistrate Court No.XI, Ahmedabad;

- (iv) Criminal Case No.524/2002 titled State vs. Vishal Badrilal Nayee & Ors, pending in the Juvenile Court No.IV, Ahmedabad)

4. ARISING OUT OF FIR NO.100/2002 DATED 28.2.2002 OF POLICE STATION NARODA, AHMEDABAD:

- (i) Criminal Case No.982/2002 pending in the Metropolitan Magistrate Court No.XI, Ahmedabad (titled State v. Naresh Amarsingh Chhara & Ors;

- (ii) Criminal Case No.1662/2002 pending in Metropolitan Magistrate Court

No.XI, Ahmedabad (titled State v. Padmendra Singh & Ors)

Learned counsel for the petitioner in TP (CrI) Nos.194-2002/2003 prays for and is permitted to amend the petitions for including the Sessions trial arising out of CR No.23/2002 and CR No.27/2002 (ODE Massacre). However, further trial in those cases shall remain stayed.

List on 19<sup>th</sup> December 2003.

SLP (CrI.) 4409/2003:

Issue notice.

Ms. H. Wahi, learned counsel accepts notice. She prays for and is allowed two weeks' time to file reply.

In the meantime, further trial in Sessions Case No.180/2002 shall remain stayed.

List along with WP (CrI.) No.109/2003 etc.

**WP (CrI.) D.No.21993/2003**

Issue notice.

Ms. H. Wahi, learned counsel for the State of Gujarat, accepts notice. She prays for and is allowed two weeks' time to file reply. List along with WP (CrI.) No.109/2003 etc.

**SLP (CrI.) ..... Cr. MP 10319/2003**

Permission to file SLP granted.

Issue notice.

Ms. H. Wahi, learned counsel for the State of Gujarat, accepts notice. She prays for and is allowed two weeks' time to file reply.

Notice to other respondents shall be served through State of Gujarat within a period of two weeks.



Mr. Harish N. Salve, learned Amicus Curiae has moved a CrI. MP..... In W.P. (CrI.) No.109/2003 in Court. Let this Cr. MP be treated as Interlocutory Application and registered by the Registry. Issue notice.

Ms. H. Wahi, learned counsel for State of Gujarat accepts notice. She prays for and is allowed two weeks' time to file reply.

List together on 19<sup>th</sup> December 2003.

(NARESH KUMAR)  
AR-cum-PS

(JANKI BHATIA)  
COURT MASTER

ITEM No.34

Court No. 1

SECTION PIL

ITEM Nos.35 AND 43

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Writ Petition No.109/2003 (For Preliminary Hearing)

NATIONAL HUMAN RIGHTS COMMISSION

Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

(With Appln(s). for intervention and exemption from filing O.T. and directions and office report)

With

(T.P. (CrI) No.194-202/2003 (for prel. Hearing) (National Human Rights Commission v. State of Gujarat & Ors) (with appln(s) for stay and exemption from filing copies of FIR and impleadign party and office report)

WP (CrI.) No.D17953/2003 (for prel. Hearing) (Umed Singh Gulia v. Union of India & Anr) (with office report); and

SLP (CrI.) No.3770/2003 (Citizens for Justice & Peace & Ors v. State of Gujarat & Ors), (with appln(s) for filing addl. facts and documents and for directions and permission to file addl. documents on record)

SLP (C) No.7951/2002 (Viraj Tra Desai v. State of Gujarat & Ors) (with appln(s) for exemption from filing c/c of the impugned judgment and permission to place addl. documents on record).

WP (Crl.) Nos.11-15 (Aleque Padamsee & Ors v. Union of India & Ors) (with appln(s) for permission to submit additional documents and directions and office report)

WP (C) No.310/1996 (Prakash Singh & Ors v. UOI & Ors) (with office report),

SLP (Crl.) No.4409/2003 (Yosufkhan Muradkhan Pathan v. State of Gujarat & Ors) (with office report),

WP (Crl.) No.216/2003 (Yusufkhan Muradkhan Pathan v. State of Gujarat) (with office report)

### **And Item No.35**

SLP (Crl.) No.5309/2003 (Citizens for Justice & Peace & Anr. v. State of Gujarat & Ors.) (with appln(s) for c/ delay in filing SLP and exemption from filing c/c of the impugned judgment and exemption from filing OT and office report)

### And Item No.43

WP (Crl.) No.284/2003 (Imran Mohamad Salim Dawood v. Union of India & Anr) (with appln(s) for exemption from filing OT)

Date: 19/12/2003      These Petitions were called on for hearing today.

