

SC/38/2009

ORDER

IN THE CITY SESSIONS COURT AT AHMEDABAD

3

SESSIONS CASE NO. 38 OF 2009.

WITH

SC/418/2009

Complainant:

1. THE STATE OF GUJARAT
CITY CIVIL AND SESSIONS COURT, BHADRA, AHMEDABAD.

VERSUS

Accused:

1. JAHID KUTBUDDIN SHAIKH 25
C/O. POPATLAL, SANDHI AVENUE, OPP. VISHALA HOTEL,
JUHAPURA, AHMEDABAD.
10. AMIL PARVEZ KAJI SAIFUDDIN SHAIKH
CHHOTA BAJAR, JAMA MASJID, THANA, UNHEL, UJJAIN.
11. SHIBLI @ SABIT ABDULKARIM MUSLIM
DIST. KOTAYAM, KERALA.
12. SAFDARNAGORI JAHRULHASAN @ JAHRUDDIN NAGORI
NAGORI MAHOLLA, THANA, MAHIDPUR, DIST. UJJAIN,
MADHYAPRADESH.
13. HAFIJHUSEN @ ADNAN TAJUDDIN MULLA
REMAND HOME, B/H. BUS STAND, STATION ROAD,
BIJAPUR, KARNATAK.
14. MAHMAD SAJID @ SAJJAD @ SALIM @ SAD S/O.
GULAMKHAW
33, LUKMAN PARK, JAMBUSAR ROAD, BAYPAS. BHARUCH.
15. MUFTI @ ABUBASAR @ ABDULRASID S/O. ABUBAKAR
SHAIKH
AT.POST. BINA, DIST. AZAMGADH, UTTARPRADESH.
16. ABBAS UMAR SAMEJA
OPP. PAVAN CHAKKI, JUNA KACHCHH, MITRA PRESS
ROAD, CAMP AREA, BHUJ, KACHCHH.
17. NAVED S/O. NAIMUDDIN
ALFARUQ SOCIETY, JIVRAJPRAK, B/H. CHOWKI,
AHMEDABAD.
18. JAVED AHEMAD SAGIR AHEMAD SHAIKH
744/19, PATASA POLE, KAMDAR MEDAN, GOMATIPUR,

AHMEDABAD.

19. RAJIUDDIN NASIR @ RIYAZUDDIN NASIR @ ALAUR RAHEMAN
16/2/807 , A/11, J.Y.COLONY, HAYDRABAD.
2. IMRAN IBRAHIM SHAIKH
PARNJARI GHAR, OPP. MASJID, VADI, TAIWADA, VADODARA
20. ATIKUR RAHEMAN ABDUL HAKIM MUSALMAN KHILJI MUSLIM
NR. SAMAD BODYWALA, GHANTAGHAR, THANA MAKARBA, KOTA, RAJASTHAN.
21. MAHENDI HASAN @ VIKKI ABDULHABIB ANSARI JULAHA S MOTI MASJID, NARAYAN PANVALA NI GALI, BAJAJKHANA, KOTA, RAJASTHAN.
22. IMRAN AHEMAD @ RAJA SIRAJAHEMAD @ HAJI PATHAN MAIN ROAD, KISHORPURA, ASHAPALLA MANDIR, KOTA, RAJASTHAN.
23. AYAZ RAJAKMIYA SAIYAD
40, ALGAJALI PARK, NR. UMARNAGAR, SAIYADVADI, VATVA, AHMEDABAD.
24. UMAR @ ASHOK KALABHAI KABIRA
1, SABNAM DUPLEX, NR. AMIR PARK SOCIETY, MEMAN HALL, JUHAPURA, AHMEDABAD.
25. SALIMBHAI @ UMAR JAMALBHAI SIPAI
763/5154, GUJARAT HOUSING BOARD, GARIBNAGAR, BAPUNAGAR, AHMEDABAD.
26. MAHMADALI @ JAMAL @ JIYA @ YASAR @ ABUBAKAR MAHARA
376/85, NAI BASTI, GOHALPUR, JABALPUR, MADHYAPRADESH.
3. IQBAL KASAM SHAIKH
3, YAKUTPURA, KABIR COMP, BHOIVADA NAKA, VADODARA.
4. SAMSUDDIN SHAHBUDDIN SHAIKH
3100/3, LAKHOTA POLE, DARIYAPUR, AHMEDABAD.
5. GYASUDDIN ABDULSALIM ANSARI
2, CHAUDHARY NI CHALI, KAMDAR MEDAN, GOMATIPUR, AHMEDABAD.
6. MAHMAD ARIF MAHMAD IQBAL KAGDI
179, SAGARWAD, B/H. PATTHAVALI MASJID, SHAHPUR, AHMEDABAD.
7. MAHMAD USMAN MAHMAD ANIS AGARBATTIVALA
MAHANT NO KHANCHO, VADI, TAIWADA, VADODARA.

