



CASE COMMENT: ZAHIRA HABIBULLA H. SHEIK VS STATE OF GUJARAT (2004)

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INTRODUCTION

The case has been a landmark case for the Criminal Procedural Code since its judgment, which was pronounced in 2004. This infamous case is generally referred to as “The Best Bakery Case”. On 3rd February 2002, in Vadodara (formerly Baroda), a bakery business was set on fire by a mob, which resulted in the tragic deaths of fourteen people. This attack was in retaliation for the killing of 56 individuals in the case of the Sabarmati Express train fire.

This case revolves around an individual, Zahira Habibulla,¹ an eyewitness who claimed that she was on her terrace while this attack took place but was unable to identify who the perpetrators were. The trial for this incident took place in Gujarat, where the incident took place, but due to Zahira’s confession that she lied in court regarding the incident due to threats she received, the National Human Rights Commission (NHRC) filed a special leave petition in the Supreme Court to grant permission to conduct a retrial outside the state of Gujarat. The response of the Supreme Court regarding the special leave petition made by the NHRC was that the trial would be relocated outside the state of Gujarat to Maharashtra. Issues on which the retrial was mandated by the Supreme Court:

- Question on protection of a witness.
- Improper conduct of the trial by the public prosecutor.

In calling out the High Court of Gujarat’s arbitration and impropriety in applying the law, the deliberate lack of vigour in the investigation and prosecution of the case, and the lack of political will on the part of state officials who were indirectly involved in planning and execution of the Best Bakery incident.

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¹ Zahira Habibullah Sheikh v. State of Gujarat, (2004) 4 SCC 158.

The Supreme Court made it very clear that the decision made by the High Court of Gujarat was biased and was impacted by a dishonest investigation that was allegedly conducted in favour of the accused to grant them acquittal. The Supreme Court ordered the DGP to re-investigate with utmost sincerity.

The court also acknowledged that the Public Prosecutor had failed to do the required work in order to fairly present the prosecution's case and pertinently allowed the people who were affected to propose a prosecutor for consideration when another prosecutor is appointed for the retrial in the High Court of Bombay's jurisdiction.

The peculiar combination of circumstances was found to be enough to provide victims and witnesses a voice in the appointment process. Additionally, the Code of Criminal Procedure (Amendment) Act, 2008, gives the court the power to "permit a victim to engage an advocate of his choice to assist the prosecution".²

The state government was referred to as the "modern-day Nero " by the Apex Court and made some harsh observations on the government's action, stating that those in charge of safeguarding the citizens and their property and making sure that the investigation should be fair appear to have shown no actual concern about the incident where the bakery was burning, the women and children were suffering from burns, but the so-called protectors of the society were more concerned with how to protect the criminals.

The verdict/judgement given by the Supreme Court significantly adds to the body of existing fair trial jurisprudence. After interpreting the fair trial in terms of the victim, the accused and the affected society, the court was able to understand the victim's position and **place** more weight on the trial, which would otherwise have been oriented more towards defending the accused's rights.

Due to this foregrounding, the court was able to denounce the High Court of Gujarat's actions towards jurisprudential principles on fair trial, investigation and the protection of the witness. The courts are not designed to be silent spectators to vexatious investigation and the behaviour of the prosecution and optimistically unaware of the violations in an official duty. The judgment also critically examined the inquisitorial functions of the courts, stating that they should be "circumspect in evaluating the evidence", and should engage themselves in

² The Code of Criminal Procedure (Amendment) Act, 2008, inserted a proviso to Section 24(8), Cr.P.C.

gathering information rather than taking a completely detached and hopeless stance.

According to the law, “decency, decorum and judicial discipline should never be jeopardised by taking intemperate attitudes of judicial obstinacy; hence, an acquittal resulting from wilfully flawed inquiry, collection of the evidence, and prosecution cannot be regarded as an acquittal. Furthermore, the honourable ruling of Doraiswamy Raju and Arijit Pasayat, J.C., has thankfully given the future benches the moral fortitude and judicial discernment to denounce judicial negligence in preserving the supremacy of the law.

The safeguarding of the eyes and ears of justice, i.e the witnesses of the cases, who are considered to be one of the most crucial parts of the criminal justice system, their safety should be guaranteed firsthand. The trial gets petrified and paralysed if the witness himself gets trapped under political pressure, which will lead to an unfair trial and immoral, wrong judgements by the court.

Legislators are mainly advised through the Zahira Sheikh ruling that there should be stricter restrictions so that the chances of tampering with the evidence or buying out the witnesses will be less. The future benches will now be able to tackle the pervasive problem of hostile witnesses, and the way pressure and temptation may subvert the criminal justice system, with help from this judicial ruling.

A notion of fair trial was passed after the special leave petition filed by the NHRC before the Supreme Court of India. The definition of fair trial describes it as “triangulation of the interests of the accused, the victim and society,” and if there’s a denial of a fair trial, it is an injustice to both the victim and society.

The judgment of the Supreme Court of India for the retrial of the Best Bakery case outside the State of Gujarat has been a landmark judgment. Therefore, the Supreme Court made several observations regarding the role of the State Government and the courts in maintaining the integrity of the legal system and public faith in it, as well as specifically referencing the connection between access to justice and protection of human rights in the case at hand.

It spoke of the paramount responsibility of the court to arrive at the truth and subserve the ends of justice and cautioned against the effects of crimes, which are defined as public wrongs in breach and violation of public rights and duties on society at large and the community at large. The decision makes it evident that the court views the legal system as one that actively works

to serve the larger interests of society by protecting the rule of law, averting anarchy, and maintaining social order.

CONCLUSION

This ruling has proven to be significant in addition to disciplining the appealing party, Zahira Habibulla Sheikh, for her deception and the contempt of the Supreme Court. This was due to the reasoning given by the Apex Court, through which it was able to identify two flaws in this ruling.

First, the court reminded Parliament to pass legislation endorsing a framework that would concentrate the severity and type of sanctions for disobedience to the Supreme Court. In cases when there is no appropriate legislation, the Supreme Court often imposes harsh punishment on the judge, as was the case in this instance. The court also emphasised the necessity of enacting legislation that prohibits interfering with witnesses, emphasising how crucial this requirement is. The criminal justice system's framework has shown to be inefficient and non-standard in its operation. The primary cause of this deficiency is the arraignment witness hostile turnabout and withdrawal from the statement they had previously provided to the police.

Time has become available for follow-up due to the numerous court encounters where witnesses have been regularly turned down as threatening due to threats, coercion, draws and financial considerations in the case of powerful individuals, their thugs and employees, political connections and support and numerous other depraved practices cunningly adopted to bury and conceal the truth and substances that eventually come to light, causing the truth and equity to suffer severe setbacks.

The state unquestionably has a role to play in obtaining the witnesses, at least in sensitive instances, including powerful individuals with political backing, the ability to use force and money and the ability to use force and the ability to prevent the trial from becoming tainted and the truth from becoming a setback. As a defender of its native, it needs to guarantee that, in the course of a court case, the witness can safely tell the truth without fear of those who will be affected by the witness's statement.