CORAM:                      HON'BLE THE CHIEF JUSTICE  
                                    HON'BLE MR. JUSTICE S.B. SINHA  
                                    HON'BLE MR. JUSTICE S.H. KAPADIA

UPON hearing counsel the Court made the following:

### O R D E R

Issue notice in WP (C) No.284/2003. Mr. A.D.N. Rao, Adv. accepts notice on behalf of Union of India and Ms. Hemantika Wahi, Adv. on behalf of State of Gujarat. Two weeks' time is granted for filing counter affidavit.

Issue notice in Crl.M.P. No.11689/2003 in WP (Crl.) No.109/2003. Ms. Hemantika Wahi, Adv. accepts notice on behalf of State of Gujarat who may file response to the Crl. M.P., including the details of each riot related cases, by 20th January 2003. Crl. M.P.No.11668/2003 in WP (Crl.) No.109/2003 shall be considered at the time of hearing of the matter.

List TP (Crl.) Nos.194-202/2003 on 16<sup>th</sup> January 2004.

Rest of the matters be listed on 30<sup>th</sup> January 2004.

WP (Crl.) Nos.221/2002 and 37-52/2002 may also be listed separately on 30<sup>th</sup> January 2004.

(D.P.WALIA)

COURT MASTER

(JANKI BHATIA)

COURT MASTER

(Paper books of WP (Crl.) No.109/2003 may also be circulated on 16<sup>th</sup> January 2004).

ITEM No.MM-A

Court No.1

SECTION XVIA

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Transfer Petition (CrI.) No.194-202 & 326-329 of 2003

NATIONAL HUMAN RIGHTS COMMISSION

Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

(With appln(s) for stay and exemption from filing copies of FIR, impleading party,  
permission to place addl. documents on record and office report)

Date: 15/01/2004 These Petitions were called on for hearing today.

CORAM: HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE BRIJESH KUMAR  
HON'BLE MR. JUSTICE ARUN KUMAR

UPON hearing counsel the Court made the following:

O R D E R

Adjourned to 30<sup>th</sup> January 2004.

(ALKA DUDEJA)

(JANKI BHATIA)

COURT MASTER

COURT MASTER

[Note: The matter is shown in the list of 16<sup>th</sup> January 2004 before this Court as Item No.34]

ITEM No.29 to 32 and

Court No.1

SECTION PIL

ITEM NO.27

IIA/IX/X

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Item No.29

Writ Petition No.109/2003 (For Preliminary Hearing)

NATIONAL HUMAN RIGHTS COMMISSION

Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

(With Appln(s). for intervention and exemption from filing O.T. and directions and office report)

With

(T.P. (Crl) No.194-202/2003 (for prel. Hearing) (National Human Rights Commission v. State of Gujarat & Ors) (with appln(s) for stay and exemption from filing copies of FIR and impleading party and permission to place additional documents on record and impleading party and permission to place addl. documents on record and permission to place additional documents on record and office report)

WP (Crl.) No.D17953/2003 (for prel. Hearing) (Umed Singh Gulia v. Union of India & Anr) (with office report); and

SLP (Crl.) No.3770/2003 (Citizens for Justice & Peace & Ors v. State of Gujarat & Ors), (with appln(s) for filing addl. facts and documents and for directions and permission to file addl. documents on record)

SLP (C) No.7951/2002 (Viraj Tra Desai v. State of Gujarat & Ors) (with appln(s) for exemption from filing c/c of the impugned judgment and permission to place addl. documents on record).

