

M.C.O.C. SPECIAL CASE NO. 21 OF 2006**DATE: 20TH FEBRUARY 2012****EXT. NO.2361****DEPOSITION OF WITNESS NO.186 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Sadashiv Laxman Patil
Age : 60 years
Occupation : Pensioner
Res. Address : Flat No. 6, Ameya Apartment, Nagala Park,
Kolhapur, MS

Examination-in-chief by SPP Raja Thakare for the Statement

1. I retired on 31/05/2010 as Asst. Commissioner of Police, incharge of Gaodevi Division, Mumbai. I was attached to Womens Police Training School at Solapur as Vice Principal in July 2006 in the rank of Addl. SP, which was one step up promotion from the original rank of Dy. SP.
2. There were serial bomb blasts on 11/07/06 in the suburban railways in Mumbai. I had heard about the blasts from the news in the television and the newspapers. A wireless message was received on 25/07/06 from the Director General of Police, Maharashtra State by the Principal of our school. It was directed that I am temporarily

attached to the ATS to assist the investigation of the railway bomb blasts and was directed to be relieved immediately. Copy of the wireless message now shown to me is the same. (It is marked as **Ext. 2362**). I was relieved on 26/07/06 from the WPTS, Solapur. I reported for duty at the ATS, Mumbai on 27/07/06. The relieving memo now shown to me is the same, it bears my signature as I had signed it as incharge principal, as the principal was out of station. Its contents are correct. (It is marked as **Ext. 2363**). I made station diary entry on joining the ATS. The contents of the attested true photocopy of the entry no.6 in the station diary dated 27/07/06 are as per the contents of the entry no.6 in the original station diary. (It is marked as **Ext. 2364**). I was attached on deputation temporarily to the ATS till 18/12/06. On that day I was posted on regular basis to the ATS as per the order of the Director General of Police, Maharashtra. I again made station diary entry to that effect. The contents of the photocopy of the station diary entry no. 14, Ext. 1850, of that day are as per the contents of the original entry. The contents of the attested true photocopy of that entry dated 18/12/06 in the station diary are as per the contents of the entry no.14 in the original station diary. (It is

marked as **Ext. 2365**). Addl CP Jayjeet Singh issued a formal order on 28/07/06 posting me in the team of investigation of the railway blasts. The said order now shown to me is the same, it bears the facsimile of the signature of Addl. CP. (It is marked as **Ext. 2366**).

3. Jt. CP K. P. Raghuvanshi was the head of the ATS when I joined on 27/07/06. There were two Addl. CPs, viz., Jayjeet Singh and S. K. Jaiswal. There were two DCPs, viz., Nawal Bajaj and Baviskar. The original strength of the ATS was very less at that time. Therefore, number of officers from various police stations and branches in Mumbai as well as from the mofussil were deputed to the ATS to assist in the investigation of the railway bomb blasts case. In addition to myself, ACP Vinod Bhatt and ACP Tawde had also come to the ATS on deputation. PIs, APIs, PSIs and subordinate staff were also deputed to the ATS in addition. There were two ACPs attached to the ATS on regular posting at that time, Kisan Shengal and Datta Dhawle.

4. I got myself acquainted with the bomb blasts cases after joining the investigation team. There were seven different crimes registered at different railway police stations for the seven bomb blasts that had

taken place on 11/07/06. Crime No. 77/06 was registered at Mumbai Central Railway Police Station for the bomb blast that had occurred at Matunga Railway Station and it was being investigated by PI Rathod. CR No. 78/06 was registered at Mumbai Central Railway Police Station for the bomb blast that had occurred at Mahim Railway Station and it was being investigated by PI Iqbal Shaikh. CR No. 86/06 was registered at Bandra Railway Police Station for the bomb blast that had occurred ahead of Bandra Railway Station and it was being investigated by PI R. R. Joshi. CR No. 87/06 was registered at Bandra Central Railway Police Station for the bomb blast that had occurred at Khar Subway and it was being investigated by PI Vijay Kadam. CR No. 41/06 was registered at Andheri Railway Police Station for the bomb blast that had occurred at Jogeshwari Railway Station and it was being investigated by PI Wadankar. CR No. 156/06 was registered at Borivali Railway Police Station for the bomb blast that had occurred at Borivali Railway Station and it was being investigated by PI Khandekar. CR No. 59/06 was registered at Vasai Road Railway Police Station for the bomb blast that had occurred ahead of Mira Road Railway Station and it was being investigated by

PI Agrawal. These were the seven independent offences being investigated by seven different investigating officers. I along with ACPs Bhatt and Tawde and other superior officers were supervising the investigations. The investigating officers used to have co-ordination amongst themselves and they used to interact with each other as well as with us.

5. PI Rathod had arrested accused no. 1 Kamal, accused no. 2 Tanveer, accused no. 3 Mohd. Faisal, accused no. 4 Ehtesham, accused no. 9 Muzzammil, accused no. 10 Suhail Shaikh and accused no. 11 Zameer in CR No. 77/06. He had also arrested two more persons in that case, Khalid Shaikh and Mumtaz Chaudhary. PI Iqbal Shaikh had arrested one person by name Tafheem Akmal in CR No. 78/06. All these accused were under interrogation and I was supervising the same.
6. During the course of investigation of CR No. 77/06, it had come to the notice that most of the arrested accused were members of unlawful association banned by the Government of India, viz., Student Islamic Movement of India (SIMI). In the investigation of that case, some literature of SIMI and other inflammatory literature was

recovered from some of the arrested accused persons. During the investigation of that case, it had come to light that accused no. 1 Kamal, accused no. 2 Tanveer, accused no. 3 Faisal, accused no. 9 Muzzammil, accused no. 10 Suhail Shaikh and accused no. 11 Zameer had undergone terrorist training in handling of arms and ammunition and explosives in the terrorist camp of Lashkar-e-Toiba (L-e-T) situated at Muzzafarabad in Pak occupied Kashmir (POK) of Pakistan. It had come to the notice that the accused had gone to Iran by obtaining ziarat visa and thereafter infiltrated into Pakistan by clandestine way. They had contacted Azam Chima @ Babaji, who is a wanted accused in this case and who is one of the commanders of L-e-T. He had sponsored the training of these accused in the training camp of L-e-T at Muzzafarabad. Some maps showing Asian countries like India, Pakistan, Afghanistan, Iran, etc., were recovered from some of the arrested accused during the course of investigation of that case, showing a route marked from Mumbai to Tehran, Tehran to Zaydan, Zaydan to Quetta, then to Bhawalpur and to Muzaffarabad. There were some e-mail addresses and telephone numbers written on the maps.

7. During the course of investigation of CR No. 77/06, it was disclosed that the wanted accused Azam Chima was providing funds to accused no. 3 Faisal for the expenses of sending boys for arms training and other expenses. It was disclosed that one Rizwan Dawrey and one Rahil Shaikh were acting as conduits between Azam Chima and accused no. 3 Faisal and accused no. 9 Muzzammil. Therefore, these two persons were also shown as wanted accused in that case. Out of the money sent by Azam Chima, 15000 Saudi Riyals were recovered from accused no. 3 Faisal and 11200 Riyals, which were meant for accused no. 3 Faisal, were recovered from one Abdul Rehman Dawrey. The wanted accused Azam Chima used to send money via Dubai either through carriers or by hawala.
8. 500 grams of black powder was recovered from the accused no. 1 Kamal during the course of investigation and report of chemical analysis was received and it was found to be RDX, which is a high explosive. Some spots of black and white powder were noticed in the house search of the accused no. 3 Faisal and the CA had opined that they are containing RDX and ammonium nitrate. By the time the reports of FSL about the bomb blasts debris from the seven bomb

blasts sites were received and it was opined that they were containing RDX, ammonium, ammonium nitrate, hydrocarbon material and charcoal. Thus, they were tallying with the explosives recovered from the accused no. 1 and accused no. 3. Three bottles of chemicals were recovered from the accused no. 2 Tanveer during the course of investigation and the FSL opined that they are capable of causing explosion.

9. Name of accused no. 13 Asif Khan was disclosed as the main conspirator to the investigating officer during the course of investigation of CR No. 156/06. He conducted inquiries about his antecedents and came to the conclusion that he was indulging in continuing unlawful activity. I was aware that he had come to the conclusion that the provisions of the MCOB Act are attracted to his case and he had submitted a proposal to Addl. CP Jaiswal, who is of the rank of DIG, for granting prior approval for invocation of the provisions of the MCOB Act to his case.

10. Addl. CP Jaiswal issued orders on 24/09/06 granting prior approval for invoking the provisions of the MCOB Act in CR No. 156/06 as required under Section 23(1) (a) of the MCOB Act. In the

said order he appointed me as the investigating officer of CR No. 156/06 of Borivali Railway Police Station. The prior approval Ext. 1841 now shown to me is the same. It is signed by Addl. CP, S. K. Jaiswal. I was appointed as the investigation officer as the cases under the MCOB Act have to be investigated by an officer of the rank of Dy. SP/ACP under Section 23 (1) (b) of the Act.

11. I took over the further investigation of CR No. 156/06 of Borivali Railway Police Station from PI Khandekar on receipt of the order. Thereafter, I recorded his statement on the same day and treated it as information under Section 23(1) (a) of the MCOB Act. A station diary entry about this was made. The contents of the attested true photocopy of that entry dated 24/09/06 in the station diary are as per the contents of the entry no.23 in the original station diary. (It is marked as **Ext. 2367**). It was dictated by me and it is in the handwriting of API Wadmare. I directed PI Khandekar to handover the papers of investigation of CR No. 156/06 to me and he handed them over to me on 25/09/06. I had issued a memo to him for that purpose, its office copy is the same now shown to me, it bears my signature and the signature of PI Khandekar of having received it and

its contents are correct. (It is marked as **Ext.2368**). I perused the case papers and discussed the progress of the investigation with him. I also recorded his statement on that day about the investigation conducted by him.

12. The names of the accused no. 1 Kamal, accused no. 2 Tanveer, accused no. 3 Faisal, accused no. 4 Ehtesham and accused no. 13 Asif Khan were mentioned in the prior approval for the application of the provisions of the MCOB Act. Accused no. 1 to 4 were in the police custody of other cases at that time.

13. Accused no. 1 and 2 were in police custody in CR no. 59/06 of Vasai Road Railway Police Station and I showed them arrested in CR No. 156/06 of Borivali Railway Police Station. They were explained the grounds of arrest, their relatives were informed and they were sent for medical examination. A station diary entry was made to that effect. The contents of the attested true photocopy of that entry dated 25/09/06 in the station diary are as per the contents of the entry no.7 in the original station diary. (It is marked as **Ext. 2369**). It was written by API Wadmare under my dictation. The intimation to the relatives of the accused no. 1 was sent through a

wireless message to SP, Madhubani, Bihar. The request for sending the wireless message was sent by me by letter. Office copy of the letter now shown to me is the same, it bears the signature of PI R. R. Joshi, which I know and which he made for me and its contents are correct. (It is marked as **Ext. 2370**). Copy of the wireless message which is attached to the letter is also under his signature. The contents of the wireless message were dictated by me. (It is marked as **Ext. 2371**). On the same day they were produced before the Special Court under the MCOB Act for remand and were remanded to police custody till 09/10/06. They were sent in veil for the purpose of remand. The arrested accused were put under constant interrogation.

14. Accused no. 3 and 4 were in police custody in CR Nos. 59/06 and 87/06 respectively. I showed them arrested in this case on 28/09/06. They were explained the grounds of arrest, their relatives were informed and they were sent for medical examination. A station diary entry was made to that effect. The contents of the attested true photocopy of that entry dated 28/09/06 in the station diary are as per the contents of the entry no. 5 in the original station diary. (It is

marked as **Ext. 2372**). It was written by API Shelke under my dictation. These two accused had been sent for scientific test to Bangalore and were not available in the custody on 25/09/06. Therefore, they were arrested on 28/09/06 when they returned from Bangalore. They were produced before the Special court under the MCOB Act in veil for remand on the same day and were remanded to police custody till 09/10/06. They were put under constant interrogation.

15. Involvement of the accused no. 5 Mohd. Majid, accused no. 6 Mohd. Ali, accused no. 7 Sajid and accused no. 8 Wahid Shaikh in this case was disclosed during the course of investigation and from the information gathered from the arrested accused. Four separate teams were formed to trace the said accused and one team headed by PI Salaskar was sent to Kolkata on the basis of certain information about accused no. 5 Mohd. Majid.

16. PI Salaskar, API Phadke and staff returned from Kolkata on 29/09/06 and produced accused no. 5 Mohd. Majid before me. They reported that the accused was arrested by them at Kolkata on 28/09/06 with the help of the local police. They had explained to

him the grounds of arrest and his relatives and local police were informed about his arrest and his transit to Mumbai. A station diary entry about it was made by me. The contents of the attested true photocopy of that entry dated 29/09/06 in the station diary are as per the contents of the entry no. 8 in the original station diary. (It is marked as **Ext. 2373**). It was written by PI R. R. Joshi under my dictation. PI Salaskar had handed over to me the arrest panchanama and memorandum of the arrest of accused no. 5 Mohd. Majid. The memorandum of the arrest and the inspection memo now shown to me are the same. They bear the signatures of PI Vijay Salaskar, which I know and identify. PI Vijay Salaskar is no more. He laid down his life while fighting the terrorists in the attack on Mumbai on 26/11/08. (They are marked as **Exts. 2374 and 2375**).

17. PI Ahir and staff were deputed for tracing the accused no. 6 Mohd. Ali. He came to the office on 28/09/06 and produced the said accused before me. The accused was arrested after verifying his identity and involvement in the case. He was explained the grounds of arrest, his relatives were informed and he was sent for medical examination. A station diary entry was made to that effect. The

contents of the attested true photocopy of that entry dated 29/09/06 in the station diary are as per the contents of the entry no. 5 in the original station diary. (It is marked as **Ext. 2376**). It was written by PI R. R. Joshi under my dictation. PI Ahir had prepared the arrest panchanama of the accused. The panchanama now shown to me is the same, it bears the signature of PI Ahir, which I know and identify as he was working under me. (It is marked as **Ext.2377**).

18. PI Tajne and staff had been deputed for tracing accused no. 7 Sajid. He produced the said accused on 29/09/06 before me. The accused was arrested after verifying his identity and involvement in the case. He was explained the grounds of arrest, his relatives were informed and he was sent for medical examination. A station diary entry was made to that effect. The contents of the attested true photocopy of that entry no. 6 dated 29/09/06, Ext. 1719, now shown to me is the same. It was written by PI R. R. Joshi under my dictation. PI Tajne had prepared the arrest panchanama of the accused. Ext. 1742 now shown to me is the same.

19. PI Khavilkar and staff were deputed for arresting accused no. 8 Wahid Shaikh. He produced the said accused on

29/09/06 before me. The accused was arrested after verifying his identity and involvement in the case. He was explained the grounds of arrest, his relatives were informed and he was sent for medical examination. A station diary entry was made to that effect. The contents of the attested true photocopy of that entry no. 7 dated 29/09/06, Ext. 1779, now shown to me is the same. It was written by PI R. R. Joshi under my dictation. PI Khanvilkar had prepared the arrest panchanama of the accused. Ext. 1778 now shown to me is the same. They were produced before the Special Court under the MCOB Act on the same day for remand in veil and were remanded to police custody upto 13/10/06. All the arrested accused nos. 5 to 8 were put under constant interrogation.

20. Involvement of the accused no. 9, 10 and 11 in this case was disclosed during the course of investigation and from the information gathered during the interrogation of the arrested accused. They were already in police custody in CR no. 59/06. I showed them arrested in this case on 30/09/06. They were explained the grounds of arrest, their relatives were informed and they were sent for medical examination. A station diary entry was made to that effect. The

contents of the attested true photocopy of that entry dated 30/09/06 in the station diary are as per the contents of the entry no. 3 in the original station diary. (It is marked as **Ext. 2378**). It was written by API Shelke under my dictation. The accused were produced before the Special Court under the MCOB Act on the same day for remand in veil and were remanded to police custody upto 09/10/06. All the arrested accused nos. 9 to 11 were put under constant interrogation.

- 21.** Involvement of the accused no. 12 Naveed in this case was disclosed during the course of investigation and from the information revealed from the interrogation of the arrested accused. A team comprising of API Dinesh Kadam, PSI Avari and staff was formed for tracing the accused. He had proceeded to Secunderabad in Andhra Pradesh on certain information. PSI Avari produced the said accused on 30/09/06 before me and reported to me that the accused was traced by them at Secunderabad with the help of local police and he was brought to Mumbai after informing his relatives and local police. The accused was arrested after verifying his identity and involvement in the case. He was explained the grounds of arrest, his relatives in Mumbai were informed and he was sent for medical

examination. A station diary entry was made to that effect. The contents of the attested true photocopy of that entry dated 30/09/06 in the station diary are as per the contents of the entry no. 5 in the original station diary. (It is marked as **Ext. 2379**). It was written by API Shelke under my dictation. PSI Avari had prepared the arrest panchanama of the accused. The panchanama now shown to me is the same, it bears his signature, which I know and identify as he was working under me. (It is marked as **Ext.2380**). The accused was produced before the Special Court under the MCOB Act on the same day for remand in veil and was remanded to police custody upto 13/10/06. He was put under constant interrogation.

22. The accused no. 13 Asif Khan was the main conspirator in this case and he was shown wanted. PI Deshmukh and staff were specially appointed for tracing him and they were making all out efforts for doing so. I was aware that PI Deshmukh had sent PSI Kandharkar and staff to Belgaum to trace him on the basis of certain information received by him. PSI Kandharkar traced the accused on 03/10/06 at Belgaum and arrested him in this case after observing the necessary formalities of arrest. He brought the accused to Mumbai

and produced him before me on the same day. I made station diary entry about it. The contents of the attested true photocopy of that entry dated 03/10/06 in the station diary are as per the contents of the entry no. 10 in the original station diary. (It is marked as **Ext. 2381**). It was written by API Wadmara under my dictation. He also produced the arrest and house search panchanama. The panchanama now shown to me is the same, it bears the signature of PSI Kandharkar, which I know and identify as he was working under me. (It is marked as **Ext. 2382**). The accused was produced before the Special Court under the MCOB Act on the next day for remand in veil and was remanded to police custody upto 13/10/06. He was put under constant interrogation.

(Adjourned for recess)

Date : 22/02/12

Special Judge

Resumed on SA after recess

- 23.** Three teams were formed for searching the houses of the accused nos. 6, 7 and 8 after their arrest on 29/09/06. On the same day, the team consisting of ACP Shengal, PI Tajne and staff took the house search of the accused no. 6 Mohd. Ali and they came

back to the office and handed over the house search panchanama to me. The panchanama Ext. 716 now shown to me is the same. He reported to me that during the search one cooker was seized and they had noticed two black and white spots in the box type cot in the house. They had taken swabs of the spots and had seized the swabs. The said articles were deposited in the muddemal room. I sent the cotton swabs to the FSL for analysis under a forwarding letter. The office copy of the forwarding letter, Ext. 796, now shown to me is the same, it bears my signature and its contents are correct. They were sent with PC-27844. He came back and reported to me about the deposit of the articles and gave the office copy of the forwarding letter containing the acknowledgment of the FSL office. I took his statement. The report of the CA in connection with the cotton swabs was received. It is the same now shown to me. (It is received in evidence under Section 293 of the Cr. P. C and marked as **Ext. 2383**). The FSL had reported that the cyclonite (RDX) and charcoal are detected on one swab and ammonium, nitrate and traces of cyclonite (RDX) were detected on the other swab.

24. PI Dinesh Ahir and staff were sent for the house search

of the accused no. 7 Sajid on 29/09/06. He returned on the same day after the search and handed over the house search panchanama to me. The panchanama now shown to me is the same. It bears his signature, which I know and identify as he worked under me and its contents are correct. (It is marked as **Ext. 2384**). He reported that nothing objectionable was found in the house search.

25. PI Iqbal Shaikh and staff were sent for the house search of the accused no. 8 Wahid on the same day. He returned on the same day after the search and handed over the house search panchanama to me. The panchanama now shown to me is the same. It bears his signature, which I know and identify as he worked under me and its contents are correct. (It is marked as **Ext. 2385**). He reported that nothing objectionable was found in the house search.

26. PI Dinesh Ahir who had gone to Secunderabad for searching the accused no. 12 Naveed came to Mumbai and handed over the house search panchanama of the said accused to me. The panchanama now shown to me is the same. It bears his signature, which I know and identify as he worked under me and its contents are correct. (It is marked as **Ext. 2386**). He reported that nothing

objectionable was found in the house search.

27. Since the investigation was very voluminous and wide spread, I requested Jt. CP, ATS to allot a team of officers to assist me in the investigation. Accordingly he issued an office order on 30/09/06 allotting a team of officers to me. The office order now shown to me is the same, it is signed by Jt. CP K. P. Raghuvanshi and its contents are correct. (It is marked as **Ext.2387**). During the investigation, I also used the services of officers other than those mentioned in the order, as and when needed, with the permission of superiors.

28. All the arrested accused were put under constant interrogation. Separate teams of officers and their staff were formed for the interrogation of the accused and I along with other senior officers were supervising the interrogation. I instructed the officers to take immediate steps if needed, if something important is coming out from the interrogation and were asked to keep me posted about the same.

29. ACP Dhawale, PI Deshmukh, PI Tajne and staff were interrogating the accused no. 3 Faisal. PI Tajne came to me on 08/10/06 and handed over a memorandum and a panchanama to

me. Exts. 1108 and 1109 now shown to me are the same. He reported to me that 7 rubber gaskets and 5 whistles of Kanchan company, 5 broken pieces of electric wire, a PCB and the 2 plastic bags in which the articles were kept, were discovered at the instance of the accused no. 3 Faisal on 08/10/06. He deposited the articles in the muddemal room. I sent all these articles to the FSL on 11/10/06 for analysis under a forwarding letter with PC-01658. The office copy of the forwarding letter, Ext. 972, now shown to me is the same, it bears my signature and its contents are correct. He came back and reported to me about the deposit of the articles and gave the office copy of the forwarding letter containing the acknowledgment of the FSL office. I took his statement. The reports of the FSL in connection with the articles were received. The reports Exts. 973 and 974 are the same now shown to me. The FSL reports showed that Cyclonite (RDX) was detected on the plastic bags. It was also opined that the rubber rings and metallic whistles can be used in domestic cookers, electric wires are not tallying with the electric wires used in PCB in respect of physical characteristics and PCB can be used to form a triggering device. A detailed technical report about the PCB was a

part of it. Ext. 973 is about the chemical analysis and Ext. 974 is about the physical examination and report of technical expert. A letter was received from the FSL for procuring original rubber gasket and whistle of pressure cooker from Kanchan company and forward them to it for the purpose of comparison. The letter Ext. 1258 now shown to me is the same. I gave this letter to PI Deshmukh and directed him to do the needful. PI Kandharkar, who was in his team, handed over a panchanama to me on 14/10/06 and reported that he has taken charge of one rubber gasket and one whistle of pressure cooker from the Kanchan company. The panchanama Ext. 1259 now shown to me is the same. He had also produced an office copy of the letter given by PI Sunil Deshmukh to the Kanchan company. Art. 341 is the same now shown to me. He also produced the delivery challan of Kanchan company regarding handing over one rubber gasket and one whistle of pressure cooker of the Kanchan company to the police. Art. 340 is the same now shown to me. He kept the articles in the muddemal room. I sent them to the FSL on 16/10/06 along with PC- 26095 and my forwarding letter. He returned back and handed over the office copy containing the acknowledgment of the office copy. Ext. 1599

now shown to me is the same, it bears my signature and its contents are correct. I recorded his statement. The report of the FSL was received, it is the same now shown to me. (It is received in evidence under Section 293 of the Cr. P. C and marked as **Ext. 2388**). It was opined that the rubber gasket and the whistle procured from the company do not tally with the rubber gaskets and whistles recovered from the accused no. 3 in respect of markings and physical characteristics. In other words, the rubber gaskets and whistles, recovered at the instance of the accused no. 3 bearing the markings of Kanchan company, were duplicates.

30. The accused no. 13 Asif Khan was under interrogation of the team consisting of ACP Tawde, PI Tajne and staff. PI Tajne came to me on 09/10/06 and handed over a memorandum and recovery panchanama to me. Exts. 664 and 665 now shown to me are the same. He reported to me that at the instance of the accused no. 13 they had recovered 2.7 kgs of white granulated powder, 10 detonators, a handbag in which the powder and the detonators were kept, 23 books, a computer set, some files containing documents, agreement copy of the flat, etc. On the same day PI Tajne also

handed over to me a panchanama about the examination of white granulated powder and detonators by a team of officers from the BDDS. Ext. 667 now shown to me is the same. He reported to me that PSI Revale and staff of BDDS had examined the white granulated powder and the detonators and they suspected the white granulated powder to be an explosive and that the 10 detonators are live electronic detonators. The panchanamas were handed over to me and the articles were deposited in the muddemal room. He had also secured samples of white granulated powder in two separate polythene bags for the purpose of analysis. I sent one of these bags and the handbag to the FSL for analysis along with my forwarding letter dated 11/10/06 along with PC-03067. He returned back and handed over the office copy containing the acknowledgment of the office of the FSL. Ext. 1756 now shown to me is the same, it bears my signature and its contents are correct. I recorded his statement. The report of the FSL was received, it is the same now shown to me. (It is received in evidence under Section 293 of the Cr. P. C and marked as **Ext. 2389**). The FSL had opined that Cyclonite (RDX), charcoal and petroleum hydrocarbon oil were found in the handbag in

the percentage of 82.34%, 8.00% and 9.17% respectively. It was also opined that ammonium and nitrate radicals are detected in the white granulated powder.

31. It was necessary to defuse the detonators as they were hazardous for storage. Therefore, on 13/10/06 I made an application to the special court seeking permission to defuse them and the court granted the permission. I then directed PI Tajne to do the needful in the matter. PI Tajne came to me on 20/10/06 and handed over a panchanama under which he had defused the detonators at Girgaon Chowpaty with the help of PSI Revale and the staff of BDDS. The panchanama Ext. 1692 now shown to me is the same. He also produced the residue of the defused detonators seized by him under the same panchanama. He deposited the residue in the muddemal room. I sent it to the FSL for analysis along with my forwarding letter dated 27/10/06 along with HC-951. He returned back and handed over the office copy containing the acknowledgment of the office of the FSL. Ext. 886 now shown to me is the same, it bears my signature and its contents are correct. I recorded his statement. The report of the FSL was received, it is the same now shown to me. (It is

received in evidence under Section 293 of the Cr. P. C and marked as **Ext. 2390**). The FSL had opined that nitrite and lead radicals (post explosion residues) were detected in the exhibits.

