



The case that never was:

The 'SIMI' trial of Jaipur

A report by jamia teachers' solidarity association



Dedicated to the memory of Shahid Azmi
(1977-2010)

Preface

In September 2001, the central government banned Students Islamic Movement of India (SIMI) through a notification. Since then, the ban has become a convenient pretext for the police and investigative agencies to arbitrarily pick, detain and then arrest and frame Muslim youth, ostensibly on charges of carrying on the activities of the banned organization. Sections 3, 10, 13 of Unlawful Activities Prevention Act (UAPA 1967) have been invoked against scores, if not hundreds of Muslim youth across the country. Some of these men had been active in SIMI prior to its ban; some had outgrown the organization because they had crossed 30 years—the age limit for membership in the organization; some were guilty of having acquaintances, friends or relatives who had been involved or had been office bearers in SIMI. On most occasions, the cases against former members or purported activists of SIMI have rested on seizure of banned literature, namely copies of magazines published by SIMI before the ban. The flimsiness of evidence –and the sketchiness of charges— has resulted in dozens of acquittals; but equally true is the fact that the overwhelming nature of the 'war on terror' discourse and its institutional structures has allowed the conviction of many even in face of glaring lack of evidence.

Jamia Teachers Solidarity Association (JTSA) profiles here one such case, which came to be known as the Jaipur blasts case, even though the accused were not charged with either conspiracy or execution of bomb blasts in Jaipur in 2008. So what were these men guilty of? According to the FIR and chargesheet, they were responsible for carrying out activities of the banned SIMI. How and why did these men come to be identified with the Jaipur blasts? Theirs is a terrible and tragic tale of frame up by the Rajasthan police. It is above all testimony to the employment of UAPA against alleged or former members of SIMI and of the manner in which rule of law is subverted, violated and discarded as soon as the "T" word is uttered.

The Arrests/Surrenders:

Jaipur witnessed serial blasts on 13th May 2008. Three months later, Kota—and neighbouring district of Bara—saw hectic police activity with the Muslim mohallas of the city seeing increased police surveillance. In August, around the time of the shab-e-baraat to be precise, police parties started to visit homes of Muslim youths asking them to come to the Maqbara Chowk police station for poochh taachh (enquiry). The first to be picked up were Dr. Ishaq and his son, Md. Taufeeq, who was pursuing a BUMS course in Jaipur and was visiting home during that period. They were picked up by the police from their home in the dead of the night on 16th August. Another young man Nazakat Husain was also rounded up around the same time. The following day saw three young men, Imran, Mehdi Hasan and Dr. Yunus, picked up. The police was not done yet though.

With these 'arrests', the pressure on those being hunted became overwhelming, the raids more menacing (scores of policemen would surround the house, scale the walls and enter), and the threats more direct (warnings to the effect that brothers, fathers, even wives and sisters would be taken away if the wanted boys were not produced before the police). This forced those on the wanted list to surrender themselves for questioning. On 18th, Amaanullah, Nadeem Akhtar and Atiqur Rehman surrendered at the Maqbara Chowk thana. These men and their families were confident at that time that they would be released soon. Their confidence was premised on two things: first, their innocence, and second, the police, especially Nasimullah, the DSP, Kota Police (at that time), kept insisting that they were wanted only for some questioning in connection with the Jaipur blasts—that there was no case against them. These 'arrests and surrenders in Kota were public knowledge—with many of these men being accompanied by their relatives to the police station and one even quite literally, in media view.

Amaanullah used to run a mobile repairing shop in 2008. The police started to visit his house since the shabe-e-baraat and he went to the Maqbara PS on the night of the 18th at about 11 o'clock. He met Nasimullah who told him that he would be released after a few rounds of questioning. No enquiries were made of him however till 4 o'clock in the early

morning when he was taken to Jaipur by a team of Special Operations Group personnel which had come from Jaipur SOG Headquarters. It was in Jaipur where he was subjected to sustained, relentless—and as the evidence shows, very brutal—questioning.

Munawwar, a ladies tailor, was similarly being called to the Patanpol PS. He consulted the city qazi, who advised him to surrender. When he went to Patanpol PS to surrender on 21st August night, he saw media converged at the PS, waiting to relay the surrender 'Live'. Nasimullah flew into a rage and telephoned him saying he would not accept his surrender in full media view and ordered him to return. Munawwar returned to the city qazi's house then in the narrow lane where the qazi's home was, Nasimullah arrived in his police jeep and whisked Munawwar away. On the way to the PS, Nasimullah called up some media people requesting them to ignore the surrender story.

36-year-old Md. Ilyas—a small time teacher, a post graduate in English Literature from Kota University and resident of Talabpara in Bara—was similarly visited by the Bara police several times between 20th and 25th August. His family was threatened and his father briefly taken away when the police could not find Ilyas. On 25th, Ilyas finally surrendered before the Bara police who took him to the SOG HQ in Jaipur.¹

Two people from Jodhpur, namely, Azam Ghazdhar and Md. Sohail Modi were also taken into custody for questioning in connection with the Jaipur blasts, taking the total number to 13. Later, Inamur Rehman was brought from Khandwa Jail (Madhya Pradesh) and added to the list.

A feature common to all these cases was the fact that all the accused had surrendered themselves in the police station—whether in Kota, Bara or Jodhpur—but they were shown as arrested in Jaipur, where the SOG HQ is. There was typically a lag of 6–7 days between the date of surrender and the date of ostensible 'arrest' and production before the magistrate—thus allowing for illegal detention of a period of almost one week for every accused. This was a period spent in the custody of the SOG, which was turned practically into a vicious torture chamber.

¹ JTSA spoke with Dr. Yunus Khan, Munawwar Husain, Amanullah, and Md. Ilyas to reconstruct the sequence of events.

Name	Date of surrender	Arrest shown on
Imran	17.08.2008	25.08.2008
Mehdi Hasan	17.08.2008	25.08.2008
Md. Ishaq Qureshi	16.08.2008	25.08.2008
Nazaqat Husain	16.08.2008	25.08.2008
Md. Taufeeq	16.08.2008	25.08.2008
Amanullah	18.08.2008	25.08.2008
Md. Yunus	17.08.2008	25.08.2008
Nadeem Akhtar	18.08.2008	31.08.2008
Munawar Husan	21.08.2008	31.08.2008
Atiqur Rehman	18.08.2008	31.08.2008
Md. Ilyas	25.08.2008	31.08.2008

The Torture.

Even though these people had been called into the local police stations on the pretext of making enquiries, no enquiries were made of them there. It was only when they were transported to the SOG HQ in Jaipur that the questioning began. Questioning however turned out to be brutal torture. Remember that though the law mandates that they should have been produced before a magistrate within 24 hours of being taken into custody, they were kept in illegal detention for almost a week, violating the DK Basu guidelines on arrests established by the Supreme Court.²



(All illustrations by Merajunabi, Vicky Kumar, Ajay Kumar)

² See Asian Legal Resource Centre, SHRI D.K. BASU v State of West Bengal, found at http://www.alrc.net/doc/mainfile.php/cl_india/143/. See also Ludhiana Police, DK Basu Guidelines, found at <http://ludhianapolice.in/CustomPages/dkbasuguidelines.aspx>

They were repeatedly asked the name of the mosque where they routinely offered namaz; names and contacts of friends and relatives, and about links with the banned organization SIMI. Questioning was accompanied with horrific torture, both physical and mental. They were continuously beaten with leather straps and belts which were 4 inches wide. The SOG HQ had hooks on the ceiling through which ropes were passed and tied to the waists of these men. They were then hauled up and left hanging for hours. They were also tied and hung upside down from the ceiling. Their legs were stretched outwards to the maximum until they formed a T shape.

These men were deprived of sleep and humiliated by threats that their wives and sisters would be also be picked up by the police. (At this point, one of the acquitted young man broke down, revisiting the indignity of suffering).

Each of them was kept in solitary confinement, not allowed to meet or interact with the other accused/ surrendered inmates—though they could hear each others' cries of pains and agony through the torture. When they were taken out from their cells for toilet their faces were covered by black or red hoods.

The SOG used this torture to force them to sign blank sheets of paper. It must be stressed that till this time, indeed till much later, the men who had surrendered and who had been collected and tortured in the SOG office in Jaipur, had absolutely no clue about the crimes they were being charged with. Amanullah for example, begged the commando guarding his cell to speak to the senior officers, to ask why he was being held like this. “What have I done?” he cried. “Where will you get proof to incriminate me”? He refused food and a day later, he was produced before the magistrate as arrested. It can be said that this confusion regarding the accusations against them must have added to their misery.

