

# Making the Law 'Take its Own Course'

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Does the law take its own course or is it *made* to take a certain course? Property cases are notorious for taking forever, but when the crime is murder, i.e., when the state is the prosecutor, and the facts of the case have been ascertained by the most reliable authorities, can justice elude the victim's families for as long as two or three decades? Or is it made to do so?

These questions arise from the way two cases—which should have been front page news but have simply disappeared from the public consciousness—have developed.

## I. When protectors become predators

On 9 January 1993, when Mumbai was in the grip of the second wave of communal riots sparked off by the demolition of the Babri Masjid<sup>1</sup>, eight Muslims were shot dead by the police inside the Suleman Usman Bakery and the adjacent madrasa (an Islamic school) in the city's old Muslim quarter.

The trial of those policemen is still on—over 29 years later.

<sup>1</sup> On 6 December 1992, the Babri Masjid, a 463-year-old mosque in Ayodhya, Uttar Pradesh, was demolished by supporters of the Hindu supremacist organisation the Rashtriya Swayamsevak Sangh (RSS), as security forces looked on. The demolition resulted in communal violence in various cities, the worst affected being Mumbai. The demolition was the culmination of a 7-year-long campaign by the RSS and its various affiliates, including its political wing, the Bharatiya Janata Party (BJP – which currently rules at the Centre). The campaign propagated the belief that the mosque had been built by the first Mughal emperor of India, Babar, on the exact site where the Hindu deity Ram was born, and that it was built after demolishing a Ram temple. In its judgement on the dispute in 2019, the Supreme Court found no evidence of the mosque having been built after demolishing a temple. Then BJP president L K Advani described the Ayodhya movement, which abused Indian Muslims as 'children of Babar', as an assertion of 'cultural nationalism', thereby equating a Hindu deity and Hinduism with the nation, and challenging the concept of secularism guaranteed in the Indian Constitution. That phase was the forerunner to the majoritarian politics that dominates today. The communal campaign helped the BJP increase its tally from 2 Members of Parliament in 1984 to 85 MPs in 1989 and 120 in 1991.

If there was ever a case that can be described as an 'orphan', this is it. Nobody is interested in it. Those most affected by the incident—the victims' families—are either unaware of or indifferent to the legal proceedings. The whereabouts of only one of the eight affected families is known: Abdullah Qasim, the son of one of the victims, is now a middle-aged school teacher with a family in Mumbai. The fire within, that propelled him as a 20-year-old to intervene in the initial stages of the case, is seemingly gone. Believing that the killers of his father will never be punished, his involvement is limited to appearing in court when summoned as a witness. He has already done so five times in the space of a year, taking leave from work each time—but every time, his turn to depose hasn't come.

For the Public Prosecutors (PPs) that have handled the case through the years, the tattered, yellowing files present an unpleasant, thankless duty; for the defence, the longer it is delayed, the lower the chances of their clients being brought to book. And for judges, the fact that the case is still pending, almost three decades after the incident at its centre, remains an enigma.

'*Kasla case ahey?* (What's this case about?'). This question, asked with irritation by every new judge (the case record shows it's meandered through at least 11 courts and 13 judges so far), is like a stab through the heart. If only they knew the words used by a sitting High Court judge to describe the incident! 'The police behaved in a manner not becoming of a police force of a civilised, democratic state', concluded Justice B N Srikrishna, heading the one-man judicial commission of inquiry into Mumbai's post-Babri Masjid demolition riots of December 1992 and January 1993.<sup>2</sup>

I have, in my capacity as a journalist, followed this case from the time it was filed, i.e., since 2001. The detailed descriptions of the incident that I had read earlier, in the Srikrishna Commission's records, remain like vivid images in my brain. Had those descriptions been reported in the mainstream media, the victims' families may have got

<sup>2</sup> Justice B N Srikrishna, 'Volume II: The Evidence' (The Srikrishna Commission 1998) <<https://www.sabrang.com/srikrish/vol2.htm>> accessed 12 June 2022.

the justice they deserve. Alas, the proceedings of the Commission did not get the media coverage they deserved.<sup>3</sup>

Hence, what's prevailed in the media and the public consciousness is the police's narrative: that when the city was in the grip of communal riots, the police had no option but to raid the Suleman Usman Bakery in response to an SOS about AK-47-wielding terrorists firing at them from the rooftop. The fact that no terrorist, no AK-47, indeed, no firearm was recovered, and no policeman was injured (either before or during the raid) has been ignored.