32. The accused no. 12 Naveed was under interrogation of PI Khanvilkar and staff. PI Khanvilkar came to me on 22/10/06 and handed over a memorandum and seizure panchanama. Exts. 636 and 641 now shown to me are the same. He reported to me that the accused no. 12 pointed out to him four different places that he had visited along with other accused. PI Khanvilkar had drawn sketches of these four places, Exts. 637 to 640 are the same. He further reported to me that he had recovered Maruti motor car no. MH-01-V-9568 at the instance of the accused and in the said car he had noticed traces of black and white powder of which he had taken samples on six cotton swabs. He had also seized 3 video cassettes and documents about registration of the car. The car was kept in the compound of the ATS, Kalachowki and the other articles were deposited in the muddemal room. I sent the six cotton swabs and the Maruti car to the FSL for analysis along with my forwarding letter dated 26/10/06 along with PC-5041. He returned back and handed

over the office copy containing the acknowledgment of the office of the FSL. Ext. 1686 now shown to me is the same, it bears my signature and its contents are correct. I recorded his statement. The report of the FSL was received, it is the same now shown to me. (It is received in evidence under Section 293 of the Cr. P. C and marked as **Ext. 2391**). The FSL had opined that cyclonite (RDX), petroleum hydrocarbon oil and charcoal were detected on three cotton swabs and ammonium, nitrate and nitrite radicals were detected in the other three swabs. It was also opined that cyclonite (RDX), ammonium, nitrate, nitrite, petroleum hydrocarbon oil and charcoal are detected in the car.

33. The accused no. 7 Mohd. Sajid was under interrogation of PI Deshmukh, PI Tonpi and staff. PI Tonpi came to me on 23/10/06 and handed over a memorandum and seizure panchanama. Exts. 1479 and 1480 now shown to me are the same. He reported to me that they had recovered one soldering gun, soldering wire, soldering paste, one PCB, multimeter and other electronic components at the instance of the accused no. 7. He deposited the articles in the muddemal room. I sent the articles to the FSL for analysis along with

my forwarding letter dated 27/10/06 along with PC-22795. He returned back and handed over the office copy containing the acknowledgment of the office of the FSL. Ext. 1596 now shown to me is the same, it bears my signature and its contents are correct. I recorded his statement. The reports of the FSL were received, it is the same now shown to me. (They are received in evidence under Section 293 of the Cr. P. C and marked as **Ext. 2392 and 2393**). The FSL had opined that no explosives were detected from the seized articles. It further opined that the electronic components recovered from the accused can be used for building a timer / triggering device to trigger a detonator. The first report is accompanied by technical report.

- 34.** During the course of investigation, I came to the conclusion on 09/10/06 that all the seven bomb blasts are part of a single larger conspiracy. The arrested accused and the wanted accused are involved in the conspiracy as members of an organized crime syndicate and the object of this conspiracy was to commit insurgency. I came to the conclusion that all the seven cases need to be clubbed together and investigated together as one case.

Therefore, I submitted a proposal to my superiors seeking permission for clubbing all these seven cases together and handing over the investigation of six remaining cases to me. In pursuance of this request, DCP Bajaj gave an order on 12/10/06 under which the investigation of remaining six cases, i.e., CR No. 77, 78, 86, 87, 41 and 59/06 was given to me for further investigation. He also granted permission for clubbing the six crimes together. The order of DCP Bajaj now shown to me is the same, it is signed by him, I know and identify his signature as I was working under him. (It is marked as **Ext. 2394**). I clubbed all the seven cases of the bomb blasts together on receipt of this order and gave a new CR No. 05/06 of the ATS for the sake of convenience. I then directed the investigating officers of the said six crimes to hand over the papers of investigation to me. Accordingly, PI Iqbal Shaikh handed over case papers of CR No. 78/06 and PI R. R. Josh handed over case papers of CR No. 86/06 to me on 13/10/06. I recorded their statements on that day about the progress that they had done in the investigation. PI Rathod handed over the papers of CR No. 77/06, PI Vijay Kadam of CR No. 87/06, PI Wadhankar of CR No. 41/06 and PI Agrawal of CR No. 59/06 to me

on 14/10/06. I recorded their statements on the same day regarding the progress in their investigation. I directed the former investigating officers to terminate the remands of the accused in their respective cases by making applications to the concerned courts, which they did and reported to me. They were also directed to discharge the accused persons, other than the accused taken over by me, by observing necessary legal procedure and accused Khalid Shaikh, Mumtaz Chaudhary and Tafheem Akmal were discharged from their respective cases. Though I had taken over the investigations of the six cases from the investigating officers, they continued to assist me in the investigation.

(Adjourned as court time is over).

Date : 22/02/2012

**(Y. D. Shinde)
Special Judge**

Date : 23/02/12
Resumed on SA

35. All the arrested accused were put under constant interrogation. Different teams were formed for interrogating them and I along with the superior officers were supervising the same. The team interrogating the accused no. 2 Tanveer informed me on 29/09/06 that he is willing to make a voluntary confessional statement before the superior officers. I also interrogated him and satisfied myself that he is willing to make a confessional statement voluntarily. I therefore requested Jt.CP, ATS to nominate an officer of the rank of DCP, who is of the rank of Superintendent of Police, for recording his confessional statement. The Jt. CP, ATS directed DCP (Preventive) Sanjay Mohite to record his confessional statement and issued a letter to him and a copy of the same was given to me. Ext. 1015 is the letter given to the DCP, copy of which is in my file. Thereafter, I received a letter from DCP Sanjay Mohite directing me to produce the accused before him on 04/10/06. Ext. 1016 is the letter sent by the DCP, which is seen to be acknowledged by some API of the ATS. The original letter is in my file. I then issued a letter to PI Khandekar

directing him to take the accused to DCP Mohite. Office copy of the letter now shown to me is the same, it bears my signature and its contents are correct. (It is marked as **Ext.2395**). I also prepared a letter to DCP Mohite regarding production of the accused before him through PI Khandekar. The letter Ext. 1018 is the same, it bears my signature and its contents are correct. Its office copy is in my file. PI Khandekar and staff produced the said accused before DCP Mohite on 04/10/06. He returned back to the office and reported to me that the DCP had taken the accused in his custody. The accused was sent back on 06/10/06 after his confessional statement was recorded. Thereafter, I requested DCP Mohite to furnish copy of the confessional statement given by the accused and the same was provided to me. I studied it.

- 36.** The team of officers interrogating the accused no. 4 Ehtesham informed me on 29/09/06 that he is willing to make a voluntary confessional statement before the superior officers. I also questioned him and satisfied myself that he is willing to make a confessional statement voluntarily. I therefore requested Jt. CP, ATS to nominate an officer of the rank of DCP, who is of the rank of

Superintendent of Police, for recording his confessional statement. Accordingly, the Jt. CP, ATS nominated DCP, Zone-IV Dattatray Karale to record his confessional statement and issued a letter to him and a copy of the same was given to me. Ext. 1054 is the letter given to the DCP, copy of which is in my file. Thereafter, I received a letter from DCP Karale directing me to produce the accused before him on 06/10/06. Ext. 1055 is the letter sent by the DCP, which is seen to be acknowledged by me. The original letter is in my file. I then directed PSI Deore on 05/10/06 to take the accused to DCP Karale on 06/10/06 and gave him a letter to that effect. Office copy of the letter now shown to me is the same, it bears my signature, its contents are correct and it bears the acknowledgment of PSI Deore. (It is marked as **Ext.2396**). I also prepared a letter to DCP Karale regarding production of the accused before him through PSI Deore. The letter Ext. 1056 is the same, it bears my signature and its contents are correct. Its office copy is in my file. PSI Deore and staff produced the said accused before DCP Karale on 06/10/06. He returned back to the office and reported to me that the DCP had taken the accused in his custody. The accused was sent back on 07/10/06 after his

confessional statement was recorded. Thereafter, I requested the DCP Karale to furnish copy of the confessional statement given by the accused and the same was provided to me. I studied it.

37. The team of officers interrogating the accused no.1 Kamal informed me on 01/10/06 that he is willing to make a voluntary confessional statement before the superior officers. I also questioned him and satisfied myself that he is willing to make a confessional statement voluntarily. I therefore requested Jt. CP, ATS to nominate an officer of the rank of DCP, who is of the rank of Superintendent of Police, for recording his confessional statement. Accordingly, the Jt. CP, ATS nominated DCP, Zone-IX Vinoy Kumar Choubey to record his confessional statement and issued a letter to him and a copy of the same was given to me. Ext. 1176 is the letter given to the DCP, copy of which is in my file. Thereafter, I received a letter from the DCP directing me to produce the accused before him on 03/10/06. Ext. 1177 is the office copy of the letter sent by the DCP. The original letter is in my file. I then directed PI Iqbal Shaikh on 03/10/06 to take the accused and produce him before the DCP on the same day and gave him a letter to that effect. Office copy of the letter now shown to

me is the same, it bears my signature, its contents are correct and it bears the acknowledgment of PI Iqbal Shaikh. (It is marked as **Ext.2397**). I also prepared a letter to the DCP regarding production of the accused before him through PI Iqbal Shaikh. The letter Ext. 1179 is the same, it bears my signature and its contents are correct. Its office copy is in my file. PSI Iqbal Shaikh and staff produced the said accused before the DCP on 03/10/06. He returned back to the office and reported to me that the DCP had taken the accused in his custody. The accused was sent back on 06/10/06 after his confessional statement was recorded. Thereafter, I requested the DCP to furnish copy of the confessional statement given by the accused and the same was provided to me. I studied it.

- 38.** The team of officers interrogating the accused no.3 Faisal reported to me on 01/10/06 that he is willing to make a voluntary confessional statement before the superior officers. I also questioned him and satisfied myself that he is willing to make a confessional statement voluntarily. I therefore requested Jt. CP, ATS to nominate an officer of the rank of DCP, who is of the rank of Superintendent of Police, for recording his confessional statement.

Accordingly, the Jt. CP, ATS nominated DCP, Zone-I Brijesh Singh to record his confessional statement and issued a letter to him and a copy of the same was given to me. Ext. 1209 is the letter given to the DCP, copy of which is in my file. Thereafter, I received a letter from the DCP directing me to produce the accused before him on 03/10/06. Ext. 1210 is the office copy of the letter sent by the DCP. The original letter is in my file. I then directed PI Deshmukh on 03/10/06 to take the accused and produce him before the DCP on the same day and gave him a letter to that effect. Office copy of the letter now shown to me is the same, it bears my signature, its contents are correct. (It is marked as **Ext.2398**). I also prepared a letter to the DCP regarding production of the accused before him through PI Deshmukh. The letter Ext. 1211 is the same, it bears my signature and its contents are correct. Its office copy is in my file. PI Deshmukh and staff produced the said accused before the DCP on 03/10/06. PSI Shelke came to me and informed that the DCP had taken the accused in his custody. The accused was sent back on 07/10/06 after his confessional statement was recorded. Thereafter, I requested the DCP to furnish copy of the confessional statement given by the

accused and the same was provided to me. I studied it.

39. The team of officers interrogating the accused no. 9 Muzzammil reported to me on 01/10/06 that he is willing to make a voluntary confessional statement before the superior officers. I also questioned him and satisfied myself that he is willing to make a confessional statement voluntarily. I therefore requested Jt. CP, ATS to nominate an officer of the rank of DCP, who is of the rank of Superintendent of Police, for recording his confessional statement. Accordingly, the Jt. CP, ATS nominated DCP, Zone-V Phadtare to record his confessional statement and issued a letter to him and a copy of the same was given to me. Ext. 917 is the letter given to the DCP, copy of which is in my file. Thereafter, I received a letter from the DCP directing me to produce the accused before him on 04/10/06. Ext. 918 is the office copy of the letter sent by the DCP, it bears my signature of having received it. The original letter is in my file. I then directed PI Joshi on 04/10/06 to take the accused and produce him before the DCP on the same day and gave him a letter to that effect. Office copy of the letter now shown to me is the same, it bears my signature, its contents are correct. (It is marked as

Ext.2399). I also prepared a letter to the DCP regarding production of the accused before him through PI Joshi. The letter Ext. 919 is the same, it bears my signature and its contents are correct. Its office copy is in my file. PI Joshi and staff produced the said accused before the DCP on 04/10/06. He returned back to the office and reported that the DCP had taken the accused in his custody. The accused was sent back on 06/10/06 after his confessional statement was recorded. Thereafter, I requested the DCP to furnish copy of the confessional statement given by the accused and the same was provided to me. I studied it.

40. The team of officers interrogating the accused no. 10 Suhail reported to me on 02/10/06 that he is willing to make a voluntary confessional statement before the superior officers. I also questioned him and satisfied myself that he is willing to make a confessional statement voluntarily. I therefore requested Jt. CP, ATS to nominate an officer of the rank of DCP, who is of the rank of Superintendent of Police, for recording his confessional statement. Accordingly, the Jt. CP, ATS nominated DCP (HQ) Ashutosh Dumbare to record his confessional statement and issued a letter to him and a

copy of the same was given to me. Ext. 1243 is the letter given to the DCP, copy of which is in my file. Thereafter, I received a letter from the DCP directing me to produce the accused before him on 05/10/06. Ext. 1244 is the office copy of the letter sent by the DCP. The original letter is in my file. I then directed PI Deshmukh on 04/10/06 to take the accused and produce him before the DCP on 05/10/06 and gave him a letter to that effect. Office copy of the letter now shown to me is the same, it bears my signature, its contents are correct and it bears the acknowledgment of PSI Yadav. (It is marked as **Ext.2400**). I also prepared a letter to the DCP regarding production of the accused before him through PI Deshmukh and staff. The letter Ext.1245 is the same, it bears my signature and its contents are correct. It bears the remark of the DCP under his signature of taking the accused in his custody. Its office copy is in my file. PI Deshmukh and staff produced the said accused before the DCP on 05/10/06. PSI Yadav returned back to the office and reported that the DCP had taken the accused in his custody. The accused was sent back on 07/10/06 after his confessional statement was recorded. Thereafter, I requested the DCP to furnish copy of the confessional

statement given by the accused and the same was provided to me. I studied it.

41. The team of officers interrogating the accused no. 11 Zameer reported to me on 02/10/06 that he is willing to make a voluntary confessional statement before the superior officers. I also questioned him and satisfied myself that he is willing to make a confessional statement voluntarily. I therefore requested Jt. CP, ATS to nominate an officer of the rank of DCP, who is of the rank of Superintendent of Police, for recording his confessional statement. Accordingly, the Jt. CP, ATS nominated DCP, Zone- XI Ranade to record his confessional statement and issued a letter to him and a copy of the same was given to me. Ext. 1118 is the letter given to the DCP, copy of which is in my file. Thereafter, I received a letter from the DCP directing me to produce the accused before him on 04/10/06. Ext. 1119 is the office copy of the letter sent by the DCP. The original letter is in my file. I then directed PI Salaskar on 04/10/06 to take the accused and produce him before the DCP on the same day and gave him a letter to that effect. Office copy of the letter now shown to me is the same, it bears my signature, its contents are

correct. (It is marked as **Ext.2401**). I also prepared a letter to the DCP regarding production of the accused before him through PI Salaskar and staff. The letter Ext.1120 is the same, it bears my signature and its contents are correct. It bears the inward stamp of the office of the DCP. Its office copy is in my file. PI Salaskar and staff produced the said accused before the DCP on 04/10/06. API Alaknure returned back to the office and reported that the DCP had taken the accused in his custody. The accused was sent back on 06/10/06 after his confessional statement was recorded. Thereafter, I requested the DCP to furnish copy of the confessional statement given by the accused and the same was provided to me. I studied it.

42. The team of officers interrogating the accused no. 6 Mohd. Ali reported to me on 19/10/06 that he is willing to make a voluntary confessional statement before the superior officers. I also questioned him and satisfied myself that he is willing to make a confessional statement voluntarily. I therefore requested Jt. CP, ATS to nominate an officer of the rank of DCP, who is of the rank of Superintendent of Police, for recording his confessional statement. Accordingly, the Jt. CP, ATS nominated DCP, Zone-IV Dattatraya

Karale to record his confessional statement and issued a letter to him and a copy of the same was given to me. Ext. 1065 is the letter given to the DCP, copy of which is in my file. Thereafter, I received a letter from the DCP directing me to produce the accused before him on 24/10/06. Ext. 1066 is the office copy of the letter sent by the DCP containing the acknowledgment of API Kolhatkar. The original letter is in my file. I then directed API Kolhatkar on 23/10/06 to take the accused and produce him before the DCP on 24/10/06 and gave him a letter to that effect. Office copy of the letter now shown to me is the same, it bears my signature, its contents are correct. (It is marked as **Ext.2402**). I also prepared a letter to the DCP regarding production of the accused before him through API Kolhatkar and staff. The letter Ext.1067 is the same, it bears my signature and its contents are correct. It bears the inward stamp of the office of the DCP, it also bears the acknowledgment. Its office copy is in my file. API Kolhatkar and staff produced the said accused before the DCP on 24/10/06. He returned back to the office and reported that the DCP had taken the accused in his custody. The accused was sent back on 25/10/06 after his confessional statement was recorded. Thereafter, I requested the

DCP to furnish copy of the confessional statement given by the accused and the same was provided to me. I studied it.

43. The officers and men interrogating the accused no. 7 Sajid reported to me on 19/10/06 that he is willing to make a voluntary confessional statement before the superior officers. I also questioned him and satisfied myself that he is willing to make a confessional statement voluntarily. I therefore requested Jt. CP, ATS to nominate an officer of the rank of DCP, who is of the rank of Superintendent of Police, for recording his confessional statement. Accordingly, the Jt. CP, ATS nominated DCP, Zone (Preventive) Sanjay Mohite to record his confessional statement and issued a letter to him and a copy of the same was given to me. Ext. 1029 is the letter given to the DCP, copy of which is in my file. Thereafter, I received a letter from the DCP directing me to produce the accused before him on 24/10/06. Ext. 1030 is the office copy of the letter sent by the DCP containing my signatures of having received it. The original letter is in my file. I then directed API Tambe on 23/10/06 to take the accused and produce him before the DCP on 24/10/06 and gave him a letter to that effect. Office copy of the letter now shown to

me is the same, it bears my signature, its contents are correct and it bears the acknowledgment of API Tambe of having received it. (It is marked as **Ext.2403**). I also prepared a letter to the DCP regarding production of the accused before him through API Tambe and staff. The letter Ext.1032 is the same, it bears my signature and its contents are correct. It bears the inward stamp of the office of the DCP. Its office copy is in my file. API Tambe and staff produced the said accused before the DCP on 24/10/06. He returned back to the office and reported that the DCP had taken the accused in his custody. The accused was sent back on 25/10/06 after his confessional statement was recorded. Thereafter, I requested the DCP to furnish copy of the confessional statement given by the accused and the same was provided to me. I studied it.

- 44.** The team of officers interrogating the accused no.12 Naveed reported to me on 19/10/06 that he is willing to make a voluntary confessional statement before the superior officers. I also questioned him and satisfied myself that he is willing to make a confessional statement voluntarily. I therefore requested Jt. CP, ATS to nominate an officer of the rank of DCP, who is of the rank of

Superintendent of Police, for recording his confessional statement. Accordingly, the Jt. CP, ATS nominated DCP, Zone-I Brijesh Singh to record his confessional statement and issued a letter to him and a copy of the same was given to me. Ext. 1223 is the letter given to the DCP, copy of which is in my file. Thereafter, I received a letter from the DCP directing me to produce the accused before him on 23/10/06. Ext. 1224 is the office copy of the letter sent by the DCP containing the signature of API Shelke of having received it. The original letter is in my file. I then directed API Shelke on 23/10/06 to take the accused and produce him before the DCP on the same day and gave him a letter to that effect. Office copy of the letter now shown to me is the same, it bears my signature, its contents are correct and it bears the acknowledgment of API Shelke of having received it. (It is marked as **Ext.2404**). I also prepared a letter to the DCP regarding production of the accused before him through API Shelke and staff. The letter Ext.1225 is the same, it bears my signature and its contents are correct. Its office copy is in my file. API Shelke and staff produced the said accused before the DCP on 23/10/06. He returned back to the office and reported that the DCP

had taken the accused in his custody. The accused was sent back on 25/10/06 after his confessional statement was recorded. Thereafter, I requested the DCP to furnish copy of the confessional statement given by the accused and the same was provided to me. I studied it.

45. The officers and men interrogating the accused no. 5 Majid reported to me on 20/10/06 that he is willing to make a voluntary confessional statement before the superior officers. I also questioned him and satisfied myself that he is willing to make a confessional statement voluntarily. I therefore requested Jt. CP, ATS to nominate an officer of the rank of DCP, who is of the rank of Superintendent of Police, for recording his confessional statement. Accordingly, the Jt. CP, ATS nominated DCP, Zone-V Phadtare to record his confessional statement and issued a letter to him and a copy of the same was given to me. Ext. 930 is the letter given to the DCP, copy of which is in my file. Thereafter, I received a letter from the DCP directing me to produce the accused before him on 24/10/06. Ext. 931 is the office copy of the letter sent by the DCP containing the signature of API Alaknure of having received it. The original letter is in my file. I then directed API Alaknure on 23/10/06 to

take the accused and produce him before the DCP on 24/10/06 and gave him a letter to that effect. Office copy of the letter now shown to me is the same, it bears my signature, its contents are correct and it bears the acknowledgment of API Alaknure of having received it. (It is marked as **Ext.2405**). I also prepared a letter to the DCP regarding production of the accused before him through API Alaknure and staff. The letter Ext.932 is the same, it bears my signature and its contents are correct. It bears the acknowledgment of the DCP under his signature. Its office copy is in my file. API Alaknure and staff produced the said accused before the DCP on 24/10/06. He returned back to the office and reported that the DCP had taken the accused in his custody. The accused was sent back on 25/10/06 after his confessional statement was recorded. Thereafter, I requested the DCP to furnish copy of the confessional statement given by the accused and the same was provided to me. I studied it.

- 46.** The officers and men interrogating the accused no. 13 Asif Khan reported to me on 20/10/06 that he is willing to make a voluntary confessional statement before the superior officers. I also questioned him and satisfied myself that he is willing to make a

confessional statement voluntarily. I therefore requested Jt. CP, ATS to nominate an officer of the rank of DCP, who is of the rank of Superintendent of Police, for recording his confessional statement. Accordingly, the Jt. CP, ATS nominated DCP, Zone-XI Ranade to record his confessional statement and issued a letter to him and a copy of the same was given to me. The copy of the letter now shown to me is the same, it bears the signature of Jt. CP, ATS, which I know and identify. (It is marked as **Ext. 2406**). Thereafter, I received a letter from the DCP directing me to produce the accused before him on 29/10/06. The letter now shown to me is the same, it bears the signature of the DCP and the inward number of my office. (It is marked as **Ext. 2407**). I then directed PSI Kandharkar on 29/10/06 to take the accused and produce him before the DCP on the same day and gave him a letter to that effect. Office copy of the letter now shown to me is the same, it bears my signature, its contents are correct and it bears the acknowledgment of PSI Kandharkar of having received it. (It is marked as **Ext.2408**). I also prepared a letter to the DCP regarding production of the accused before him through PSI Kandharkar and staff. The office copy of the letter now show to me is

the same, it bears my signature and its contents are correct. It bears the acknowledgment of the inward clerk of the DCP office. (It is marked as **Ext. 2409**). PSI Kandharkar and staff produced the said accused before the DCP on 29/10/06. He returned back to the office and reported that the DCP had taken the accused in his custody. The accused was sent back on 31/10/06 along with letter of the DCP that he had refused to make a confessional statement. The letter now shown to me is the same, it bears the inward number of my office. (It is marked as **Ext. 2410**).

47. Out of 13 accused, 12 had expressed their desire to make confessional statement. Accused no. 8 did not express such a desire. One out of the 12 accused sent, refused to make a confessional statement.

48. Accused no. 1 to 4 and 9 to 11 were remanded to police custody till 09/10/06. On that day they were produced before the Special Court for remand and all of them were remanded to judicial custody. Accused no. 5 to 8, 12 & 13 were remanded to police custody till 13/10/06. On that day they were produced before the Special Court for remand and all of them were remanded to police

custody till 26/10/06. On 26/10/06 they were again produced before the Special Court for remand and accused no. 5 to 8 and 12 were remanded to judicial custody and accused no. 13 was remanded to further police custody upto 01/11/06. He was again produced before the Special Court on that day and was remanded to judicial custody. Thus, by 01/11/06 all the accused were remanded to judicial custody.

49. I along with SPP filed an application to the Special Court on 13/10/06 to extend the period for filing the chargesheet and the court was pleased to extend the period by 45 days.

50. I started making preparations for holding the test identification parades of all the accused after they were remanded to judicial custody. I along with seven former investigating officers scrutinized the papers and discussed amongst ourselves and we identified eight witnesses who are required to be placed in the test identification parades. They were Amar Sardar Khan, Ajmeri Shaikh, Subhash Nagarsekar, Devendra Lahu Patil, Vishal Kishore Parmar, Kishore Popatlal Shah, Rajesh Satpute and Santosh Kedar Singh.

51. I filed an application in the Special MCOB Court on 06/11/06 requesting permission to organize the test identification

parades of all the arrested accused in this case, in the premises of the Mumbai Central Prison. The court was pleased to grant permission and further issued a letter to the Superintendent of Mumbai Central Prison and directed him to render necessary assistance for the parades. I contacted SEOs Purandare, Barve and Bendge and inquired about their availability for holding test identification parades on 7th and 08/11/06. They informed their availability to me.

52. I requested SEOs Purandare and Barve to attend my office on 07/11/06 at 0900 hours for organizing the test identification parades. I requested SEO Bendge to attend my office on 08/11/06 at 0900 hours for organizing the test identification parades. I also issued letters to them. I have got the office copies of the letters with me along with their acknowledgments. I also gave letter to the Supdt. of Mumbai Central Prison to make arrangements and render assistance for holding the test identification parades. I am producing the office copies of the letters given to the SEOs and to the Supdt., MCP, they bear my signatures, they bear the acknowledgments of the SEOs and their contents are correct. (They are marked as **Exts. 2412 to 2415**)

subject to objection by the learned advocates for the accused on the ground that the documents are being produced at this stage).