The torture was overseen by senior officers of the Rajasthan Police, whose names the victims memorized. They were:

- 1) Naval Kishore Sharma (Addl. SP, SOG)
- 2) Satyendra Singh Ranawat (Addl SP, SOG, currently senior officer in the Rajasthan ATS)
- 3) A. Ponnuchami (Inspector General)
- 4) Mahendra Singh Chaudhury (Addl SP)
- 5) AKJain (Additional Director General of Police)

How the Press turned these men into Jaipur Blasts accused

While these men struggled to make sense of what was happening to them—their surrender, torture and then 'arrests'—the press unknown to them was helping the SOG to implicate them in the Jaipur blasts case. These stories were all based on leaks and information emanating from the SIT set up for the investigation into the serial blasts in the capital city of the state. This despite the fact that it was the SOG and not the SIT which was involved in the whole episode. Press reportage across national and regional dailies sought to portray and impress upon public consciousness that the accused arrested from Kota, Bara and Jodhpur were the masterminds of the May 2008, Jaipur Blasts.

The following reports from some national dailies (English & Hindi) without verifying facts sought to underline direct connection between the arrested 'accused' and the Jaipur 2008 blasts.

Times of India, Jaipur, Tuesday, August 26th, 2008

Jaipur blasts: 7 held from Kota

TIMES NEWS NETWORK

Jaipur: The Special Investigation Team (SIT) probing the serial blasts that rocked the city on May 13 have arrested seven persons from Kota. All the seven were produced before a local court here on Monday after which the SIT took them on a 13-day police remand till September 7. They have been in police detention since last week, sources said.

The arrested are Imran alias Raza, Mehandi Hasan, Nazakat Hussein, Aman alias Amanullah, Dr Yunus, Toufiq and Ishaq, all residents of Kota. According to police, Sajid Mansuri masterminded the serial blasts and was in Kota between 2002 and 2006 after giving Gujarat police a slip in 2001. "He had taken shelter in Kota and introduced himself as Sajid to everyone," said an SIT official adding that he had been to Jaipur, Baran, Bundi and Sawai Madhopur many times during his stay in Kota to spread his network. He had gone back to Bharuch in Gujarat in 2006.

He prepared a core-group and the command of Rajasthan was given to Munanwar Qureshi who was detained in Kota recently. He used to work there as a tailor. Ateeq alias Atiur Rahman was given the post of secretary and Raja alias Imran was made treasurer. "The group was to carry out destructive activities and collect funds," said an SIT officer.

Dr Ishaque Qureshi, his son Dr Toufique Qureshi and another relative Nazakat Hussain were the main agents of the Jaipur blasts. All of them, residents of Waqf area, were detained in Kota on Sunday last. "Dr Ishaque Qureshi provided shelter to Sajid and he knew about his real identity.



SEQUENCE OF EVENTS

- Sixty-eight killed and 200 injured in May 13 serial blasts
- Blasts took place at Manak Chowk, Ohoti Chaurar, Sanganeri Gate, Badi Chaurar, Kotwali, Chandpole, Johari Baazar
- Jaipur blast mastermind Sajid Mansoori arrested by Gujarat police from Bharuch in Gujarat on August 15.
- Mansoori's arrest leads to detention of 17 persons from different parts of the state mostly Kota and Sawai Madhopur
- The detained included trained doctors and one SMS Medical College student.
- A few released after interrogations; but seven produced in court on Monday and taken by police on a 13-day remand.
- The arrested ones accused of providing shelter to Sajid during his stay in Jaipur prior to May 13 blasts.
- Sajid had organised a training camp near Kota barrage in which some of the arrested were also present.
- The arrested include one Qureshi family, with whom Sajid had stayed for four years.
- SIT claims that Sajid, who used to live in the name of Salim, received donations from several people in Kota.

His son Toufique Qureshi who studies at a Jaipur-based Unani medicine institute also knew Sajid's real identity," the SIT officer added.

"He had established a relationship with Qureshi family as Dr Ishaq Qureshi had made Sajid's wife her daughter," said SIT. "Sajid never used his own mobile. He used Dr Ishaq's landline phone or Toufiq's mobile," SIT added.

"Sajid used Toufiq for spreading his network in other places. Whenever he came

to Jaipur, he stayed at Toufiq's room in Jaipur with his friends. He had also stayed at SMS medico Abar Ali's room No. 27 at Senior Boys Hostel a day before serial blasts. Sajid had attended Abar's sister's marriage party also," said SIT.

According to officials, his objective in Jaipur was to generate funds for terrorist activities. SIT claimed that he was given donations or helped to generate funds by a number of people in Kota, Jaipur, Baran, Bundi and Sawai Madhopur.

Jaipur Blasts: 7 Held from Kota

TIMES NEWS NETWORK, 26th Aug 2008

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He prepared a core-group and the command of Rajasthan was given to Munanwar Qureshi who was detained in Kota recently. He used to work there as a tailor. Ateeq alias Atiur Rahman was given the post of secretary and Raja alias Imran was made treasurer. "The group was to carry out destructive activities and collect funds," said an SIT officer.

Dr Ishaque Qureshi, his son Dr Toufique Qureshi and another relative Nazakat Hussain were the main

agents of the Jaipur blasts. All of them, residents of Waqf area, were detained in Kota on Sunday last. "Dr Ishaque Qureshi provided shelter to Sajid and he knew about his real identity. His son Toufique Qureshi who studies at a Jaipur-based Unani medicine institute also knew Sajid's real identity," the SIT officer added.

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URL:<http://epaper.timesofindia.com/Default/Scripting/ArticleWin.asp?From=Archive&Source=Page&Skin=pastissues2&BaseHref=TOIJ/2008/08/26&PageLabel=3&EntityId=Aroo300&ViewMode=HTML>

Hindustan Times, New Delhi, August, 23rd , 2008

The screenshot shows the Hindustan Times website interface. At the top left is the logo "hindustantimes" with the date "Thu, 12 Jan 2012" and "north india". To the right is a FedEx advertisement with the text "Click here to connect your business to a changing world." Below the logo is a navigation menu with links for news, views, business, cricket, motor sports, entertainment, lifestyle, tech, travel, books, photos, videos, blogs, epaper, property, movies, india, world, indians abroad, and sport. The main headline is "Police interrogate Jaipur blast suspect" with the sub-headline "Rajasthan". The article text reads: "Rajasthan police on Saturday interrogated a suspect in the Jaipur bomb blasts after he turned himself in, officials said. Sleuths of Special Operation Group (SOG) did not reveal the identity of the suspect who was a tailor by profession. Police had earlier searched the residence of the man suspecting him of having links with the May 13 bombing in the pink city that killed 68 people but could not trace him. However, he appeared at the Patanpole police station last night, they said, adding the suspect may be taken to Jaipur-based SOG headquarters for 'intense' interrogation." To the right of the article is a "live scorecard" table showing current and upcoming matches: AUS vs IND (January 13, 201), SA vs SL (January 14, 201), and PAK vs ENG (January 17, 201). Below the scorecard is a button that says "Click here to explore the all new PROPERTY sec".

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rajasthan

Police interrogate Jaipur blast suspect

Press Trust Of India
Kota, August 23, 2008

First Published: 17:16 IST(23/8/2008)
Last Updated: 20:28 IST(23/8/2008)

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Rajasthan police on Saturday interrogated a suspect in the Jaipur bomb blasts after he turned himself in, officials said. Sleuths of Special Operation Group (SOG) did not reveal the identity of the suspect who was a tailor by profession. Police had earlier searched the residence of the man suspecting him of having links with the May 13 bombing in the pink city that killed 68 people but could not trace him.

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live scorecard

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URL:<http://www.hindustantimes.com/India-news/Rajasthan/Police-interrogate-Jaipur-blast-suspect/Article1-333148.aspx>

News Reports from a National Hindi Daily- Hindustan

जयपुर विस्फोट मामले में 6 हिरासत में

राजस्थान पुलिस ने जयपुर में 13 मई को हुए सिलसिलेवार बम धमाकों के सिलसिले में पूछताछ के लिए छह लोगों को हिरासत में लिया है। पुलिस ने बारन और कोटा से तीन-तीन लोगों को हिरासत में लिया लेकिन इस संबंध में अभी कुछ खुलासा नहीं किया है। आगे पढ़ें...

<http://www.livehindustan.com/news/1/deshlocalnews/article1-story-1-0-33040.html>

जयपुर धमाकों में भी सिमी का हाथ

जयपुर में 13 मई को हुए बम धमाकों के सिलसिले में राजस्थान पुलिस ने रविवार को कोटा व बारन से सात लोगों को गिरफ्तार किया है। सलीम नामक एक और संदिग्ध व्यक्ति की तलाश की जा रही है जो सिमी का कार्यकर्ता बताया जाता है। हालांकि पुलिस किसी भी गिरफ्तारी से इनकार कर रही है लेकिन बारन में तीन युवकों की गिरफ्तारी के खिलाफ लोगों ने कोतवाली के बाहर प्रदर्शन भी किया। आगे पढ़ें

<http://www.livehindustan.com/news/1/deshlocalnews/article1-story-1-0-32987.html>

The net result and purpose of such reportage was to impress upon the public consciousness that these were the blasts accused. The misconception—lies really—continued to be propagated by the media even after the acquittal. Headlines screamed that the Jaipur blasts accused had been acquitted. **The following reports underscore the deliberate perpetuation of an old misconception and falsehood that those accused were held for Jaipur blasts.**

Times of India, New Delhi, Dec., 10th, 2011

Jaipur serial blasts: 14 alleged SIMI activists acquitted

TIMES NEWS NETWORK

Jaipur: A fast track court on Friday acquitted 14 people who had been put behind bars after the May 2008 Jaipur serial blasts on charges of being SIMI activists and giving shelter to some terrorists including Sajid Mansoori.