This narrative has prevailed even in the Supreme Court, which upheld the discharge of 9 of the 18 policemen accused of murder for this raid, including the senior officer who led it, then Joint Commissioner of Police Ram Dev Tyagi, who later became Mumbai's Commissioner of Police.

In 2003, a trial court accepted Tyagi's argument that he had merely done his duty by responding to the SOS. Moreover, he had told his squad to use minimum force, and himself had neither entered the bakery, nor fired a single shot. Eight of his colleagues were also discharged because it was proved that they had not fired at all.

This reasoning was upheld by the Bombay (Bombay High Court has NOT changed its name) High Court in 2009 and finally by the apex court in 2011, thus freeing these policemen from the burden of standing trial for an operation executed by them that left 8 unarmed people dead.

Their nine colleagues were, however, not discharged, and continue to stand trial. (Two have died.) The trial court found that these nine were the ones who had actually fired during the raid, and hence they should be tried for murder.

There was ample evidence that the firing had been accompanied by assaults on the civilians within the bakery and madrasa, but the charges against the policemen did not include assault.

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Was this discharge simply a matter of the law taking its own course? Not quite. This was in fact the best the Maharashtra government<sup>4</sup> could achieve in its efforts to protect these policemen. Left to themselves, no administration in India would have prosecuted them. When Justice B N Srikrishna submitted his report in February 1998, the Maharashtra government was run by the Shiv Sena in coalition with the BJP, both parties who believed in Hindutva.<sup>5</sup> Given that the report indicted leaders of both the Shiv Sena and the BJP, it was no surprise that the government rejected the Report.

3 Jyoti Punwani, 'Delhi police in 2020 and Mumbai police in 1992-93: Why consistent media focus matters' *The Times of India* (Mumbai, 14 October 2021) <<https://www.newslaundry.com/2021/10/14/delhi-police-in-2020-and-mumbai-police-in-1992-93-why-consistent-media-focus-matters>> accessed 12 June 2022.

4 Mumbai (earlier called Bombay) is a city within the Indian state of Maharashtra. The state has its own government, since India follows the federal structure of governance. This article predominantly focuses on the actions of the Maharashtra state government, therefore 'state government' and 'Maharashtra government' are used interchangeably. Government at the centre will be referred to as 'central government'.

5 The political ideology that equates Hinduism with Indian nationalism and believes that India belongs primarily to the Hindus.

The Congress-Nationalist Congress Party (NCP) coalition, which took over the state a year later, had had the implementation of the Srikrishna Commission Report in its manifesto. Yet, it was only after the Chief Justice of India (CJI) pointedly asked the government counsel what action had been taken against Tyagi that the government moved.<sup>6</sup> The CJI was hearing petitions urging implementation of the Srikrishna Commission Report, which had indicted 31 policemen for their conduct during the riots. Tyagi was the senior most of those indicted.

Forced to act, the Maharashtra government appointed a Special Task Force (STF) comprising hand-picked policemen to analyse the Report and act on it. The STF filed a First Information Report (FIR) charging Tyagi and 17 policemen who had participated in the Suleman Usman Bakery raid, with murder.

The media went hysterical. A former Police Commissioner actually being charged with murder for his actions during a time of communal violence! The BJP repeated its recurring charge of 'Muslim appeasement'<sup>7</sup> against the Congress; senior police officers waxed eloquent on 'demoralization'<sup>8</sup> and how the next time there was a riot, no policeman would bother to act.

In all this, the state government kept silent. Indeed, it need not have said anything; it could have just presented to the media the depositions of the survivors of the incident in front of the Srikrishna Commission. The following testimonies would have been in the papers.<sup>9</sup>

A bakery employee told the Commission that, hiding behind a small wall, he heard sounds of firing, saw blood splashing onto the pile of baking trays in the room, people running out onto the terrace.<sup>10</sup> When all was quiet, he peeped out and saw the bakery manager Shamshad, clad in vest and *lungi*, with two commandos pointing their guns at him.

