

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

WRIT PETITION (CRL.) NO. 109 OF 2003

NATIONAL HUMAN RIGHTS COMMISSION

Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

(With appln(s) for directions filed by A.C. and stay and intervention and direction and a note dated 27.02.2004 submitted by A.C and office report) (For Final Disposal)

WITH

CRLMP.NO.10719/2003 IN WP (Crl) No.109/2003
(For directions)

CRLMP.NO.7078/2003 IN WP (Crl) No.109/2003
(For stay)

CRLMP.NO.7827/2003, 8193/2003 & 8194/2003 IN WP (Crl)No.109/2003
(For intervention)

CRLMP.NO.11668/2003 IN WP (Crl) No.109/2003
(For intervention)

CRLMP.NO.11689/2003 IN WP (Crl) No.109/2003
(For directions)

CRLMP.NO.4782/2003 IN WP (Crl) No.109/2003
(A Note dated 27.02.2004 submitted by Ld. A.C. with regard to entrusting the UOI with 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)

CRLMP.NO.3741/2004 & 3742/2004 IN WP (Crl) No.109/2003
(For directions)

CRLMP.NO.6864/2004 IN WP (Crl) No.109/2003
(For intervention)

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CRLMP.NO.9236/2005 IN WP (Crl) No.109/2003
(For intervention/directions)

CRL.MP NO. 6767 of 2006 In WP(Crl.) No. 109 of 2003
(For directions)

CRL.M.P. NO.6767/2006 IN CRL. M.P.NOS. 3741-3742/2004
(For directions)

Crl.MP No. 7824 of 2007 In WP(Crl.) No. 109 of 2003
(For directions)

Crl.M.P. NOS. 18710 & 18712 In WP(Crl.) No. 109 of 2003
(For impleadment and directions)

Crl.M.P. NO. 8392 IN W.P.(Crl.) No. 109 of 2003
(For impleadment on behalf of Sh. Shivanand Jha)

CRL.M.P.NOS.4757, 4759-4760 IN W.P. (CRL.) NO.109/2003

(FOR IMPLEADMENT AND DIRECTIONS ON BEHALF OF ILIYAS HUSSAIN
MULLICK)

CRL.M.P. NOS. 22326 AND 22327 in W.P. (CRL.) No. 109/2003
(with appln(s) for impleadment and modification of Court's order
dated 6.5.2010)

W.P(CRL.) NO. 37-52 of 2002
(With appln. for permission to submit additional documents and
exemption from filing O.T. and interim directions and permission
to place addl. documents on record and directions and exemption
from filing O/T and office report)

CrI.M.P. No. 19816 of 2009 In W.P.(CrI.) Nos. 37-52 of 2002
(For Directions)

CrI.M.P. No. 9238 & 9239 of 2010 In W.P.(CrI.) Nos.37-52 of 2002
(For c/d in filing rejoinder affidavit & exemption from filing
O.T)

CrI.M.P. Nos. 8187-8188 of 2010 In W.P.(CrI.) Nos. 37-52 of 2002
(For impleadment and intervention)

CRL. M.P. NOS. 22161 & 22162 in W.P. (CRL.) NO.37-52/2002
(appln. (s) for impleadment and directions)

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CRL. M.P. NOS. 22325 in W.P. (CRL.) NO.37-52/2002
(appln. (s) for permission to file additional affidavit filed by
Ms. Aparna Bhat, Adv.)

W.P (CrI.) No. D17953 of 2003
(With office report)

T.P(CrI.) Nos. 194-202 & 326-329 of 2003
(With appln. for stay and exemption and impleading party and
permission to submit additional documents and permission to place
addl. documents on record and office report)

SLP(C) No. 7951 of 2002
(With appln. for exemption from filing c/c of the impugned
judgment and permission to place addl. documents on record)

SLP(CrI) NO. 4409 of 2003
(With appln. for stay)

SLP(CrI.) No. 5309 of 2003
(with appln. for c/delay in filing SLP and exemption from filing
c/c of the impugned judgment and exemption from filing O.T. and
office report)

W.P(CRL.) NO. 216 of 2003

T.P.(CRL) NO. 66-72 of 2004
(With appln. for permission to file T.P. and stay and directions
and taking addl. documents on record and permission to submit
addl. document(s))

T.P.(CRL) NO. 43 of 2004
(With appln. for stay and exemption from filing O.T. and office
report)

W.P(CRL.) NO. 118 of 2003
(With appln. for directions and interim relief and exemption from
filing O.T. and office report)

T.P. (CRL.) NOS. 233-234 of 2004
(With appln. for stay and office report)

W.P(CRL.) NO. 284 of 2003
(With office report)

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CrI.M.P. No. 4485 of 2006 In SLP(CrI.) No. 3770 of 2003
(For directions)

SLP(CrI.) NO. 1088 of 2008
(With appln. for exemption from filing c/c of the impugned judgment and permission to place addl. documents on record and directions and modification of Court's Order dated 03.03.2008 and taking compilation of documents on record office report)

SLP (CrI.) No. 7046 of 2010
(with appln(s) for exemption from filing O.T. and ex parte stay and exemption from filing c/c of the impugned judgment and permission and exemption from filing O.T. and office report)

Date: 26/10/2010 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN
HON'BLE MR. JUSTICE P. SATHASIVAM
HON'BLE MR. JUSTICE AFTAB ALAM

For Petitioner(s)

WP 109/03 Mr. Harish N Salve, Sr. Adv. (A.C.)
Mr. Bhargava V Desai, Adv. (A.C.)
Mr. Rahul Gupta, Adv.
Mr. Nikhil Sharma, Adv.