The court's orders have once again brought to the fore the goofed-up detentions made by the special investigation team (SIT) formed to probe the blasts which claimed the lives of about 70 people and left 150 others injured.

The arrests had been made from Kota, Jodhpur, Baran and Madhya Pradesh in September 2008. "The fast track court of additional district judge- I has acquitted all the 14 people who were accused of being SIMI activists," said Packer Farooq, lawyer of the defendants.

Those who were acquitted include Sohail Modi and Azam Gajdhar from Jodhpur, Imran alias Raja, Mahandi Hassan, Mohammad Ishaque Qureshi, Nazakat Hussain, Mohammad Toufique Qureshi, Aman alias Amanullah, Mohammad Yunus, Atiq-ur-Rahman and Munnawar Hussain and Nadeem Akhtar from Kota, Mohammad Ilyas from Baran and Imam-ur-Rahman from Khandwa in Madhya Pradesh. All are aged between 27 and 55 years.

The lawyer said that the fast track court observed that prosecution failed to establish accused links with banned organisation SIMI. The court also found that prosecution has not submitted any substantial documentary evidence proving accused direct involvement in any terror act.

The court observed that the testimony submitted by eyewitness doesn't hold enough account to convict the accused in the charges levelled against them and the allegation of arranging funds, hatching terrorist conspiracy and harbouring accused of Jaipur and Ahmedabad serial blast case were found to be baseless.

The SIT had made serious allegations against



some of the defendants. After the detentions, it had claimed that Sajid Mansoori, who was considered one of the key accused in the Jaipur serial blasts at that time, was in Kota between 2002 and 2006 after giving Gujarat police the slip in the 2001.

During this period, Sajid, the SIT claimed, had been to Jaipur, Baran, Bundi and Sawai Madhopur several times, to spread his network. He had also gone back to Bharuch in Gujarat in 2006, said SIT.

SIT claimed that Sajid prepared a core group and Rajasthan's command was given to Munnawar. He used to work there as a tailor. Ateeq alias Atiq-ur-Rahman was given the post of secretary and Raja alias Imran was made treasurer. "The group was to carry out destructive activities and collect funds," SIT had said.

The SIT had also claimed that Dr Ishaque Qureshi, his son Toufique Qureshi and another relative, Nazakat Hussain, were the main agents of the Jaipur blasts. All of them, residents of Waqf area, were detained in Kota. "Dr Ishaque Qureshi provided shelter to Sajid and he knew about his real identity. His son Toufique Qureshi, who studies at a Jaipur-based unani medicine institute, also knew Sajid's real identity," the SIT had claimed.

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TNN | Dec 10, 2011, 02:48 AM IST

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URL: <http://timesofindia.indiatimes.com/city/jaipur/Jaipur-serial-blasts-14-alleged-SIMI-activists-acquitted/articleshow/11052775.cms?prtpage=1>

Other news reports

- **Acquitted in Jaipur blasts, accused say the taint will be hard to wash**
Indian Express, New Delhi, December 13, 2011.
They had resigned themselves to dying in jail. But their acquittal in the 2008 Jaipur serial blasts has reinforced their faith in the judicial system, say the seven men from Kota now cleared of terror charges....
- **11 Acquitted in Jaipur blasts case**
The Hindu, Jaipur, December 10, 2011.
A Fast Track Sessions Court here on Friday acquitted 11 of the 14 persons arrested from Kota, Baran and Jodhpur in the aftermath of the May 2008 Jaipur serial blasts. The court did not find any evidence that could connect the accused with the alleged crime...
- **Prosecution's Slip-up acquits Jaipur blast accused**
India Today, Jaipur, December 11, 2011
A blunder by prosecution has resulted in a Jaipur fast-track court acquitting 11 of the 14 alleged SIMI activists, arrested in the aftermath of the May 2008 serial blasts that killed 70 persons and left another 150 injured...
- **बेगुनाही के बावजूद तीन साल जेल में रखे गये 11 व्यक्ति**
Jansatta, Jaipur, December 10, 2011
सिमी की गतिविधियों में शामिल होने के आरोप में तीन वर्ष से जेल में बंद 11 व्यक्तियों को जयपुर की एक अदालत द्वारा बेकसूर बताकर रिहा कर दिए जाने के बाद इन लोगों ने राजस्थान की तत्कालीन मुख्यमंत्री वसुंधरा राजे और तत्कालीन गृहमंत्री गुलाब चंद कटारिया के खिलाफ कानूनी कार्यवाही करने का फैसला किया है।

But while the press could be held guilty of carelessness and slothful reportage—not bothering to find out about the truth of the charges or even cursorily going through the case papers, choosing to rely entirely on police reports—what was inexcusable was the malicious attempt by the Rajasthan police and authorities of the Central Jail Jaipur, where they were housed, to create an impression that these men were accused in the Jaipur blasts.

Judicial Custody: Torture continues unabated

Following their production before the magistrate, the SOG secured police custody for fourteen days, ostensibly for questioning, following which eleven of them were handed over to the judicial custody—while the Gujarat Police got the custody of three, namely, Imran, Mehdi Hasan and Atiqur Rehman and spirited them away to Ahmedabad. When they were finally handed over to the Central Jail, Jaipur, their spirit had already been beaten by the abuse and violation they had suffered at the hands of the SOG. Their nightmare, however, was only just beginning.

The first shock they received was that the SOG, while handing them over the jail superintendent, declared that accused in the Jaipur blasts were being handed over. These men, confused about the allegations, were struck with fear at the gravity of the charges. Within less than a week after their arrival in the jail, the Jail superintendent was changed and Preeta Bhargava took over.

Upon their arrival in the jail, a board was hung at the main gate in full public view, which proclaimed that “Dreaded terrorists of SIMI are housed in this jail.” (in Hindi). Each was lodged in a solitary cell. This comprised of a kothi, a kind of an ante-chamber of 8 x 10, with two doors: the outer door was made up of metal bars and the inner door was a solid metal door. There was a grill on the ceiling of the kothi which let light and sky in. Beyond this was a still smaller chamber of 8 x 8 with a single solid metal door opening into the kothi. It was in this small room that they were to sleep, spend their waking hours, as well relieve themselves in a toilet in the corner. A single dirty pot of water was to serve their needs—be it for drinking or cleaning themselves. With a chalk scribbled on the iron door of the kothi was the legend: this cell houses the bomb blast accused. This was repeated on the inner side of the door—a constant source of tension, betrayal and hopelessness for these men.



These rows of these solitary cells face each other—each separated by a few metres.

It was the month of Ramazan when they were put in the jail. The men reported that the holy month passed peacefully, as did Eid. It was a week after the festival that their actual ordeal was to unfold. At about ten in the morning, ten to fifteen numberdaars³ stormed into their cells. Each of these numberdaars were hefty, well built and must have weighed about 100–150 Kgs, the men reminisce with a shudder. They were accompanied by Jail police. These burly men would troop into their cells, blindfold them, sometimes strip them to their underwears, cover them with blankets and rain lathis, and kick and box them. And whilst they were being beaten, they were forced to shout “Jai Shri Ram, Jai hanuman”. They would be beaten and dragged to another kothi—their kothis being changed every day in order to keep them disoriented. During this period, their diet was drastically cut down: all they received was early morning tea, food being reduced to two rotis and very watery daal (on occasions, the jail workers would mix cold water in daal in front of their eyes). Clean drinking water was denied to them— they were forced to fill water from the pot in toilet, which was swarming with insects. One man broke down telling us how thirst drove him to drink from the filthy pot.

With October, the nights began to get chilly. At this time, the numberdaars took away the

³ Numberdaars are hardened convicts, usually serving long or life sentences who are assigned various duties by the jail authorities. They become de facto jail authorities.

clothes of these men, leaving them to spend nights only in their underwear and a flimsy, worn out blanket to cover with. They were not allowed to bathe, wash their hair or clothes, their beards and hair remained unshorn and overrun by lice; nails remained unclipped and grimy. It seemed as though the jail authorities were working to erode all sense of humanity and personhood, reducing them to base, almost animal existence.

This senseless violation of the dignity of these men continued for two months, during which time they were denied their basic right for mulaqat with their relatives. It was only when the families of these men moved court and secured a court order that mulaqat was finally allowed. However, the unrelenting torture had broken their courage and they could not bring to tell their families of their sufferings in the judicial custody. There was however—arising perhaps from the fear that news of torture would leak out through mulaqats—respite from the violence after this.

