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The Best Bakery Case: An Analysis of the Biggest Communal Violence & Witness Protection Case in Indian Legal History

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INTRODUCTION

Zahira Habibulla H. Sheikh v State of Gujarat is renowned as the ‘Best Bakery Case’¹. The primary focus of this case is the inhumanity of the carnage that followed the 2002 Godhra Riots, which claimed 1200 lives. The case underwent several dramatic turns, and on June 6, 2005, the SC of India extended the term of Bombay's Special Court to allow for a retrial. In essence, the Contempt of Court Act of 1971's section 2(c) defines ‘Contempt of Court’.

Any publication (spoken, written, or indicated by a sign) that criticizes the authority of a court or the judicial system is regarded as contempt of court. The Best Bakery case also provides insight into what constitutes a fair trial.

FACTS OF THE CASE

The case of Zahira Habibulla H. Sheikh v State of Gujarat arose from a violent massacre that took place in Gujarat and shook the country. On February 3, 2002, a mob attacked the Best

¹ *Zahira Habibulla H. Sheikh & Anr v State of Gujarat & Ors* (2004) 4 SCC 158

Bakery, Vadodara, Gujarat killing 14 people, mostly Muslims. As per sources, it was in revenge for the burning of the Sabarmati Express Train which killed almost 56 people. Later this turned into a hostile communal violence that killed thousands of people. Zahira Habibullah Sheikh who lived near the bakery became the prime eyewitness to the massacre and was able to identify the attackers initially. However, she changed her testimony later, claiming she wasn't the eyewitness to any such massacre and didn't know any of the culprits. Even her family members retracted from their statements. It was claimed later that Zahira and her family were threatened leading them to change their testimonies. Due to the change in her testimonies and lack of evidence due to the carelessness of police authorities during the investigation, Vadodara Session Court followed by Gujarat HC dismissed the case and acquitted the culprits.

Later Zahira when approached the National Human Rights Commission herself, and filed a petition in the Supreme Court to transfer the case out of Gujarat due to interference of politics in the judicial system. SC agreed to a petition by transferring the case to the Bombay Special Court for retrial.

SC in its judgement criticized the police authorities and the public prosecutor for not showing any botherness towards the witness and her family's witness. SC also criticized the Gujarat Government for not taking appropriate steps to safeguard its citizens. SC also asked the police commissioner to re-investigate the case while SC admitted that it must protect people's rights and save them from threats.

ISSUES RAISED IN THE CASE

The Main issues raised in this case revolved around whether the witnesses are protected especially in cases that are related to communal violence or national & social interest and whether is there a need for protection laws for witnesses in India.

Another issue revolved around the offence of contempt of court and the concept of fair trial and re-trial in the Indian Legal System.

JUDGEMENT

Supreme Court in its landmark judgement in 'Zahira Habibulla H. Sheikh v State of Gujarat' held that it's the sole duty of the state to take measures to protect the witnesses from any type of threats especially in the cases of communal violence. According to the court, witnesses play an important role in upholding the integrity of law and justice. The court also highlighted the important role police and prosecution play in judicial proceedings and how the lack of interest in police and public prosecutors, in this case, led to bleeding and poor judgement by the Vadodara Session Court & Gujarat High Court. Supreme Court quoted referring to the case Ram Chander v State of Haryana² and Rajendra Prasad v Narcotic Cell³ that, 'If proper evidence was not adduced or relevant material was not brought on record the court should be magnanimous in permitting such mistakes to be rectified and after all the function of the criminal court is administration of criminal justice and not to count errors committed by parties or to find out who did better among both the parties.' Inadequate support and protection from the police force and other authorities lead to coercion.

Supreme Court reasserted itself as the sole guardian of its people and that it needs to conduct free and fair trials to provide justice. The court referred to Maneka Sanjay Gandhi v Rani Jethmalani⁴ where the esteemed Supreme Court emphasized the necessity to ensure fair trials and quoted that 'assurance of fair trial is the first imperative of the dispensation of justice.' The court also said that the judiciary must take care of the citizens when there are grave violations of human rights and injustice is caused to them. The court took protective measures to conduct this case even after witness tampering and intimidation.

CASE COMMENTARY & ANALYSIS

The Best Bakery Case pointed out a major setback to justice as witnesses play an important role in judicial trials. Witnesses getting hostile in their testimonies or retarding from them is a common setback to the legal proceedings, but they can be risky in matters concerning national

² *Ram Chander v State of Haryana* (1981) 3 SCC 191

³ *Rajendra Prasad v Narcotic Cell* (1999) 6 SCC 110

⁴ *Maneka Sanjay Gandhi v Rani Jethmalani* (1979) 4 SCC 167

interest. In the case of *Zahira Habibulla H. Sheikh v State of Gujarat*, Zahira who was an eyewitness to the Best Bakery massacre abruptly changed her testimony later due to threats that her family received which raised questions about the witness's credibility. The fluctuating testimony of Zahira also raised questions about the external pressures on judicial proceedings.

