

# In Godhra case, how will conspiracy charge stick?

The acquittal of the main accused has blown a hole in the prosecution's theory

Manoj Mitta | *tw*

Consider the contrast between two inflection points in India's recent history: the Babri Masjid demolition and the Godhra train burning. Although Hinduva leaders had mobilized kar sevaks to gather at Ayodhya on December 6, 1992 and the UP police did precious little to stop the demolition of the mosque, no politician or administrator has so far been tried for the conspiracy behind it. But when it comes to the February 27, 2002 Godhra tragedy, the trial court upheld the conspiracy charge last week even after acquitting the alleged mastermind and despite conflicting findings from fact-finding bodies.

The contrasting approach to the two cases has been underlined, however unwittingly, by the CBI's belated petition this month before the Supreme Court challenging the Allahabad high court's decision to drop the conspiracy charge against L K Advani, Murli Manohar Joshi, Uma Bharti, Bal Thackeray and other saffron leaders. So, all that Messrs Advani & Co are currently being tried for in a Rae Bareilly court is on the charge of delivering inflammatory speeches in the vicinity of the mosque on the fateful day — without however being party to the conspiracy behind the demolition. The kar sevaks, on the other hand, are being tried in a Lucknow court on the conspiracy charge — as if they carried out the demolition all on their own.

While the two Ayodhya trials are still going on, the Godhra trial, mercifully yielded a verdict in nine years. Though the text of the judgment is yet to be released, the acquittal of more than two-thirds of the 94 persons put on trial, including Maulvi Umarji, allegedly the main conspirator, puts a question mark on the conspiracy theory, advanced first by the Gujarat police and then by the Supreme Court-appointed special investigation team (SIT).

For, according to the prosecution, it was at the behest of Umarji, a

prominent citizen of Godhra, that the other conspirators had hatched the plan and bought a huge quantity of petrol on the eve of the attack. It remains to be seen how the trial court, despite the gaping hole in the narrative left by Umarji's acquittal, could uphold the conspiracy charge

dra Modi government, gave a report which was broadly in consonance with the prosecution's attempt to play down the significance of a violent quarrel between kar sevaks and vendors on the platform of the Godhra railway station and instead make out that the entire attack on Coach S6 of

railway ministry, which was headed in 2002 by Lalu's rival Nitish Kumar, had failed to perform its statutory duty to hold an inquiry immediately by its safety commissioner. Dismissing the possibility of 60 litres of petrol being thrown inside an overcrowded coach, Banerjee held that in the tension that followed the fight on the platform, the fire was probably an accident caused by a gas stove carried by kar sevaks inside the coach. Banerjee also pointed out the incongruity in the conspiracy theory that the train doors were locked by miscreants from outside, technically not possible except in the unlikely event of collusion by railway staff.

Another major blow to the conspiracy theory came in February 2008 when the Gujarat high court upheld the POTA review committee's view that there was no element of terrorist conspiracy in the Godhra case. But despite the withdrawal of POTA charges, most of the Godhra accused, unlike their counterparts in the post-Godhra riot cases, remained in jail. As the process itself turned into punishment, most of the 63 persons acquitted in the Godhra case had languished behind bars for almost nine years.

If they got justice after such inordinate delay, it is thanks partly to the five-year stay on the trial of Godhra and eight sensitive post-Godhra cases in the wake of allegations of partisanship against the Modi administration. But when the Supreme Court constituted the SIT in March 2006 to investigate further, all that the new team did in the Godhra case was to endorse the conspiracy theory of the Gujarat police. Though it lifted the stay on the trial of all those cases in May 2008, the apex court was forced to restrain the trial courts from pronouncing verdicts, this time because of allegations of partisanship against the SIT. So when the Godhra trial concluded in September, the trial court had to withhold its verdict till the Supreme Court vacated the fresh stay in January. Given its nature, the February 22 verdict is unlikely to bring a sense of closure.



Gujarat CM Narendra Modi and the then PM Atal Bihari Vajpayee inspect the aftermath of the fire

against 31 accused persons. But the conspiracy theory in the Godhra case would have been debatable even if Umarji had not been acquitted by the trial court along with 62 other accused persons. This is because of at least three formidable reasons: the conflicting findings on the conspiracy issue by two inquiries headed by former Supreme Court judges G T Nanavati and U C Banerjee; the ruling by the Gujarat high court that no terrorist conspiracy charge could be made out; and the controversial conduct of the SIT headed by former CBI chief R K Raghavan.

In September 2008, the Nanavati Commission, appointed by the Narva-

Justice Banerjee said the fire in coach S6 was probably an accident, caused by a gas stove carried by the kar sevaks

the Sabarmati Express in which 59 passengers, including women and children, were burnt alive was the result of a conspiracy hatched the previous night. Nanavati's findings on conspiracy could not, however, dispel some of the doubts raised by the Banerjee committee, which had been appointed in September 2004 by then railway minister Lalu Prasad.

The Banerjee committee, on its part, rendered itself vulnerable to charges of partisanship because of the timing of its interim report in January 2005, coming as it did in the run-up to a Bihar assembly election. The timing of the report did not however detract from its finding that the