The mulaqats themselves were nonetheless occasions of humiliation: their families were taunted and there was no private moment to be shared with them as the ATS and jail authorities were always present to eavesdrop. Their mulaqats were specifically scheduled for Wednesday when other under trials and convicts did not have their meetings. This was to ensure that it was quieter and easier to eavesdrop. They were taken to the mulaqat with their faces hooded—the hood was not removed till the jail authorities had satisfied themselves that the visitors were indeed the relatives of the man in question. They would usually ask details about the visitor: name of the visitor, date, marital status, name of the spouse, and so on. Only after this elaborate interrogation would the nakab be taken off and they allowed face-to-face interaction—but always in the proximity of the ATS/ jail personnel.

Production before the magistrate:

In the period in which they were subjected to the extreme torture, a production before the magistrate was due. This was arranged for within the jail premises through video conferencing. The men were lined up, hooded—always hooded outside their cell—and assembled in a little cleared patch within the jail. Here, they waited for hours, and even a little restlessness, movement or stretching of limbs was rewarded by kicks and beatings. One of the men even fainted as a result. They were expressly threatened not to reveal anything about their torture inside the jail.

The second peshi was in the court where they were produced hooded. The court did not seek their hoods to be removed.

It was in the peshi when their charges were to be read out that they peeled off their hoods and showed to the magistrate what horrible states they had been reduced to: their lice-infested hair, the terrible stench from their unwashed bodies, their unbearably foul smelling clothes. It was only then that the magistrate asked the public prosecutor and jailor for ensuring the hygiene and cleanliness of the under-trials. But even now, they could not bring themselves to admit of the violations and violence to the magistrate.

For over six months, these men were assigned to solitary cells, and though the extreme torture had subsided, daily humiliations and deprivations continued. For instance, blankets provided were dirty and tattered—no protection against the biting cold of desert nights; a single bucket of water was to suffice for all their daily needs and no entreaties would elicit cleaner or more water. But worst of all was the confinement to the inner room of the kothi—with not even a glimpse of the sun or the sky. 'Packing' was the term used by the inmates to describe their condition.

They begged the jailor to be allowed the luxury of sun in winter. In November of 2008, they moved a writ in the court seeking to be treated as ordinary prisoners—pleading that they be allowed, as per jail manual, to remain free to move outside their cells within stipulated times. The dark and dank cell in the severe cold had become unbearable. They petitioned for a little bit of sunlight. When the court sought a response from the prison authorities, the reply was that these prisoners were not being subjected to any discriminatory rules—a reply that was taken at face value, adding to their despair.

They were finally let out from the inner cell into the kothi through whose latticed ceiling, they could at least see the sun. To their great misfortune, however, the same day, terrorists struck in Mumbai. 26/11 compounded their miseries: they were pushed back into their dingy cells—as though somehow they were responsible for what was happening in another city—or that somehow, they had become more dangerous by the turn of events. A fellow inmate, in jail since 1996 apparently for Samleti blasts in Dausa district, and against whom charges have still not been framed even after 16 long years, Dr Hameed, was singled out for exceedingly violent treatment. He was thrashed—as a kind of bizarre retribution for what was happening in Mumbai, but also for his courageous revelation to the magistrate about the torture that was being perpetrated on the supposed 'Jaipur blasts accused'.

In late December, these men were visited by Tej Sharma, an advocate with PUCL. Sohail Modi, Munawwar and Nazakat Qureshi could no longer hold back the terrible tales of torture which they had hidden both from their families and the magistrate. Mr. Sharma

must have spoken to the jail authorities—in any case, by 8 o' clock of the evening, numberdaars came and allowed the inmates to share cells with another man, thus ending the months of terrifying solitary confinement.

Not only were their cells marked as inhabited by bomb blasts accused, all official records were maintained under this heading—as was jail diary, thana diary, even their medical tickets and the file presented to the courts deciding on the bail applications were marked “bomb blast accused” throughout the trial—even when they were not charged in the blasts case at all. They were isolated and quarantined from other inmates on grounds that they were dangerous—a lie which was sought to be established as the truth.

The Jail authorities are guilty of severe violations of the following sections of the Prisons Act 1894 [(Act IX of 1894) (As modified upto the 1st January, 1957)]

Section 24.2 [Prisoners to be examined on admission]

Section 28 [Association and segregation of prisoners]

Section 28 [Solitary confinement]

Section 33(1) [Supply of clothing and bedding to civil and unconvicted criminal prisoners]

Section 40 [Visits to civil and unconvicted criminal prisoners]

Section 46 (8-9), (11-12); Section 48 (1-2) [Prison Offences]

Section, 53 (1-2) & 56 [Whipping and Confinement in Irons respectively]⁴

The Nagrik Charter of Rajasthan Jail Department, Clause 3. ii, iv, vi has also been violated.

The Quran desecration episode:

More than a year had passed since the 14 accused had been in the Jaipur Central Jail allegedly for their role in Jaipur May 2008 blasts, during which they had suffered the most horribly inhuman and savage torture in Judicial custody. Perhaps the daily physical torture they had adjusted and resigned to. But what they could not fathom and take was something that happened on the occasion of their second Eid inside jail as under trials. On this occasion the jail authorities did not allow these inmates to offer Eid namaaz in the rangmanch (theatre area) where previously both the weekly Friday and yearly Eid prayers were offered by the detainees. Despite repeated pleas the jail authorities did not budge. It is

⁴ http://www.mha.nic.in/pdfs/Prisons_act1894.pdf

to be noted that after this all namaaz were stopped in ranngmanch. Later the authorities came with kheer for the under trials which they refused to eat.

Later that day, the detainees were permitted out of their cells between 12.00 noon and 3.00 pm. Being Eid they pleaded that they be given some extra time to remain outside their cells, which was refused by the jail authorities. Around 4.00 pm, just after the asar aazaan (a call for later afternoon prayer), their request being turned down they went back to their cells to offer prayer. What happened thereafter begs belief. After being locked up, soon their cells were cordoned off by jail authorities; present along with whom were nambardars, and some hardened criminal inmates lodged in the jail. The mob comprising senior jail officials, policemen (posted within the jail premises), nambardars and "hard-core prisoners" entered the cell of each and every Jaipur blasts accused and under trial. What followed was mayhem and fury of the jail officials mercilessly raining down on the accused. They were severely beaten up with belts (a violation of the prison rules) and baton (some while they were offering prayers), dragged and abused. The police went on to desecrate the Holy Quran, throwing it down on the floor, kicking, etc. The accused could not bear to see the holy scripture being wantonly defiled and abused. But against the might of jail officials and police men they were helpless. However, they registered their protest by refusing to take food. The jail administration tried to force and cajole the accused to accept food. But the detainees were in no mood to relent and also made it categorical that they would narrate all this to their relatives during mulaqaat (meetings). The hard stance of the inmates forced the jail officials to relent a bit as they allowed them to meet their relatives for about an hour during the next scheduled meeting (mulaqaat). It was during this meeting with their relatives that the accused narrated everything to them. The relatives told about it to members of Jamat-e-Islami Hind whose state President took up the matter with jail authorities; subsequent to this relaxation was given to the accused for few days.

What is noteworthy is that the alleged accused of the May 2008, Jaipur blasts were brutally assaulted inside their cells with total support and complicity of jail authorities and jail police. According to the accused around 80 people attacked the detainees. Perhaps the attacks were engineered to silence the accused who had begun to demand their due rights (as per Prisoners Act, 1894) and to deter them for clamouring for more free time in jail. Also shocking is that fact that subsequent to this horrific and vicious physical attack on the accused and desecration of a holy book, no FIR was registered in this case by the local police [under sections 295 (injuring or defiling place of worship or object) and 143 (unlawful assembly) of Indian Penal Code]. The local police visited the jail but went away after making some routine enquiries. They never even visited the cell where desecration of the

Quran took place. About a week later, a relative of one of the accused, Ishaq Qureshi from Kota lodged an FIR against the jail authorities at the Lal Kothi police station. The FIR against the Jailor, Deputy Jailor and others were registered under Sections 323 (causing grievous hurt), 153-A (promoting enmity on ground of religion), 295 (injuring or defiling place of worship or object) and 143 (unlawful assembly) of Indian Penal Code.

When local and state Muslim organisations took up the matter with those in power and demanded action, the Rajasthan Govt. after dragging its feet finally suspended the then Jailor of Jaipur Central Jail, Ashok Gaur and a police constable posted at the prison on the charge of causing grievous hurt. Deputy Jailor Bhairon Singh was shifted out but Jail Superintendent Preeta Bhargava continued to be in jail command, despite she being instrumental in leading the attack. She not only allegedly refused to permit relatives to meet the accused (relenting only after intervention by the DG, Prisons, Rajasthan Govt) and refused to co-operate in departmental enquiry, but she continued to threaten the accused for the temerity of complaining against her, and promised that as Jail Superintendent she would make their life worse than hell from now onwards.