WP (Crl.) Nos.11-15 (Aleque Padamsee & Ors v. Union of India & Ors) (with appln(s) for permission to submit additional documents and directions and office report)

WP (C) No.310/1996 (Prakash Singh & Ors v. UOI & Ors) (with office report),

SLP (Crl.) No.4409/2003 (Yosufkhan Muradkhan Pathan v. State of Gujarat & Ors) (with office report),

WP (Crl.) No.216/2003 (Yusufkhan Muradkhan Pathan v. State of Gujarat) (with office report)

**And Item No.30**

Writ Petition (Crl.) No.284/2003 (Imran Mohamad Salim Dawood v. Union of India & Anr) (with appln(s) for exemption from filing O.T)

## And Item No.31

SLP (Crl.) No.5309/2003 (Citizens for Justice & Peace & Anr. v. State of Gujarat & Ors.) (with appln(s) for c/ delay in filing SLP and exemption from filing c/c of the impugned judgment and exemption from filing OT and office report)

### And Item No.32

T.P. (Crl) No.1215/2004 (for prel. Hearing) (citizens for Justice & Peace & Ors. v. State of Gujarat & Ors) (with applns for permission to file TP and ex-parte stay)

### And Item No.27

WP (C) No.221/2002 (Mallika Sarabhai & Ors v. Union of India & Ors) (with appln(s) for amendment of the petition and interim relief)

WP (Crl.) Nos.37-52/2002 9Devendrabhai N. Pathak & Ors v. State of Gujarat & Ors) (with applns for amendment of the petition and permission to submit addl. documents and exemption from filing OT and interim directions and office report).

WP (C)No.530/2002 (Mahashweta Devi & Ors v. Union of India & Ors) (with appln(s) for directions and office report) and

Date: 30/01/2004      These Petitions were called on for hearing today.

CORAM:                      HON'BLE THE CHIEF JUSTICE  
                                    HON'BLE MR. JUSTICE S.B. SINHA  
                                    HON'BLE MR. JUSTICE S.H. KAPADIA

UPON hearing counsel the Court made the following:

### O R D E R

Mr. Mukul Rohtagi, learned Additional Solicitor General appearing for the State of Gujarat states that the State would be filing an appeal before this Court against the acquittal in Best Bakery Case within two weeks.

The learned Amicus Curiae prays for and is allowed time till 4<sup>th</sup> February 2004 to furnish the particulars of desired information to the learned Additional Solicitor General appearing for the State of Gujarat who shall file State's response thereto within three weeks thereafter.

List all these matters on 27<sup>th</sup> February 2004 except TP (Crl.) No.D1215/2004 which shall be listed on 16<sup>th</sup>

February, 2004. Liberty is granted to file additional documents in TP (CrI.) No.D1215/2004.

In the meantime, the learned Amicus Curiae may look into WP (CrI.) No.284/2003 and the State of Gujarat may file its response in this matter.

(D.P.WALIA)

COURT MASTER

(JANKI BHATIA)

COURT MASTER

ITEM No.66 & 73

Court No.1

SECTION XVIA

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Transfer Petition (Crl.) No. \_\_\_\_\_ of 2004

D.No.1215/2004

NATIONAL HUMAN RIGHTS COMMISSION

Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

(With appln(s) for permission to file TP and ex-parte stay)

TP (Crl.) Nos.194-202/2003 and 326-329 of 2003

(With appln(s) for stay, exemption from filing copies of Fir, impleading party and office report)

Date: 16/02/2004 These Petitions were called on for hearing today.

CORAM: HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE AR. LAKSHMANAN  
HON'BLE MR. JUSTICE S.H. KAPADIA

UPON hearing counsel the Court made the following:

O R D E R

T.P.(Crl.) D.No.1215 of 2004:

Issue notice.

Notice has been accepted by Ms. H. Wahi, learned counsel. She prays for and is allowed on week's time to file counter affidavit.

List the matter on 27<sup>th</sup> February 2004.

Learned Additional Solicitor General prays that a week's time may be granted to seek instructions as to whether any order granting bail in cases have been challenged before the superior Court or not.