53. I asked my officers to contact the witnesses and request them to attend my office on 07/11/06 at 0900 hours for participating in the test identification parade. The officers reported to me later on that the witnesses are available and they have been instructed to come to my office.

54. SEOs Purandare and Barve came to my office on 07/11/06. I explained to them the brief facts of CR no. 05/06 of the ATS. I also gave them the names of the witnesses who had come for the test identification parade and introduced them to the witnesses who had come to the office. I also gave SEO Purandare the names of the accused, i.e., accused no. 2 Tanveer, accused no. 4 Ehtesham, accused no. 6 Mohd. Ali and accused no. 7 Sajid for whom he was required to take the identification parades. I gave SEO Barve the names of the accused, i.e., accused no. 1 Kamal, Accused no. 3 Faisal, accused no. 12 Naveed and accused no. 13 Asif Khan for whom he was required to take the identification parades. My staff rendered them assistance in procuring panchas. I told them that the

parade is to be organized in the Mumbai Central Prison. Thereafter, SEO Purandare left for Mumbai Central Prison along with two panchas and the eight identifying witnesses mentioned above, together with PI Joshi and staff. After some time, SEO Barve along with two panchas, myself and other staff also left the office for Mumbai Central Prison. I entered the prison and thereafter SEO Barve entered along with the panchas. The parades conducted by SEO Purandare were over at about 1.30 p.m or so and witnesses were sitting in the office of the Supdt. of MCP. I handed them over to SEO Barve and requested him to commence the proceedings of his parade. I returned back to the office thereafter. PI Joshi and staff came to the office at about 5.00 p.m. or so along with SEO Barve and the eight identifying witnesses. PI Joshi handed over to me the memorandums of the test identification parades conducted by SEO Purandare. Exts. 833 and 834 now shown to me are the same. SEO Barve handed over to me the memorandum of the test identification parade conducted by him. Ext. 844 is the same now shown to me. I then recorded further statements of above mentioned eight identifying witnesses on the point of identification of the accused.

(Adjourned for recess).

Date : 23/02/12

Special Judge

Resumed on SA after recess

55. SEO Bendge came to my office on 08/11/06. I explained to him the brief facts of CR no. 05/06 of the ATS. I also gave him the names of the same above mentioned witnesses who had come to the office for the test identification parade and introduced him to them. I gave him the names of the accused, i.e., accused no. 5 Majid, accused no. 8 Wahid, accused no. 9 Muzzammil, accused no. 10 Suhail Shaikh and accused no. 11 Zameer for whom he was required to take the identification parades. My staff rendered him assistance in procuring panchas. I told him that the parade is to be organized in the Mumbai Central Prison. Thereafter, he left for Mumbai Central Prison along with two panchas and the eight identifying witnesses mentioned above, together with PI Joshi and staff. PI Joshi and staff, SEO Bendge and the eight witnesses came to the office at about 4.00 p.m. SEO Bendge handed over to me the memorandum of the test identification parades conducted by him. The memorandum now shown to me are the

same. (They are marked as Art.379). I then recorded further statements of above mentioned eight identifying witnesses on the point of identification of the accused.

56. During the course of investigation, I had recorded the statements of the ten officers who had handled the accused while they were in the custody of the DCPs for recording their confessional statements. I had also recorded the statements of witnesses, viz., Arvind Kumar, officer from Enforcement Directorate, Mohd. Aslam, Mohd. Shakil, Ubedur Rehman, Noman Shaikh, Abdul Rehman @ Asif Usman Shaikh, ACP Inamdar, PI Ahir, API Shelke, PSI Yadav and some other witnesses whose names I do not remember now.

57. The officers who were assisting me in the investigation had recorded the statements of about 120 witnesses during the course of investigation. I verified the statements of the witnesses that were recorded by them and who were placed before me, by countersigning the statements with my remark as 'verified'. As far as other statements and panchanamas are concerned, I read most of them and countersigned them with my remark as 'seen'.

58. The CA report about the articles seized at the scene of

the offence in CR no. 156/06 was received. It is the same now shown to me. (It is received in evidence under Section 293 of the Cr. P. C and marked as **Ext. 2416**).

59. It was disclosed in the investigation that the accused no. 6 Mohd. Ali was having a passport. It was disclosed that by using the said passport he had gone to Dubai and then to Pakistan for terrorist training. Thereafter, he came back to Dubai and from Dubai he went to Nepal and from Nepal he entered in India. It was disclosed that he had used this route to hide his visit to Pakistan and the passport was not traceable and it was suspected that he had destroyed it. In order to obtain the details about his passport a letter was sent to the Regional Passport Officer, Worli under the signature of DCP Bajaj. Office copy of the letter now shown to me is the same, it bears the signature of DCP Bajaj, which I know and identify as I was working under him. (It is marked as **Ext.2417**). A reply was received from the PRO of that office forwarding copies of the passport application form and other documents that were furnished along with the application and a copy of the passport. They are the same now shown to me. (The letter is marked as **Ext. 2418** and the

photocopies of the documents with it are marked as **Arts. 380 (1 to 6)**).

60. During the course of investigation it was found that the accused no. 6 Mohd. Ali had traveled to Dubai from Mumbai International Airport. In order to obtain his departure details to Muscat on 01/02/03, I wrote a letter to the Sr. PI of SB-II, CID, Airport Branch, Mumbai on 10/10/06. Office copy of that letter now shown to me is the same, it bears my signature, it bears the acknowledgment of the Airport Branch and its contents are correct. (It is marked as **Ext. 2419**). I got the reply from the Sr. PI on 01/11/06. It is the same now shown to me, it bears the inward number of my office. (It is marked as **Ext. 2420**). By that reply he confirmed about the departure of the said accused on 01/02/03 by flight no. WY 802. Since the accused had departed by the flight of Oman Airways, I wrote a letter to the Airport Service Manager, Oman Airways, CSI Airport, Terminal- IIA, Departure Level, Mumbai to inquire about his departure on 01/02/03. The fax copy of the letter now shown to me is the same, it bears my signature and acknowledgment and its contents are correct. (It is marked as **Ext. 2421**). A reply was received from the Airport manager

of Oman Airways and he had enclosed the necessary relevant documents in which the name of the accused no. 6 Mohd. Ali was reflected as a passenger. The reply and the photocopies of the enclosed documents are the same now shown to me. (The reply is marked as **Ext. 2422** and the photocopies of the documents with it are marked as **Arts. 381 (1 to 7)**).

61. It was disclosed during the investigation that the accused no. 8 Wahid had rented a flat no. 202 in Moonlit Building, Mumbra and paid a deposit of Rs. 7,000/- by cheque to the landlady Mrs. Raeesa Khatoon Abdul Naeem and the cheque was encashed in her account in Development Credit Co-operative Bank, Kausa Branch. I sent a letter on 28/11/06 to the said bank. Office copy of my letter now shown to me is the same, it bears my signature and its contents are correct. (It is marked as **Ext.2423**). The bank sent reply along with the statement of accounts, which showed deposit of cheque of Rs. 7000/- in her account. The reply now shown to me is the same, it is addressed to me and it bears my endorsement under my signature. (It is marked as **Ext. 2424** and the attested cheque deposit slip and the statement of account are marked as **Art.382 (1**

and 2)). Since, the original cheque was not available with the bank, I deputed PI Joshi for making further inquiries by making an endorsement under my signature on the reply. He procured a letter from Bombay Merchantile Bank along with the original cheque, specimen signature form of accused no. 8, account opening form and a copy of statement of account. The letter and the documents annexes now shown to me are the same. (Learned advocates for the accused object to receiving the letter in evidence as PI Joshi has already been examined and he has not referred to the letter. Hence, the letter is marked as **Art- 383** and the accompanying documents are marked as **Art.384 (1 to 4)**). This above documents confirmed that the cheque issued by the accused no. 8 was deposited in and encashed from the account of landlady Raeesa Khatoon.

62. I had asked PI Rathod to collect information about the daily passenger load on Western Railway Suburban Trains. PI Rathod had sent a letter to Sr. DCM, Mumbai Central Division, Mumbai Central on 22/12/06 requesting for the said information. Office copy of the letter now shown to me is the same, it bear his signature, which I know and identify. (Learned advocates for the

accused object to receiving the letter in evidence as PI Rathod has already been examined and he has not referred to the letter. Heard both sides. The fact remains that PI Rathod was working under this witness and had acted as per the directions of this witness, hence the letter is received in evidence, subject to objection and marked as **Ext. 2425**). The Western Railways sent the reply in my name, it is the same now shown to me. (It is marked as **Ext. 2426**). In the reply, the number of passengers traveling daily was calculated to be more than 30 lakhs everyday.

63. I had asked PI Rathod to collect information as to whether service of local trains in Mumbai are covered under the essential services. PI Rathod sent a letter on 22/12/06 to the Sr. Divisional Personal Manager, Mumbai Central Division. A reply was also received informing that the railway services are define, as essential services under Section 2 of the Essential Services Maintenance Act and a photocopy of the said act was enclosed. Office copy of the letter now shown to me is the same, it bear his signature, which I know and identify. (Learned advocates for the accused object to receiving the letter in evidence as PI Rathod has

already been examined and he has not referred to the letter. Heard both sides. The fact remains that PI Rathod was working under this witness and had acted as per the directions of this witness, hence the letter is received in evidence, subject to objection and marked as **Ext. 2427**). The Western Railways sent the reply in my name, it is the same now shown to me. (It is marked as **Ext. 2428**. The documents annexed are marked as **Art. 385**).

64. During the course of investigation, medical certificates of the injured persons were collected by officers in the investigation team. The memorandum of post-mortem examinations were also collected.

65. It was found after completing most of the investigation that total 187 persons had died in the seven bomb blasts of 11/07/06. The dead bodies of all the victims, except one were identified and claimed by their next of kin. The body that was not claimed was found to be of one of the wanted accused involved in this case. He was identified as one Salim from Pakistan. His dead body was disposed off as unclaimed by the police. Total 817 injured were traced till the time I filed the chargesheet and their statements are on record. The

injured kept on coming to our office and till the time I filed additional documents in this case in April 2007, the number of injured traced by us went upto 829. After studying the evidence collected by me and my team, it was found that the attacks on 11/07/06 was aimed to cause huge loss of life resulting in the death of 187 persons and injuring more than 829 persons. Railway property worth lakhs of rupees was destroyed in the blasts and the services of Western Railway were crippled for some days causing huge loss of revenue to the railways. It had resulted in the disruption of railway services as well as road transport in the city, resulting in a situation of chaos. The intention behind the dastardly act was to spread terror and disturb the communal harmony.

- 66.** It was disclosed from the evidence collected that the acts were committed by an organized crime syndicate and the conspiracy was spread over a large period of time. The accused no. 13 Asif Khan, who was the main conspirator in the case, was involved in offences of creating communal disharmony and creating enmity between two different groups in the society. An offence under Section 153 A of the IPC was registered against him and others for this at

MIDC Police Station at Jalgaon vide CR No. 178/99. He was arrested in that case and the chargesheet was filed. However, he jumped bail and was declared absconder in that case. While he was absconding, he was again involved in a case of a more serious nature under Sections 153A, 121, 122, 123 r/w 34 of the IPC registered against him and others at MIDC Police Station at Jalgaon vide CR No. 103/01 in which chargesheet was filed and the court had framed the charge. His name was mentioned in the charge. His involvement in the above two cases and his subsequent involvement in this case showed that he was indulging in continuing unlawful activity, either singly or jointly and hence, the provisions of the MCOG Act were applied to this case.

67. It was revealed during the course of investigation of this case, that out of 13 accused persons arrested, 10 accused were members of SIMI, which was declared as an unlawful association and banned in the year 2001 vide order dated 27/09/2001 of the Central Government. Similarly, two of the wanted accused were also members of SIMI. It was disclosed in the investigation that even though the SIMI was banned, the arrested and wanted accused continued working for the said organization and used to take part in

the activities of SIMI. It was disclosed that the SIMI was the main factor binding them together and they used to remain in contact with each other. Some literature of SIMI and other objectionable literature was recovered from some of the accused persons, who were the members of SIMI. It was found that there were cases against accused no. 2 Tanveer, accused no. 4 Ehtesham, accused no.7 Sajid and accused no. 8 Wahid, which were of similar nature and were under the provisions of Section 153 A of the IPC or under the provisions of the Unlawful Activities (Prevention) Act. The ideology of SIMI does not believe in democracy and secular nature of the society and State and one of its objective is to replace the system by 'Khilafat', i.e., Islamic rule. The ideology also teaches the concept of Zihad for achieving these objectives.

68. The aforesaid ideology of SIMI is similar to the objective of L-e-T, which is also a terrorist organization banned under the provisions of the UA(P) Act. The main headquarters of this organization is situated in Pakistan and many countries in the world have declared it as a terrorist organization. The L-e-T has been indulging in various acts of violence in India, especially in important

commercial cities. The main object behind the activity of this organization is to destroy the economy of India, destabilize the nation and challenge the authority of the state. It was found during the investigation that the leaders of this organization made use of the SIMI cadre because their ideologies are similar. It was disclosed in the investigation that one of the commanders of L-e-T by name Azam Chima @ Babaji had played a vital role behind the activities of arrested accused as an organized crime syndicate. He had arranged for the training of arrested accused no. 1 Kamal, accused no. 2 Tanveer, accused no. 3 Faisal, accused no. 6 Mohd. Ali, accused no. 9 Muzzammil, accused no. 10 Suhail and accused no. 11 Zameer in the camps of L-e-T situated in Pakistan. The said accused had gone to Pakistan by deceptive routes. Most of them had gone from Mumbai to Tehran under Ziarat (religious tour) visa and then entered Pakistan illegally and then went and met Azam Chima at Bhawalpur and then went to Muzzafarabad and obtained terrorist training in handling arms, ammunition and explosives. During the course of investigation maps showing India, Pakistan, Afghanistan, Iran and other countries with a marking of routes from Mumbai to Muzzafarabad were

recovered from some of the accused persons.

69. The main brain behind this case was Azam Chima and he had provided huge funds to accused no. 3 Faisal and to other accused who had gone for trainings in his terrorist camps. The funds were routed to India through wanted accused Rizwan Dawrey and Rahil Shaikh, who were based in Dubai at that time and were sent to Mumbai either through hawala route or persons coming to India. These funds were utilized for travel expenses, for procuring various materials, renting the places for keeping the wanted accused, for exit of wanted accused after the blasts, etc.

70. During the course of investigation 26,200 Saudi Riyals were recovered, some from the residence of arrested accused no. 3 Faisal and some from witness Abdul Rehman Dawrey, which were meant for the accused no. 3 Faisal. Wanted accused Azam Chima had asked accused no. 3 Faisal, accused no. 13 Asif Khan and others to make preparations for bomb blasts strike in the city of Mumbai. Thereafter, some of the arrested accused organized meeting in the month of February 2006 and discussed about the proposal of Azam Chima. Azam Chima had promised the arrested

accused that he would send about 12 people from Pakistan, who would help them in assembling explosive and triggering devices. He had also promised to send high explosives along with those persons. Azam Chima sent six persons from Bangladesh in May 2006, who were collected by accused no. 5 Majid and brought to Mumbai. They were handed over to the accused no. 13 Asif Khan, who made arrangements for their stay. The names of those persons were disclosed as Sabir, Ammu Jaan, Ehsanullah, Abu Hasan, Abu Bakar and Kasam Ali. All of them were Pakistani nationals and it was disclosed that Ehsanullah had brought about 15 kgs of RDX with him. Similarly, Azam Chima sent two persons from Nepal border and they were collected by the accused no. 1 Kamal and brought to Mumbai and were handed over to the accused no. 7 Sajid, who arranged for their stay. Their names were disclosed as Aslam and Hafizullah. Azam Chima had also pushed four terrorists illegally from Kutch border and they came to Mumbai and were staying with accused no. 3 Faisal. Their names were disclosed as Abdul Razzak, Suhail, Salim and Abu Umed. Subsequently, it was disclosed that Abdul Razzak is a person hailing from Hyderabad and has settled in Pakistan and

accused Suhail is from Pune and also holed up in Pakistan. Subsequently, it was also disclosed that the said Suhail is involved in Mulund Railway Bomb blasts of 2003 and a red corner notice was issued against him. Salim is the person who was killed in the blast that took place at Matunga. The accused Abu Umed was found to have alias name as Abu Osama @ Mohd. Ali. He was killed in an encounter by the officers of the ATS in the month of August 2006.

(Adjourned as court time is over).

Date : 23/02/2012

(Y. D. Shinde)
Special Judge

Date : 24/02/12
Resumed on SA

71. Some of the arrested accused surveyed various places in Mumbai and found that the local trains running in the evening time are safe targets and maximum casualties could be achieved. Therefore, they fixed the targets and wanted accused Azam Chima also consented for the same. The wanted accused persons and two dead accused were staying in the safe houses arranged by accused no. 13 Asif Khan, accused no. 3 Faisal and accused no. 7 Sajid. They decided to assemble the explosive devices in the house of the accused no. 6 Mohd. Ali, situated at Govandi. Three days prior to the explosions, the explosive devices were assembled by the accused no. 7 Sajid, the experts in assembling explosive devices, i.e., wanted accused Suhail Shaikh from Pune, who had come from Pakistan and one more Pakistani wanted accused. The accused no. 2 Tanveer, accused no. 4 Ehtesham and accused no. 6 Mohd. Ali were supervising the assembling. On the night of 10/07/06 assembled explosive devices were transported in the motor car no. MH-01-V-9568 belonging to the accused no. 3 Faisal and in one taxi, by the

accused no. 3 Faisal, accused no. 12 Naveed, **accused no. 7 Sajid** and the Pakistani nationals. They were taken to the house of the accused no. 3 Faisal and stored there.

72. From the evidence collected it was revealed that on 11/07/06 in the afternoon, the explosive devices were transported in seven different taxis from the house of the accused no. 3 Faisal to Churchgate Railway Station and planted in seven different first class compartments of seven local trains of Western Suburban Railways, Mumbai. It was disclosed in the investigation that the bomb that exploded at Matunga Railway Station was planted by accused no. 1 Kamal along with wanted accused Aslam, Hafizullah and Salim, who was killed in the explosion. It was disclosed in the investigation that the bomb that exploded at Khar subway was planted by accused no. 12 Naveed along with accused Abu Umed @ Abu Osama @ Mohd. Ali, who was killed in encounter later on. The bomb that exploded at Jogeshwari Railway Station was planted by the accused no. 3 Faisal along with wanted accused Abu Bakar. It was also disclosed that the bomb that exploded at Borivali Railway Station was planted by accused no. 13 Asif Khan along with wanted accused Sabir. The

bomb that exploded ahead of Mira Road Railway Station was planted by the accused no. 4 Ehtesham along with wanted accused Ammujaan. It was disclosed from the investigation that all the planters except Salim, had got down from the respective trains at or before Dadar Railway Station.

73. It was disclosed from the evidence that after the bomb blasts, all the Pakistani wanted accused persons who had come from Pakistan made good their escape by clandestine ways and reached Pakistan, except Abu Umed @ Abu Osama @ Mohd. Ali, who had remained behind and was subsequently killed in the encounter. The six wanted accused persons who had come from Bangladesh border had assembled in the house of the accused no. 8 Wahid and from there they were taken away by accused no. 5 Majid and he dispatched them out of India from the Bangladesh border.

74. The evidence disclosed during the investigation showed that in all the seven bomb blasts Cyclonite (RDX) was used as high explosive along with ammonium, Hydrocarbon Petrol Oil and charcoal. We had received CA reports to that effect. During the investigation 500 gms black powder was recovered from the accused

no. 1 Kamal, samples of black and white spots were noticed in the houses of the accused no. 3 Faisal and accused no. 6 Mohd. Ali and in the hand bag recovered at the instance of accused 13 Asif Khan. We had received their CA reports and they were similar to the explosive substances found at the spots.

75. From the investigation carried out and the evidence collected upto 13/11/06, I came to the conclusion that the arrested accused nos. 1 to 13 and wanted accused nos. 1 to 15 along with two deceased accused were members of an organized crime syndicate. They were indulging in the continuing unlawful activities and resorting to various acts of violence, including bomb blasts, with the object of spreading communal disharmony, disturbing public tranquility, destabilizing the economy, spreading terror in the rank and file of common citizens and promoting insurgency. The evidence collected was sufficient to prosecute them under the provisions of the MCOB Act. However, for doing so previous sanction was required from the Commissioner of Police, who was of the rank of Addl. Director General of Police. Therefore, I submitted a proposal on 13/11/06 to the Commissioner of Police through proper channel seeking sanction

to prosecute the arrested and wanted accused under Sections 3(1), 3 (2), 3 (4) of the MCOB Act as required under Section 23(2) of the MCOB Act. After I submitted the proposal, the Commissioner of Police had called me to his office on two-three occasions and I had assisted him in pointing out various papers of investigation as required by him. The Commissioner of Police granted prior sanction on 25/11/06. Ext. 13 now shown to me is the same. The evidence on record was also sufficient to prosecute the accused under the provisions of the Unlawful Activities (Prevention) Act and sections 121A, 122, 123, 124A and 120B of the IPC and for prosecution under these sections, sanction of the State Government was necessary under Section 45 of the UA (P) Act and section 196 of the Cr. P. C. respectively. I submitted the proposals to the Addl. Chief Secretary (Home), Government of Maharashtra, Mantralaya, Mumbai. The proposal for prosecution under the Passport Act and Explosive Substances Act were also submitted to the competent authorities.

76. The reports of the FSL in CR nos. 87/06, 86/06 and 77/06 in connection with the articles that were collected from the spots and metal pieces taken out from the bodies of injured are the

same now shown to me. (They are marked as **Exts. 2429, 2430, 2431 (1 and 2) and 2432 (1 and 2), 2433 to 2436**).

77. I had obtained the gazette copies of Government of India dated 27/09/01 declaring SIMI as an unlawful association and imposing ban on it, extending the period of the ban by the order dated 08/02/06 and gazettes regarding confirmation of the ban, etc. Ext. 1592 is the gazette dated 27/09/01. The rest are the same now shown to me. (They are marked as **Exts. 2437 to 2443**). I had obtained the photocopies of newspaper cuttings from the Central Library and SB-I, CID office, wherein the news regarding ban on the SIMI appears. I had given a letter to the Central Library. Office copy of that letter now shown to me is the same, it bears my signature and its contents are correct. (It is marked as **Ext. 2444**). They are the same now shown to me. The librarian had provided photocopies of five news items. (They are marked as **Arts. 386 to 390**). The ban imposed on SIMI in 2001 is continuing till today. Ext. 1603 is the sanction order issued by the Government of Maharashtra for prosecution under Sections 120B, 121A, 122, 123 and 124A of the IPC. Exts. 1634 and 1648 is the consent order issued by the

Collector, Mumbai City for prosecution under the provisions of Explosive Substances Act. Exts. 1700 and 1709 is the sanction order issued by the Government of Maharashtra for prosecuting the accused under the provisions of the Unlawful Activities (Prevention) Act and Passport Act. Ext. 1762 is the consent for prosecution issued under the provisions of the Explosive Substances Act by the Collector of Mumbai Suburban District. Ext. 1766 is the consent for prosecution issued under the provisions of the Explosive Substances Act by the Collector of Thane.

(Adjourned for recess)

Date : 24/02/12

Special Judge

Resumed on SA after recess

78. The arrested accused were having previous cases registered against them at various police stations. Information about it was obtained by procuring certified/true copies of the relevant documents. Exts. 1506 to 1509 are regarding CR no. 178/99 registered against accused no. 13 Asif Khan at MIDC Police Station, Jalgaon. Exts. 1510 and 1511 are regarding CR no. 103/01 registered against accused no. 13 Asif Khan at MIDC Police Station, Jalgaon.

Ext. 1512 is regarding LAC No. 04/06 registered against accused no. 4 Ehtesham. Exts. 1513 to 1514 are regarding CR No. 256/06 registered against accused no. 4 Ehtesham at Kotwali Police Station, Khandwa. Exts. 1515, 1516 and 1517 are regarding LAC No. 877/02 registered against accused no. 8 Wahid at Park Site Police Station, Mumbai. Ext. 1518 is regarding Special LAC No. 26/01 registered against accused no.7 Sajid at Andheri Police Station, Mumbai. Exts. 1519 and 1520 are regarding LAC No. 132/01 registered against accused no. 7 Sajid at Andheri Police Station, Mumbai. Ext. 1521 is regarding three cases registered at Basupatii Police Station, Dist. Madhubani, Bihar against accused no. 1 Kamal. Ext. 1522 is regarding CR No. 173/06 registered at High Ground Police Station, Bangalore against accused no. 9 Muzzammil. Ext. 1523 is regarding arrest of accused no. 10 Suhail under Section 151 (1) and 151 (3) of the Cr. P.C. by Lashkar Police Station, Pune. Ext. 1524 is regarding CR No. 195/06 registered at Antop Hill Police Station regarding death of wanted accused Abu Umed @ Abu Osama @ Mohd. Ali.

79. There were marking on the maps recovered from the accused showing the route from Mumbai to Muzzafarabad and e-mail

addresses and telephone numbers were also written. PI Rathod had obtained specimen handwriting of accused nos. 2,3,9,10 and 11 and forwarded them and the maps to the handwriting expert. I had received the opinion of the handwriting expert. Ext. 1493 is the opinion of the handwriting expert received by me. It was opined that the handwriting of the e-mail IDs on the maps were tallying with the specimen handwriting of the accused no. 3 Faisal.

80. I sent a letter on 21/11/06 to the Divisional Railway Manager, Western Railways, Mumbai, in order to find out the revenue losses suffered by the railway authorities, amount paid as compensation to the injured and to the next of kin of the deceased persons and other losses. The letter Ext. 1681 is the same, it bears my signature and its contents are correct. The railways had sent the reply Ext. 1682 mentioning the losses. The loss towards revenue till 27/11/06 was estimated at Rs. 280/- Lakhs. The losses on account of compensation paid were estimated Rs. 2,92,17,270/-

81. During the course of investigation, it was found that the accused no. 2 Tanveer had gone to Pakistan for training in the month of May and June 2004 after resigning his job in Prince Ali Khan

Hospital. I wrote a letter to the Medical Superintendent of the Prince Ali Khan hospital, Mazgaon, Mumbai-10 to furnish his service details. Office copy of the letter now shown to me is the same, it bears my signature, it bears the acknowledgment of the hospital and its contents are correct. (It is marked as **Ext.2445**). The hospital gave reply furnishing the details of resignation. It is the same now shown to me. (It is marked as **Ext.2446 (1 and 2)** as learned advocate Wahab Khan has no objection).