In a similar case of physical assault on jail inmates a Division Bench of the Bombay High Court had prescribed criminal prosecution of the jail officials and staff for torturing the inmates in one of its judgments delivered on 21st July 2009. The court directed the state government to initiate departmental inquiry against Swati Sathe, a former Jail Superintendent of Arthur Road Jail, in connection with the assault on under trials including on those accused 7/11 Malegoan blasts. The judges further ordered inquiry against the jail doctors for “dereliction of duty and for fudging records”. The High Court held that the jail authorities had no authority over an inmate's life.⁵ While such a landmark ruling definitely restored the legal rights of prisoners who face indignities and brutalities inside the jails, what is of concern in the Jaipur jail assault case is the fact the court has failed to take such notice with respect to all those guilty, including the jail doctors.

⁵ See news reports: “Jail officials suspended for assault on inmates”. The Hindu, Oct., 3rd, 2009, <http://www.hindu.com/2009/10/03/stories/2009100355030700.htm> and “Ex-Arthur Rd prison chief faces HC heat”, By Shibu Thomas I, TNN, 22nd July 2009, <http://epaper.timesofindia.com/Default/Scripting/ArticleWin.asp?From=Archive&Source=Page&Skin=pastissues2&BaseHref=TOIM/2009/07/22&PageLabel=5&EntityId=Ar00502&ViewMode=HTML>

The Case:

For a long time these men were kept in the dark about the crimes they were going to be charged with. Notwithstanding the hype of bomb blasts surrounding their surrender, these men were not charged with the conspiracy or execution of serial blasts. The sections under which they were charged were: 153 A, 295 A, 120 B of CRPC and sections 3.10,13, 17, 18, 19 of UAPA (1967). They were accused of carrying out the activities of the banned organization SIMI, rather than any precise activity leading to terrorist acts. The main charge against the accused was of spreading communal venom against Hindu gods and goddesses, talking against national unity, integrity and secularism, of involving Muslim youth in anti-national activities, of carrying on activities of SIMI despite the ban on the organization, and of providing protection and refuge to those indulging in similar activities.

Though neither the chargesheets nor the FIR is able to make any direct links between them and any specific terror act, there are deliberate obfuscations and repeated allusions to Jaipur blasts and Ahmedabad blasts, in order to make their alleged crimes appear suitably grave.

The FIR:

First, let us examine the FIR filed by Mahendra Singh Chaudhuri (ASP, SIT Jaipur) at the CB-CID PS of Jhalana Mahal, Jaipur on 23.08.2008.

The summary is as follows:

SIMI was banned through a government notification on 27th September 2001. The Gujarat Police made several arrests in connection with the serial blasts in Ahmedabad on 26-07-2008. The SIT of Rajasthan was investigating the serial blasts of Jaipur on 13-05-2008 and in its interrogation of those arrested by the Gujarat police and its research found that one Sajid Mansuri, leader of SIMI was conducting meetings in Surat after the ban in 2001.⁶ The police raided the meeting but Mansuri managed to flee. The FIR claims that Sajid relocated to Kota and assumed the name Salim. In Kota, he organized a cell of SIMI and involved the accused (Munawwar, Imran, Pintoo, Atique, Mehdi Hasan, Ishaq, Nazakat, Amanullah, Dr. Yunus, Nadeem—all residents of Kota) in his activities who supported him knowing full well that SIMI was a banned organization. Munawwar was the

⁶ For the Surat case, See Ajit Sahi's "SIMI Here, SIMI there, SIMI Everywhere" by Ajit Sahi, *Tehelka* Magazine, Vol. 5, Issue 32, 16 August 2008.

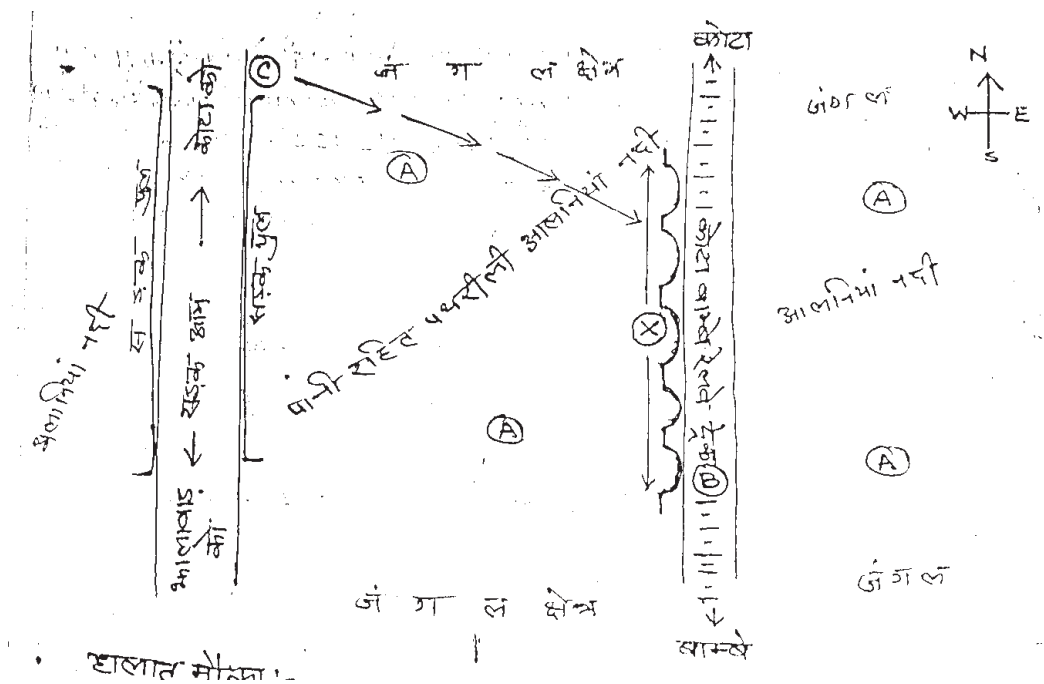
chief of this core group, Atique was the secretary and Imran the treasurer. Dr. Ishaq provided a house to Sajid Mansuri (alias Salim). Ishaq's son Taufiq was also well aware of Sajid Mansuri's activities and supported him. They held several meetings at the homes of Munawwar and Ishaq and enlisted other members as well. ... In 2006, Sajid alias Salim left Kota for Baroda, handing over the charge to Munawwar. He however continued to come back to Kota and other towns of Rajasthan for SIMI work. It was found that funds were mobilized for carrying on the activities of SIMI.

Several meetings were held and addressed by SIMI leaders such as Abu Bashar, Subhan alias Tauqeer, Amil Parvez and Inamur Rehman who travelled from outside Rajasthan. Three of these activists – Imran, Atiqur Rehman and Mehdi Hasan – travelled to Gujarat to received arms training between 12-14 January 2008.

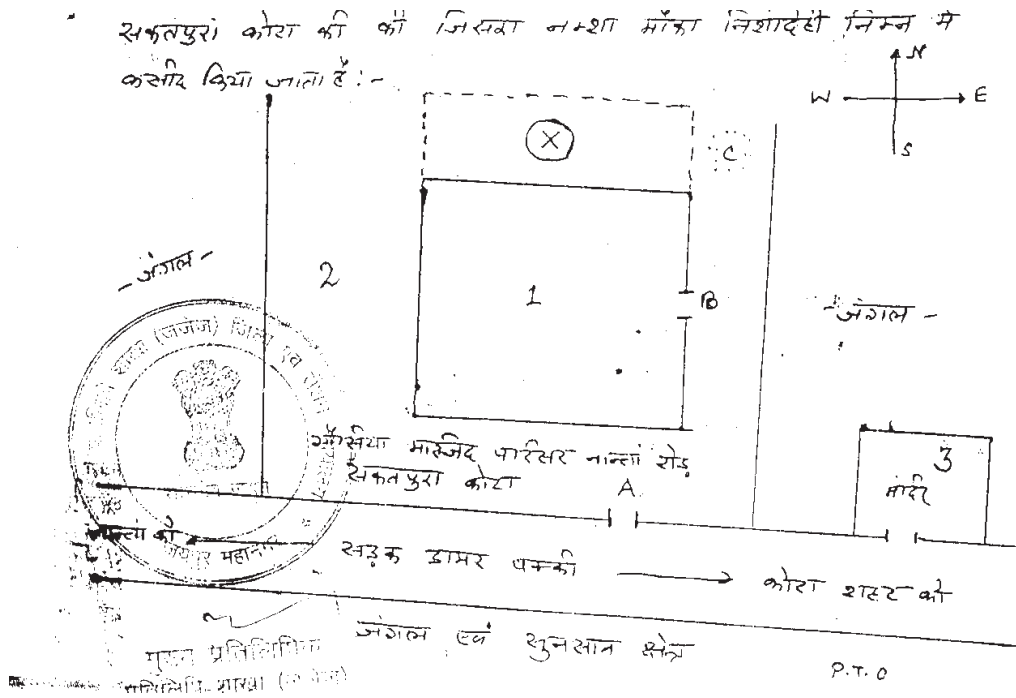
This, in brief, was the sum of allegations against the accused.