List these matters on 27<sup>th</sup> February 2004.

List the matter of Dr. Mallika Sarabhai (WP (C) No.221 of 2002) on 27<sup>th</sup> February 2004. In the meantime, learned Additional Solicitor General also to obtain necessary instructions.

(ALKA DUDEJA)

(JANKI BHATIA)

COURT MASTER

COURT MASTER

ITEM No.28 to 31

Court No.1

SECTION PIL

IIA/IX/X

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Item No.28

Writ Petition No.109/2003 (For Preliminary Hearing)

NATIONAL HUMAN RIGHTS COMMISSION

Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

(With Appln(s). for intervention and exemption from filing O.T. and directions and office report)

With

(T.P. (CrI) No.194-202/2003 (for prel. Hearing) (National Human Rights Commission v. State of Gujarat & Ors) (with appln(s) for stay and exemption from filing copies of FIR and impleading party and permission to place additional documents on record and impleading party and permission to place addl. documents on record and permission to place additional documents on record and office report)

WP (CrI.) No.D17953/2003 (for prel. Hearing) (Umed Singh Gulia v. Union of India & Anr) (with office report); and

SLP (CrI.) No.3770/2003 (Citizens for Justice & Peace & Ors v. State of Gujarat & Ors), (with appln(s) for filing addl. facts and documents and for directions and permission to file addl. documents on record)

SLP (C) No.7951/2002 (Viraj Tra Desai v. State of Gujarat & Ors) (with appln(s) for

exemption from filing c/c of the impugned judgment and permission to place addl. documents on record).

WP (Crl.) Nos.11-15 (Aleque Padamsee & Ors v. Union of India & Ors) (with appln(s) for permission to submit additional documents and directions and office report)

WP (C) No.310/1996 (Prakash Singh & Ors v. UOI & Ors) (with office report),

SLP (Crl.) No.4409/2003 (Yosufkhan Muradkhan Pathan v. State of Gujarat & Ors) (with office report),

WP (Crl.) No.216/2003 (Yusufkhan Muradkhan Pathan v. State of Gujarat) (with office report)

**TP (Crl.) Nos.66-72/2004 Citizens for Justice & Peace & Anr. v. State of Gujarat & Ors.) (with appln(s) for permission to file TP and ex-parte stay and directions)**

And Item No.29

WP (C) No.221/2002 (Mallika Sarabhai & Ors v. Union of India & Ors) (with appln(s) for amendment of the petition and interim relief)

With

WP (Crl.) Nos.37-52/2002 9Devendrabhai N. Pathak & Ors v. State of Gujarat & Ors) (with applns for amendment of the petition and permission to submit addl. documents and exemption from filing OT and interim directions and office report).

WP (C)No.530/2002 (Mahashweta Devi & Ors v. Union of India & Ors) (with appln(s) for directions and office report) and

**And Item No.30**

Writ Petition (Crl.) No.284/2003 (Imran Mohamad Salim Dawood v. Union of India & Anr) (with appln(s) for exemption from filing O.T)

With

TP (Crl.) No.34/2004 (for prel. Hearing)

(Imran Mohammad Salim Dawood v. Union of India & Ors) (with appln(s) for ex-parte stay and exemption

from filing OT and office report)

### **And Item No.31**

SLP (CrI.) No.5309/2003 (Citizens for Justice & Peace & Anr. v. State of Gujarat & Ors.) (with appln(s) for c/ delay in filing SLP and exemption from filing c/c of the impugned judgment and exemption from filing OT and office report)

Date: 27/02/2004      These Petitions were called on for hearing today.