'Shamshad was folding his hands and begging them to excuse him. Then he sat down near the feet of the commandos. One of them kept saying that Shamshad was a Pakistani, while the other said he was a Kashmiri. Shamshad kept saying he was a *bhaiya* from Jaunpur, Uttar Pradesh. One of the commandos said, '*Khaata hai Hindustan ka, gaata hai Pakistan ka*. (You eat India's food, but you sing praises of Pakistan)'.<sup>11</sup>

Two minutes later, the witness heard more firing. Peeping out again, he saw 'Shamshad lying on his side, writhing in pain, blood flowing out and drenching his clothes. He was reciting the *kalma* (the Islamic prayer). After about a minute or two, his voice trailed off and he became quiet'.<sup>12</sup>

6 As reported to me by the lawyers present at the event.

7 TNN, 'BJP workers protest against Tyagi's arrest' *The Times of India* (Mumbai, 18 August 2001) <<https://timesofindia.indiatimes.com/city/mumbai/bjp-workers-protest-against-tyagis-arrest/articleshow/1105208227.cms>> accessed 12 June 2022.

8 Nirmal Mishra, 'Tyagi's arrest is darkest chapter in police history' *The Times of India* (Mumbai, 16 August 2001) <<https://timesofindia.indiatimes.com/city/mumbai/tyagis-arrest-is-darkest-chapter-in-police-history/articleshow/36270639.cms>> accessed 12 June 2022.

9 Jyoti Punwani, *Witnesses Speak: A compilation of evidence produced before the Srikrishna Commission of Inquiry into the December 92 – January 93 Mumbai Riots* (1998) Available online at <<http://www.unipune.ac.in/snc/cssh/humanrights/04%20COMMUNAL%20RIOTS/A%20-%20%20ANTI-MUSLIM%20RIOTS/06%20-%20MAHARASHTRA/k.pdf>>.

10 *ibid.*

11 *ibid.*

12 *ibid.*

This one testimony would have been enough to silence all those talking about ‘appeasement of Muslims’. But there were more: ‘Shamshad was shot on the right side of his chest. He fell. Anwar was shot on the left temple. He also fell down and died. Feroz, Jamil and Shabir were all shot down near the water tank on the second terrace’, recounted another witness.

All this while, said the witnesses, the police demanded that the people in the bakery show them their weapons.

Unable to find any ‘armed terrorists’ in the bakery, the police moved to the adjacent madrasa. There, they dragged a disabled elderly teacher, Abul Qasim, out of the room and, according to an eyewitness: ‘made an action as if they were trying to throw him down from the second-floor balcony of the madrasa. However, they did not actually throw him down, but pulled him back from the passage and dragged him down the steps to the ground floor. I saw him lying in the courtyard of the masjid with four bullet wounds’.<sup>13</sup> ‘The police’s main target was our beards’, deposed 60-year-old Sadrul Huda, an Arabic teacher. His head was broken and bleeding after the police beat him. He saw Noor ul Huda being kicked on the face when the latter revealed that he was an Arabic teacher.

Wouldn’t these testimonies have convinced readers that if this was the police doing their ‘duty’, they could not go unpunished? Why didn’t the Congress-NCP government publish them? Leaving aside Justice Srikrishna’s assessment of the raid, why did they at least not publicise what their own Special PP had said about the incident: ‘the accused (policemen) abused their authority and misused their power to cause intentional death, without there being any duty to perform or any authority to exercise’. Why did they allow the common Indian (especially the Hindus) to believe the BJP’s propaganda that charging policemen with murder was only done to ‘appease Muslims’?

Obviously because the government’s heart was not in this prosecution. This became clear immediately, in the way they responded to the anticipatory bail application filed by Tyagi to avoid being arrested. Tyagi had by then retired.

Left to themselves, the Congress-NCP government would have left the handling of Tyagi’s application to the regular PP, who would have treated it as just another case. But human rights groups pressured the Home Minister into appointing a Special Public Prosecutor (SPP).