The Unlawful Meetings:

Further, the secret meetings of the banned organization were said to be held at a dargah at Nanta, Andha Hafiz Mosque, at Kewal Nagar, and under the railway track puliya on Alaniya river. These spots were identified by the accused under Section 27 of the Evidence Act. Elaborate maps of the sites were then prepared by the police in the presence of independent witnesses.



Site map of Alaniya River as in Police records



Site map of Nanta Road Masjid as in Police records

The police also lined up a slew of witnesses to testify the holding of meetings at these spots. Below are statements of some key witnesses.

1. Ramzani Khan urf Ramzu (age 64 years): Pulao seller

I sell pulao near the gphantaghar library (in Kota). I have been doing this business for the past 27 years in Kota. I do this everyday between 8 O'clock in the morning to 5 in the evening. Munawwar Hasan Qureshi (R/O B 237, Waqf Nagar, Kota) used to frequent my shop—occasionally for half kg. pulao, sometime for one kg. or one and a half kg. pulao. So, I know him quite well. On a Sunday in December 2007 –I cannot recall the exact date—Munawwar visited me at noon and asked for 5 kgs. of pulao. I asked Munawwar bhai why he required such vast quantities of pulao that day. He informed me that a meeting of SIMI activists was underway in Nanta masjid that day where arrangements have been made for refreshments. Salim Bhai and about 4–5 SIMI leaders from outside Rajasthan were present in addition to about 15–20 men from Kota. He asked me if 5 kgs of pulao would suffice for 20–25 people and I assured him that it would. Munnawar paid for my 5 Kgs of rice and left.

2. Zafar Mohammad (Sewadar, Ghausia Masjid, Nanta)

I have been in service of the Nanta Road Masjid for about a year and a half. This is a sufi shrine and a mosque. My job was to repair and beautify the mosque. There is a small

room in the mosque where I used to stay in whenever there was a programme in the mosque. It was on a Sunday in the month of December 2007 that I came with Girish painter to have the outer wall of the mosque painted. Girish painter came at about 10 in the morning and whitewashed the outer walls till 5. He also painted Ghausia masjid with red paint. I gave him Rs 130 as his wages. The same day, in the afternoon, Munawwar Husain (resident of Waqf Nagar) Atiqur Rehman, Amanullah, Mehdi Hasan, Taufiq, Sadiq, Asif, Salim, Nazakat, Imran and 10-15 people got together and gave speeches about SIMI. About 4-5 men accompanied Salim from outside Rajasthan and they were also addressing someone as Mufti Sahab. They also raised slogans in favour of SIMI. Munawwar arranged for tea and also brought yellow rice. They also gave speeches about Bbari masjid. They also gave me some yellow rice to eat. I have seen them meeting in the mosque around 4-5 times prior to this too. Dr. Yunus had also visited the place before a couple of times. Salim gave the most number of speeches. His speeches were very provocative: he said that Hindus have brought down our Babri Masjid and that there have been riots in Gujarat. We must avenge these through an organization. You must therefore strengthen SIMI.

3. Mahant Kanahiya Das, age 85 years, Chief Priest, Mahabali Mandir Ashram, Nanta Road, Kota.

I conduct the prayers in the Nanta Road located Mahabali Hanuman Mandir. There is a huge icon of Hanuman ji in the temple and devotees come morning and evening for darshan. The mosque next door sees about 5-7 people who come to offer namaz. ...I have been living in the temple since 1984. There is a dargah in the masjid too. For the past one and quarter year, a man named Zafar has been looking after it. Zafar is there in the morning and evening. Zafar has also got the dargah repaired. For most times, the dargah lies deserted. In December 2007 however about 20-25 people gathered there, conducted a meeting, ate food and left. These men had gathered in the backyard of the masjid, which is where they conducted the meeting.

4. Giriraj painter:

In December 2007, the caretaker of Nanta Road masjid came to my home and engaged me to paint the mosque. I reached there at about ten in the morning and whitewashed the outer walls of the mosque the whole day. The same day, about 20-25 men came to the mosque. Zafar bhai gave me Rs 130 for my work. He was present with me the whole day. The gathered men were talking about SIMI—but as I was busy with my own work, I did not pay much attention to them. I returned home in the evening.

Banned Literature.

Banned literature was key evidence to demonstrate that accused were continuing the activities of an unlawful organization. This was seized from the tailoring shop of Munawwar, the alleged kingpin of the Kota Cell of SIMI.

The police recorded the recoveries in this manner:

Munawwar Hasan Qureshi took the police party to the Dadabari Shopping Centre and led them to his shop “Alisha Exclusive Wear”. The door was locked and the key to the shop was procured, following which Munawwar opened the shutter and the glass door. Under Section 27 of the Evidence Act, he entered the shop and opened the lowest cabinet of the ply board counter and removing the clothes for stitching lying there, pulled out.

- 1) Five copies of the magazine Islamic Movement in Urdu (Issues July 2000; January 2001 and February 2001 are in Urdu; Issues August 2001 and May 2001 in Hindi)
- 2) Two copies of the pamphlet Babri Masjid ki Pukar (which contains objectionable poems and comments like “6th December 1992 is the darkest day in the history of India’)
- 3) Four CDs. (One Writex CD and three Moser Baer CDs)

The seizure memo is signed by Additional SP (SOG, Jaipur) and countersigned by independent witnesses, Sri Nathulal and Sri Channa.

A Watertight case?

Actually, far from it. As one goes through the documents and case files, it becomes increasingly clear that these men had been in the custody of the police and some charge now needed to be pressed against them. For want of any concrete proof of their involvement in any specific conspiracy or act of terror, the accusation of carrying on SIMI activities was an attractive option for the police. It is important to note that there are no specific dates or times for any of these unlawful activities: meetings took place; unlawful assertions were made at those meetings; money was collected etc. Everything remains vague and diffuse.

Vagueness of accusations is a feature of most SIMI cases. It is this ambiguity and—even when they were not shown to be linked to the blasts even in the FIR or chargesheets—which allowed the press and public to perceive that they were implicated in the blasts.

Mahendra Singh Chauhdhuri who filed the FIR in the Jhalana Mahal CB CID Police Station at Jaipur submitted to the court, the following:

“All the information given by me in the FIR is based on the information given to me by my seniors. It is true that I did not submit any document or membership receipts (of SIMI) or written submission (harira) [in support of the assertions made in the FIR].

Even the involvement of Sajid (Salim) in Kota, Munawwar, Atique, Imran, Ishaq, Pintoo, Mehdi Hasan, Nazakat, Yunus etc in SIMI activities which I have detailed in the FIR is based on information provided by my seniors. It is true that I did not substantiate the above allegations with either documents oral evidence.

What I have mentioned about the core group of SIMI, its organization and meetings in Nanta dargah and Kota barrage, speeches, visits to Dr, Abrar's house, training camp at Pabagarh in Gujarat, Imran's and Mehdi Hasan's participation in that camp; the activities of SIMI in Kota and other towns of Rajasthan, SIMI's membership drive; of the accused insulting the Constitution and government in their speeches, spreading communal disharmony and eroding national unity and integrity, inciting and encouraging terrorist activities in the country; information about arms training camp at Pabagrah—are all based on information provided by my senior officers who had visited Gujarat to interrogate those arrested by the Gujarat police.

It is true that I did not provide any documents or oral evidences to support these charges. It is also true that I have never visited any of the sites mentioned [where SIMI meetings allegedly took place] nor did I speak with anybody at these places.”

It is interesting to note a few things:

First, senior officers who supposedly provided information to Mahendra Singh Chaudhury are not mentioned by name. No official communication is cited. Not even interrogation reports of those arrested in Gujarat—on whose basis the accused were arrested—are mentioned or quoted. This all remains in the realm of hearsay then.

Second, it inverts the process of policing. FIR is filed, accused rounded up—with not even preliminary investigation being conducted to ascertain the veracity of any of these allegations emanating from the 'seniors'. The vagueness of allegations is only matched by the infirmity of evidences.

Witnesses turn Hostile

Let us now see how the case came apart. A total of 48 witnesses were listed by the prosecution, of which 43 were examined, the remaining five either dead or dropped by the court. By the end of the trial, almost all—38 to be precise—except the police witnesses, had turned hostile. The police witnesses proved themselves to be unreliable. Below, we examine

some of the key pieces of evidences, which fell apart in the course of the trial.

The witnesses in the presence of whom the accused had apparently revealed the sites of their unlawful meetings, and in whose presence the police had drawn the maps of these sites uniformly turned hostile.