CORAM:                      HON'BLE THE CHIEF JUSTICE  
   HON'BLE MR. JUSTICE S.B. SINHA  
   HON'BLE MR. JUSTICE S.H. KAPADIA

UPON hearing counsel the Court made the following:

#### ORDER

WP (CrI.) No.109/2003, TP (CrI.) Nos.194-202/2003 & 326-329/2003, WP (CrI.) No.D17953/2003, SLP (CrI.) No.3770/2003, SLP (C) No.7951/2002, WP (CrI.) Nos.11-15/2003, WP (C) No.310/1996, SLP (CrI.) No.4409/2003, WP (CrI.) No.216/2003 and TP (CrI.) No.66-72/2004

Shri Harish N. Salve, the learned Amicus Curiae has given particulars of the cases in his letter dated 3.2.2004, documents of which are required to be made available to him by the State of Gujarat. Learned counsel for the State of Gujarat shall hand over, within two weeks, all the relevant papers/ documents relating to the cases the particulars of which are given in the said letter to Shri Bhargava V Desai, Adv. who is assisting Shri Harish N. Salve.

List all these matters on 2<sup>nd</sup> April 2004.

Shri Mukul Rohtagi, learned Additional Solicitor General appearing for the State of Gujarat states that the State of Gujarat is filing appeals before the High Court, in appropriate cases against the grant of bail by the Session Court in the eight session trials which have been stayed by this Court.

We may clarify that pendency of these proceedings shall not preclude the High Court from entertaining and deciding any appeal filed against grant or refusal of bail by the Session Courts and also to consider other bail matters which are pending before the High Court.

The learned Amicus Curiae has submitted a further note today to this Court and para 8 of the said note is in regard to entrusting the Union of India with the responsibility of providing appropriate protection to all the witnesses involved in the major trials in the State of Gujarat (including the Bilkis' case) in the manner which they consider appropriate including wherever necessary by resort to the Central forces. Learned Solicitor General prays for and is allowed three weeks' time to file a response thereto. This note of the learned Amicus Curiae to be taken on record and be put up on 15<sup>th</sup> March 2004.

A compilation of representations has been submitted in Court today. Let a copy of CrI. M.P.No.8165/2003 in SLP (C) No.3770/03 along with a copy of the above compilation be given to the learned Additional Solicitor General and also to the Standing Counsel for the State of Gujarat. Put up this matter also on 15<sup>th</sup> March 2004.

### **WP (C) No.221/2002, WP (Cri.) 37-52/2002 and WP (C) No.530/2002**

List these matters on 2<sup>nd</sup> April 2004 except IA Nos.13-14 in WP (C) No.221/2002 which shall be listed on 8<sup>th</sup> March 2004. By that time, learned senior counsel appearing for the petitioners in WP (C) No.221/2002 shall obtain instructions as regards the order passed by the Sessions Court lifting restrictions on movements of Ms.Mallika Sarabhai.

### **WP (Cri.) No.284/2003 & TP (Cri.) No.43/2004**

Learned Additional Solicitor General appearing for the State of Gujarat states that by 8<sup>th</sup> March 2004, the State shall furnish particulars of the cases in which the State proposes to file appeal against grant of bail. List these matters on 8<sup>th</sup> March 2004.

### **SLP (Cri.) No.5309/2003**

List this petition on 2<sup>nd</sup> April 2004.

(D.P.WALIA)

COURT MASTER

(JANKI BHATIA)

COURT MASTER

ITEM No.50

Court No.1

SECTION IIA

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No.3770/2003  
[From the judgment and order dated 27.6.2003 in SC 248/02 of The Addl.  
Sessions Judge, Fast Track Court No.1, Vadodara]

CITIZENS FOR JUSTICE & PEACE & OTHERS

Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

(With Appln(s). for direction and permission to place addl. documents and record and office report)

With

A note dated 27.2.2004 with regard to entrusting the Union of India with the responsibility of providing appropriate protection to all the witnesses involved in the major trials in the State of Gujarat (including the Bilkis's case) in the manner in which they consider appropriate including wherever necessary by resort to the Central Forces in WP (Crl.) No.109/2003 (National Human Rights v. State of Gujarat & Ors)

Date: 15/03/2004

This Petition was called on for hearing today.

CORAM: HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE S.H. KAPADIA

UPON hearing counsel the Court made the following:

O R D E R

Learned Amicus Curiae states that he will serve a list of witnesses whom police protection is required by 17<sup>th</sup> March, 2004. Learned Solicitor General may obtain instructions in that respect. List these matters on 2<sup>nd</sup> April 2004.