82. Asst. Director Arvind Kumar from Enforcement Directorate had recorded the statement of accused no. 3 Faisal and two more witnesses. Copies of the same were provided to us by letter from Special Director of Enforcement, Mumbai Zonal office addressed to the Jt. CP. It was marked to me. It is the same now shown to me, it bears the inward stamp of the office of the Jt. CP, ATS and the endorsement of forwarding it to me. (It is marked as **Ext. 2447**). The copies of the statements Exts. 585 (1 and 2), 586 (1 and 2) and 587 now shown to me are the same. Two memorandums of post-mortem examination received are the same now shown to me. (They are marked as **Exts. 2448 and 2449** as they are photocopies having

seals of the post-mortem center, subject to objection by learned advocate Shetty).

83. 500 gms of black coloured powder was recovered on 20/07/06 from the house of the accused no. 1 Kamal. The FSL had opined that the said black powder consists of Cyclonite (RDX), a high explosive and charcoal. Since the high explosive was recovered from his residence at Basupatti, Dist. Madhubani, Bihar, a case was registered at 00 number and the FIR, panchanama and relevant documents were sent to SP, Madhubani along with the seized black powder for taking necessary action. In this connection, a case was registered at Basupatti Police Station, Dist. Madhubani, Bihar at CR No. 102/06. Since the seized explosive material was a part of the larger conspiracy involved in this case, it was decided that the case of Basupatti Police Station should be transferred to Special MCOB Court, Mumbai for trial. In this connection, a petition was filed in the Supreme Court and the Supreme Court was pleased to order the concerned authority at Madhubani to transfer the case to the Special MCOB Court at Mumbai. PI Mohite was sent to Madhubani after this order. He collected the documents of the case and also the black

powder. I had sent a letter to the Collector of Dist. Madhubani requesting consent to prosecute the accused under the provisions of the Explosive Substances Act. The Collector issued consent order, Ext. 512 is the same now shown to me. The certified copy of the order of the Supreme Court now shown to me is the same. (It is marked as **Ext.2450 (1 and 2)**). All the original case papers and the seized powder were deposited in the Special MCOOC Court, Mumbai as per the order of the Supreme Court. Copies of all the case papers were provided to the accused. A station diary entry was made.

84. Thirteen accused were arrested during the course of investigation, fifteen accused were wanted and two accused had died. I filed chargesheet in the Special MCOCA Court, Mumbai on 30/11/06 on the basis of the investigation conducted upto that date. The final report form is the same now shown to me, it bears my signature and its contents are correct. (It is marked as **Ext.2451**). I requested the court at the time of filing of the chargesheet to allow us to conduct further investigation under Section 173(8) of the Cr. P.C. since fifteen accused were wanted and some more investigation was required to be done and the permission was granted. The application

Ext. 14 is the application filed by the SPP for that purpose. The accused were furnished with the copies of the chargesheet. The original documents were deposited in the court along with the muddemal concerned in this case.

85. I along with officers and men of the ATS made all possible efforts to trace the wanted accused. Standing non-bailable warrants were obtained against all the wanted accused and efforts were made to execute the same, but we could not succeed. We had requested the court to issue proclamation and proclamations were issued against all the 15 wanted accused persons. The said proclamations were promulgated at the places where they were likely to be located and the reports of the same were submitted to the court. Information about the wanted accused were sent to all District Superintendents and Commissioners of Police in India with a request to keep a look out for them. The wanted accused whose names, addresses and passport details were available, were kept on look out at all the sea and air check-posts of India.

86. As regards wanted accused Rizwan Dawrey and Rahil Shaikh, details about their names, addresses, photographs and

passports were available and after following due process, red corner notices (RCN) were issued against them by Interpol at our request. As regards wanted accused Sohail, whose name was subsequently revealed to be as Sohail Abdul Gani Shaikh, resident of Pune, he was found involved in Mulund Railway bomb blast of 2003 and a red corner notice had already been issued against him. At our request an addendum to the RCN was issued against him. As regards wanted accused Azam Chima @ Babaji, it was found that a RCN was also issued against him for his involvement in a case in Gujarat State. At our request an addendum to the RCN was issued against him. Since the required details for issuing RCNs against the other wanted accused were not available, RCNs could not be issued against them.

87. In this case certain important evidence was required to be gathered from Iran, UAE and Saudi Arabia. Hence, this court was requested to issue letter rogatorys and the court issued them. They were forwarded to the Government of India.

88. I along with other officers and men conducted remaining investigation in the case after filing the chargesheet and additional documents were filed in the court. The copies of the

documents were supplied to the accused.

(Learned SPP submits at 4.45 p.m. that he has almost completed the chief-examination, but he prays for deferring it to go through the papers. Hence adjourned).

Date : 24/02/2012

(Y. D. Shinde)
Special Judge

Date : 28/02/12
Resumed on SA

- 89.** Statements of 24 witnesses, whose statements had been recorded during the course of investigation, were also recorded by magistrate under Section 164 of the Code of Criminal Procedure.
- 90.** The bottles of chemicals seized at the instance of the accused no. 2 Tanveer and which were deposited in the court were hazardous for storage. Therefore, we requested the court to grant permission for disposing of the chemicals and after getting permission the chemicals were disposed of on 16/12/06. Thereafter, the panchanama along with the empty bottles and a report were filed in the court.
- 91.** I had arrested all the thirteen accused in this case and they are the same before the court. I can identify them individually also. (Witness looks around the court hall and points to the accused nos.1 to 13 sitting in the dock. They are asked to stand up and tell their names, which they state as Kamal Ahmed Vakil Ansari, Dr. Tanveer Ahmed Ansari, Faisal Aatur Rehman Shaikh, Ehtesham Qutubuddin Siddiqui, Mohd. Majid, Mohd. Ali, Mohd. Sajid, Wahiddin,

Muzzammil Aatur Rehman Shaikh, Suhail Mehmood Shaikh, Zameer Latifur Rehaman Shaikh, Naveed Shaikh and Asif Khan). They are the same accused.

Cross-examination by Adv Wahab Khan for A2, 7, 10 & 13

92. I have produced all the documents on which the prosecution relies in this case. The documents which are not relied upon and which are not required to be produced are not produced. PI Sunil Deshmukh was one of the officers assisting in the investigation. It is not true that all the documents that are not produced are suppressed as they prove the innocence of the accused, that it was revealed from those documents that none of the accused before the court were involved in the case. PI Sunil Deshmukh had given some documents concerning the employment of the accused no. 13 Asif Khan to me. He had given me a document concerning the attendance of the accused no. 13 on the day of the incident and around it at the place of his employment. There is an entry in that document that he was present at the place of his employment from 9.05 a.m. to 6.25 p.m. on 11/07/06. I had gone through the said document. Statements of three witnesses were recorded in that connection, which included

the watchman, colleague of the accused and one superior officer of the accused. I do not know whether all the three witnesses are available. Exts. 2088 to 2094 are the said documents.

93. It is not true that I wanted to know the whereabouts of the accused no. 2 Tanveer, and therefore, I corresponded with his hospital. I wanted to know his service details, therefore, I corresponded with his hospital. I can say on going through the record whether I had written a letter to the Sabu Siddhiqui Hospital. PI Rathod had obtained his service details and given them to me. I had also called for record of bank transactions. I do not remember whether bank record showed that he was paid the salary of 19 working days of July 2006. I can say by going through the record about the hospital authority informing me that he regularly attended the duty from December 2004 until he was arrested. It is not true that I removed the record of July 2006 from the record that was provided by the hospital. (Learned advocate asks the witness to go through Ext. 2020). It is true that it is written in the letter that the accused carried out his duty from December 2004 until he was arrested, except the leave from 01/06/05 to 30/06/05 for his marriage. PI

Rathod had collected this information and whatever he handed over to me is produced before the court. It is true that the pay sheet of July 2006 is not with the documents. I did not correspond with the hospital authority about not giving the pay sheet of July 2006 or giving incomplete documents, because it was done by PI Rathod. PI Rathod had obtained the details of the bank transactions. I cannot say whether the salary of the days that he had worked in July 2006 had been credited to his account. (Learned advocate asks the witness to go through Ext. 2030). It is true that it shows the entry of salary of June 2006 of Rs. 5030/- and salary of July 2006 of Rs. 3097/-. I cannot say whether the accused had attended his duties for 19 days in July 2006, therefore, the salary of Rs. 3097/- was given to him. I do not remember whether statement of the hospital authority was taken in connection with the attendance of the accused in the hospital in July 2006. I cannot say whether the hospital had informed me that the accused was on duty from 8th to 11/07/06. I am not aware whether the accused attended his duties on 09/11/06 at 11.41 a.m. and was there looking after the patients till 2258 hours. It is not true that we have collected the entire details of the timing and attendance of the

accused on 10/07/06 and 11/07/06. (Learned advocate asks the witness to go through Ext. 2446(1)). It is not true that I got inserted the last but one paragraph in the said letter from the medical director. I cannot say whether the contents of that paragraph are incorrect. I do not remember whether the accused had a bank account in the Development Credit Bank when he was working in the Prince Ali Khan Hospital. I had instructed PI Rathod to make inquiry in this connection and he may have taken my signature on a letter. I will have to see the record to say whether the bank authorities had provided the entire information. (Learned advocate shows page 99 of Vol-III A to the witness). It is a letter under my signature addressed to the manager of the bank. PI Rathod collected the details and handed them over to me. I must have gone through the transactions. I did not think of asking for clarification about any transactions as I had asked PI Rathod to make the inquiry. Page 3 of the extract of account shows deposit of salary for November on 02/12/05. The concerned hospital can give the explanation about the contents of the last but one paragraph in Ext. 2446 (1) read with the above entry in the extract of the bank account. It is not true that the said hospital had

provided the attendance record. It is not true that we had asked for the attendance record. It is not true that I tried to impress on the hospital authorities to write in their letter that the accused was in the habit of remaining absent and as such was issued show cause notice on 21/11/05, that he had gone to Pakistan via Iran. It is so written in my letter Ext. 2445 as per the information revealed from the interrogation of the accused.

94. I cannot say whether the accused in this case were called for inquiry to the ATS office before their arrest. I do not know whether any accused in this case was detained at the ATS office before his arrest. No subordinate officer informed me about calling any accused to the ATS office regularly before his arrest and I was not shown any record about it. (Learned advocate asks the witness to go through the case diary and say since when the accused no. 8 Abdul Wahiddin was shown as absconding). On going through the case diary of CR No. 156/06 of Borivali Railway Police Station the accused no. 8 Abdul Wahiddin was not shown as wanted upto 28/09/06. His involvement was disclosed to me on that day and I deputed a team to trace him. I cannot say on the interrogation of

which accused his name was disclosed. It was during the interrogation of the accused by me. It is not true that from 13/09/06 a program was going on in the ATS office to fit the accused no. 8 in this case. It is not true that he was detained from that day in the ATS office without being arrested and a record was created in the ATS office showing that he was called and then allowed to go back. It is not true that entries of all suspects called for inquiry to the office are made in the station diary. It is not true that the ATS officers prepared bogus entries showing that the accused no. 8 was called and then allowed to go back. (Learned advocate asks the witness to go through the station diary entries concerning the attendance of the accused no. 8 from 13/09/06 to 23/09/06). It is true that the concerned entries on all the dates show that the accused no. 8 Wahiddin Mohd. was called to the ATS office for inquiry. The contents of the true photocopies now shown to me are as per the contents of the original entries in the station diary. (They are marked as **Exts. 2461 (1 to 11)**). It is in the entry dated 23/09/06 that he was inquired with in connection with the railway bomb blasts. I was not informed about the attendance of this accused during those days. It is not true

that he was detained without being arrested during this period.

(Adjourned at the request of the learned advocate at 5.20 p.m.)

Date : 28/02/2012

(Y. D. Shinde)
Special Judge

Date : 29/02/12
Resumed on SA

95. I have not examined the case diaries of those days, therefore, I cannot say whether there are entries in the case diaries about the accused Wahiddin being called to the ATS office on those days. I did not come across his statement recorded during that period. I had not examined the case diaries of all the seven crimes minutely. (Learned advocate asks the witness to see the entries no. 9 and 18 dated 21/08/06). It is true that the entry no. 9 shows that the accused no. 8 had attended the ATS office and was allowed to go. It is true that the entry no. 9 shows that the accused no. 8 was called for inquiry and was allowed to go with his brother, whose mobile number is also mentioned and was directed to attend on 23/08/06. The investigating officers did not tell me why the accused had been called in August 2006.

96. The accused who are in the custody of the ATS, are not given to any other units, branches or police stations for interrogation. It is not true that Addl. CP Jaiswal used to give such directions. (Learned advocate asks the witness to go through the entry no. 18

dated 24/08/06, entry no. 15 dated 25/08/06, entry no. 16 dated 28/08/06 in the station diary). It is true that it is mentioned in the entry no. 18 that he had given directions for handing over the accused no. 4 Ehtesham to the Unit-II for inquiry. The entry no. 15 mentions the same. The entry no. 16 mentions the same about handing over the accused no. 3 Faisal to Unit-II. (At the request of learned advocate, photocopies of the entries referred to are marked as **Exts. 2462 to 2466**).

97. I had organized the test identification parades. My office was situated in the lockup building behind Bhoiwada Police Station. I had not given any personal instructions to Superintendent of MCP, Swati Sathe about holding the test identification parade, but I had given official letters informing about the court order and about making arrangements for holding the parades in the prison. I must have reached my office at about 8.30 a.m. on 07/11/06. SEO Purandare came there at about 9.00 a.m. and met me. SEO Barve had also come at about the same time and met me. All the witnesses had come to the office. I introduced the witnesses to the SEOs in my office. My staff had assisted the SEOs in procuring the panchas. I do

not know whether the panchas were the regular panchas of the ATS and had acted as such in many cases. (Learned advocate asks the witness to go through Exts. 833 and 834). It is true that Sachin Krushna Koltharkar is one of the panch witness. The certified copy of the test identification parade dated 26/07/06 now shown to me shows the name of Sachin Krushna Koltharkar as one of the panch witnesses. (At the request of the learned advocate it is marked as **Ext. 2468** for the purpose of identification in this case). (Learned advocate asks the witness to go through Ext. 1742). It is true that he is also shown as one of the panch witnesses in the said arrest panchanama. It appears from these documents that Sachin Krushna Koltharkar had acted as panch witness on different occasions for the ATS. It is not true that I had planted him to suggest the position of the suspects to the identifying witnesses. It is not true that I knew that he was a regular panch, therefore, I suppressed his name and address while giving the copies to the accused. It is not true that I did not disclose it to the accused inspite of the court order. Witness volunteers- their names and addresses were truncated for the security consideration of the witnesses. It is not true that I provided

the same panch witnesses for the arrest panchanama of accused Mohd. Zahid in Malegaon 2006 case.

98. I had entered the prison with SEO Barve.

Q. Did it happen that you introduced the witnesses to SEO Barve inside the prison?

A. I handed over the witnesses to him after they returned from the first parade.

It did not happen that witnesses had already left the office in the morning before SEO Barve came to the office. I did not tell so to SEO Barve. I have read the memorandum of the test identification parade, Ext. 844 prepared by him. The contents on page 3 of Ext. 844 may have been written erroneously. The contents of the first paragraph on page 6 that I told him that the eight persons are witnesses in the crime and they will take part in the identification parade are correct. It is not true that said Barve was not an SEO on 07/11/06. I do not know whether he was appointed as SEO from 15/11/06 to 15/11/11, that his appointment as SEO had expired before 15/11/06.

99. I do not know whether lady constables were appointed in the Mumbai Central Prison on 18/04/07 and onwards and they

were given gate duties from 14/12/08. I cannot say whether accused no. 2, 4 and 7 were taken out from the high security cell at 1235 hours and put back at 1240 hours, that accused no.1, 3,12 and 13 were taken out from the high security cell at 1.30 p.m. and put back at 1.50 p.m. on 07/11/06, that accused no. 5 and 10 were taken out from the high security cell at 12.20 p.m. and put back at 12.30 p.m., that accused no.9 and 111 were taken out from the high security cell at 12.40 p.m. and put back at 12.55 p.m. and that accused no. 8 was taken out from the high security cell at 12.58 p.m. and put back at 1.10 p.m. on 08/11/06. (Learned advocate shows the attested photocopies of inward outward entries of 7th and 08/11/06 of the MCP obtained by the accused from the prison, which he has produced along with application Ext. 2469. Since the documents are obtained under RTI, at the request of the learned advocate, the forwarding letter is marked as **Ext. 2470**, two documents containing information are marked as **Exts. 2471 and 2472**, another forwarding letter is marked as **Ext. 2473** and a document containing the information is marked as **Ext. 2474**). I do not remember whether I had seen ladies jail constable in the prison when I had gone there with SEO Barve on

07/11/06. I had read the statement of Supdt., Swati Sathe. I cannot say whether all the prisoners are locked in the respective barracks between 12.00 to 3.00 p.m. as per the prison rules. I cannot say whether all prisoners other than the accused in this case, were locked in their barracks between 12.00 to 3.00 p.m. on 7th and 08/11/06. I did not come to know on going through the statement of Supdt., Swati Sathe and discussion with PI Joshi that all prisoners are locked in their barracks between 12.00 to 3.00 p.m. It is not true that no test identification parades were held on 7th and 08/11/06.

100. I have gone through the arrest forms of the accused in this case. I cannot tell whether the details were filled up completely or some columns were left blank. (Learned advocate asks the witness to go through any arrest form and state about it). There is no arrest form as such. It is a form of statement of accused. I have seen the statements of all the accused. There are printed columns in the statement about name of the accused, his age and other particulars. They are not produced in court, therefore, I cannot take them in my hands and state whether any columns are left blank. There is no necessity of attaching a photograph of the accused on the form.

There is no space for attaching photograph on the form. I do not remember whether photographs of the accused in the present case were pasted on their statements. It is not true that photographs of the accused were taken for affixing them on the forms. However, their photographs were taken. I do not remember whether passport or postcard size photographs were taken. The photographs were taken when the accused were in the police custody. I do not remember how many copies were obtained. I do not know whether they were given to the officers of different units and other agencies for investigation. I do not remember the name of the officer who took the photographs. They were not sealed. It is not true that the photographs were taken for showing them to all the witnesses and were shown to them.

101. I was transferred to the Women's Police Training School at Solapur in November 2005. It is not true that I wanted a transfer to Mumbai and I was contacting the superiors for the same, that I was giving reasons for it. I might have given application for my transfer to Mumbai, but I do not remember. I may have applied to the Director General of Police on 01/04/06 requesting transfer to Mumbai. It is not true that I had orally requested Jt. CP K. P.

Raghuvanshi for my transfer to Mumbai. I was permanently transferred to the ATS by the order dated 04/12/06. It is not true that my permanent transfer to the ATS was with the assurance that I would frame all these accused in the present case.

102. I do not remember whether my statement was recorded in a departmental inquiry in connection with supply of CD containing videos of the accused giving confessions and which was shown by TV channels. It is true that a TV channel had relayed a video recording of two accused, viz., Mohd. Ali and Naveed purportedly giving confessions. I do not know whether orders of making inquiry about it had been given. I had seen the relay on the television. I did not make any inquiry about it. Witness volunteers- I knew that none of my officers had recorded any statement of any accused on video nor any accused had informed me about it. I do not know whether letters were written to two TV channels about it, whether the video CD was called for from them. The TV channels had relayed the said video after about a year after the incident. I do not know whether persons from the TV channels were called for inquiry, whether their statements were recorded, whether CP Roy had called for report of

the inquiry. It is not true that I had taken such a report to him. He did not take my statement in this connection at any time. Till today I do not know when, how and who prepared the video recording. I do not know whether correspondence was made with other TV channels, whether video CD was called for from the other TV channels, which had not relayed the videos till then. It is not true that all the ATS officers were shown the videos to inquire as to who had prepared it. The videos that were relayed were about accused purportedly making confessions about the blasts in this case. I had not received any show cause notice about it. I know that after the accused were remanded to judicial custody they had complained to the court about it. I do not remember whether it was much before the videos were relayed. In fact, the accused complained in the court after the videos were relayed on the television. I do not remember whether the accused Mohd. Ali had complained on 23/11/06 and accused Naveed had complained on 09/11/06 that a video about them giving confession was taken. I do not remember whether the videos were relayed on 11/07/07. It is not true that I prepared the videos of all the accused making confessional statements when they were in police

custody, in order to show to all the witnesses and I had showed them to them, that I had sold the CDs containing the videos to all the TV channels, that after the relay on 11/07/07, I recalled the remaining CDs from the other TV channels. It is not true that I am deposing falsely that I do not remember about my statement being recorded in an inquiry about the videos. It is not true that I am giving these answers to save myself.

103. I do not remember whether an inquiry was held in connection with a letter dated 03/11/06 written by one of the ATS officers to the President of India and whether my statement was recorded. It is not true that such an inquiry was held on the basis of such a letter given by an ATS officer to the President of India alleging that the accused persons have been falsely implicated in this case on the say of CP Roy and Jt. CP Raghuvanshi. I have not seen such a letter till today. No one has not told me till today about existence of such a letter. I do not know whether Zee 24 Taas channel had showed such a letter. It is not true that I am deliberately saying that I do not remember whether an inquiry was held in connection with that letter.

(Adjourned for recess)

Date : 29/02/12

Special Judge

Resumed on SA after recess

104. I do not know whether a letter was sent by the ATS to the TV Channels in connection with the letter dated 03/11/06. No such letter was sent under my signature.

105. I was not present in the press conference on 30/09/06 in which CP Roy, Jt. CP Raghuvanshi, DCP Nawal Bajaj and Addl. CP Jaiswal were present. I do not know till today what CP Roy said in that press conference. The press conference was shown on the television, but I did not see it. I was not told by the other officers to attend such a press conference. I was present in the court on 30/09/06. It is not true that all investigating officers of the ATS of this case were present in the press conference. It is not true that I was present in that press conference.

106. Some numbers of mobiles that were used by the accused in July 2006 were disclosed during the investigation. The numbers of mobiles of most of the accused were disclosed. I cannot

tell the numbers off hand. (Learned advocate asks the witness to go through the case papers and tell the mobile numbers). I do not remember in which document like panchanama the numbers are mentioned, as the record is voluminous. (Learned advocate asks the witness to go through station diary entries no. 5 to 7 dated 29/09/06, entry no. 7 dated 25/09/06). The entry no. 5 shows the number of mobile used by the accused no. 6 Mohd. Ali as 9224253454. The entry no. 6 shows the number of mobile used by the accused no. 7 Sajid as 9224446830, the entry no. 7 shows the number of mobile used by the accused no. 8 Abdul Wahid as 9870383933, the number of mobile used by the accused no. 1 Kamal as 09934310679/06246273679 and of accused no. 2 Tanveer as 9869320456. I cannot say whether the mobile number of accused no. 1 was 9934610679 and it is incorrectly written as 9934310679 and of accused no. 2 was 9869320457 and not 9869320456. (Learned advocate asks the witness to go through Ext. 1480). There is a mention of mobile no. 9867244681, which was written on one of the documents that was recovered at the instance of the accused no. 7 Sajid. I had not inquired, therefore, I cannot say that the names of the

service providers were disclosed during the investigation. It was disclosed in the investigation in the confessional statement of the accused that mobile phones are not to be used for operational purposes by the persons taking part in the operation. It was also disclosed that this was as per the directions given in the Al-Qaida manual and training given to some of the accused in camps of L-e-T. I do not remember whether I found any witness who said that any of the accused had kept the mobile with the witness or had kept it at his house on the day of the incident or on 7th , 8th or 09/07/06.

Q. Whether correspondence was made with the service providers for calling the CDRs?

A. I did not make any correspondence. There is a separate cell for data analysis in the ATS and it was given all these mobile numbers. PI Wadke was the incharge of the cell. They must have made the necessary communication with the service providers. PI Wadke had told me that some service providers could provide the location of the mobile at the time when calls were made and received or sms were sent. I did not ask for remand of the accused for confronting them with the CDR. (Learned advocate asks the witness to go through the

station diary entry no.5 dated 05/10/06). The entry shows that PSI Babar had left the office for collecting print out from various service providers. PI Wadke had informed me that he had collected most of the data from the service providers of the mobiles of most of the accused. PI Wadke was collecting the data during the period of my investigation also. I was knowing that PI Wadke and his staff were analyzing the CDRs. I did not interrogate each and every accused in respect of the calls that were found in their mobiles. (Learned advocate asks the witness to go through the photocopies of the certified copies of the remand applications filed in this court). It is true that I had mentioned in the remand application to this court on 1st, 3rd, 9th and 23/11/06 that the CDRs of the accused are being scrutinized. PI Kadam, API Bagwe and PSI Babar were assisting PI Wadke. They used to tell me about the material information that was disclosed in the scrutiny. They told me that most of the phones are not in the names of the accused, but are in the names of some other persons and no useful lead is coming out from the data. I did not call the persons in whose names the mobiles were and take their statements and I did not instruct my subordinates to do so. I do not know whether

they had done so *sou moto*. I did not establish the identity of those persons. Witness volunteers – I did not place much importance on the work of analysis of the mobile data, since it was disclosed that the accused had decided not to use mobile phones for operational purposes and PI Wadke informed me that there is no useful lead coming out from the scrutiny. PI Wadke did not inform me whether there was any contact between the accused *inter se* on their mobiles. I did not ask PI Wadke on this line after the above conclusion. I do not have personal knowledge about the data, therefore, I cannot say whether the locations of the mobiles of the accused on the day of the incident showed that they were not near the blasts sites. I did not ask PI Wadke about the location of the mobiles of accused no. 1 Kamal, accused no. 3 Faisal, accused no. 4 Ehtesham, accused no. 12 Naveed and accused no. 13 Asif Khan on 11/07/06. PI Wadke also did not tell me about it. Witness volunteers- PI Wadke only told me that no material information is coming out of the data. The CDRs were not available with me, therefore, I did not make any investigation about the call locations. (Learned advocate calls upon the witness to produce the CDRs. A similar prayer was made by Ext.