The Home Minister then was Chhagan Bhujbal, a believer in the Shiv Sena’s Hindutva ideology, even after having left the Sena to join the Congress and later the NCP. When the Commission’s Report was tabled in the State Assembly in August 1998, and simultaneously rejected by the Sena-BJP government, Bhujbal was Leader of the (Congress) Opposition in the Assembly. I had asked him then, whether, as leader of the Opposition, he would make the implementation of the Srikrishna Commission Report an issue. ‘What! And lose the Hindu vote?’ he had retorted.

After the Congress-NCP took over in 1999, activists fighting to get the 31 policemen indicted by the Commission punished, found the Home Minister unresponsive: ‘What do you expect?’ Bhujbal asked in his characteristic belligerent fashion. ‘That I punish every policeman and make the force my enemy?’<sup>14</sup>

<sup>13</sup> *ibid.*

<sup>14</sup> TNN, ‘A riot that got away’ *The Times of India* (Mumbai, 5 August 2007) <<https://timesofindia.indiatimes.com/a-riot-that-got-away/>

However, in 2001, under public pressure, Bhujbal appointed senior criminal lawyer Pheroze Vakil as SPP to oppose Tyagi’s anticipatory bail application. Vakil’s impassioned and brilliant arguments ensured that Tyagi’s application was rejected. *Prima facie* this was a case of murder, observed the judge. The Supreme Court refused to intervene when Tyagi appealed.

The same words: ‘prima facie, this is a case of murder’ were used by the Sessions Court too, where Tyagi filed for regular bail. However, the court was forced to grant him bail, on grounds of parity with his co-accused policemen. To the judge’s surprise, the government did not oppose the latter’s anticipatory bail applications<sup>15</sup> because, as the SPP stated, they didn’t want them to lose their jobs. Had they been arrested, they would have had to be suspended.

Such was the Congress-NCP’s concern for cops accused of murder, first by a sitting High Court judge and then by their own specially constituted panel of policemen! Neither Tyagi, nor any of his co-accused, spent even a moment in police or judicial custody.

Given SPP Pheroze Vakil’s spectacular oratory against Tyagi, how could the trial court grant the former Commissioner a discharge? Simply because Vakil was kept in the dark about Tyagi and his fellow accused’s discharge applications. The regular PP handled them.

The regular PP had once presented an application in court on behalf of Tyagi, the man he was supposed to prosecute. ‘Are you representing the accused or the State?’ the magistrate had shouted at him.

Thus were the victims of ‘cold-blooded murder’ by the police (Justice Srikrishna’s words) betrayed by those entrusted with protecting them. Any surprise then that the government did not appeal against the discharge? It was left to Maulana Noor ul Huda, whose first encounter with the police was a blow to his head when he opened the door of his madrasa to let them in, to appeal against the discharge all the way to the Supreme Court. Huda carried that scar on his temple till he died.

An ill-tempered man, Huda had refused to get involved in the struggle to book the cops who’d beaten and humiliated him. ‘Leave me alone; I have a heart problem’, he would tell activists who approached him. But when it dawned on him that Tyagi’s discharge meant that the officer who’d changed his life forever would never be tried, he plunged into the legal battle, staying with it till the end, rejecting feelers sent by Tyagi, and advice by mediators to ‘compromise’.

‘I want to show that we are not powerless, we too have guts’, he said. ‘History will record that there were people who fought’.<sup>16</sup>

It would have been easy for Huda to give up, or compromise, for he was, all through those years, caught up in another unfair battle. After the raid, he, among 78 people found inside and around the bakery and madrasa, had been taken to the police station and charged with attempt to murder and rioting. For Justice Srikrishna, the police’s

[articleshow/2256040.cms](https://www.bbc.com/news/india-2256040)> accessed 12 June 2022.

<sup>15</sup> Anticipatory bail enables an accused to avoid arrest. Regular bail is given to an accused who has been arrested. Tyagi filed for anticipatory bail hoping to avoid arrest. After his application was rejected, arrest became inevitable. So, he got admitted to a hospital and was formally arrested while in hospital. He remained in hospital till he got regular bail.