This case highlights the tough mechanisms and legal protocols for the safety of the witnesses to maintain the credibility and decorum of both witnesses and judicial proceedings. The case raised the requirement of necessary bills to be passed by parliament for the protection and safeguard of the witness from any form of coercion that impacts badly the judicial structure. It also underscores the challenges faced in getting justice during times of communal violence due to political influences. This case is a reminder of the failure to execute justice improperly, especially due to the complexities brought by political influences and especially by communal tensions. It points out the importance of upholding fairness in legal proceedings.

After the Vadodara Session Court dismissed the case due to lack of evidence and acquitted the culprits, The Honorable High Court also somewhere misinterpreted the facts gave a hasty decision and even denied the plea of the National Human Rights Commission. But the National Human Rights Commission, NGO and Honorable Supreme Court deserve a brief comment on their efforts towards this case. Even Indian Media deserves appreciation for taking the matter into international stands to tackle the situation in an even better manner.

National Human Rights Commission was approached by Zahira Habibulla H. Sheikh after the case was closed and there, she asked for re-opening of the case in the Supreme Court and accepted that she was forced to change her testimony due to the threats imposed on her family. National Human Rights Commission's best take was to take the case outside Gujarat as the eyewitness Zahira herself admitted that somewhere her testimony changed hands of the threats her family and she were receiving. Therefore, the National Human Rights Commission filed a special petition in the Supreme Court for the transfer of the case from the Gujarat High Court to the Bombay High Court. Supreme Court action was highly respected as they relocated the case to Maharashtra in response to the petition.

Though transferring the case outside of Gujarat was helpful for Zahira and her family and to eliminate the local politics and the communal tensions somewhere it also showed the lack of confidence in the state's ability to deliver fair and free justice.

Somewhere Public Prosecutor and Police too were liable for the lack of evidence as according to the court, the police didn't do the investigation whole-heartedly and it led to bleeding evidence. Public prosecutors on the other hand instead of taking action for the safety of their client didn't take this seriously and never asked for any protection for their client which resulted in Zahira's testimony change. If the Public Prosecutor had taken the matter seriously and had pleaded for police protection for Zahira and her family, she might have not retracted from her testimony. This was even brought up by the Honorable Supreme Court in their judgement after which the apex court asked the senior police commissioner to re-investigate the matter properly.

It's sad that even after some prevailing witness protection laws in India, Zahira and her family's security was compromised, and she felt compelled to retract her original testimony. This failure of the state and legal authorities to maintain the well-being and security of the witnesses & their families undermines justice and gives a head start to the perpetrators of the crimes. This case lands into the books of the Supreme Court as a 'Landmark Judgement' due to its effect on the nation. The major issue of witness protection in India was raised in the case followed by the concept of fair and re-trial. It also points out the importance of fair trial which includes true testimonies by the witness and challenges faced by the judiciary due to change and alteration in the testimonies by the eyewitness.

Gujarat State Government was equally liable for not taking any actions in keeping the people safe and maintaining law and order. It was like they showed no real anxiety towards the matter. The government in my opinion should have shown concern in the matter. However, the Supreme Court should be lauded for re-opening the case again and then sentencing the culprits to life imprisonment.

CONCLUSION

This case turned out to be a weighty one as the apex court could indicate two critical issues. Firstly, through the actions of the honourable Supreme Court, the parliament was indicated to establish a degree to focus on the scorn of the Supreme Court. Secondly and most importantly there is a need for a law protecting the witnesses from being messed around in critical or significant cases especially those which concern the national interest. Court also pointed out the numerous times when witnesses retard their testimonies due to dangers, draws and contemplations related to money in the case of the people who have great influence. As a defender of the natives of the country, Apex Court pointed out that the witness could securely tell the truth without being terrified of the danger he or his family may face. Thus, it's an earnest time to yield a bill for the witness's rights for the smooth functioning of the trials.

The case of *Zahira Habibulla H. Sheikh v State of Gujarat*⁵ is a burning scar on the judiciary which is left by the communal violence and complexities in seeking justice aftermath. The circle of not being able to hold the perpetrators of heinous crimes caused by communal violence especially will erode the trust of citizens in judicial bodies. It's important that as a learning from this case, the government should lay down rights for the protection of witness rights.

Further, the research paper also talks about the political involvement in communal violence and the need for judicial reforms to enhance the protection of witness rights and tampering in their testimonies. The judiciary needs to emphasize the importance of upholding the principle of the rule of law and equality in eyes of law. This critical analysis aims to shed on problems the Indian legal system must face, its shortcomings, and upholding its principles of ensuring people's rights, safety, and miscarriage of justice in case of communal violence.

⁵ *Zahira Habibulla H. Sheikh & Anr v State of Gujarat & Ors* (2004) 4 SCC 158