Mukul Sarkar:

“The police did not draw the map of the site of Salim's meeting (exhibit P. 35) in my presence though it bears my signatures. Neither did the police draw it in my presence nor did they try to explain the map to me. The police already had prepared the map and simply asked me to sign.

... It is true that I was made to sign on the map in the Nayapura thana. I was never taken to any spot where the map was made. I never saw any boy called Amanullah nor did I see any boy identifying the spot for the police to make the map.”

Dated: 12.10.2010

Jitendra Singh Chauhan:

“Exhibit P 40 bears my signatures but the map was not drawn in my presence. I had gone to Hanuman temple when the police called me and asked me to sign on blank papers. I do not know Munawwar.

...It is false to say that Munawwar, Amanullah and Atique identified Ghausia Masjid for the police to draw the map then in my presence. I would not have signed on blank papers but I did not know any better then and I signed at the behest of the police.

...When my signatures were taken in Hanuman temple, none of the accused was present. The police men did not take me anywhere.”

Dated: 13.11.2010

Bajrangi Lal:

“The exhibit P. 40 bears my signatures but the map was not made in front of me. When I signed the paper was blank. I do not know Munawwar, Atique and Amanullah.

...I do not sign on blank papers but the police came to my house and said that they were making a map of the scene of incident and asked me to sign. And I signed. ...It is true that the police got my signatures outside my house only—they did not take me anywhere. It is true that the police were not accompanied by any accused. ...”

Dated: 13.11.2010

Mukesh Kumar Soni:

“The police did not create any site map in my presence. The site map exhibit P 37 bears my signatures. The police had summoned me to the thana along with another man, Mahesh

Kumar Sharma*. The police had asked us both to sign on blank sheets of paper. Mahesh Sharma who had also signed along with me is now dead. The site map exhibit P 38 and P 39 were also not drawn in my presence but had asked me to sign on blank papers. A–B are my signatures.”

Dated: 12.10.2010

Ramjilal:

“Exhibit P. 35 bears my signature but the map was not made in my presence. I did not read the paper before signing. I was not asked my name and address—those details must have been entered in P.35 after asking my neighbours. I do not know Amanullah...the police did not read out the contents of P. 35 before getting my signatures.”

Dated: 13.11.2010

(*Mahesh Sharma died in the course of the trial and thus could not testify.)

And now to the statements recorded under Section 161 to substantiate the prosecution charge of unlawful meetings:

Ramzani Khan urf Ramzu:

“I sell pulao on my thela under the ghantaghar in Kota. I have been doing this work for the last 27–28 years. I do not know anyone by the name of Munawwar—no one by this name has come to buy pulao from me.

...I have never given any statement to the police. I have heard parts A–B and C–D of exhibit P. 9 and it is not my statement. It is wrong to say that I sold pulao to some Munawwar or that I spoke to him about SIMI.”

Dated: 15.04.2010

Zafar Mohammad:

“I work in the Nanta Road masjid and dargah. It is wrong to say that Munawwar Hasan and others came and delivered speeches in our mosque.

...I have never given any statement to the police. Part A –B of the exhibit P. 8 that “in December 2007...people collected [see above for full statement] has not been stated by me to the police. Part C–D of the exhibit P 8, namely that “...arranged for tea” has also not been stated by me to the police. Part E–F of Exhibit P 8: namely about call for strengthening SIMI is also not stated by me to the police. I do not know Imran (alias Raja).”

Dated: 15.04.2010

Mahant Kanahiya Das:

“My temple is next to the mosque. People come to offer namaz and leave—I have never seen any quarrels or conflict.

...I have not given any statement to the police. There is a kitchen in the mosque but I have never seen any meeting. Zafar used to work in the mosque till about 5–6 months ago. He got many works done in the mosque while he was there. I have heard the statement (P. 36) [attributed to me]. I did not give this statement to the police.”

Date: 12.10.2010

Giriraj Painter:

“I am a painter by profession. I executed a whitewashing job for the Nanta Road masjid. Zafar Bhai had sent for me. No meeting of 20–25 people ever took place there. No one was talking about SIMI there.

I have not given any statement to the police. The statement as recorded in part A–B of exhibit P 16 has not been stated by me to the police.”

Dated: 19.06.2010

Seizures:

The great evidence—the recovery of banned material in the form of magazines, pamphlets and CDs—also fell flat in the court. Naval Kishore Purohit, Additional SP in SOG, who was the investigating officer of the case stated the following in the court in cross examination:

“It is true that I never got a translation of the magazines (articles 8, 9, 10) in Urdu, neither did I write any correspondence for the same, nor can it be stated what is written in these articles. It is true that SIMI was a legal organization prior to the September 2001 and that it was declared unlawful only after 2001. It is true that the articles 6–10 [copies of Islamic Movement] predate the ban. It is also true that they were not sealed upon seizure at the site. It is also true that article 13 (yellow envelope) has not been sealed. There are no signatures on it: neither mine, nor of the witnesses, nor of the accused. Neither is there a date on the article. The date of publication of articles 11 and 12 (pamphlets) is not known to me. It is true that articles 2–5 (CDs) were put in a packet and sealed at the time of seizure, and have been opened only now. It is also true that the CDs were not run on a CD player or computer to ascertain their contents.”

So the whole case had been bolstered by the recovery of magazines, which were published prior to the ban on SIMI in September 2001 and it was perfectly legal to possess them.⁷

⁷ A Supreme Court bench of Justices Markandey Katju and Gyan Sudha Misra ruled in the Arup Bhuyan versus the State of Assam case that neither membership of a banned organization, nor possession and circulation of literature by itself make a person a criminal". Criminal Appeal No(s) 889 of 2007, delivered on 3 February 2011. Copy on record with JTSA.

Indeed, it may be said that seizure of 'banned literature' has formed the bulk of cases against former SIMI activists. A cursory look at the Home Ministry submissions to SIMI tribunals will attest to this.⁸

To make it worse for the prosecution, the independent witnesses to the so-called recovery of unlawful literature called the bluff of the police in the court. Below are their statements in court.

Nathu Lal:

“Exhibit P. 41 (the seized copies of Islamic Movement) bears my signatures. Munawwar did not get Islamic Movement, CDs and pamphlets etc recovered in front of me.

...I do not know Munawwar. It is false to say that Munawwar got any recoveries made in my presence. It is wrong to say that the police got my signatures after doing any paperwork. They were aware of my name from earlier and entered all my details by themselves without my telling them. I do not ordinarily sign on blank papers. I did not ask the police why they were asking me to sign on blank papers. I only asked them that I should not be involved in any legal thing.

... It is true that police got my signatures but this happened in my tea shop—I was not taken anywhere. Police did not do any paperwork in my presence, nor did they draw any map. The police did not tell me about any pamphlets, CDs or magazines. It is true that the police did not recover any magazine, CD or pamphlets in my presence.”

Dated: 13.11.2010

Channa:

“It is true that recoveries (exhibit P. 41) bear my signature but no paperwork was done in my presence. I was sitting at the tea shop when they came to get my signatures. I do not know the accused and no recovery was made in front of me. ...None of the accused was present with the police when they came to get my signatures.”

Dated: 13.11.2010

Bad in Law:

However, the fact that the prosecution had no legal legs to stand on was exposed when it was brought to the court's notice that the sections of IPC invoked by the prosecution

⁸ For example the Background Note placed before the Unlawful Activities (Prevention) Tribunal headed by Justice Gita Mittal. Copy on record with JTSA.

(namely 153 A, 295 A, 120 B) require the sanction of the state government under section 196 (1) of CRPC. Moreover, Section 17 of the Unlawful activities (old Act) and Section 45 (1) (i) (New Act) following its amendment in 2004, require the sanction of the central government for the prosecution of the accused—failing which the prosecution is rendered illegal.

In effect, the entire prosecution was illegal!

On 9th December 2011, the fast track court of additional sessions judge headed by Shri Nepal Singh acquitted eleven of the 14 accused: eight from Kota, two from Jodhpur and Inamur Rehman from Khandwah.

The three who could not stand trial

Imran, Atiqur Rehman and Mehdi Hasan continue to languish in Sabarmati Jail—their trial obstructed because the state of Gujarat disallowed them to travel to Jaipur for their trial citing Section 268 of the CRPC.

What is Section 268 of the CRPC?

1) The State Government may, at any time having regard to the matters specified in sub-section (2), by general or special order, direct that any person or class of persons shall not be removed from the prison in which he or they may be confined or detained and thereupon, so long as the order remains in force, no order made under section 267, whether before or after the order of the State Government, shall have effect in respect of such person or class of persons.