<sup>16</sup> Interview with me.

version of events inspired 'no credence'. For the STF, these charges were 'a got-up document', an attempt by the police 'to justify their firing'. These were the words they used in their FIR against Tyagi. Yet, the government didn't think fit to withdraw this case against the 78.

In 2011, 18 years after the incident, Noor ul Huda and the other 77 accused got their freedom from these bogus charges. Disposing of the discharge application filed by the Maulana and another accused, the High Court said: 'Nothing can be more frightening than when the protector becomes the predator'.

But hardly had Huda savoured his freedom then came the news of the Supreme Court dismissing his appeal and upholding Tyagi's discharge. That shattered him. A year later, Huda passed away.

The trial against those who'd tormented him began in 2019. By then, two of the 18 accused policemen had died. Since then, four different judges have heard the case. While the accused have had the same lawyer defending them from the start, the state has not bothered to appoint an SPP who would be dedicated to this case. Thus, every time the case lands up in a new court, a new PP, totally in the dark about what it's about, has to fight it.

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I remember asking Tyagi to comment on August 6, 1998—the day the Srikrishna Commission Report was tabled—on the Commission's indictment of him, its recommendation of 'strict action' against him. 'This is what the Commission has said', Tyagi had replied coolly. 'Let's see what the government has to say'.

As events have shown, the senior police officer's confidence was not misplaced. In this case, all along, the protector has acted like the predator.

## II. When the state subverts a trial

When 27-year-old Khwaja Yunus came home to Parbhani for a Christmas break from his job as a computer engineer in Dubai, his family couldn't have imagined that this would be the last vacation he'd spend with them.

He was holidaying in the hill-station of Chikaldhara when he was arrested on 25 December 2002, for bomb blasts that had taken place 500 km away in a Mumbai bus on December 2. Two people had died in what came to be known as the Ghatkopar blasts, after the suburb in which they took place. Yunus and his 17 co-accused were charged under the Prevention of Terrorist Act (POTA).

On 7 January 2003, the young man was reported to have 'escaped' when the vehicle in which he was being escorted by police to Aurangabad met with an accident.<sup>17</sup> A police complaint was even lodged against him by Assistant Sub Inspector Sachin Vaze, head of his escort party.

Yunus was never seen alive again.

<sup>17</sup> TNN, 'Ghatkopar blast accused escapes' *The Times of India* (Mumbai, 8 January 2003) <<https://timesofindia.indiatimes.com/city/pune/ghatkopar-blast-accused-escapes/articleshow/33782672.cms>> accessed 12 June 2022

A petition filed by Yunus' father resulted in a court-ordered Criminal Investigation Department (CID) inquiry which concluded that Yunus had been killed in custody. The CID named 14 policemen as responsible. But the state government gave sanction to prosecute only four of them, those who supposedly took him to Aurangabad, with whom he was last seen.

Then began the long legal battle to get the policemen punished. Yunus' father died a year later; his mother Asiya Begum and his brother have been carrying on the fight till today.

In the process, they've found that there's no adversary more powerful than policemen, for they have the full might of the state behind them. This reality was stated in so many words earlier this year by the former SPP appointed for the case.

After the first witness in the trial, Dr Abdul Mateen, a co-accused in the Ghatkopar blast case, testified that he had seen four (other) policemen torturing Yunus till he collapsed, the SPP filed an application asking that these four be added to the list of accused (bringing the total accused to 8 policemen).

Soon after, he was sacked.

In an email to Yunus' lawyer, now part of the court's record, the former SPP wrote about his sacking: 'The disturbing aspect of this case is that some faceless bureaucrat(s) actively connived with the police personnel responsible for causing the death of a person in custody in order to thwart criminal proceedings, and they have successfully managed to cause further delay in an already inordinately delayed trial'.<sup>18</sup>

This one sacking was enough to reveal the government's desire to protect policemen indicted by its own investigative agency for a custodial death. So enraged was the government that it dismissed the SPP without even informing him! He came to know that he had been removed from the case in court, when the regular PP brought the government's resolution sacking him. She even bore a request from the government that the trial be stayed till the Supreme Court heard Asiya Begum's long-pending petition asking that all 14 policemen indicted by the CID be prosecuted. Interestingly, this request had already been made thrice by the 4 policemen who were being prosecuted, and turned down by the trial court.