8. YUNUS MAHAMADBHAI MANSURI
C/132, AJITMILL CHAR RASTA, BAPUNAGAR, AHMEDABAD.
9. KAMRUDDIN CHANDMOHAMAD NAGORI
NAGORI MAHOLLA, THANA, MAHAKAL, UJJAIN.

Appearance:

H.M.DHRUVA For Complainant 1
S.P.BRAHMBHATT For Complainant 1
A.M.PATEL For Complainant 1
No Advocate For Accused

ORDER BELOW EX.296 IN SESSSIONS CASE NO.38/2009

(1) This is an application filed by the Learned Advocate Shri I. M. Munshi on behalf of the accused No. 11, 13, 46 to 49, 54 to 61 under section 207 read with 209 of the code of criminal procedure to provide copy of the charge-sheet filed by the investigating agency against other accused.

Facts of the application:

(2) It is stated that three accused were arrested by the crime branch after the charge-sheet against the present accused is filed. The supplementary charge-sheet is filed by the investigating officer against three accused. The application at Ex. 232 was also filed to get the copies of the supplementary charge-sheet. Prosecution has provided the copy of the charge-sheet filed by the investigating officer of the crime registered at Ahmedabad, but the copy of the charge-sheet filed by the investigating officer of the crime registered at Surat are not provided. It is requested to supply copy of the supplementary charge-sheet of the crime registered at Surat.

Arguments of the Learned PP and Learned Advocates

(3) Read application. Perused record the case. Heard the learned Special PP Shri Dhruv for the prosecution and Learned Advocate Mr. I. M. Munshi for the accused.

(4) It is argued that accused have prayed for copies of supplementary charge-sheet which are not provided. These documents are demanded from the prosecution on the count viz. (I) the charge-sheet is relied upon by the prosecuting agency. The defence of the accused is based on the supplementary charge-sheet also.

Merit of the Case

(5) The prosecution has not filed any written reply to this application. There are 67 (sixty seven) accused in different cases. The criminal conspiracy is one of the charge leveled against the accused. Most of the cases are consolidated

and ordered to conduct the trial all together. For the defense of the present accused, the charge and evidence against the other accused are also relevant. Prosecution has relied upon the documentary evidence submitted with the charge-sheet against the other three accused.

(6) This Court has come across the following judgments wherein sec. 207 of the code of criminal procedure and the right of the accused for the fair trial is considered.

(A) The Hon'ble Apex Court has in the case of **"Naresh Kumar Yadav v. Ravindra Kumar"** reported in AIR 2008 SUPREME COURT 218 para 23 observed that,

"the documents in terms of S. 207 and S. 208 are supplied to make the accused aware of the materials which are sought to be utilized against him. The object is to enable the accused to defend himself properly. The idea behind the supply of copies is to put him on notice of what he has to meet at the trial."

(B) In the case of **Sheikh Meheboob V/s. State of Maharashtra**, reported in AIR 2005 SC 1805 the Hon'ble Supreme Court has held that non-production of document without an explanation despite application for its production made by accused would result into the conclusion that prosecution has suppressed the document. The defence made an application for production of a document and the trial Court had accepted the application by an order directing the prosecution to produce the document, but the prosecution failed to do so without any explanation. Thereby, accused were given benefit of doubt and acquitted of the charges against them.

(7) In view of above facts and circumstances of the case, this Court is of the view that the copy of the supplementary charge-sheet of the other accused are required to be given for the fair trial of the accused. Hence in the interest of justice, the application is disposed of by following final order.

ORDER

The application is granted.

The prosecution is directed and ordered to provide the copies of the supplementary charge-sheet filed of the crime registered at Surat.

Pronounced in the open Court to day on 21st December, 2011.

Dt.: 21.12.2011

(V. P. Patel)
Special Judge
Designated Court for conducting
Bomb Blast Cases, Ahmedabad.