690 and it is rejected on 15/12/10). I do not know whether the CDRs are still preserved in the ATS office. I did not get any witness or document showing that the accused no.1 Kamal had come to Mumbai in the month of July or earlier and had returned from Mumbai, but it was revealed in his and the confessional statements of some other accused. It was not revealed in my investigation that one Mumtaz Choudhary from Navi Mumbai was on mobile contact with the accused no.1 Kamal on 9 and 10/7/06. I do not remember whether it was revealed in the investigation that an SMS was sent from the mobile of accused no.1 Kamal to the mobile of one Kamruzzama on 9 and 10/7/06, that on the basis of this lead ATS officer had gone to Bihar. API S. A. Bagawe had given the statement of Kamruzzama dtd.11/10/06 to me, but I do not remember whether it was concerning this point. I have read the reports of the FSL, Hyderabad. I do not remember, therefore, I cannot say whether the pages in the report were not numbered and they were numbered in the ATS office. It is not true that the page in which the SMS of 10/7/06 was shown, was removed from the report. I have read the SMS that was sent from the mobile of the accused no.1 Kamal on 9/7/06. I

cannot say whether it was sent from his mobile from the location of Bihar. There was nothing apparently objectionable in the SMS. It appeared to be a religious message. (Ld. Adv. asks the witness to go through Ext.2035 (page no.353)). It shows that the SMS was sent from the number 9934610679 on 9/7/06 at 1434 hrs. I cannot say on the basis of these documents that it was sent from Dist. Madhubani, Bihar by the accused no.1. I cannot say whether the accused no.1 had sent a similar SMS from the same mobile number to Kamruzzama on 10/7/06 from Bihar on mobile no.9867431295. I cannot say whether the accused no.1 had received a call of 96 seconds duration at 1420 hours on 11/7/06 on his mobile at Madhubani, Bihar and whether on the same day he had made calls of different durations to other mobiles in Madhubani. It is not true that the accused no.1 had personally received calls at Madhubani from various numbers on that day. It is not true that accused no.1 was personally using his mobile on 11/7/06 at Madhubani and was personally making and receiving calls and SMS. I do not know whether he was personally using a mobile while stationed at Madhubani and the surrounding area after 11/7/06 to 18/7/06. It is not

true that it was not disclosed in the investigation that the mobile of the accused no.1 was with some person on that day. It was disclosed that he had kept it at his native place.

107. It is not true that from the period from 1/8/06 to 26/9/06 the accused no.6 Mohd. Ali was detained at Kurla Unit of PI Salaskar without being arrested. I cannot say whether the officers of the Kurla Unit and the ATS officers were contacting him on his mobile and using his mobile during that period, whether their mobile numbers were reflected in the CDRs of the accused no.6. It is not true that to hide it, the CDR of the mobile of the accused no.6 is suppressed. I do not know whether API Alaknure, API Phadke, PSI Awari, officer Shaikesh Gaikwad, Hawaldar Datugade and PC Awati were contacting the accused no.6 from their personal mobiles during this period. It is not true that when PI Mandge was going through the CDR of the mobile of the accused no. 6, he had called all the above officers to his office as their mobile numbers were reflected. I do not remember whether the accused no. 6 has filed complaints in this connection in the court from time to time.

(Adjourned at the request of the learned advocate at 5.15 p.m.).

MCOB SPL.21/06

PW 186/111

Ext.2361

Date : 29/02/2012

(Y. D. Shinde)
Special Judge

Date : 01/03/2012
Resumed on SA

108. (Learned advocate submits that the document at page no.99 in Vol-A3 and the letter received from the DCB along with the account details and other documents be exhibited. Learned SPP has no objection to exhibit the documents, subject to they being proved as per law. Hence, the office copy of the letter sent by the witness is marked as **Ext.2479**, the letter from the DCB is marked as **Ext. 2480**, the account opening form is marked as **Ext. 2481**, photocopy of ration card is marked as **Ext. 2482**, form of declaration is marked as **Ext. 2483**, certificate of Prince Ali Khan Hospital is marked as **Ext. 2484**, statement of account from 01/02/02 to 01/11/03 is marked as **Ext. 2485** and statement of account from 01/11/03 to 02/11/06 is marked as **Ext. 2486 (1 to 4)**).

109. The record that is submitted before the court is the record that was obtained from the Sabu Siddiqui Hospital in connection with the employment of the accused no. 2. PI Rathod had collected the documents, therefore, I cannot say whether a list of documents sent by the hospital was obtained. PI Rathod used to

apprise me about the documents that he collected. It is not true that the said hospital was maintaining biometric attendance system for the doctors and staff, that its record was provided, but I hid it. It is not true that they used to maintain muster book for attendance, that it was provided and I suppressed it.

110. It is not true that I was given the details of the CDRs of the accused no.2 Tanveer's mobile. (Learned advocate asks the witness to go through the Ext. 2044). It shows mobile No. 9869320457 and that it was lastly recharged on 14/10/06. It is not true that therefore, I suppressed all the CDRs. The mobile can be recharged from outside also in the absence of the sim card. It is not true that I and the other ATS officers were personally using this mobile, therefore, the CDRs are suppressed. It is not true that the said mobile was handed over by the Crime Branch when they handed over the accused no. 2 to the ATS on 23/07/06.

111. (Learned advocate asks the witness to go through the station diary entries no. 1 and 12 dated 18/08/06, entries no. 16 and 23 dated 19/08/06 and entries no. 9 and 12 dated 20/08/06). The entry no. 1 of 0400 hours shows that the accused Wahiddin along

with one more person was brought to the ATS office by the ATS officers APIs Varpe, Kadam, Kolhatkar and PSI Kadam for inquiry in regard to the bomb blasts and entry no. 12 shows that he was allowed to go at 1730 hours and was directed to remain present on the next day. It is not true that the said officers were in the team of PI Khanvilkar. They were in the team of PI Tajne. The entry no. 16 dated 19/08/06 shows that he remained present at 1505 hours and as per the entry no. 23 was allowed to go at 2000 hours. The name of the officers is not mentioned in both the entries. PI Tajne did not tell me that the accused was asked to visit and had visited the ATS office on those dates. The entry no. 9 dated 20/08/06 shows that the accused remained present at 1130 hours and allowed to go at 1700 hours as per the entry no. 12 of that day. I do not know why he was called on these days. The officers did not tell me what inquiry was made with him. I do not know whether Jt. CP Raghuvanshi met him during this period. It is not true that he had suggested to the accused that he should become an approver or he will be made an accused. I do not know whether during this period the accused was produced before him. It is not true that the said accused was detained in the

ATS office from 16th to 22/08/06 and from 14th to 26/09/06, that he was tortured during this period and his statement was recorded. I cannot say whether the station diary entries pointed out to me are correct or not. It is not true that bogus entries are made to cover illegal detention. (At the request of the learned advocate the photocopies of the entries are marked as **Exts. 2487 to 2492**).

112. Some accused had been sent for narco analysis. It was my decision to send the accused, whom I had sent, when they were in my custody, to the FSL, Bangalore for the said test as the facilities were not available at the FSL, Kalina, Mumbai. I knew it. I do not know where else these facilities are available. I do not know whether the ATS officers had sent some accused to the FSL, Ahmedabad, in the Aurangabad Arms Haul case. It is not true that Jt. CP Raghuvanshi suggested to send the accused to Bangalore, that all ATS officers knew that the reports would be prepared by S. Malini. The reports that I had received bear the signatures of S. Malini. I had studied the reports. I do not know whether S. Malini was suspended later on and removed from service, whether she was not qualified for that post, that she had acquired the post on the basis of forged

documents. I do not know whether the accused had asked for the FSL reports in court, whether they had complained that they were tortured during their narco tests. CDs of the narco tests were received by the superior officers and I had seen them. The accused were not asked to give their consent before the court. I did not personally take the consent of any accused. I cannot tell the name of the officer who might have obtained their consent. I do not remember whether station diary entry was made to that effect. I personally did not make such a station diary entry. I cannot say whether consent of any accused was taken before the court. There is no format of the consent. I have upto now not seen any consent given by any accused and no officer had told me about taking consent. It is not true that I sent the accused for narco tests without their consent. I do not remember whether the orders were obtained from the court on regular remand dates or other dates. I had seen the court orders. I have not produced with the chargesheet, the orders of the magistrate granting permission to do narco tests. I cannot produce them. It is not true that the tests were conducted without taking the orders from the court, therefore, I am not able to produce them. It is not true that I and the ATS officers

have tampered with the court record and have removed the orders from the record. It is not true that I and the other officers have filed reply to the court in respect of the RTI applications, falsely claiming privilege and claiming that the accused are not entitled to get copies. I do not know how many times narco tests has to be done for an accused. It is to be decided by the expert.

113. I cannot say whether accused no. 1 and 2 were sent for narco tests on 03/09/06. (Learned advocate asks the witness to go through the entry no. 1 dated 03/09/06). It is true that the entry shows it. It is not true that they were sent though they were not ready to go. I do not remember that a telegram sent by the father of the accused no. 2 to Jt. CP Raguvanshi and others was marked to me. I do not know whether he had complained that the accused was sent for narco tests involuntarily. I do not remember whether the accused no. 1 Kamal was taken twice for narco tests. I do not know whether when the accused no. 2 was taken for narco tests on the second occasion, he fell ill seriously and therefore, it could not be done and he was brought back. (Learned advocate asks the witness to go through the station diary entry no. 12 dated 07/09/06). It is true that it shows that

the accused no. 1 and 2 were taken for the narco tests to Bangalore.

Q. Whether the entry is wrong?

A. As it is there, it may be correct.

I do not know whether the doctor at Bangalore told the concerned officers, who had taken the accused there, that if his narco test is done, he will die. I do not know whether the accused no.1 was taken to Hi-Tech Hospital, Mysore, Bangalore for the tests on 07/09/06 and that it was a private hospital of Dr. S. Malini, that a video recording of his test was done. I do not remember whether the accused gave written complaint in the court on 09/11/06, whether the accused no. 2 gave written complaint to the court on 3rd and 09/11/06. I do not know whether the reports of the narco tests have been preserved.

114. I cannot say whether the accused no. 3 was taken thrice for narco test. It was done before the case papers were handed over to me. (Learned advocate asks the witness to go through the entry no. 8 dated 10/09/06). It is true that the entry shows that the accused no. 1 was brought back after his narco test. (At the request of the learned advocate the photocopies of the entries are marked as **Exts. 2493 to 2495**).I cannot say whether the accused no. 4 was

taken four times for narco test. It is true that accused nos. 5 to 8 were taken once and accused no. 12 and 13 were taken twice. It is not true that experts of the FSL, Kalina used to visit the ATS office during this period, that they gave Sodium Pentothol injection to the accused no. 1, 3, 4, 9 to 11 and 13 in the ATS office and did their narco tests there, that it was done twice in respect of accused no. 1, 3 and 13. I did not come to know from the CDs that I saw, that some accused confessed of having done the Malegaon blast 2006. It was not revealed to me during my investigation that any accused were involved in the Malegaon Blast 2006. It is not true that I had threatened no. 6 Mohd.Ali that he has confessed in narco test that he is involved in Malegaon blast 2006, that PSI Sachin Kadam had beaten him when he asked for the CD. I do not remember whether he had complained about it to the court on 09/11/06. I do not know whether the CBI has registered a crime against Dr. S. Malini for having shown false documents and for having tampered with the narco tests reports.

115. It is not true that I deposed falsely that I was not present in the press conference on 30/09/06, that I am saying so as

CP Roy had stated a contrary case to our case as on today, that I saw the videos in that CD when its copy was given to the prosecution, that I realized that CP Roy said that all the ATS officers were present, but I am not seen in the video, therefore, I am denying that I was present.

(Adjourned for recess).

Date : 01/03/12

Special Judge

Resumed on SA after recess

116. I think that ACP Shengal was investigating Malegaon 2006 blast. I have not done anything in that case. I came to know that accused no. 6 Mohd. Ali and accused no. 13 Asif Khan were made accused in that case. I did not suggest to any of my superior officers at that time that they were involved in that case and that there was some evidence against them about their involvement. I do not know whether nine persons, including these two accused, were arrested in that case. I have read in the newspapers that the accused have been granted bail in that case. I did not read the news that Swami Aseemanand and his group have done the Malegaon 2006 blast.

Q. Whether as per your knowledge Swami Aseemanand,

Pragyasingh Thakur and their group arrested in some bomb blast case are following Al-Qaida Manual?

(Learned SPP objects the question on the ground that none of these persons are accused or witnesses in this case nor their names are relevant for any fact in this case. Thirdly, the question is asked to the witness about his knowledge, if any, about the persons without furnishing any details of those persons. Question is disallowed as this witness has categorically stated that he was not a part of the investigation of that case and therefore, it is not relevant).

It is not true that I was threatening the accused no. 13 that if he does not give a confessional statement, he would be implicated in the Malegaon blast case of 2006. It is not true that I was threatening the accused no. 6 that if he does not become an approver, he would be implicated in the Malegaon blast case of 2006. I do not know whether both these accused have so complained to this court. It is not true that I am a witness in that case, that I have given statement as a witness to ACP Shengal on 12/12/06, that I had stated to him that the said two accused have been arrested on 29/09/06, that the accused no. 6 Mohd. Ali resides in Govandi and swabs were taken from his

house and as per the report they were found to contain RDX, that in the house search of accused no. 13 Asif Khan, Ammonium Nitrate, detonators and objectionable books were found, that I filed chargesheet against them in the court, that I am producing copies of their house search panchanamas and of the reports of the FSL, that my statement was read over to me and it is correct as narrated by me. (Learned advocate requests permission to confront the witness with a certified copy of statement that he has produced by the application Ext. 2496. Learned SPP objects on the grounds that it is a statement under Section 162 of the Cr. P. C., it is not the original statement and the prayer for producing the certified copy produced has been objected. To my mind, a witness can be contradicted with his previous statement in writing as per the provisions of the Section 145 of the Evidence Act and not with its certified copy and it should be relevant to matters in question. Hence, the prayer is not allowed). I am not aware whether my name is in the list of witnesses in that case. It is not true that I gave all the details and the sections applied against the accused of this case in my statement to ACP Shengal, that I was deputed to the ATS on 27/08/06 from the WPTS, Solapur. It

is not true that I am giving false evidence that my statement was not recorded by ACP Shengal on 12/12/06. I do not remember whether ACP Shengal called me at any time during the investigation of that case, made inquiry with me and recorded my statement on computer. I do not remember having read any statement given by me and having stated that it was correctly written as narrated by me, as I had not given any such statement. It is not true that I falsely implicated the said two accused in that case in order to show my power and I am falsely saying that I have not given any statement in that case.

117. I have not carefully gone through the forwarding letter by which the sample of black powder that was seized from the house of the accused no. 1 Kamal at Basupatti, Dist. Madhubani, Bihar was sent to the FSL. I do not know whether the brass seal impression was put on that letter. Kalachowki Police Station and ATS office are separate and have separate brass seals. ATS office got the brass seal in August 2006. I cannot say whether the Kalachowki Police Station maintains movement record of their brass seal. (Learned advocate asks the witness to go through Ext. 2008). As per the information provided in that letter, brass seal of the Kalachowki Police

Station was provided to the ATS, Kalachowki on 07/07/06 during the period from 01/07/06 to 30/11/06. It is true that the letter does not show that the seal was provided to the ATS, Kalachowki after 11/07/06. (Learned advocate asks the witness to go through Ext.596). It shows seal impression of Sr. PI of Kalachowki Police Station. I do not know whether this seal impression was put on the letter in the ATS office and on what date it was put. I do not know whether the seal of the Kalachowki Police Station was called for in the ATS office, Kalachowki in the morning on 07/07/06 and it was used in the ATS office. It is not true that 10 gms black powder was sealed on that day in the ATS office and the seal impression was put in the forwarding letter on that day itself. It is true that the FSL office normally does not accept packets that do not have seal impression. I do not remember whether PI Tajne told me about having taken a brass seal to Bihar. I cannot say whether the ATS officers had not taken brass seal with them when they went to Basupatti. It is not true that nothing was seized and sealed there. I cannot say whether the brass seal of Kalachowki Police Station was not with them at that time, that the brass seal, the impression of which is on Ext. 596, was not used for

sealing at Basupatti. I do not know whether CP Roy said in the press conference that swab of dust was taken from the house of accused no. 1 Kamal and it was found to contain RDX.

118. I have read Al-Qaida manual. I have its copy. It was given to us when I was in the ATS. It is not true that I and the other ATS officers have prepared it to frustrate the legitimate rights of the accused. I was ACP, Gaodevi Division from 01/07/08 till retirement. Rakesh Maria was Jt. CP, Crimes in 2008. I do not know whether Crime Branch people had arrested some persons of a group by name Indian Mujahedin in connection with sending e-mails to news channels before the bomb blast in Gujarat claiming responsibility for the same. I had read news about some persons of Indian Mujahedin group being caught. After I was transferred from the ATS, ACP Kamble told me that they had arrested a person by name Sadiq in this case. He told me that the accused had falsely stated before the Crime Branch that he is also involved in this case, that his statement under Section 164 was recorded and then he was discharged. It is not true that ACP Kamble had informed me that the said accused had given a confession under MCOC in that case confessing to having

committed the present crime. I do not know whether two more accused had also confessed to having committed the present crime. I do not know whether two sanctioning authorities in that case have mentioned in their sanction orders, that the accused in that case have committed the present crime and it is also mentioned in the remand applications of that case. I do not know whether in CR No. 01/08 of Police Station Octopus, Hyderabad, it is mentioned that the group of the accused in that case have committed the crime in this case. It is not true that this case was actually detected in the year 2008 by the Crime Branch people. It is not true that I falsely implicated and chargesheeted the present accused and that I prepared false documents on the say of CP Roy and Jt. CP Raghuvanshi.

119. I had read the statements of witnesses that had been recorded during my investigation and had cursorily gone through the statements that were recorded before the investigation was given to me. I can state about the name of the officer, who recorded it, about his post and his posting, on going through the statements. (Learned advocate asks the witness to go through pages no. 207 and 215 of Vol-IVD). The statement at page no. 207 is seen to be recorded by

PSI V. M. Patil attached to Special Investigation Team of Zone-XI. The statement at page no. 215 is seen to be recorded by PSI S. P. Patil attached to Charkop Police Station, Special Investigation Team of Zone-XI. There may be about twelve zones in Mumbai in 2006, 6-8 police stations in every zone. DCP used to be the zonal head. I do not know about Special Investigation Teams of Zones. I did not get any important information regarding the investigation of this case from any such team, after the investigation came to me. As I was not aware of their existence, I cannot answer the question as to whether such teams were not reporting to me. I do not know whether such teams were formed at every zonal level. However, CP, Mumbai had appealed to all the police stations and the Crime Branch Units to make inquiries and collect information about the bomb blasts case and to pass it on to the ATS and accordingly they had given information to the ATS officers before the investigation came to me. It may be that statements of many witnesses were provided by Zone-XI. I do not know whether information was conveyed by the police stations through their zonal in-charge. I cannot say whether the DCPs were assisting in collecting information about the case and forwarding

it to the ATS and were assisting the ATS.

120. All the accused were basically lodged in the Bhoiwada lockup for the purpose of interrogation. However, some officers may have taken accused for interrogation to Kalachowki and Juhu unit. It is possible that the concerned officers may have maintained a record about it. There may be station diary entries to that effect, but I did not make detailed inquiry. I will have to see the station diary to show whether there is one such entry. I do not know till today why the accused no. 3 and 4 were sent to the Unit-II and whether they were sent on the orders of the superiors. (Learned advocate asks the witness to go through Exts. 2464 to 2466). It is true that the entry no. 18 dated 24/08/06 mentions that the accused was sent as per the orders of the superiors. It is not written as to why he was sent. I did not come to know whether the accused had been sent at some place other than Kalachowki and Juhu Units of the ATS and Unit-II of the Crime Branch. Unit-II was not investigating the case. I do not know whether the ATS was giving accused in the custody of Unit-II for interrogation. I cannot say whether the ATS officers give the accused in the custody of other units, though police custody of the accused is

given to them. I do not know whether the accused had been given in the custody of PI Vijay Salaskar. No one informed me about it. I could not gather it from the record. I did not come to know that the accused were kept in the custody of PI Vijay Salaskar in August and September 2006, whether the accused were medically examined at Bhabha Hospital, Kurla. Crime Branch officers had not handed over papers of medical examination of the accused to me. PI Vijay Salaskar was the in-charge of the Anti-Robbery and Dacoity Cell, he was not in my team, but his services were utilized for the purpose of the investigation in this case, as and when required, after due permission from the superiors. API Alakhnure was one of the officers working with PI Salaskar. His services were utilized on two occasions, once for taking the accused no. 5 Mohd. Majid to DCP, Zone-V and once for taking an accused to DCP, Zone-XI, probably the accused no. 11 Zameer. These accused were never kept at Kurla along with the other accused. I do not know whether accused no. 2 to 7 and 9 to 11 were kept at Kurla in August and September 2006, whether their medical examinations, except of accused no. 6 and 11, were done at Bhabha Hospital, Kurla. It is not true that they were kept

in the Kurla Unit for torturing them and the Kurla Unit was torturing them, therefore, there is no record in the ATS office to show that they were sent there. I do not know whether the accused no. 6 Mohd. Ali was kept in the Kurla unit from 31/07/06 to 09/09/06, that he was not allowed to go inspite of requests by him and his family members. It is not true that he was kept in the ATS office at Nagpada from 09/09/06 to 29/09/06. I do not know whether Abdul Rehman Dawrey was called by PI Vijay Salaskar to the Kurla Unit and the accused that were kept there, including Mohd. Ali, were shown to him.

121. It is not true that CP Roy had stated in my presence in the press conference on 30/09/06 that investigation about the eighth cooker is going on and the accused Mohd. Ali was arrested the day before. No pressure cooker was seized upto 29/09/06. PI Wadhankar had informed me that it had transpired in his investigation that five and three pressure cookers of Kanchan company had been purchased from two shops by two persons looking like Kashmiris, who had a Santro car and who were continuously talking on mobile. He had told me that the detailed investigation that was done about the said two persons and the cookers that were purchased by those

two persons, showed that they were not concerned in this case and the version of the shopkeepers is not credible. It was not revealed in my investigation that the said cookers had been used in this crime. It was revealed in my investigation that household utensils including cookers were used. It was not revealed that seven pressure cookers of Kanchan company were used for the seven blasts in this crime. Witness volunteers- seven rubber gaskets and five whistles having Kanchan marking were recovered from the accused no.3 Faisal and it was revealed that they were not originals. Some cookers may have been used in the blasts. It may be possible that the rubber gaskets and whistles can be of those cookers. The gasket is used to prevent leakage of pressure and the whistle is used to release excess pressure. No report of the FSL gives the opinion about finding pieces of pressure cooker or household utensils in the articles that were collected from the spot, but steel pieces were seized from the scene of the offence. It is not true that after the investigation came to me, I told ACP Shengal and PI Tajne to show recovery of pressure cooker from the house of the accused no. 6 on the date of his arrest, i.e., on 29/09/06 and accordingly they did so and gave me a panchanama. It

is a fact that a pressure cooker was seized from the house of the accused no. 6 on 29/09/06.

(Adjourned as court time is over).

Date : 01/03/2012

**(Y. D. Shinde)
Special Judge**

Date : 02/03/12
Resumed on SA

122. (Learned advocate requests permission to confront the witness for the purpose of contradiction with the contents of the statement at page 107 and 108 of Vol-AV, file no. IX in MCOOC 23/06 in view of the order passed below Ext. 2499. Permission granted). (Learned advocate asks the witness to go through the statement). The statement shows my name, address and posting. (Witness is confronted with paragraphs 1 and 2). I do not remember whether I had given the statement to ACP Shengal and he had reduced it to writing. ACP Shengal was working in my team during the investigation of this case, therefore, he was having knowledge of the facts of this case and there used to be interaction between us, therefore, I cannot say whether the information written in paragraphs 1 and 2 was given by me to him or he wrote it on his own. I do not remember having stated so, therefore, I cannot assign any reason why it is so written there. (Learned advocate requests that the said portions in the certified copy of the statement produced along with the application Ext. 2496 be marked. Hence, paragraphs 1 and 2 are

marked as **Portion A**). (Witness is confronted with the last line). I do not remember having stated so, therefore, I cannot assign any reason why it is written in the last line that I had read my statement and it is correct as per my narration. (It is marked as **Portion B**). (Witness is confronted with the 3rd paragraph). I do not remember having stated so, therefore, I cannot assign any reason why it is so written. (It is marked as **Portion C**). (Witness is confronted with the 1st and 2nd paragraph of page no. 108). I do not remember having stated so, therefore, I cannot assign any reason why it is so written. (It is marked as **Portion D**). I know the signature of ACP Shengal. It is true that the statement bears his signature. I do not remember having given the statement and having produced the copies of the house search panchanamas and the FSL reports, therefore, I cannot say why they are attached with the said statement.

123. I have not given evidence earlier in connection with the facts of the present case. I may be able to recollect, if it is shown to me.

124. The accused no. 1 had filed a retraction of his confessional statement, may be on 09/11/06. Most of the accused

have filed retractions of their confessional statements, but I cannot say whether all those who have given them have filed. All the accused have complained to the court about threat, coercion and torture.

125. It will not be correct to say that except the book 'SIMI sangharsh yatra ke pachis varsh' all the other books seized from the accused are not concerned with SIMI. I will have to see the book to answer the question whether that book was printed prior to the date of the ban on SIMI. I remember that the book is of 2002, therefore, it must have been printed after the ban was imposed. I have given evidence on oath before the tribunal under the UA (P) Act in connection with ban on SIMI and I was cross-examined. I might have deposed before the tribunal that except the book 'SIMI sangharsh yatra ke pachis varsh' all the other books seized from the accused are not concerned with SIMI, that it was published prior to 27/09/01, that I am not aware whether the said book was banned by the government, that the word 'asiya' is written in hand in that book and it was there before the book came to me. I do not remember whether accused no. 12 Naveed had stated before the court on 13/10/06 that

he is innocent. I cannot say whether the order of the court permitting narco tests did not mention consent. I may have so admitted before the tribunal. I know that one advocate Shahid Azmi was defending the accused in the present case. I do not know whether he had applied to the court for protection as he was threatened to withdraw his vakalatnama and whether the court had passed the order on 18/10/06. I may have stated so before the tribunal. I do not know whether advocate Shahid Azmi was given protection. I have heard that he was murdered, but I do not remember whether it was on 12/02/10. I may have stated so before the tribunal. I do not remember whether the accused Mohd. Majid had complained to the court that the DCP had not showed him his confessional statement. I may have stated so before the tribunal. I do not remember whether the accused Wahiddin had complained on 26/10/06 to the court that his signatures were taken on two papers, but he is not aware of their contents. I may have stated so before the tribunal. I do not know whether the accused no. 1 Kamal disowned his confessional statement before the metropolitan magistrate. I do not remember whether I had so stated before the tribunal. I do not know whether the magistrates sent the

confessional statements of all the other accused to this court without opening them. I do not remember whether I had so stated before the tribunal. Other officers of the ATS had also given evidence before the tribunal. I do not know whether the tribunal did not consider the evidence of the ATS officers for continuing the ban on SIMI.