In his email, the SPP revealed that a caller from the government had sought to find out who had instructed him to file the application asking that the four policemen named by Dr Mateen be made additional accused. He replied that no instructions were received, 'nor were any necessary in view of the clear provisions of the law'.

'Would he withdraw this application if he were to be reinstated?' the former SPP was asked. His answer was one expected of a man whose first loyalty was to his client: 'No'.

That the government's first loyalty was to the indicted policemen was clear even before this sacking. Having allowed only four of the 14 indicted by the CID to be prosecuted, it tried its best to protect them in court by denying their victim a good lawyer.

<sup>18</sup> Jyoti Punwani, 'Khwaja Yunus custodial death: Ex-special public prosecutor questions state govt's motive' (*Mid-day*, 28 March 2022) <<https://www.mid-day.com/mumbai/mumbai-crime-news/article/khwaja-yunus-custodial-death-special-public-prosecutor-questions-state-govts-motive-23220248>> accessed 12 June 2022.

Those familiar with criminal cases know that regular PPs, overworked and underpaid, are least interested in giving their best and getting a conviction. For them, every case is as unimportant as the next.

Keeping this in mind, in 2014, the Bombay High Court passed an order that matters of custodial deaths needed a Special PP to handle them. Yet, after the resignation ‘on personal grounds’ of the first SPP who had handled the Khwaja Yunus case from the start, the government put it on record that the regular PP would handle the case.<sup>19</sup>

When Asiya Begum’s lawyers pointed out that this violated the Bombay High Court order, the government tried the next best ploy to help the accused—non-cooperation with the SPP. Neither of the two SPPs appointed after this were given the necessary case papers. It was left to Asiya Begum’s lawyers to fill in the lacuna.

Indeed, the government’s reluctance to prosecute any policemen at all for having killed an innocent man in their custody, was evident right from the beginning. That Khwaja Yunus was innocent became clear when all those accused *with him of together* conspiring to set off the Ghatkopar blast were either discharged or acquitted. Yet, the government dragged its feet even in quashing the false case against him of having ‘escaped’ from police custody.

The Khwaja Yunus case has seen two clear demarcations. Instead of the usual divide in murder cases between the accused and the state which prosecutes them on behalf of the victim, in this case the victim’s lawyer and the SPP chosen by her have found themselves having to fight not only the accused’s highly-paid lawyer but also the state government which appoints the SPP!

It’s worth noting that state governments comprising all political parties have acted in the same way. When Yunus was arrested and killed in 2003, the Congress-NCP government was in power. It remained in power till 2014. The delaying tactics, the resistance to move in the matter, were all acts of this government.

The BJP-Shiv Sena government that succeeded it in 2014, kept up the tradition, as seen by its actions in the Supreme Court.

In 2012, the Bombay High Court had upheld the state government’s decision to sanction the prosecution of only four policemen. Asiya Begum had appealed against this decision in the Supreme Court.

Her appeal was naturally opposed by the indicted officers. But the State government opposed it too. Curiously, the same lawyer defending the policemen was appointed by the BJP-Sena government then ruling Maharashtra to represent it.

What did this imply? In theory, the government was supposed to safeguard Asiya Begum’s interests, for, according to the government’s own investigative agency her son was killed by the state police. But the Maharashtra government came out openly identifying itself with the policemen accused by its own agency of killing an innocent man in their custody; it saw no difference between protecting the rights of the victim and those of his killers.

19 Jyoti Punwani, ‘Special prosecutor in Khwaja Yunus case quits’ *Mumbai Mirror* (Mumbai, 13 February 2013) <<https://mumbaimirror.indiatimes.com/mumbai/other/special-prosecutor-in-khwaja-yunus-case-quits/articleshow/18480150.cms>> accessed 12 June 2022.

But it is the current government, comprising a coalition led by the Shiv Sena, with the NCP and the Congress as its junior partners, that has committed the most brazen act of support to the policemen so far. It has reinstated the four cops standing trial for murder.