The matter regarding providing police protection to petitioner no.2 Teesta Setalvad in SLP (C) No.3770/2003 by the Central Government, shall also be considered on 2<sup>nd</sup> April 2004.

(D.P.WALIA)

(JANKI BHATIA)

COURT MASTER

COURT MASTER

ITEM No.24

Court No.1

SECTION PIL

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Writ Petition No.109/2003 (For Preliminary Hearing)

NATIONAL HUMAN RIGHTS COMMISSION

Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

(With Appln(s). for intervention and exemption from filing O.T. and directions and office report)

(with CrI.M.P. Nos.3740-42/2004 for directions)

(with a note dated 27.2.2004 with regard to entrusting the Union of India with the responsibility of providing appropriate protection to all the witnesses involved in the major trials in the State of Gujarat (including the Bilkis's case) in the manner in which they consider appropriate including wherever necessary by resort to the Central Forces in WP (CrI.) No.109/2003 (National Human Rights v. State of Gujarat & Ors)

With

(T.P. (CrI) No.194-202/2003 (for prel. Hearing) (National Human Rights Commission v. State of Gujarat & Ors) (with appln(s) for stay and exemption from filing copies of FIR and impleading party and permission to place additional documents on record and impleading party and permission to place addl. documents on record and permission to place additional documents on record and office report)

WP (CrI.) No.D17953/2003 (for prel. Hearing) (Umed Singh Gulia v. Union of India & Anr) (with office report); and

SLP (CrI.) No.3770/2003 (Citizens for Justice & Peace & Ors v. State of Gujarat & Ors), (with appln(s) for filing addl. facts and documents and for directions and permission to file addl. documents on record)

SLP (C) No.7951/2002 (Viraj Tra Desai v. State of Gujarat & Ors) (with appln(s) for

exemption from filing c/c of the impugned judgment and permission to place addl. documents on record).

WP (Crl.) Nos.11-15 (Aleque Padamsee & Ors v. Union of India & Ors) (with appln(s) for permission to submit additional documents and directions and office report)

WP (C) No.310/1996 (Prakash Singh & Ors v. UOI & Ors) (with office report),

SLP (Crl.) No.4409/2003 (Yosufkhan Muradkhan Pathan v. State of Gujarat & Ors) (with office report),

WP (Crl.) No.216/2003 (Yusufkhan Muradkhan Pathan v. State of Gujarat) (with office report)

**TP (Crl.) Nos.66-72/2004 Citizens for Justice & Peace & Anr. v. State of Gujarat & Ors.) (with appln(s) for permission to file TP and ex-parte stay and directions)**

Date: 2/04/2004      These Petitions were called on for hearing today.

CORAM:                      HON'BLE THE CHIEF JUSTICE  
   HON'BLE MR. JUSTICE S.B. SINHA  
   HON'BLE MR. JUSTICE S.H. KAPADIA

UPON hearing counsel the Court made the following:

O R D E R

**W.P. (Crl.) No.109/2003 and SLP (Crl.) No.3770/2003**

List these matters immediately after the judgment is pronounced in the criminal appeal filed by the State of Gujarat against the judgment of the High Court in Best Bakery Case.

Crl.M.P.Nos.3740-3742/2004 in WP (Crl.) No.109/2003, TP (Crl.)Nos.194-202/2003 & 326-329/2003, TP (Crl.) No.66-72/2004 and WP (Crl.) Nos.11-15/2003

List these matters on 21<sup>st</sup> April 2004. Learned Additional Solicitor General appearing for the State of Gujarat

prays for and is allowed two weeks' time to file a response to three IAs filed by Amicus Curiae.

It is understood that on that day these matters would be finally heard.

WP (Crl.) No.D17953/2003, SLP (C) No.7951/2002, WP (C)No.310/1996, SLP (Crl.) No.4409/2003 and WP (Crl.) No.216/2003

Adjourned.

(D.P.WALIA)

COURT MASTER

(JANKI BHATIA)

COURT MASTER\