126. It is true that statement of PSI Ghanshyam Malviya of Khandwa, Madhya Pradesh was handed over to me by one of my subordinate officers on 29/01/07. I do not know whether the said officer was summoned from Khandwa, Madhya Pradesh. I do not remember whether he had produced samples of some literature seized in their case, whether the case was in connection with CR No.256/06 of Kotwali Police Thana, Khandwa dated 16/04/06 against 13 accused persons including Asia and Akil, whether he had informed that the names of these two accused were written on the books to identify as to from whom the books were recovered, that he had given sample colour photocopies of the books when he gave his statement. The ATS officers had not given the sample colour photocopies of the books to me saying that they had been received from the said witness. I do not know whether the police officers of

Khandwa had come to the ATS office, Mumbai on 25/07/06 with an accused by name Imran Ansari. It is not true that they had brought the books that are before the court. (Learned advocate shows Art.136, Ext.1679 to the witness). It is true that the front page contains the printed words 'asiya' and some portions in the book are underlined. I cannot say whether the book is a colour photocopy or that it is not the original printed book. I cannot say whether the original of this book is seized in CR No. 256/06 of Kotwali Police Station, Khandwa. I cannot say whether the writing below the word 'asiya' is the signature of the concerned accused. I cannot say whether all the books that have been seized in this case are the photocopies or the originals. I had investigated in connection with the printing of the said book and my officers had gone to the Makbara Police Station, Kotta, Rajasthan and had come to know that a case had been registered in connection with printing and publishing of the said books. It is not true that I have not filed any document in that connection along with the chargesheet. I have filed the statement of officer of Makbara Police Station and a copy of the FIR. I did not send the books for expert opinion. The accused in the present case were

not accused in the case at Rajasthan at that time. I cannot say whether some pages in this book are missing.

127. I had read the chargesheet before I filed it. The name of the accused who planted the bombs that went off at Mahim and Bandra were not disclosed, but it was disclosed that the wanted accused in this case had planted them.

(Adjourned as court time is over).

Date : 02/03/2012

(Y. D. Shinde)
Special Judge

Date : 05/03/12
Resumed on SA

128. The book 'SIMI sangharsh yatra ke pachis varsh' was printed in the year 2002 after the ban. It is not true that I did not make any investigation as to when the book was printed. I do not remember whether I had stated before the tribunal that the said book was published prior to 27/09/01, i.e., the date on which the SIMI was banned.

129. PI Iqbal Shaikh investigated the Mahim blast and PI Joshi investigated the Bandra blast. PI Iqbal Shaikh had not taken all the accused in his custody in the crime that he was investigating. He would have taken them in his custody, but till that time the provisions of the MCOB Act were applied and the investigation came to me. PI Joshi had arrested and interrogated the accused in the crime that he was investigating. He did not tell me about any recovery, disclosure or confession by the accused during his investigation. I did not ask him, after the investigation came to me, as to why there was no progress in the investigation in his crime. PI Khandekar was investigating CR No. 156/06 concerning Borivali blast. He did not take

custody of the accused during his investigation. PI Agrawal was investigating the Mira Road blast, PI Wadankar was investigating the Jogeshwari blast and PI Vijay Kadam was investigating the Khar blast. They had made inquiries after taking the accused in their custody, but after the investigation came to me, I did not ask them about the progress in their investigation. They did not report to me about any voluntary statement made by the accused, any recovery at their instance and any confession by them.

130. I have mentioned in the chargesheet that the Collector and the District Magistrate had been moved to accord consent to prosecute the accused under the Explosive Substances Act and the same was awaited. It will not be correct to say that this was a wrong statement that I made. We had moved the Collector, Mumbai Suburban District for according the consent, but he said that he could not give the consent for all the incidents of the bomb blasts. Therefore, we also moved the government and it was opined that the Collector is the only competent authority to accord the sanction. Therefore, we finally moved the Collector, Mumbai City, Collector, Mumbai Suburban and Collector, Thane District and obtained the

consent orders under the Explosive Substances Act. The first proposal was sent before filing of the chargesheet, but I cannot tell the date on which it was sent. I will have to see the papers that are in the office to state about it from the record. (Learned advocate asks the witness to go through the case diary and tell about it). The first proposal to the Collector, Mumbai Suburban District was sent on 14/11/06. The proposal to the government was sent on 22/11/06 requesting to authorize the Collector, Mumbai Suburban District to give consent for all the blasts. The first proposal was not refused in writing by the Collector, Mumbai Suburban District, but he expressed his inability on the point of law and we were satisfied. I consulted my superiors. The collector had expressed his inability to me and DPC Bajaj. I did not meet him, but he expressed it on phone. I did not make a station diary entry about it. There is a mention in the case diary about it. The Collector, Mumbai Suburban District at that time was Vishwas Patil. The government did not pass an order as requested by us. It did not reply in writing, but I was called and we discussed it. Since, it was only on law point, we are advised to approach the concerned collectors and obtain the same. Therefore,

finally I submitted three proposals to the three collectors. I cannot tell the date on which the advise was given, but it was by officer Sankhe in the Home Department, looking after the legal matters. I do not know his designation. I have not filed the first proposal and the request to the government with the chargesheet. I personally went to the office of officer Sankhe in the Mantralaya. PI Wabale was probably with me. DCP Bajaj was not with me. After going through the provisions of the law, officer Sankhe advised us accordingly and we were also satisfied. I did not inform the three collectors to whom I subsequently sent the proposals, about the first proposal and the request to the government. It is not true that I pressurized the three collectors through officer Sankhe. It is not true that the first proposal was refused in writing and I suppressed the proposal and the consent. It is not true that I prepared false case diaries. We had sent draft consent orders at some places to the Collectors, probably to Collector, Mumbai City and Collector, Thane. I do not remember whether drafts were sent to other collectors. The drafts were not returned with the signatures of the collectors. It is not true that I had sent draft to all the authorities. I cannot say whether the consenting

authorities signed the drafts and sent them back to me. I had read all the consent orders. I will have to see the consent orders to state whether their formats are one and the same. (Learned advocate asks the witness to go through Exts. 1634, 1764 and 1766). It is not true that the schedules are identical. The formats are the same. I cannot say whether the consent orders are as per the drafts. I had not sent the seized booklets to the consenting authorities. I do not remember having sent the books to them or to the sanctioning authorities. I do not remember whether any of these authorities had called for the books. I do not remember having personally carried the books to them. I do not remember having read over any contents of the books to them, but there were discussions about their contents. I had visited the office of the Commissioner of Police when the proposal for sanction under MCOB Act was sent to him. PI Rathod and PI Wabale may be with me. I do not remember whether I had gone with DCP Nawal Bajaj, whether there was a discussion with the CP in his presence. I cannot tell the dates of the 2-3 occasions on which I had gone for discussion to the CP. I went for the first time after 5-6 days after I sent the proposal. I had also discussed with DCP Bajaj, but I

do not remember whether he went alone to CP. DCP Bajaj did not tell me that he had gone alone and had discussed with the CP. There may not be entries in the station diary about my visits to the CP. Every time we had discussions for 2-3 hours. I did not make any entry in the visitors book, because it is not necessary. I do not know whether there was CCTV at the gate of the Commissioner office at that time. There is one gate for officers and public to enter the office, but it is divided in two parts. Police officers in uniform are not required to make any entry anywhere or to sign any register. There is no other evidence about my visit to the CP.

131. I did not meet Commissioner Roy at my office at Bhoiwada. I might have met him once or twice in the office of the Jt. CP Raghuvanshi at Byculla. I did not meet him at Kalachowki and Nagpada unit offices. I may have had discussions with him for about half an hour on every occasion. I do not remember the date of the discussions. This was during the stage of investigation, after the prior approval and before the sanction. Superiors officers used to be present in those meetings and I used to give answers only when I was asked. Jt. CP Raghuvanshi, Addl. CP Jaijeet Singh and DCP

Bajaj used to remain present. Addl. CP Jaiswal did not used to remain present. The CP asked questions relating to this case. He did not ask for a written report. Jt CP Raghuvanshi did not ask any question. I do not remember whether I showed any documents to the CP. The CP must have come to the office and then I was called there. I cannot say whether the CP visited Bhoiwada, Kalachowki and Nagpada offices of the ATS on 32 occasions. I did not produce any accused before him. CP never told me that I was not present when he visited Bhoiwada office. I do not remember whether any officer informed me about it and that the CP had discussions and he was motivating the officers. I know about the instructions given by the CP about complaints of torture. This must be in the month of August when the court had given the directions which I knew. The directions of the court was that the CP should personally supervise the investigation. I do not know whether the directions were given by the court on seeing the injuries of the accused no. 1. I cannot say where the directions are, as it was prior to my taking over the investigation. It is not true that the directions speak about police torture, therefore, I suppressed it. I do not know whether the CP along with Jt. CP

Raghuvanshi met the accused many times when they were in police custody. It is not true that he had given an offer to the accused no. 6 Mohd. Ali to become approver.

132. I did not meet the panch witnesses of the various disclosures made by the accused. The other officers had prepared the panchanamas and had produced them before me and had not produced the panchas before me, therefore, I did not meet them. No seizure panchanama was prepared in my presence. No accused made any voluntary statement and discovery in my presence. I did not take statements of panchas. I cannot say whether the investigating officers of the ATS used the panchas that were used by them earlier and some of the panchas are being used even today. I met the eye-witnesses when they came to the office. Statement of Kishore Popatlal Shah had been recorded earlier by Borivali Railway Police Station. PI Khandekar had produced him before me. PSI Kisan Gaikwad was in the ATS. It is not true that he introduced the said witness in this case. I do not know whether PSI Gaikwad had chargesheeted him earlier in CR No. 129/02 of L. T. Marg Police Station. (Learned advocate asks the witness to go through court

certified copies of chargesheet and other documents filed with the application Ext. 2500). It is true that the document shows PSI Kisan Gaikwad as the Investigating officer having filed chargesheet against one Kishore Popatlal Shah and others. (The certified copy of the docket is marked as Ext.2501 and the chargesheet, FIR and other documents are marked as **Exts. 2502 (1 to 14)**). I had casually asked him whether there were any cases against him and he answered in the negative. He was produced before me in the first week of November. It is not true that he came for the first time in the last week of October. It is true that accused no. 13 Asif Bashir Khan was in police custody in the last week of October 2006 and was lodged in Bhoiwada lockup. Kishore Popatlal Shah had come to the Bhoiwada office. It is not true that accused no. 13 Asif Bashir Khan and his photograph were shown to him when he had come.

133. I had inquired with Vishal Kishore Parmar (PW-74) and he had mentioned that he was working with some money lender. I do not remember whether the name of his employer was Mukesh Walji Rabadia. I do not remember whether Mukesh Walji Rabadia is cited as a witness in the chargesheet. (Learned advocate asks the witness

to go through the chargesheet, list of witnesses and Ext. 716). One Mukesh Walji Rakhadia is seen to be cited as a panch witness in the chargesheet and one Mukesh Walji Rabhadia is seen to be a witness in Ext. 716. I have not taken part in the investigation of the Aurangabad Arms Haul Case, MCOB 16/06. I do not know whether Mukesh Walji Rabadia is a panch witness in that case. I cannot say whether he has acting as panch witness in many cases of the ATS. I do not know whether Vishal Kishore Parmar was his employer. It is not true that he was introduced as a witness by Mukesh Walji Rabadia at the instance PI Tajne. I had read his statement. I do not remember whether he was first produced before me, whether I had inquired with him before his statement was recorded, whether I instructed PI Khanwilkar to record his statement. PI Khandekar did not record his statement. It is not necessary to verify the material information given by a witness, if he does not appear to be an untruthful witness.

134. I did not obtain the information about the scheduled and actual timings of arrival and departure of the seven trains from the railway authority, but they were stated by the motormen and

guards of the respective trains. I do not remember whether the number of the Virar train was VR 607 at the time of departure and VR 556 when it reached Churchgate. I cannot tell off hand whether the said train reached Churchgate at 1707 hours and left at 1719 hours. I cannot say whether the said train did not reach Churchgate at 1715 hours or thereafter. It is not true that the witness Vishal Kishore Parmar gave false information. It is not true that he had not gone to the ENT hospital at Churchgate, nor he visited BMC bank or BMC office at Dadar. He had stated so in his statement. I do not know whether visitors register is maintained in the BMC bank and BMC office. I cannot say whether the person by name Baban Rankhambe at ENT Hospital and Lalit Waghela at BMC office at Dadar were absent on 11/07/06 from their duties. I do not know whether witness by name Kiran Keni was sitting on the 3rd seat on the eastern side on the Virar side seven seat bench in the 1st class compartment of the train in which the blast took place at Mira Road.

(Adjourned for recess)

Date : 05/03/12

Special Judge

Resumed on SA after recess

135. I do not remember whether witness by name Kiran Keni was one of the injured witnesses traveling in the same bogie and sitting on the seven seat bench. His affidavit-in-evidence may have been filed. It is not true that a false report is filed that he is not found. I do not remember whether injured witness by name Devendra Pandurang Chavan was traveling in the same bogie and he was a colleague and friend of Kiran Keni. I do not know whether he was sitting on the second seat on the eastern side on the seven seat bench on the Virar side in the same bogie.

136. I do not know whether Vishal Kishore Parmar had acted as panch witness in a motor accident case of Tardeo Police Station, whether he does not reside at the address given by him in the court since last four years, whether he has given false address in the court. We have no control over the accused remanded to judicial custody. The accused no. 1 to 4 and 9 to 11 were remanded to judicial custody on 09/10/06. It is not true that I deliberately delayed the holding of the test identification parade. I do not remember whether I had come to court on 20/10/06 and 03/11/06, whether accused no. 1 to 4 and 9 to

11 were produced from the prison on these days, whether their faces were not veiled when they were produced. Care has to be taken that the accused cannot be seen by the witnesses till the test identification parade is done. I cannot say whether it is mentioned in the case diary or remand applications of these dates that such care was taken. It is not true that accused were shown to all the witnesses who had taken part in the identification parade on these dates.

137. Motorman and guard have stated about the stations at which the train that was involved in the Matunga blast had halted. I did not collect record about the halting stations of the said train while going towards Churchgate. I cannot say whether the said train was a fast train from Mumbai Central to Churchgate, that Charni Road was not a halting station for that train and that it had not halted there.

138. I have heard the name of gangster Arun Gawli. At that time he was MLA. He was also union leader. He was arrested in many criminal cases. I do not know whether witness Subhash Nagarsekar was closely associated with Arun Gawli and whether Arun Gawli had given him money. It is not true that through Arun Gawli the said witness is planted in this case.

139. It is not true that a Commissioner of Police had given orders that certain eye-witnesses should not be included in the test identification parade nor the accused should be confronted to them. It is not true that we have dropped six eye-witnesses in this case.

Q. Whether there was a police constable by name Santosh Prakash Khanvilkar, PC- 01280 of LA-II, who had stated that he would be able to identify the suspect persons, if shown to him?

A. I had discussed with the previous investigating officers about the injured witnesses, who had stated about seeing some suspects and we found only one witness to be credible for being called for identification parade, viz., Kishore Popatlal Shah. The other witnesses had given vague description of suspects and their suspicion was found to be unfounded. There was a discussion about PC Khanvilkar also and he was not found to be useful for calling him for the identification parade. There was a discussion about witness Ramanand Marutrao Machewar also and he was not found to be credible. I do not remember whether he was junior engineer in the BMC, but he had given different statements at Borivali Railway Police Station and at the ATS, therefore, he was not reliable. I cannot tell the

exact figure of the witnesses who were found to be not credible. I have served for 36 years in the police department.

Q. If there is a case against unknown persons, whether you decide about the credibility of the witness who claim himself to be an eye-witness and then you decide to call him for identification parade?

A. Before a witness is called for taking part in the test identification parade, we satisfy whether his version is reliable or not or whether he has only vague suspicion and whether he is useful in the case and then it is decided whether to call him or not.

Q. Whether the witnesses whom you dropped had given false statements to the police?

A. It cannot be said that the statements given by such witnesses were false, but it is to be verified whether it is reliable or vague.

Q. If a witness states about visiting certain places and meeting certain persons and it is found otherwise, then whether as per your opinion you think that he is not a credible witness?

A. After inquiring with a witness, if his story is consistent then we consider that he is a reliable witness. If we feel that a witness is giving wrong or suspicious answers, then we verify it. Prabakar

Dattaram Sadekar, whose statement is at pages 135 to 141 on Vol-IVB claimed himself to be an eye-witness in the Mahim blast. I do not remember whether we had found one Amit Raghunath Kunja, whose statement is at pages 103 to 104 in Vol-IVD claiming himself to be an eye-witness in the Khar blast. We had a witness by name Vijaykumar Babanna Rayappa whose statement is at pages 329 to 335 in Vol-IVE claiming himself to be an eye-witness in the Jogeshwari blast. We had a discussion about him and we found that he was not reliable to be called for the identification parade of the arrested accused. I do not remember whether we had got a witness by name Santosh Prakash Khanvilkar, whose statement is at pages 233 in Vol-IVF, claiming to be an eye-witness in the Borivali blast. I remember having discussion about witness Suresh Shekhar Suvarna, whose statement is at pages 153 in Vol-IVF, who was claiming himself to be an eye-witness in the Borivali blast. He was not found to be reliable. It is not true that all these witnesses were deliberately not called for the test identification parades. I do not remember witness L. R. Pandey. The witnesses about whom I stated above that I remember their names had traveled in the respective bogies in which the blasts had taken

place and had been injured. Their statements had been recorded within 2-4 days of the incident. They had no previous concern to the police. I cannot say whether they had a clean record and families. It did not come to my notice that they had earlier given false or misleading information to the police. We conduct impartial investigation and there is nothing like collecting or not collecting contradictory or inconsistent evidence. It is not true that there were many eye-witnesses other than the above seven, whom we did not call for the identification parades.

Q. Statements of all injured persons were recorded during the investigation?

A. We recorded the statements of the injured who were traced by us and those who came to us voluntarily.

140. We had given copies of statements to the injured witnesses who came to us for claiming compensation. It is not true that I removed statements of more than 73 injured witnesses as their version was contradictory to our case. It is not true that I have not filed the statements of all injured witnesses. It is true that the Vol-B-III contains statements of material witnesses. Volumes E-III and G-III

contains statements of witnesses. I cannot say now whether the statements were of witnesses who claimed to be eye-witnesses. It is not true that I tore volumes B-III and G-III. I remember that I was informed that volume E-III was produced in November 2011 when the defence called for it. (Learned advocate asks the witness to search and show where vol-B-III and G III are). I cannot say off hand whether volume B-III and G-III of the chargesheet are not filed in the court.

141. I had perused the case diaries of some of the cases when the investigation came to me. It is not necessary that entries are required to be made in the station diary about recording statements of witnesses. However, it is to be mentioned in the case diary. I had perused the case diary of CR No. 77/06. PI Rathod was the investigating officer. It is not true that it was tampered with. It did not come to my notice that API Bavdhankar gave me statements of witnesses whose names were not mentioned in the case diary.

142. I cannot say whether the ATS recorded statements of some injured witnesses, whose statement had already been recorded by the railway police. It is not true that I tore the statements recorded by the railway police. (Learned advocate asks the witness to go

through the documents produced along with his application Ext. 2015, that were obtained under the RTI from the Western Railway). We may not have taken the statements of the injured witnesses, whose medical certificates are in these documents, therefore, they are not filed. The railway tribunal inquires with the local police stations in the cases they find necessary as to whether a particular claimant has been injured or not. We had given the injury certificates to the injured and they may have given them to the tribunal. I have not sent any other injury certificates to the tribunal. I do not remember having received a list of injured persons from tribunal till the time I was there. It is not true that the statements of the injured witness, whose injury certificates filed along with the application Ext. 2015 shown to me, were in Vol -B-III and G-III along with other statements. These volumes are not given as they may probably not containing any statements or documents. (Learned advocate calls upon the witness to produce the said volumes. Learned SPP submits that the witness be given time to go through the chargesheet).

143. (Learned advocate asks the witness to go through the front cover of Art-249 (5)). I cannot say whether there are faint words

'Mo. Akil' on the front cover. It is not true that the original book was seized in the crime at Kotwali Police Station, Khandwa from the accused Mohd. Akil and his name was written on it to identify it. I have given this denial on the basis of the findings in the investigation and not because I was present at the time of the seizure at Kotwali Police Station, Khandwa.

144. I was present in the Bhoiwada office on 03/11/06. Witness by name Santosh Kedar Singh had come to the office on that day and had met me. I had inquired with him. I do not remember whether I had introduced myself as ACP Patil. PI Wadmare was present on that day. I do not remember whether he had introduced the witness to me. It is not true that his statement was not recorded on that day and he did not meet me.

145. We got two taxi drivers as witnesses and they had stated their taxi numbers. I did not inquire whether they were the owners of the taxis or with their employers. The documents of the taxis were not taken. Driving license and badges were not taken. There was no correspondence with the RTO to obtain information about the owners. I did not take statements of the owners of the taxis

on record. It is not true that it was already decided that we would not find anything in the taxis. The taxis were not sent to the FSL and photographs were not taken. We did not take the search of the taxis and prepare panchanamas. I do not know about the registered owners of the taxis till today. (Learned advocate asks the witness to go through Ext. 1853). The letter from the information officer of the RTO, Mumbai (W) shows that taxis number MRK-8286 and MH-02-WA-8139 are owned by Satishkumar K. Singh and the information is relating to the period from 2001 to 2011. I do not remember whether witness Santosh Kedar Singh had given false information to me that he is the owner of the taxis. It is not true that I introduced the taxi drivers Santosh Kedar Singh and Rajesh Chandrakant Satpute in this case.

Q. You had sent PN Vijay Salvi, buckle no. 25610 to bring two taxi drivers?

A. I do not remember having sent him, but our officers and constables were searching for taxi drivers.

It is not true that on my say PN Salvi brought these two taxi drivers, that they were not taxi drivers, that therefore, I did not get their taxis

examine and did not seize any documents from the taxis, that I knew that they were not taxi drivers, therefore, I deliberately did not make any correspondence with the RTO authority about their owners.

(Adjourned as court time is over).

Date : 05/03/2012

**(Y. D. Shinde)
Special Judge**

Date : 06/03/12
Resumed on SA

146. Witness volunteers – Yesterday I was asked to find out volume B-III and G-III of the chargesheet. I took information from the concerned officer and also saw the case diary. Volume III of all the seven cases was supposed to be contained statements of witnesses other than injured witnesses. Volume IV was meant only for the statements of injured witnesses. Since, in volume -B III and G III, there were very few statements of witnesses other than injured witnesses, those statements were put in volume-IV and volumes B-III and G-III was not prepared. So, these volumes were not prepared and submitted with the chargesheet and its copies were not given to the accused. (Witness is asked to show the case diary. He has shown the case diary dated 30/11/06 and it is seen).

147. It is not true that I gave a false explanation about the volume B-III and G-III after taking legal advice. I have produced volumes-B-IV, E-IV and G-IV and copies are given to the defence. It is true that the explanation that I gave was not informed to the court before today. The documents in volume E-III were expected to be

attached in volume E-IV, but inadvertently they are not attached with E-IV. Therefore, the volume E-III was produced. It is true that volume C-III is of only 4 pages. On seeing these volumes the instructions about B-III, E-III and G-III were given. It is true that D-III is only of 24 pages. It is not true that there were statements of important witnesses, the CDRs and the observations of the magistrate on the remand applications in Volume – B-III and G-III and I hid them.

148. There is no difference between final report and chargesheet, they are one and the same. FIR is different from chargesheet.

Q. Whether charge and chargesheet are different?

A. Chargesheet is filed by police and on that basis charge is framed by the court.

It is true that the requirements for applying the provisions of the MCOB Act are that there should be more than one chargesheet in respect of offences punishable more than three years during the last ten years and the court should have taken cognizance. I do not think that it is necessary to place copies of more than one chargesheets before the court. I do not think that it is necessary to send certified

copies of more than one such chargesheet to the competent authority for getting prior approval under Section 23 (1) or to the sanctioning authority under Section 23 (2) of the MCOB Act.

Q. Is it true that therefore you have not filed certified copies of more than one chargesheet in the court nor it was collected during the course of investigation?

A. There is no necessity of certified copy of chargesheet, because the copies of the charges framed by the court against the accused no. 13 were available with us and they were produced in the court. At that time copy of one more chargesheet was not available and we did not make efforts to get it subsequently. It is not true that, that chargesheet was not in existence, therefore, we did not get it. It is not true that the FIR and the charge is not against the accused no. 13. The FIR does not contain his name. Crime number is not mentioned in the charge. It is true that the name of the accused as Asif Bashir Khan is not mentioned in it, but the name of the present accused no. 13 as Asif Khan is mentioned in the charge. I was not the investigating officer of that case, but this fact was disclosed during my investigation. It is not true that I am stating falsely that the name of

the present accused no. 13 is mentioned in the charge as Asif Khan.

149. This is the only case under the MCOG Act that I investigated during my service period. It is true that information is to be recorded under Section 23 (1) of the MCOG Act. I have discussed this issue with DCP Bajaj on the day when the investigation came to me. DCP Bajaj told me on the same day to record the information. I have not read anywhere about the procedure for recording such information. Such information is recorded from the person who is having knowledge and is giving the information. It is not true that the signature of the informant is required to be taken. I discussed it with DCP Bajaj on 24/09/06. It is not true that I did not record any information. It is not true that the station diary entry Ext. 2367 is fabricated later on.

150. It is true that the statement given by the accused to the police, except a statement of discovery, is not admissible as evidence. It is true that sample of voice of the accused is to be taken before panchas. It is not necessary to obtain the specimen handwriting of the accused before panchas. I do not remember whether I did not take specimen handwriting of the accused before

panchas in any other case. I cannot say, as I do not remember whether I have taken specimen handwriting of the accused in other cases before panchas under panchanama. I did not take the statement of Jayant Kashiram Aher, handwriting expert. The office of the ACB, Nagpur had not called the opinions of handwriting expert in this case till I was in the ATS. I do not know whether the handwriting expert Jayant Aher is under suspension since December 2009. I do not know whether he is prosecuted for having given bogus opinions to the police by taking money from them. It is not true that all the ATS officers knew this, that he was doing so since before 2006. I do not know whether the ACB is investigating as to which police officers he has given such opinions, whether FIR is registered on 09/10/09 against him in CR No. 6213/09 at Sitabardi Police Station, Nagpur.

