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Cr1.A.No. 446-449 OF 2004

ITEM No.301

Court No.11

SECTION IIA

A/N MATTER

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CRLMP. NO.6658-6661/2004, 11884-11887, 12515-18 & 12519-22 In Criminal  
/2004

Appeal No. 446-449

ZAHIRA HABIBULLAH SHEIKH & ANR.

Appellant (s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent (s)

( For clarification of Court's order dated 12.4.2004 and directions and  
permission to file addl. documents and exemption from filing O.T. )

Date : 10/01/2005 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARIJIT PASAYAT

HON'BLE MR. JUSTICE H.K. SEMA

For Appellant (s)

Mr.P.N.Lekhi, Sr. Adv.

Mr. Dinesh Kumar Garg,Adv.

Mr.B.S.Bilowria, Adv.

Mr.Rohit Pandey, Adv.

Mr.D.K.Gupta, Adv.

Mr.S.K.Bandhyopadhyay, Adv.

For Appellant No.2

Mr.Anil B.Divan, Sr. Adv.

Ms. Aparna Bhat,Adv.

Mr.P.Ramesh Kumar, Adv.

For Respondent (s)

Mr.Mukul Rohatgi, Sr. Adv.

Ms. Hemantika Wahi,Adv.

Mr.Sanjay Jain, Adv.

Mr.K.T.S.Tulsi, Sr. Adv.

Mr.Nageswara Rao, Sr.Adv.

Dr.Kailash Chand, Adv.

Mr.Nikhil Goel, Adv.

Mr. Mukesh K. Giri,Adv.

For NHRC

Mr.T.R.Andhyaurijina, Sr. Adv.

Mr.S.Muralidhar, Adv.

Mr.Samiran Sharma, Adv.

Mr.Amit Sharma, Adv.

UPON hearing counsel the Court made the following

O R D E R

Having heard learned counsel for the parties, we are of the considered view that a detailed examination is necessary as to which version of Zahira Habibullah Sheikh is a truthful version. It is necessary to do so because various documents have been placed to show that she had made departure from her statements/stands at different points of time. Allegations are made by Mr. P.N.Lekhi, learned senior counsel appearing for Zahira Habibullah Sheikh that she was being threatened, coerced, induced and/or lured by Teesta Setalvad. On the contrary, learned counsel appearing for Teesta Setalvad submits that she was being threatened, coerced, lured or induced by others to make statements or adopt stands contrary to what she had stated/adopted earlier. In this delicate situation, the appropriate course would be to direct an inquiry to be conducted to arrive at the truth. We direct the Registrar General of this Court to conduct the inquiry and submit a report to this Court within three months. The Registrar General shall indicate in the report

(a) if Zahira Habibullah Sheikh was in any manner threatened, coerced, induced and/or in any manner pressurised to depose/make statement(s) in any particular way, by any person or persons, and

(b) if the answer to (a) is in the affirmation, who the person/persons is (or) are. For the purpose of inquiry, he may take assistance of a police officer of the rank of Inspector General of Police. Though a suggestion was given by Mr. Anil Diwan, learned senior counsel appearing on behalf of Ms. Teesta Setalvad that it should be an officer from the CBI, Mr. P.N. Lekhi, Mr. K.T.S. Tulsi and Mr. Mukul Rohtagi, learned senior counsel, opposed the same. In our view, an efficient, impartial and fair officer should be selected. Therefore, we leave the choice to the Registrar General to nominate an officer of the Delhi Police, as noted above, of the rank of Inspector General of Police. The inquiry shall be conducted on the basis of affidavits to be placed before the Registrar General and if he deems fit, he may examine any witness or witnesses to substantiate the contents of the affidavits. We do not think it necessary to lay down any broad guidelines as to the modalities which the Registrar General will adopt. He is free to adopt such modalities as he thinks necessary to arrive at the truth, and to submit the report for further consideration.

The affidavits and documents if any in support of the respective stands shall be filed before the Registrar General within a period of four weeks from today.

We make it clear that the pendency of the inquiry will not be a ground for seeking adjournment in the pending trial.

We have perused the letter of the trial court seeking extension of time. The time is extended till 31st of May, 2005 for completion of trial.

The matter shall be placed for consideration of the Report to be submitted, after three months.

( Satish K. Yadav ) ( Vijay Aggarwal )  
Court Master Court Master

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Mr.Nageswara Rao, Sr.Adv.  
Dr.Kailash Chand, Adv.  
Mr.Nikhil Goel, Adv.

Mr. Mukesh K. Giri, Adv.

For NHRC

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