Ms. Anita Shenoy, Adv.

SLP 1088/08 Mr. Prashant Bhushan, Adv. (A.C.)

WP D17953/03 In person

Mr. S Udaya Kuamr Sagar, Adv.
Ms. Bina Madhavan, Adv.
for M/s Lawyers Knit & Co., Adv.

Mr. Huzefa Ahmadi, Adv.
Mr. Ejaz Maqbool, Adv.
Ms. Sakshi Banga, Adv.
Ms. Garima Kapoor, Adv.

Mr. Naveen R. Nath, Adv.

...5/-

:5:

Ms. Indu Malhotra, Adv.

Ms. Shobha, Adv.

Ms. Kamini Jaiswal, Adv.
Ms. Aparna Bhat, Adv.
Mr. P. Ramesh Kumar, Adv.
Mr. Divyesh Pratap Singh, Adv.

For Respondent(s) Mr. Ranjit Kumar, Sr. adv.
Mr. Mukul Rohtagi, Sr. Adv.
Mr. Tushar Mehta, AAG
Ms. Hemantika Wahi, Adv.
Mr. Bhupendra Yadav, Adv.
Ms. Jeral, Adv.

Ms. Sadhana Sandhu, Adv.
Mr. S.S. Rawat, Adv.
Mr. D.S. Mahra, Adv.

Mr. C.D. Singh, Adv.

Mr. A. Venayagam Balan, Adv.

Dr. Nafis A. Siddiqui, Adv.

Aparna Bhat, Adv.

UOI Mr. H.P. Raval, ASG
MR. P.K. Dey, Adv.
Mr. Raghenth Basant, Adv.
Mr. S.N. Terdal, Adv.
Mr. P Parmeshwaran, Adv.
Ms. Sushma Suri, Adv.

Mr. V.N. Raghupathy, Adv.

State of Bihar/
Tripura Mr. Gopal Singh, Adv.
Ms. Ramita Guha, Adv.
Mr. Rituran Biswas, Adv.

Pondicherry Mr. V.G. Pragasam, Adv.

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Mr. Naresh Kr. Sharma, Adv.

Mr. Gopal Prasad, Adv.

Mr. Bimal Roy Jad, Adv.

State of Assam Mr. Navneet Kumar, Adv.
M/s. Corporate Law Group, Advs.

Mr. Ravindra Kr. Adsure, Adv.

Mr. Ravi Prakash Mehrotra, Adv.

Mr. T.V. George, Adv.

Orissa Mr. Radha Shyam Jena, Adv.
Mr. T.K. J. Samanta, Adv.

State of Sikkim Mr. A Mariarputham, Sr. Adv.
Mrs. Aruna Mathur, Adv.
Mr. Amarjit Singh Girsal, Adv.
for M/s. Arputham, Aruna & Co., Advs.

State of Punjab Mr. Kuldip Singh, Adv.
Mr. R.K. Pandey, Adv.
Mr. T.P. Mishra, Adv.
Mr. Sanjay Katyal, Adv.
Mr. H.S. Sandhu, Adv.

For impleading
party

Mr. Vikas Singh, Sr. Adv.
Mr. Braj Mishra, Adv.
Ms. Aparna Jha, Adv.
Mr. Abhishek Yadav, Adv.
Mr. Vikram, Adv.

Mr. Tara Chandra Sharma, Adv.

Ms. Neelam Sharma, Adv.

Mr. K.R. Sasiprabhu, Adv.

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:7:

Mr. Ansar Ahmad Chaudhary, Adv.

Mr. Ranjan Mukherjee, Adv.

Mr. Anil Shrivastav, Adv.

Mr. Rituraj Biswas, Adv.

Mr. D.K. Sinha, Adv.

Mr. Naveen R Nath, Adv.

Ms. Anita Shenoy, Adv.

Mr. Sanjay R Hegde, Adv.

Mr. KH. Nobin Singh, Adv.

Mr. Sapam Biswajit Meitei, Adv.

Mr. R Satish, Adv.

Mr. P.V. Dinesh, Adv.

Mr. Divya Jyoti, Adv.

Ms. Jyoti Mehndiratta, Adv.

Mr. S.N. Bhat, Adv.