151. The accused no. 1 to 4 and 9 to 11 were in police custody in different cases since the time of their arrest before the prior approval. They may be in police custody for about two months. The officers were making inquiries with them. No investigating officer told me that any of these accused had expressed their willingness to give confessional statement. I do not remember whether these

accused had complained about police torture to the court before the prior approval. I do not know whether different medical officers had noticed injuries on them. No investigating officer told me that he made efforts to take the confessional statement of the accused under Section 164 of the Cr. P. C. when they were in his custody. It is not true that provisions of the MCOG Act were applied to this case only for taking confessions. It is not true that the work of recording confessional statements was completed within one or two days after getting the prior approval. It is not true that on the date when the prior approval was received, there was no eye-witness with us. It was my discretion to do other investigation first and then to take the test identification parades, therefore, I did not take them immediately after getting the prior approval. It is true that after the prior approval was received, accused no. 4 Ehtesham was arrested on 28/09/06 and accused no. 9 Muzzammil was arrested on 30/09/06. I did not make station diary entry about the accused expressing their desire to make a confessional statement. I informed my superiors on the same day I was satisfied that the accused are desirous of making voluntary confessional statements. The report was under my signature in the

form of notings. It is not in the case diary. I remember that entries are made in the case diary about accused expressing their desire to make voluntary confessional statement. (Learned advocate asks the witness to go through the case diary and state when accused no. 4 and 9 expressed their desire to make voluntary confessional statements). There is an entry on 29/09/06 about the accused no. 4 and 01/10/06 about the accused no. 9 expressing such a desire. It is true that these days were the second days of the dates of their arrest. I do not remember which officer told me about it. There is no mention of the name of the officer in the case diary. Names of officers who told me about the willingness of the accused are not mentioned in the case diary. No officer gave a written report about it. There is no mention in the case diary as to when the particular officer came to know about the desire of the accused. I cannot tell the name of a particular officer who told me about a particular accused expressing his desire. I do not remember whether PI Iqbal Shaikh, PI Khandekar, PI Rathod, PI Agrawal, PI Wadankar, PI R. R. Joshi, PI Vijay Kadam told me about it. It is not true that no officer told me that the accused are ready to make a confessional statement and that I have prepared

a false report. I do not remember the name of the officer whom I told to interrogate the accused no. 4 and 9 after their arrest. The names of the officers are also not mentioned in the case diary.

152. The ATS lockup is at Bhoiwada, where lockup diary and lockup register are maintained. Bhoiwada lockup was a general lockup till August 2006. Thereafter, it was given for the exclusive use of the ATS. If an accused taken out of the lockup, entries are made in the register. It is not true that on 28th and 29/09/06 the accused no. 4 and on 30/09/06 and 01/10/06 the accused no. 9 were not taken out of the lockup. I did not take them out personally, but my staff. I do not remember the name of the constable who did so. There are no station diary entries about taking out the accused from the lockup and even there are no entries in the lockup register, if the accused are take out and brought to my office internally. It is not necessary to make entries in the case diary about it. I do not know whether I and my officers refused to give copies of the lockup register and diary on the ground that the ATS is not covered under RTI and is not bound to give the copies. It is not true that entries were made even if the accused were taken out of the lockup and moved internally in the

same building. I am unable to produce the lockup register. The period for which the accused no. 4 and accused no. 9 were interrogated on 28th, 29th, 30/09/06 and 01/10/06 is not mentioned in the case diary.

(Adjourned for recess).

Date : 06/03/12

Special Judge

Resumed on SA after recess

153. The accused no. 10 and 11 were arrested on 30/09/06. I cannot say when they expressed their desire to make a confessional statement before the other officers, but they expressed it before me on 02/10/06. I do not remember the name of the officer who informed me about it and there is no entry in the station diary or case diary. I do not remember the names of the officers as different officers were interrogating the accused and even one accused used to be interrogated by 2-3 officers. I do not remember whether none of the accused had expressed their desire to make confessional statement before the seven investigating officers of the ATS. It is not true that I am pleading ignorance about this as all the investigating officers, except PI Vijay Kadam have been examined and none of the accused have expressed their desire to make the confessional

statement and false case diaries are prepared on this point.

154. The accused Faisal was arrested on 28/09/06 under MCOB Act. The interrogating officer informed me within one or two days about his desire to make the confessional statement. I do not remember his name and there is no entry about it in the case diary or station diary. The officer told me one or two days prior to 02/10/06 about the desire of the accused. He did not tell me on what date the accused expressed his desire to him. The accused Kamal and Tanveer were arrested on 25/09/06 under MCOB Act. I cannot tell the name of the officer who informed me about their desire to make the confessional statements and when the accused expressed their desire to them for the first time.

155. No special technique was used for all the accused expressing their desire to make the confessional statement. The accused no. 1 to 4 and 9 to 11 were in police custody in other cases, when the provisions of the MCOB Act were applied. The remaining accused were arrested later on. I did not file the notings that I submitted before the superior officers in the court as it is an internal correspondence and is not necessary to be filed in the court. Notings

may have outward numbers. I cannot say whether inward numbers are given in the offices of the officers to whom they were sent. There is no separate outward register for the notings. (Learned advocate asks the witness to go through the case diary and tell the outward numbers of the notings). There are no outward numbers in the case diary, but there are entries about sending the notings. I did not meet the accused no. 1 to 4 and 9 to 11 on 24/09/06. I met the accused no.1 and 2 on 25/09/06. I had inquired with them on that day. I cannot tell for what time I inquired with them.

156. I had gone through all the confessional statements. I got the copies two or three days after they were recorded through my staff from the concerned DCPs. I had requested for the copies. I do not remember having made station diary entries of sending my staff. (Learned advocate asks the witness to go through the station diary and state about it). There are no station diary entry to that effect. (Learned advocate asks the witness to go through the case diary and tell the name of the concerned staff who had gone to the DCP office and brought the confessional statements and the dates). There is mention in the case diary dated 08/10/06 about confessional

statements being received, but the name of the staff and the names of the accused are not mentioned. The confessional statements may be of the accused who had given them in between 04/10/06 to 07/10/06. There is mention in the case diary dated 26/10/06 about confessional statements recorded by DCPs, Zone-I and Zone-V being brought by API Tambe. There is mention in the case diary dated 27/10/06 about confessional statements of the accused Mohd. Sajid and Mohd. Majid brought from respective DCPs by API Tambe. There is no mention in the further case diaries about receiving copies of confessional statements. There is no mention in the case diaries about the names of the accused, whose copies of confessional statements were received and the number of the confessional statements. The names of the DCPs are not mentioned, but they are mentioned at the time of sending the accused. I cannot say whether confessional statements of all the accused no. 1 to 4 and 9 to 11 were received on 08/10/06. It is not true that bogus case diaries are prepared later on, therefore, there is no mention about the particulars. I did not record the statements of the staff or officers who brought the copies of the confessional statements on 08/10/06, because I did not

feel it necessary. I do not have personal knowledge whether the accused and their confessional statements were sent to the CMM, Shri Shirke. It is not true that after he opened the packet containing the confessional statement of the accused Kamal, I told him not to open the other packets otherwise, that would damage our case. I do not know till today whether the accused Kamal had denied having made the confessional statement. I do not remember whether I stated so before the tribunal. I do not know whether the CMM did not open the packets containing the confessional statements of remaining six accused. I do not remember whether I stated so before the tribunal. It is true that the accused no. 1 to 4 and 9 to 11 had retracted their statements before the Special Court on 09/10/06. I had informed my superiors about it. It is not true that my superiors instructed me to introduce new witnesses out of the persons acquainted with the ATS officers. Statement of witness Subhash Nagarsekhar was recorded on 18/10/06, of Alam Gulam Qureshi on 02/11/06, of Devendra Lahu Patil on 20/10/06, of Santosh Singh, Rajesh Satpute and Mohd. Shakil on 03/11/06, of Vishal Parmar on 02/11/06, of Amar Khan on 28/10/06, of Shaikh Noman on 07/11/06, of Abu Usman on 07/04/07

and of Tafheem on 13/10/06. It is not true that after the accused retracted their confessional statements, these false witnesses were introduced and their false statements were prepared.

157. I have taken signatures of some of the officers on the letters directing them to take the accused to the DCP. It is not true that I prepared Exts. 2395 to 2404 in the ATS office before giving evidence, that I took signatures of officers who were available and could not take the signatures of the officers who were not available, that PI Khandekar was not available therefore, I did not take his signature on Ext. 2395. It may have remained to be taken. It is not true that PI Sunil Deshmukh was not available, therefore, I did not take his signature on Ext.2398. It may have remained to be taken. It is not true that PI Joshi was not available, therefore, I did not take his signature on Ext.2399. It may have remained to be taken. It is not true that I took the signature of another officer as PI Sunil Deshmukh was not available to sign on Ext.2400. I took the signature of PSI Yadav who was working with him. It is not true that PI Vijay Salaskar was not available, therefore, I did not take his signature on Ext.2401. It may have remained to be taken. It is not true that he expired in

between, therefore, I could not take his signature. The letter Ext. 1078 contains my signature dated 07/10/06. I think that there is typographical error in pasting the contents of the letter. It is wrongly mentioned in this letter that PI Vasant Tajne was deputed to take the accused Ehtesham to the DCP, Zone-IV for recording confessional statement on 05/10/06 at 1700 hours and he was produced accordingly. It is not true that a bogus record is prepared, therefore, I am saying that it is a typographical error. I had come to know of this error when I produced the letter. It is a formal letter and the request is to the DCP for providing copy of the confessional statement. I cannot say how the name of PI Tajne is there though he had not taken any accused to the DCP. The officer who took this letter did not tell me that it is incorrect. The DCP also did not bring this to my notice. It is not true that PI Tajne had taken the accused Ehtesham to the DCP on 05/10/06, that the accused refused to make the confessional statement, therefore he was tortured. The reference to the outward no. 1804 and date 05/10/06 is also a typographical error. The outward number in the letter Ext. 1055 is 154/DCP/Z-IV/2006. The reference to the outward number of the DCP in my letter Ext. 1056 is a

typographical error. I realized this for the first time today. The DCP did not bring it to my notice. It is not true that reference to the outward number in Ext. 1078 is the outward number of the letter of the DCP by which he sent the accused no. 4 back as he refused to confess. I cannot say who wrote the figure '25' in front of years in Ext. 1056. It is not in my handwriting. If it was genuine mistake, the subordinate officers used to correct it and give it to me. It appears to be a genuine mistake as it was typed 20 and then made 25. I remember that it was brought to me after the said correction. It is true that Ext. 1078 mentions the age of the accused as 30 years. It is not true that I had sent reports with the forwarding letters to the DCPs incorporating what should be written in the confessional statements. I had not sent any written paper containing the brief facts or the schedule or any synopsis. It is not true that sending report to the superior officers means describing the facts of the case. The contents of Ext. 1057 'perused report of the ACP' means my forwarding letter. It is not true that I am giving this false explanation. Same thing is mentioned in Ext. 1068.

158. The accused no. 5,6 and 7 were arrested on 29/09/06

and accused no. 12 was arrested on 30/09/06 under the MCOG Act. I cannot tell the dates on which and I do not remember the names of the officers to whom they had first expressed their desire to make confessional statement and the names of the officers who told me about it. I had inquired with them on 29th and 30/09/06. I did not ask them whether they want to make confessional statements. I do not remember having asked the accused no. 5 to 7, 12 and 13 upto 15/10/06 whether they want to make confessional statements. I do not remember having told any other officer to ask the accused about it. It is not true that before the confessional statements, I wanted to get done the narco tests of the accused. (Learned advocate asks the witness to go through the case diary and state when the accused were sent for narco tests). The accused no. 8 and 12 were sent on 14/10/06, the accused no. 13 was sent on 18/10/06, the accused no. 7 was sent on 15/10/06, the accused no. 5 and 6 were sent on 16/10/06 for narco tests.

159. It will not be correct to say that the interrogating officer has to ask the accused whether he is ready to make a confessional statement. I did not ask the accused whether they are ready for narco

tests. It is not true that it is necessary to ask an accused whether he wants to become an approver or wants to make any voluntary statement. It is not true that the accused volunteers for making voluntary statement or becoming approver or for narco tests or making confessional statement, he does so during interrogation. It is not true that the confessional statement is required to be taken as soon as possible.

160. There is no special reason why the accused no. 6, 7 and 12, expressed their desire on the same day to make a confessional statements. Same is the case about the accused no. 5 and 13. I cannot say whether the accused no. 5, 6 and 12 retracted having made confessional statements in the court on 09/11/06, but they have made the retractions. I do not know whether it was on 09/11/06, but the accused had complained of torture and obtaining signatures on blank papers. The accused no. 6 and 13 had complained to the court, but I do not know whether they had complained that I and other officers were threatening them of involving them in the Malegaon blast case of 2006. I had filed my say to the complaint, but I do not remember whether it was on 16/11/06. It

is not true that I had handed over accused no. 6 and 13 to my colleague officers on 13/11/06 directing them to involve them in the Malegaon blast case of 2006 saying that they are not ready to make confessional statements and are not ready to become approvers. It is not true that I and my other officers used to threatened the accused that they would be killed in encounters and their family members would be involved in Malegaon blast case of 2006, that PI Sunil Deshmukh used to threatened the accused no. 13 that he would rape his wife and mother. I remember that the brother of the accused no. 6 had complained to the court about torture. It is not true that thereafter the accused no. 6 was threatened by the ATS officers for not making complaint on 09/11/06. It is not true that Jt. CP Raghuvanshi had met the accused no. 6 in the MCP on 02/11/06 at 8.00 p.m., that PSI Sachin Kadam had met him at 2.00 p.m. on 30/10/06 and PI Vijay Salaskar along with his staff had met him at 8.00 p.m. on 06/11/06. I do not remember whether the accused no. 6 had complained accordingly before the court on 20/11/07 by MA No. 751/07. I may have filed reply to the application containing the complaints. It is not true that the ATS officers used to go to the house of the accused no.

6 and threaten his family members to say that they were not in the house on 8th, 9th and 10/07/06 and asking them to sign on some papers. I do not remember whether brother of the accused had made this complaint vide MA No. 309/06. I may have filed reply. It is not true that the accused no. 6 was continuously tortured on 20th, 21st and 22/10/06, because of which there was injury to his scapula and shoulder. It is not true that when he was taken for medical examination, his complaint of the said injury since 15 days was struck off on my saying and made 15 years.

(Adjourned as court time is over).

Date : 07/03/2012

(Y. D. Shinde)
Special Judge

Date : 07/03/12
Resumed on SA

161. I had not sent high resolution photos of the unclaimed body to U.P. for finding out the whereabouts of his residence and I had not heard of it. I do not know whether they were sent in August 2006. PI Rathod had told me that two persons had come and claimed that the body is of their relative, but after verification they disclaimed it. He did not give me any record about it and I did not ask for it, because no record is maintained about claiming and disclaiming. It is not true that this record was in volume-B-III and G-III and I hid it. The body was sent for facial reconstruction, but I do not know whether it was sent as two persons were claiming it. It is true that persons come to us saying that so and so relative is missing from a particular place, date and time and express their doubt that a dead body may be of their relative. It is not true that before showing the dead body to the claimant, the photograph of the person who is missing is asked for and his statement is recorded. If the person tells us that he has filed a missing complaint, then we do not ask its number or copy. I cannot say whether it came to my notice during the investigation that PI

Rathod had accepted the claims and disclaims orally. (Learned advocate asks the witness to go through Ext. 1172). There is no written record about the two claimants mentioned in this document. There is no record other than Ext. 1172 that there were two claimants of that body. Witness volunteers – It is not necessary as the claimants disclaimed the body. It is not true that I wanted to conceal this letter, but inadvertently it came in the hands of the accused. I showed the photographs of the reconstructed face of that body to all the relevant witnesses. No one identified the person in the photographs. We had got the photograph of Abu Umed @ Abu Osama @ Mohd. Ali, who was killed in encounter at Antop Hill. I had shown his photographs to all relevant witnesses. It is not true that no one identified the person in the photograph. One of the witnesses identified him. I can produce the photographs, which is in our record. (Learned advocate calls upon the witness to produce the photographs). It was a postcard size photograph of the full body. It was taken after encounter. I got it from ACP, Matunga Division, who was the investigating officer of that case. I did not feel it necessary to club that case in this case. I did not produce it till today as I do not feel it necessary. There was no

correspondence about collecting the photograph as it was not necessary and therefore, it is not filed. I requested orally and the photograph was given. I do not know who showed the hideout of Abu Umed @ Abu Osama @ Mohd. Ali. I had come to know from PI Tajne that a person by name Riyaz Nawabuddin is arrested by him under the Arms Act and the Explosive Substances Act. PI Tajne told me that the said Abu Umed is related to the present case. He did not tell me that Riyaz Nawabuddin had shown the hideout of Abu Umed. There was no inquiry with Riyaz Nawabuddin in this case, because it was revealed in the investigation of PI Tajne that he had no concerned with this case.

162. We were searching for Pakistani nationals during the investigation, whose names were disclosed in this case. PI Tajne had told me that Abu Umed is involved in this case. I was told that Riyaz Nawabuddin is also a Pakistani national. There was detailed investigation in the case in which he was arrested and it was found that he had no concerned with this case. It is not true that PI Tajne had kicked him, because of which his testicles went in the scrotum and he was sent to judicial custody and then admitted in the J. J.

Hospital on 07/10/06 from the prison. I do not know whether he was operated there and his testicles were removed as there was gangrene. It is not true that PI Tajne had a deal with him that he should not complain against us and in that case he will not be involved in this case. I did not record the statement of PI Tajne. It was not necessary as he was assistant investigating officer. I took the statements of the investigating officers with a view to keep the record with me about the investigation conducted by them.

163. Ajmeri Mohd. Ali Shaikh and his friend Amar Sardar Khan had met me. I had inquired with them in the Bhoiwada office. I realized that they were friends. It is not true that I came to know that Ajmeri had brought Amar. I did not think that Ajmeri was hiding something from us. He did not tell his entire history. It was revealed that Amar Sardar Khan was an active member of SIMI. I do not remember whether he had told me that there was a case against him in that connection. Ajmeri did not tell me that he was one of the witnesses in an earlier bomb blast case. He did not tell me that he was one of the important witnesses of conspiracy in the Gateway of India and Zaveri Bazar blasts case and that his evidence had been

recorded in the court. He did not tell me that his wife's name is Amreen, that her original name is Manisha Raghunath Patil and she has converted by giving notification in the official gazette. He did not tell me that he knew PI Vijay Salaskar and was a witness in the case investigated by him.

Q. Whether according to you he being a witness on the point of conspiracy in an earlier bomb blast case was an important fact or not?

A. It may be a fact and a person may be a witness in two cases. API Alaknure had recorded his and Amar's statements. He was working with PI Salaskar in the Anti-Robbery cell of the Crime Branch, having office at Kurla. The houses of both the witnesses were at distance of half an hour from the Crime Branch office at Kurla. It is not true that we were not getting witnesses, therefore, PI Salaskar introduced them.

164. It is not true that I had given photographs of all the accused to the media and to international agencies. I know that accused no. 6's photograph had come in the newspaper as one witness had produced the newspaper cutting. I do not know whether

photographs of the other accused were published in the newspapers. I did not issue notice to the newspaper that had published the photograph of the accused no.6. I did not ask it from where it had obtained the photograph. It is not true that I supplied the photographs to the media on the say of my superiors, therefore, I did not make any correspondence. (Learned advocate prays for confronting the witness with the true copies of newspapers cuttings that were obtained by the accused under the RTI from the State Central Library, MS, Mumbai, produced by him along with the application Ext. 2504. Learned SPP objects on the ground that it is inadmissible in evidence as it is hearsay evidence. In my humble opinion, the objection is correct. Hence, the request is not allowed. The covering letter from the information officer of the library is marked as **Ext. 2505**). It is not true that the photographs of the accused were provided to the reporter of the Times of India and he published the photographs of accused Zameer Shaikh on page 2 of the said newspaper dated 26/07/06 and of accused Tanveer on page 2 of the said newspaper dated 27/07/06. It is not true that the photographs of the accused Kamal, Khalid, Mumtaz, Tanveer and Zameer were provided to the India Today and

they were published in its Hindi edition dated 30/08/06 and the photographs of accused Kamal, Tanveer and Zameer were published in its English edition dated 16/10/06 at page 34, that photograph of accused Mohd. Ali was provided to Nav Bharat Times and it had published it in the edition dated 04/10/06, that it was also provided to Hamara Mahanagar and it had published it in the edition dated 02/10/06, that it was also provided to Mumbai Mirror and it had published it in the edition dated 01/10/06. (Learned advocate asks the witness to go through Ext. 810). It is not true that the photograph in this newspaper was provided by us. It is true that the photograph is of accused Mohd. Ali. It is not true that API Alaknure did not give me the newspaper cutting Ext. 810. He had given it along with the statement of the witness. It is not true that I planted Ext. 810 in this case. I may be able to identify the photograph of Amar Sardar Khan.

165. Foreign intelligence officers did not meet me during the investigation. (Learned advocate prays for confronting the witness with the true copies of newspapers cuttings that were obtained by the accused under the RTI from the State Central Library, MS, Mumbai, produced by him along with the application Ext. 2506. Learned SPP

objects on the ground that it is inadmissible in evidence as it is hearsay evidence. In my humble opinion, the objection is correct. Hence, the request is not allowed. The covering letter from the information officer of the library is marked as **Ext. 2507**).

166. (Learned advocate asks the witness to go through the case diary dated 28/10/06 and state whether the statements of Saidunissa Shaikh Mohd. Ali and Shaikh Hazrat Ali, wife and brother of accused Mohd. Ali were recorded). It is not mentioned in the case diary that the statements of these two witnesses were recorded on that day. It is so mentioned in the case diary of 07/11/06. PSI Vijay Kamble had made inquiry as per my directions and had handed over the statements to me on 07/11/06, therefore, it was not mentioned in the case diary of 28/10/06. It is in the case diary that the statements were recorded on 28/10/06. It is not true that PSI Vijay Kamble was directed to make inquiries with the said witnesses about their whereabouts from 8th to 11/07/06. It is not true that he had reported to me that these two witnesses were in their house on these days with their family members, on the basis of their statements. I cannot say whether both these witnesses are available. It is not true that they are

not examined deliberately. I do not know whether they have been examined as witnesses. It is not true that their statements falsify our theory of 8th to 10/07/06, therefore, they are not examined. The accused Mohd. Ali used to reside with his family in that house and his brother used to stay with his family on the first floor of that house. I did not visit his house.

167. It is not true that Addl. CP Jaiswal used to give consent for arresting the accused. There is a possibility of this being mentioned in the case diary as he was the superior officer and intimation used to be given to him. I do not remember whether the information was given in connection with all the accused. It is not true that the first arrests of all the accused are shown in the ATS office. I cannot say whether all panch witnesses on the arrest panchanamas are available. It is not true that they are repeated regular panchas and that bogus panchanamas are prepared in the ATS office, therefore, they are not examined.

168. It is not true that I stated falsely that I do not know that Ajmeri Shaikh was witness to the conspiracy in the case of the Gateway of India blast. I have given evidence in POTA Case

No.02/03. I do not remember whether the issue was for disclosing the name of Ajmeri Mohd.Ali Shaikh from the truncated copy of his statement. I do not remember about the issue. I may have stated that I cannot disclose the name of the witness as court had directed to furnish the truncated copy of the statement. I do not know whether Ajmeri Mohd. Ali Shaikh is available. It is not true that when I realized that Ajmeri had given evidence in the POTA Case, he was not examined in this case and in his place his friend Amar Sardar Khan was examined.

169. I do not remember PI Iqbal Shaikh, PI Joshi, PI Agrawal, PI Wadankar, PI Rathod and PI Khandekar having stated to me that in their investigation they had found that there is a single larger conspiracy.

(Adjourned for recess)

Date : 07/03/12

Special Judge

Resumed on SA after recess

170. No subordinate of the investigating officers stated to me that they had found that there is a single larger conspiracy.

171. I had not read the medical examination papers of the

accused. I do not know whether the medical officers had found marks of injuries on the bodies of the accused. I had interrogated the accused Sajid Ansari. It is true that his mother had complained to the court on 24/10/06 and the court had directed to produce him at 1200 hours on the next day, i.e., on 25/10/06. He was produced in the court before the court rose for the day. The court directed on that day that he should be medically examined. It was in view of the complaint made by the accused. The accused had stated before the court that he had no complaints, even then the court sent him for medical examination by way of abundant precaution. His mother had complained of police torture. I do not remember whether the accused was taken to his house on 22/10/06. (Learned advocate asks the witness to go through the station diary entry no. 10 dated 22/10/06). The entry says that PI Deshmukh and staff had taken this accused to Mira Road for the purpose of investigation. It is true that the residential address of the accused is of Mira Road. I do not know whether PSI Kandharkar, PI Sunil Deshmukh and PI Tonpi had taken the accused to his house at Mira Road on that day. I cannot say whether the mother of the accused had seen him in the house. They

returned back at 2140 hours as per the station diary entry no. 13 dated 22/10/06. (At the request of the learned advocate the true photocopies of these two station diary entries are taken on record and marked as **Exts.2508 and 2509**). I do not know whether PI Deshmukh told the mother of the accused that they had come for seizure of sim card. It is not true that they had taken the empty packet of Airtel recharge card, Art.353 with them at that time, that the accused was taken to his house for the purpose of showing recovery of mobile repairing instruments. I do not know whether before going to his house they had gone to the institute by name Tanzem Waliden at Malad Malvani, but found it locked. I do not know that his mother saw injury marks on his face, hand and that he was limping, therefore, she complained in the court on 24/10/06. It is not true that the ATS officers were pressurizing the accused not to complain before the court. I do not know whether the medical officer at J. J. Hospital found eleven injury marks on his person on 25/10/06. The medical report was sent by the hospital to the court directly. I have not seen it till date. (Learned advocate asks the witness to go through Ext. 1744). It is true that the medical examination report shows

finding of eleven injuries, 5-7 days old. It is true that 5-7 days before 25/10/06 means that the accused was in police custody. I do not know whether the medical examination reports of the accused at KEM and GT Hospitals of the intervening period show that no injuries were noticed. It is not true that we obtained false certificates from the medical officers at KEM and GT Hospitals. This accused was arrested in my presence in the Bhoiwada ATS office and station diary entry was made. The station diary was not called from Kalachowki office to the Bhoiwada office, but PI Joshi had gone to Kalachowki office. He was not examined at the time of his arrest by removing his clothes, but there were no injuries on the visible parts of his body. I cannot say whether the injuries mentioned in Ext. 1744 were not there at that time. Ext. 1744 is 25 days after his arrest.