(2) Before making an order under sub-section (1), the State Government shall have regard to the following matters, namely:

- (a) The nature of the offence for which, or the grounds on which, the person or class of persons has been ordered to be confined or detained in prison;
- (b) The likelihood of the disturbance of public order if the person or class of persons is allowed to be removed from the prison;
- © The public interest, generally.⁹

In 2008, Gujarat Government took custody of close to 60 young men arrested by various state police departments for alleged terror attacks and conspiracies in their states, on the plea that they were all accused in the Ahmedabad serial blasts. Since then,

⁹ <http://www.vakilno1.com/bareacts/CrPc/s268.htm>

the Gujarat Government has actively impeded the trials of these men in different states invoking Sec 268. Imran, Atique and Mehdi Hasan fell in the same category.

In July 2010, a Supreme Court Bench of justices V S Sirpurkar and T S Thakur, responding to a petition of the lawyers of one of the accused in blasts case, ruled that the State of Gujarat could not continue to cite Sec 268 and that it was duty bound to produce the accused in their trials outside the state.

However, even repeated requests from the Jaipur court for production of these three accused did not elicit any favourable response. According to news reports, the superintendent of Jaipur central jail wrote to his counterpart in Sabarmati jail, saying that "The three undertrial accused need to be produced on July 24, and they be brought to this jail a day before so that they could be produced and judicial orders be implemented. You will be responsible for all judicial directions that are likely to be issued in absence of the accused."¹⁰

As late as September, letters were being written to Sabarmati jail authorities—but to no avail.

Calculating the Compensation

Three and a half years—one hundred and eighty two weeks— of the lives of these eleven men have been spent in custody, in tiny airless cells where humiliation and torture became the order of the day and despair turned them into depressives. Outside, their families were stigmatized and their business destroyed and they even struggled to make ends meet.

Dr. Ishaq's medical practice was ruined, as was Dr. Yunus's. Dr. Yunus' family including wife and four children had to survive by accepting support and charity from well-wishers. Can we account for their loss of livelihood and dignity?

Taufeeq, Dr. Ishaq's son, also accused in the case was midway through his BUMS course. His education has been interrupted thanks to his illegal incarceration. Nadeem's small grocery shop collapsed. Nazakat was the sole breadwinner of the family, after his father had expired—barely a month before his arrest. His shop of tractor parts lies desolate today. Amanullah's mobile phone business could not recover after his release.

Torture and confinement led many of them to the brink of mental derailment. Amanullah and Munawwar especially suffered from severe depression and insomnia. They were

¹⁰ (http://articles.timesofindia.indiatimes.com/2011-12-30/ahmedabad/30572544_1_sabarmati-jail-rajasthan-police-central-jail)

prescribed Trika¹¹ and Libotryp¹² during their stay in the Jaipur jail. Even when JTSA team met him, Amanullah broke down several times, recalling the horrors of torture. It appears unlikely that he would be cured of depression anytime soon. Munawwar, as a result of the severe anxiety and stress suffered partial paralysis.

Any compensation package must be calculated on the basis of the damages suffered in terms of loss of years, livelihood, psychological and physical harm endured during this period—and not to forget their continuing psychological scarring—whether or not it may have manifested in any mental disorder at the moment. The impairment of family life is a severe cost borne by the accused. **JTSA demands reparation encompassing the terrible social, psychological and legal wrongs inflicted on these innocent men.**

There can be no closure, either morally, ethically or legally, till such time as those guilty of carrying out, ordering and supervising the torture of these men in police and judicial custody are not prosecuted. The acquitted men recognize those who tortured them. Indeed, one of their tormentors—IG A. Ponnucami—is currently in Jaipur Jail, for a fake encounter case, while another, DIG A K Jain is a declared absconder in the same crime.¹³ Nonetheless, even those in jail must be tried separately for the brutality they wreaked in the SOG HQs, as indeed must criminal charges be filed against those who framed these men in a false case. Jail Superintendent Preeta Bhargava, currently suspended from her position as the Ajmer Jail Superintendent for granting parole to a murder convict despite the court rejecting his application,¹⁴ must also be made to pay for brazen violation of the jail manual and the misuse of her power over the lives of the men who were placed in her care and custody.

¹¹ Contains alprazolam and belongs to the class of benzodiazepine derivatives anxiolytics. It is used in the management of anxiety, agitation or tension. See: <http://www.mims.com/India/drug/info/TRIKA/TRIKA%20tab>.

¹² Contains Chlordiazepoxide, which helps relieve anxiety and Amitriptyline, an anti-depressant. See <http://www.drugupdate.com/brand/generic/Chlordiazepoxide%20+%20Amitriptyline/4591>

¹³ The Rajasthan Special Operations Group (SOG) shot dead gangster Dara Singh in cold blood on 23 October 2006. The case was investigated by the CBI and in August 2011, a Supreme Court bench of Justices Markandey Katju and Chandramouli Kumar Prasad, said that the policemen involved in the fake encounter should be hanged. <http://www.indianexpress.com/news/hang-the-cops-behind-fake-encounters-it-is-murder-sc/829065/> Jain is still absconding while his property has been attached.

¹⁴ Bhargava used her special discretionary powers to grant parole. There are allegations that she accepted bribe in return for the use of her discretionary powers. An enquiry against her has been ordered. See also, http://articles.timesofindia.indiatimes.com/2011-03-12/jaipur/28683091_1_parole-application-grant-parole-shahzad.

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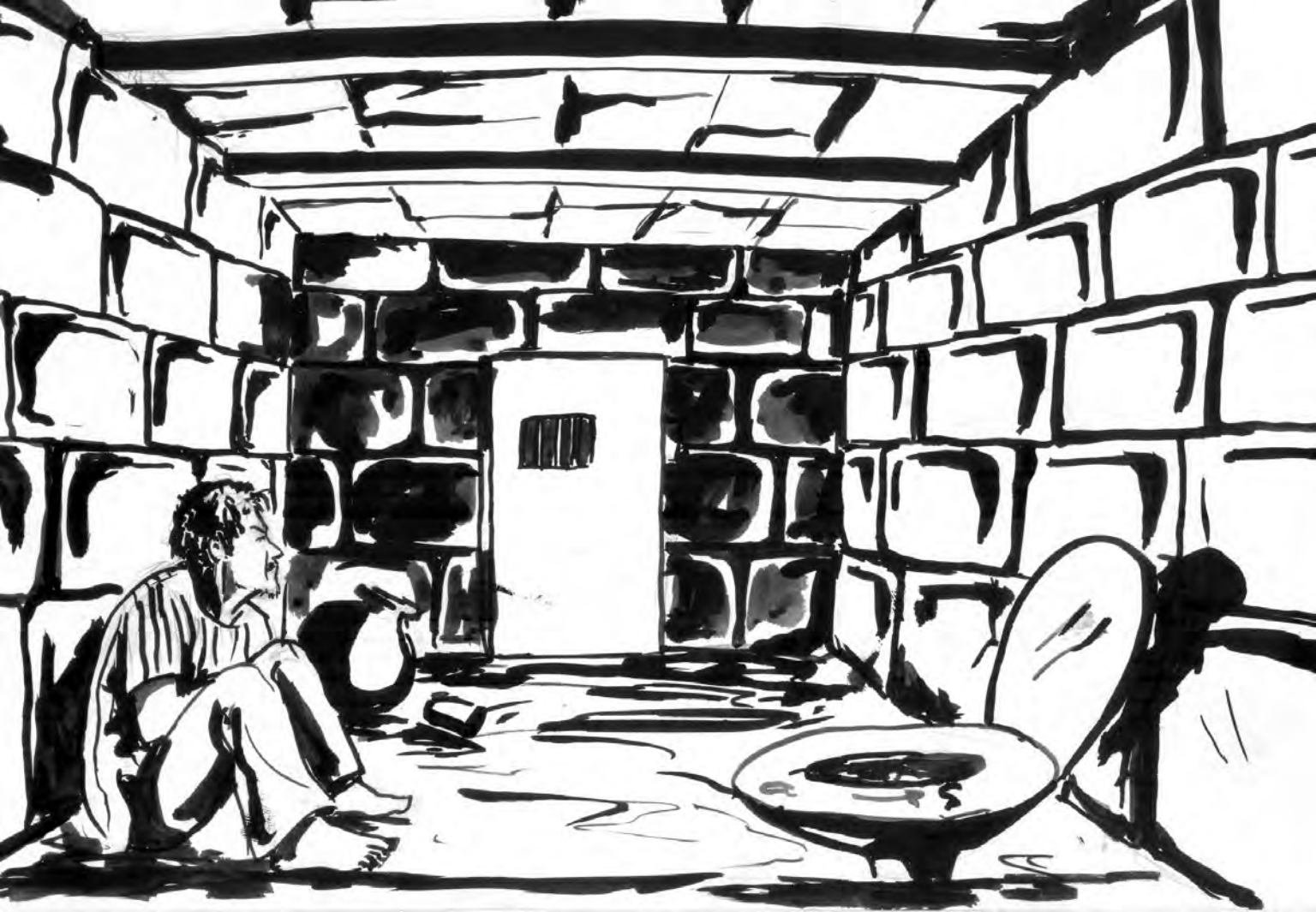
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