This was done in 2020, during the COVID-19 lockdown, when courts were at a standstill, hearing only urgent matters in virtual mode. The four accused policemen, who were under suspension, were reinstated under the pretext of staff shortage during the Covid 19 crisis.

In its defence, the police administration cited a government circular of 2011, which said that where a case is pending against suspended policemen two years after the charge sheet has been filed, they can be reinstated to non-executive posts.

In the Khwaja Yunus case, the government itself has made sure the case against these suspended policemen has remained pending for 19 years.

Interestingly, there were as many as 113 suspended policemen in the force who met this criterion for reinstatement. Of them, only 18 had their suspension revoked. In this highly selective exercise, the government made sure that four policemen charge-sheeted for a custodial death and for destruction of evidence, made the grade.

Here too, there was an irregularity. The main accused, Assistant Sub Inspector Sachin Vaze, was reported to have resigned from the police force after his arrest.<sup>20</sup> In 2008, he even joined the Shiv Sena at their annual rally, and in 2010 formed his own company and launched his own website.<sup>21</sup>

How then could he be reinstated? Simple—his resignation had never been accepted by the police. He was suspended after his arrest, and continued to be regarded as part of the force.

So Vaze, known as an ‘encounter specialist’ (part of a group of policemen encouraged by all governments to indulge in extra-judicial killings of criminals, in orchestrated shoot-outs called ‘encounters’), had the best of both worlds: he could fall back on the force when needed, and could also enjoy the freedom of being outside it.

Contrast this indulgent treatment with the way the government has treated Asiya Begum, as well as Dr Mateen, on whose eyewitness testimony the case against the policemen rests. Khwaja Yunus’ mother, now 72, has spent the last 19 years rushing to court every time the government has refused to prosecute the uniformed men who killed her son. Indeed, if at all the truth about her son’s ‘disappearance’ has emerged (and four out of 10 of his alleged killers have faced arrest and trial) it’s been only because of the orders passed by various courts. In fact, the courts had to force a reluctant Maharashtra government to ‘trace’ the three (out of four) policemen who absconded right after prosecution against them was sanctioned.

20 S Ahmed Ali and Mateen Hafeez, ‘Cop accused of killing Yunus quits’ *The Times of India* (Mumbai, 1 December 2007) <<https://timesofindia.indiatimes.com/city/mumbai/cop-accused-of-killing-yunus-quits/articleshow/2586635.cms>> accessed 12 June 2022.

21 Swapnil Rawal, ‘Sachin Vaze’s Shiv Sena connection’ *Hindustan Times* (New Delhi, March 16 2021) <<https://www.hindustantimes.com/cities/mumbai-news/sachin-vaze-s-shiv-sena-connection-101615836711194.html>> accessed 12 June 2022.

The latest such order in favour of Asiya Begum has come from the Supreme Court, and it is poetic justice that it vindicates the last act of the dismissed SPP. In response to a petition filed by her, the apex court has ruled that the trial court could go ahead and decide on the application filed by the dismissed SPP which sought to make the four policemen named by Dr Mateen as additional accused. It didn't need to wait for the Supreme Court's decision on whether the remaining 10 policemen should also be made accused.

No doubt the government will now pull out all stops to protect these policemen in the trial court, but for now, Asiya Begum has won this round.

Dr Mateen was a doctor in a government hospital when he was arrested in December 2002. After his acquittal in 2005, the hospital refused to take him back, because the government had appealed against his acquittal. He currently works in a private hospital.

A job in a government hospital is a respected post; Dr Mateen earned it through his merit but lost it due to the malafide action of the government.

In this manner, innocent Muslims are pushed out of the mainstream by governments supposed to represent them.

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Soon after his reinstatement, Vaze got involved in a bizarre case involving a bomb placed in a vehicle outside the Mumbai residence of top industrialist, currently Asia's richest man, Mukesh Ambani. The owner of the vehicle was killed and Vaze is now in jail accused of murder.

For Asiya Begum, who once told me that the 'policemen are roaming free, we are slowly dying', that's the only justice she's got in these 19 years.