Dr. Kailash Chand, Adv.

Mr. Sanjay Jain, Adv.

Mr. Rashmikumar Manilal Vithlani, Adv.

M/s Parekh & Co, Advs.

Dr. Meera Agarwal, Adv.

Mr. Annam D.N. Rao, Adv.

Mr. Manjit Singh, Adv.

Mr. Kamal Mohan Gupta, Adv.

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WP 109/2003

Dr. Manish Singhvi, AAG for Rajasthan
Mr. D.K. Devesh, Adv.
Mr. Milind Kumar, Adv.
Mr. Sahil S. Chauhan, Adv.

CRLMP 18710 &
18712 in WP 109/03

Mr. D.N. Ray, Adv.

(applicants) Mr. Lokesh K. Choudhary, Adv.
Ms. Sumita Ray, Adv.

State of Mizoram Mr. K.N. Madhusoodhanan, Adv.
Mr. R. Sathish, Adv.

U.P. Mr. Shail Kr. Dwivedi, AAG
Mr. Manoj Kr. Dwivedi, Adv.
Mr. S.K. Dwivedi, Adv.
Mr. G. Venkateswara Rao, Adv.
Mr. Ashutosh Kr. Sharma, Adv.
Mr. Vandana Mishra, Adv.

UPON hearing counsel the Court made the following
O R D E R

SLP(Crl.) No. 1088/2008

At the outset, Mr. Prashant Bhushan has expressed unwillingness to continue as the Amicus Curiae and requested that he may be relieved from the case. We accede to the request and appoint Mr. Rohinton Fali Nariman as an Amicus Curiae to assist the Court in this case.

Mr. Bhushan states that he will return the papers of the case received from the office in a sealed cover. On receipt of the record, the office shall forward the same to Mr. Nariman.

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Report dated 20th October, 2010 on further investigation against Shri M.K. Tandan Etc. has been filed by the Chairman and one of the Members of the Special Investigation Team. According to the report, the investigation is likely to be concluded within a fortnight. The report is taken on record.

Let the final report be filed before the next date. List on 2nd December, 2010, at 3.00 p.m. for consideration of the reports.

Crl.M.P. No. 22117 and 22115 of 2010 in SLP(Crl.) No. 1088/2008

In view of the fact that Mr. Prashant Bhushan

has been discharged from the case as Amicus Curiae,
both these applications are rendered infructuous and
are disposed of accordingly.

Crl.M.P. No. 19816 of 2009 In WP(Crl.) Nos. 37-52/2002

In view of the subsequent developments, no
further orders are called for in this application and
the same is dismissed accordingly.

Crl.M.P. Nos. 22161-22162 of 2010 In WP(Crl.) Nos. 37-
52 of 2002

Adjourned sine die.

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Crl.M.P. No. 22325/2010 In WP(Crl.) NOs. 37-52 of 2002

At this stage, no orders are called for in the
application. The application stands disposed of
accordingly.

Crl.M.P.NOs. 22326-22327/2010 in WP(Crl.) No. 109/2003

In the light of the report of Mr. A.K. Malhotra
dated 13th August, 2010 and the submissions of learned
Amicus Curiae, we lift the restraint order passed on
6th May, 2010, in all the cases, except in Cr. No. 67
of 2002 (Meghani Nagar Gulbery Society case), in which
case the trial may proceed but the final judgment shall
not be pronounced. The trial Courts are now free to
pronounce the final judgments.

The applications are disposed of accordingly.

WP(Crl.) No. 109/2003

A report dated 20th October, 2010 has been filed
by the Chairman, SIT, indicating the progress in
trials in all the cases. The Chairman has stated that
the trials are being closely monitored by him and other
members of his team. According to the report, the
trials in all the cases, on the whole, are proceeding

quite satisfactorily.

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Let a copy of the report be supplied to the learned Amicus Curiae.

The report will be taken up for consideration on 2nd December, 2010, at 3.00 p.m.

We direct that in future the office shall list only those applications in which specific orders for listing are made. All the disposed of applications shall be detached from the record and shall not be shown in the cause list. The office shall also prepare a complete list of all the pending applications and place before the Court for appropriate orders on the next date.

The aforesaid two reports filed by the SIT shall be kept in the sealed covers.

SLP(Crl.) No. 7046/2010

In the first instance, issue notice to respondent No.1. Ms. Hemantika Wahi waives service of notice on behalf of the said respondent and seeks time to file reply affidavit. Let the needful be done within two weeks with advance copy to the learned counsel for the petitioners and to learned Amicus Curiae. Rejoinder affidavit, if necessary, shall be filed by the next date. Copies of the petition shall

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also be supplied to Mr. Harish N Salve, the learned Amicus Curiae and the Chairman, SIT for their comments.

List on 2nd December, 2010 at 3.00 p.m.

[Charanjeet Kaur] [Vinod Lakhina] [Savita Sainani]
Court Master Court Master Court Master