172. I cannot say whether medical officers had also found injuries on the bodies of other accused. (Learned advocate asks the witness to go through Ext.2403). It is dated 23/10/06. It is true that I put the date 24/10/06 below my signature. The date at the top of the letter was corrected and made 23/10/06. I think that the letter was prepared with the date 24/10/06, therefore, I put the date 24/10/06

below my signature, but it may have been given to API Tambe on 23/10/06 and the date may have been corrected and made 23/10/06, but the date below my signature remained to be corrected. It is true that the correction in the date is not initialed. It may be that I signed the letter on 23/10/06 in the evening by putting the date 24/10/06 as it was to be given on the next day. The letter was given to API Tambe on 23/10/06. It is not true that I told API Tambe to write the date 23/10/06 below his signature and that I would change the date on the top of the letter. It is not true that I had not sent the accused with the API Tambe on 24/10/06. (Learned advocate asks the witness to go through Ext.2051). The station diary entry may be correct. There is a possibility that the outward number and the date are correct. It is not true that I tore the letter containing outward number 1309/06 dated 23/10/06, which was handed over to API Tambe. It is not true that the correspondence with the DCP is prepared later on, that API Tambe had not taken the accused to the DCP, that I asked PI Khandekar to take the accused to the office of the DCP and to pressurize him and obtain his signature on ready-made confessional statement and not to allow the accused to read it. Witness volunteers - the outward

number 1309/06 mentioned in Ext. 2051 might be of the order given to API Tambe or the letter given to the DCP. There is no mention in the station diary about letter outward number 1382/06. It is not true that I asked PI Khandekar to take the accused before the DCP and then to the magistrate and he had produced the accused before the special court, that I told him to take the accused for medical examination so that he would be under pressure and would not complain. I cannot say whether PI Khandekar had taken him for medical examination. It is not true that he was with the accused continuously on 24th and 25/10/06, that he had taken him to the house of the ACMM in his vehicle. I did not record the statement of API Tambe.

173. I had recorded the statement of PSI Nana Dagdu Shinde on 26/10/06. I cannot tell at what time it was recorded, even approximately whether it was recorded in the morning, afternoon or evening. The time of recording statements of witnesses is not written in any case diary. I may have come to the court on 26/10/06 as it was the day of ramand and I may have made station diary entry at 1200 hours and may have been present in the court upto 4.00-4.30 p.m. I

cannot tell the exact time, but I had identified Sakharam Dagdu Pagare of Khandwa Police Station in the court. It may be that it took place after 3.50 p.m. I may be in the court in between 12.00 to 4.00 p.m. I do not remember whether I did not take the statement of any person during this period. I did not take the statement of any person in the court. It is not true that I did not take the statement of any person on that day.

174. It is not true that Unit-X had given information about the accused Sajid Ansari to the ATS on 21/07/06. I do not know whether the accused was called to that unit on that day, whether inquiries were made with him, whether Unit-X made station diary entry no.18 at 2030 hours to that effect, whether brother of the accused was also called there on 24/07/06 and station diary entry no. 24 at 1930 hours was made to that effect.

175. It is true that after the blasts, the CP had appealed to all the police stations and branches to conduct inquiries about the blasts and to pass on the information to the ATS. It is not true that pursuant to this direction, Unit-X had informed the ATS on 21/07/06 about calling the accused Sajid Ansari and making inquiries with him. I do

not know whether accused Sajid Ansari was called to the Nagpada office of the ATS on 18/08/06 by officer Shailesh Gaikwad and Dinesh Aher, that he was asked to go on 22/08/06. It is not true that he was tortured in the period in between. I do not know whether he was sent back on 22/08/06 with the understanding that he would have to attend Nagpada office, whether he was attending the Nagpada office till 25/08/06, whether officer Shailesh Gaikwad called him to Dadar TT in the evening of 25/08/06, whether he was brought to the Nagpada ATS office in the evening on that day, whether the accused Mohd. Ali was also present there and he and the accused Sajid Ansari had finished their fast there, whether thereafter officer Shailesh Gaikwad brought the accused to Kalachowki office, whether throughout this period the accused was having two mobiles with him vide nos. 9867244681 and 9224446830, whether officers Shailesh Gaikwad and Dinesh Ahir used to call the accused on these numbers from their mobiles as well as the ATS landline number, whether the accused was kept at the Kalachowki officer from 25/08/06 to 29/08/06, whether the accused met two accused, Kamal Ansari and Kambar Jafar there. It is not true that he was continuously tortured

during this period, that Jt. CP Raghuvanshi, PI Dinesh Ahir, Shailesh Gaikwad and other ATS officers had tortured him.

176. I came to know about the involvement of the accused Sajid Ansari on 28/09/06 from the interrogation of the other accused and the intelligence collected by us. I cannot tell the names of the accused during the interrogation of whom his name was disclosed.

Q. The intelligence that you are referring it is the Unit-X of DCB, CID?

A. I cannot disclose the source of intelligence.

177. I cannot say how many confessional statements are prepared on computer and how many are handwritten. It is true that if a document contains mistakes and they are not corrected and the said document is copied and pasted, the mistakes are carried forward. It is not true that I sent drafts of confessional statements to selected DCPs as per the instructions of CP A. N. Roy and on his say they signed on the ready-made confessional statements to assist me in the investigation. There were about 15-20 DCPs in Mumbai at that time. It is not true that I deliberately selected some DCPs as per the directions of the superiors, therefore, I got prepared two confessional statements from some DCPs, that CMM Shirke had refused to

forward the confessional statement of accused Kamal without opening it, therefore, confessional statements of the accused nos. 5,6,7 and 12 were not sent to the CMM on the concerned dates, that they were sent to the residence of magistrate Shisode, who was not the CMM or the incharge CMM, that we took these accused to the residence of the magistrate after court working hours, because he had acceded to our request of not opening the envelopes. I do not know whether CMM Shirke and Shisode are both available. They are not named as witnesses in the chargesheet. It is not true that they are deliberately dropped.

178. About 2-3 lakh people used to come to Mumbai everyday in 2006 from outside. I cannot tell how many missing complaints used to be lodged everyday in 2006. It is true that some people live on the payments. I do not know whether various departments have provided information to the accused under the RTI Act, whether the accused started collecting the information under the RTI after they were remanded to judicial custody. It is not true that to block the RTI applications we moved an application to the court through our prosecutor in January 2007 to keep the accused in this

case separate from the accused in MCOB 23/06 to block the RTI applications. It is not true that we applied to the magistrate court at Mazgaon, Nagpada Motor Transport Department of Police, Collectorate office, MTNL Mumbai and the Home Department of the Government, not to furnish any information to the accused. It is not true that the accused were not stopping making applications, therefore, we instructed Supdt., Swati Sathe of the MCP to beat the accused on 28/06/08, that upto June 2008 I and my superiors were making efforts to make some accused approvers.

179. It is not true that I have deliberately suppressed the CDs of narco tests, that we were showing the CDs to the accused after editing them and the accused were showing where we had edited them, therefore, I suppressed them. It is not true that we edited all the CDs by removing the denials. I do not know whether traces of explosives as found in this case were also found in the Malegaon blast case of 2006. ACP Shengal was supervising over the investigation of this case for some period initially. I cannot say whether ACP Shengal, DCP Bajaj an Addl. CP Jaiswal are available or not. It is not true that ACP Shengal had conspired to plant

incriminating articles like explosives in the houses of the accused. ACP Shengal is not a witness in this case. His name is not included as he is not needed as a witness.

180. ATS malkhana is in the Kalachowki office. We call it muddemal room and the muddemal register is maintained there. It is not true that some seized articles are not taken from Kalachowki office. It is not true that I am deposing falsely that ACP Shengal is not a witness.

Q. You are so deposing falsely even after going through the chargesheet?

A. I saw the list of witnesses in CR 156/06 and his name is not there, therefore, I stated that he is not a witness. I have not gone through the entire list of witnesses. (Learned advocate asks the witness to read page 159 of the chargesheet). Name of ACP Shengal is at sr. no. 330 under the heading CR No. 77/06.

181. I do not know whether many times lists of accused wanted in India and who had gone to Pakistan are sent to the Pakistan Government and it is asked to hand over the accused. This is done by the Central Government. Central Government did not call

for such list from me. My superiors did not ask for it. I do not know whether the Central Government had asked for list of Indian and Pakistani accused wanted in this case from my superiors. It may have been asked from the ATS head office. I do not know whether on 25/02/10 Indian Foreign Secretary Nirupama Roy handed over a list of wanted accused of this case to her counter part Salman Bashir of Pakistan, whether that list contains the names of Dr. Shahnawaz and some persons concerning Indian Mujahedin, that the names of accused shown as wanted in this case are not in that list, that it is mentioned in the list that Riyaz Bhatkal arranged 35 kgs of explosives for these blasts.

(Adjourned as court time is over).

Date : 07/03/2012

**(Y. D. Shinde)
Special Judge**

Date : 09/03/12
Resumed on SA

182. I am governed by Police Manual. (Learned advocate asks the witness to go through Rule 165(5)(b) in Chapter -V of the Bombay Police Manual, 1959 Vol-III – Powers and Duties, (8th edition)). It is true that it is mentioned in the bracket that specimen handwritings should be taken before panchas. However, it is our practice that the specimen handwriting are not taken before panchas. The specimen handwritings of the accused were not taken before me. They were taken by PI Rathod.

183. (Learned advocate asks the witness to go through the case diaries of all the crimes). It is true that the case diary of the earlier investigation of all the seven crimes and of the investigation made by me is typed on the computer. The size of all the papers is the same A4 size, but the quality of paper is different. It is true that the case diaries of all the crimes are in loose sheets. It is true that there are no signatures or initials of the superior officers on all the case diaries. It is not necessary. It is true that it is necessary to mention in the case diary about the direction of any officer for making

investigation. It is not necessary that the time of giving such direction is required to be mentioned as per Police Manual. Such directions are mostly taken in the case diaries. It is not true that there is no mention in my case diary about giving directions to other officers for making investigation. I have not mentioned the timings of giving such directions. It is in the Police Manual that the time of commencement and concluding of the investigation on everyday should be mentioned in the case diary. However, we do not follow it as it is not practical. It is true that the case diary of the work done during the day is to be written on the same day or if it is late, then on the next day morning.

Q. There is no reference of taking statements of many witnesses and the mention about the statements being taken is not on the same day?

A. There is a mention of almost all statements that were taken during my investigation. Sometimes it happens that the officer to whom the work of taking statements is given, makes a report to me about it later on, therefore, the mention about the statements is in the case diary of the date on which the report is made.

Q. You have not filed in court and given to the accused the statements of all the witnesses who are mentioned in the case diary?

A. I have filed all the relevant statements of witnesses on which the prosecution relies and have given copies to the accused. Statements of some witnesses who are not useful may have not been filed in the court. (Learned advocate calls upon the prosecution to produce the statements that have not been filed. Learned SPP seeks time to reply). It is not true that I have deliberately hid those statements, as I know that the versions in those statements are consistent with the innocence of the accused. I have not sent extracts of my case diary to my superiors, as it is not a practice in Mumbai. It is in the Police Manual, but since I joined the police force, this practice is not followed in Mumbai city. In moffusil the superiors are at far distance from the police stations, but in Mumbai they are near and within the police station, therefore, they visit the police stations everyday. The ACPs are supposed to visit the police stations everyday. It is not true that I am deposing falsely about the particular practice being followed in Mumbai. It is not true that the entire case diaries are bogus and prepared later on.

184. I cannot say whether notice of the transfer petition filed in the Supreme Court was served on the accused no. 1 and whether he was made party. When the chemicals seized from the accused no. 2 were destroyed, the accused were in judicial custody. When the detonators seized from the accused no. 13 were destroyed, the accuse were in police custody. It is not true that the chemicals were not produced before the magistrate or the special court, because they were already deposited in the court. It is true that the detonators were not produced before the court. It is not true that it is necessary to deposit seized articles in the court immediately on the next day of the seizure.

185. I have not produced any proposals that were sent to the sanctioning or consenting authorities under the various Acts. It is not true that I had not sent any proposal to any such authority, except the proposal which was orally denied. It is not true that the first proposal under the Explosive Substances Act was denied in writing and I am deposing falsely that it was orally denied.

186. It is not true that I knew that none of the accused was not desirous of making voluntary confessional statement. It is not true

that I had sufficient time to send the accused to a magistrate for recording their confessional statements under Section 164 of the Cr. P. C., that except preparing draft copy of the confessional statements, I had no other work. I was knowing that the ATS officers who were deputed from different police stations and branches were originally attached to those police stations and branches. I cannot say whether I knew the police officers who were deputed to the ATS from different police stations in whose lockup the accused were kept by the DCPs for reflection. It is not true that officers and staff of all the police stations, where the accused were kept by the DCPs for reflection were deputed to the ATS, that the accused were kept in those lockups deliberately to keep the accused under tension. (Learned advocate asks the witness to go through Ext. 1202). The entry shows that PN-23005 of Bandra Police Station and PC-31504 of the ATS had kept the accused Kamal in the lockup of Bandra Police Station.

187. I did not take the test identification parade of the photographs that were shown to the witnesses or did not mix the photographs with other photographs while showing them to the witnesses.

188. It is not true that the ATS is not formed under any law. It is formed under the Code of Criminal Procedure. I am sure about it. I have not produced the extracts of the muddemal register in the court nor given copies to the accused.

189. I had recorded the statement of Arvindkumar Singh (PW-40). It is the same now shown to me, it bears my signature and its contents are correct as narrated by him. Portions marked A and B were stated by him. (They are marked as **Ext.2511 (1 and 2)**).
Witness volunteers- there is a typographical error about the dates mentioned in the portions. I had recorded the supplementary statement of Subhash Nagarsekar (PW-57). It is the same now shown to me, it bears my signature and its contents are correct as narrated by him. Portions marked A and B were stated by him. (They are marked as **Ext.2512 (1 and 2)**). He did not tell me that he could not recognize the person in the photograph as his face was disfigured, that he had identified a person as the person who had entered from the left door of the train at Churchgate and kept the big rexine bag on the rack above him, that SEO Purandare came there and asked all of them whether police had shown them any accused

or their photographs and he said no, that SEO Barve asked all of them whether police had shown them any accused or their photographs and he said no. He had not stated in detail that they were taken to the Aurthur Road Prison in jeep, that there were eight more persons with him, that they were asked to wait outside, that a policeman and the SEO went inside the prison, that the policeman came out after some time and went away saying that they would be called inside, that jail police called them inside and made them to sit in a room on the right side, that the SEO wrote down names of all of them, that one panch came to the room where they were sitting and called out the name of one person and took him with him inside, that the other persons were so taken inside one by one, that he was the eighth, that he took him inside, that from a small door in a gate, he was taken inside, that there was an open space and a barrack of grills, which was covered by cloth on all sides, that the panch took him to the door of that room, knocked on the closed door and said that he had brought Nagarsekar, that the door was opened and he was taken inside, that SEO Purandare was sitting there writing, that he asked him to see whether he had seen any persons out of the

persons standing there and to tell him, that there were fourteen persons standing there, that he went near the persons and looked at them, that but he did not identify anyone, that he told the SEO about it and he asked him to leave, that he was taken to the room on the left side and made to sit there, that thereafter they were taken to the right side room where they had sat earlier, that thereafter again one panch used to come and take them inside one by one, that he was also taken inside by following the same procedure, that there were other fourteen persons inside, that the SEO and the panch were there, that the SEO asked him to see whether he could identify any person out of the fourteen persons standing there, that he went to those persons but he could not identify any persons, that then again he was taken to the left side room and then they all were taken to the right side room, that one SEO by name Barve came there and told them that now he is going to take an identification parade, that thereafter, one panch took them one by one inside and he was the fourth to be taken inside, that the panch knocked on the door and said that he had brought him, the door was opened, that SEO Barve told the panch to stay outside and to send him inside, that accordingly

he went inside, that fourteen persons were standing there, that SEO Barve told him to see whether he knew anyone from them and if he recognized someone he should describe what he had done, that he went near the persons and looked at them but he could not identify anyone, that he told the SEO about it and he was asked to go out with a panch, that he was taken to the left side room and they all were taken to the right side room, that a panch came and took them one by one inside, that he was the fourth, that same procedure was followed for taking him inside, that SEO Barve told him to see whether he could identify any persons out of the fourteen persons standing there, that he looked at all those persons and he took another round and at the seventh place he saw the person who had kept the bag in the railway train, that SEO Barve again asked him to look at him carefully and he looked at him and told him that he was the same person, that then SEO Barve asked him to go out, that the stout person who was with him had not got down, that the accused no.1 went towards the window of the train and was signaling someone by hand inside the train to come out, that when the accused no.1 got down at Dadar Station, he did not have the rexine bag with

him. He had stated in brief that he had gone to Mumbai Central Prison along with SEO, panch and some other witnesses, that SEO Purandare and SEO Barve had organized parades in the jail premises and he was given opportunity to see the persons and he had identified one person and he came to know that his name was Kamal Ahmed Mohd. Vakil Ansari.

190. I had recorded the statement of Mohd. Alam Gulam Sabir Qureshi (PW-59), it is the same now shown to me, it bears my signature and its contents are correct. I do not remember where I recorded it. He had stated before me that in September, 2005, his relative Ashraf Qureshi, resident of Cheena Compound, Shuklaji Street, Mumbai-8, is a autorickshaw driver. He did not state before me that Ashraf Qureshi called him during that period near the Bandra Railway Station, that when he met him, he said that he has a friend by name Sameer on Carter Road, Bandra and he took him to his friend, that when they met him, they became friends, that afterwards he had asked Faisal about that meeting, but he did not tell me anything. He had stated that he was curious about the subject and purpose of the meeting, but Faisal never disclosed it to him, that in

May 2006 he noticed that Faisal was taking less interest in going to the dance bars, that he was appearing changed. He did not state that he did not talk much, that accused no. 3 told him that they are his guests from Pakistan, that they have come for the good work of religion, that after meeting them he met accused no. 3 once or twice, that he did not used to sit in his house for long and he could not talk with Faisal freely in front of the guests, that therefore, he used to talk with him outside his house, that he came to know from Naveed that he had made arrangements of two guests of Faisal at Millat Nagar, Andheri. But it is in the statement that Faisal had asked Naveed to make some alternative arrangements of stay of some Pakistani guests and he came to know that two of the Pakistani guests were shifted to some house in Millat Nagar, Andheri (W). He had not stated that he, Rizwan Khot, Naved and Faisal used to go around in that car.

191. I had recorded the further statements of Kishore Popatlal Shah (PW-60) on 7th and 08/11/06, they are the same now shown to me, they bear my signatures and their contents are correct. He had stated to me the contents of portions marked A and B from his statement dated 07/11/06 and portion marked A from his statement

dated 08/11/06. (They are marked as Exts. **2513 (1 to 3)**). He had stated that SEO Barve asked him his name and he told it as Asif Bashir Khan, but it is wrongly typed by me as SEO Purandare. I had realized this mistake when I filed the chargesheet. I did not file any application to correct the statement. PI Mohite is appointed as court liaison officer. It is not true that he has taken notes at the time of the evidence of every witness and has tutored me, therefore, I am giving the explanations, that he is appointed to tutor witnesses.

192. I had recorded the further statements of Devendra Lahu Patil (PW-62), on 7th and 08/11/06, they are the same now shown to me, they bear my signatures and their contents are correct. He had stated to me the contents of portion marked A from his statement dated 08/11/06. (They are marked as Exts. **2514**). He had not stated to me in detail that on 06/11/06, a police constable came to his house, that he told him that they had caught some accused and asked him whether he would be able to come on the next day morning for identifying them, that he said yes, that there were some officers and five-six persons present there, that ACP Patil told him that they are required to go to the jail at Saat Rasta for the purpose of

identification parade, that then they all sat in the police jeep and went to Saat Rasta and the jeep was halted at some distance from the entrance of the jail, that the police officer who was in the vehicle got down and went towards the jail, that after some time he came back and sat in the vehicle, that then the two SEOs and panchas went towards the jail, that after some time the SEOs came out and took them inside, that when they entered the jail, they were made to sit in a room on the right side, that there were seven persons with him in that room, that after some time one of the panchas came and took one person inside, that he took them inside one by one, that he was the sixth to be taken inside, that he went inside through a door, turned left and to the right side there was a big room of grills, that he was asked to go inside that room, that SEO Purandare and two panchas were there, that SEO Purandare asked him his name and asked him whether the police had shown him any of the accused or their photographs, that he said no, that some persons were standing in front in two groups of seven each, that the groups were at some distance from each other, that SEO Purandare asked him to see whether he could identify any person out of those persons, that he

went ahead to those persons and looked at them from close, that he came back and told SEO Purandare that he could not identify any person from them, that thereafter he was asked to go out of that room and was taken to a room of a superior officer in which the five persons who had preceded him were sitting, that when all of them gathered in that room, they were again taken to the room where they had sat earlier, that thereafter, on the second occasion also similarly they were taken inside one by one, he was the sixth, that same procedure was followed by SEO Purandare, that fourteen person in two groups were standing there similarly, that he looked at them closely but could not identify anyone, that he told about this to the SEO and was taken outside and led to the second room where they had sat earlier, that then after they all gathered in that room, they were taken to the first room where they had sat earlier, that after some time they were again taken one by one inside, that he was the sixth to go inside, that on this occasion SEO Barve was present there, that he asked him his name and asked him whether police had shown him any accused or their photographs, that he said no, that fourteen persons were similarly standing there in two groups, that

SEO Barve asked him to look at them and see whether he could identify any person, that he went near those persons and looked at them closely, that he started from one end, that there was a person standing at the sixth place, he started remembering his face and he identified him, that then again he was taken outside and to the second room, that after they all gathered there, they were again taken to the first room, that thereafter again they were taken inside one by one to the identification room, that on that occasion also he was the sixth to go inside, that SEO Barve followed the same procedure as before and asked him to see if he could identify any of the persons standing in front, that he went near them and looked at them, but there was no person whom he could identify, that he told about this to SEO Barve and then went outside, that after some time they were taken outside the jail and to the police station in the jeep. He had stated in brief that on 06/11/06 he had received a message to attend my office on 07/11/06 at 9.00 a.m., that accordingly he attended the office, that in the office he introduced to SEOs Purandare and Barve, thereafter, he had gone to Mumbai Central Prison along with them, panchas and other witnesses, where identification parades were

organized by the SEOs, that in the identification parade held by SEO Barve he had identified one accused, whose name was told to him as Mohd. Faisal Aatur Rehman Shaikh.

(Adjourned for recess)

Date : 09/03/12

Special Judge

Resumed on SA after recess

193. I had recorded the further statements of Santosh Kedar Singh (PW-63) on 7th and 08/11/06, it is the same now shown to me, it bears my signature and its contents are correct. He had stated before me the contents of portion marked A from his statement. (It is marked as **Ext.2515**). He had not stated to me in detail that on 06/11/06 police came to his house and told him to come at 9.00 a.m. on 07/11/06 to the office at Bhoiwada, that accordingly he went there and reached at about 9.15 a.m., that he went on the first floor, that one officer by name Patil was there, that he told him that he would be required to go for identifying the person whom he had taken in my taxi, that he introduced him to SEOs Purandare and Barve and then told him to go with them in the other room, that there were some more persons like him in the other room and he was told that two of

them were panchas, that they were taken in two vehicles to Aurthur Road jail, that SEO Purandare, two panchas, two more persons and a police officer were in his vehicle, that the police officer went inside the prison and came back after 5-7 minutes, that then he sent SEO Purandare and two panchas inside, that after 15-20 minutes they all were called inside the jail and made to sit in a room on the right side, that SEO Purandare asked them whether they were shown photographs or some persons, that he said no, that thereafter, they were taken inside one by one, that he was the fifth to go inside at about 12.00 or 12.30 p.m., that fourteen people were standing in a room having grills and with curtain on the grills, that they were similar looking, that SEO Purandare asked him whether anyone of them is the person whom he had reached in his taxi, that he said no, that then he was taken outside and made to sit in another room, that thereafter, at about 1.00 or 1.15 p.m. he was again taken inside, that again there were fourteen persons standing there, that SEO Purandare asked him whether he can identify anyone out of them, that he looked at them and said no, that then again he was taken to the second room, that after about half an hour SEO Barve asked

them whether they were shown any photographs or persons, that he said no, that thereafter they were taken inside one by one, that he was the seventh to go inside, that a panch used to take them inside and used to leave them at the door of the room, that when he went inside, again there were fourteen persons standing there, that SEO Barve asked him to look at them and see whether he could identify anyone, that thereafter he was taken outside to the second room, that after about 35-40 minutes he was again called inside, that again there were fourteen persons, that SEO Barve asked him to look at them and see whether he could identify anyone, that he looked at those persons, but did not identify anyone, that at about 4.15 to 4.30 p.m. they were taken back to the Bhoiwada office, that along with two panchas they had gone to Aurthur Road jail, that he asked them whether they were shown any photograph or person, that he said no, that he was taken inside thrice, that on the first two occasions there were fourteen persons standing there and on the third occasion there were seven persons, that he did not identify any person on all three occasions, that same procedure was adopted for taking us inside the room as was done on the earlier day, that in the identification parade

he had identified the person who had the bag and umbrella with him and had traveled in my taxi on 11/07/06, that he paid the fare. It is in the statement that the person had a bag and he had paid the fare.

194. He had briefly stated to me that on 06/11/06 he had received message to attend the office of ACP Patil on 07/11/06 at 9.00 a.m., that accordingly he attended the office, was introduced to SEOs Purandare and Barve, then he went to MCP along with them, panchas and some more witnesses, that the said SEOs organized identification parades, that he was given opportunity to attend the parades and that in the identification parade held by SEO Barve he had identified one accused, whose name he came to know as Asif Khan Bashir Khan @ Junaid.

195. I had recorded the statement of Mohd. Shakil Mohd. Mehboob (PW-70), it is the same now shown to me, it bears my signature and its contents are correct. He had stated before me the contents of portions marked A and B from his statement. (It is marked as **Ext.2516 (1 and 2)**). I do not remember exactly, but I may have recorded it probably at Bhoiwada. He had not stated before me that at Delhi, Akbar told him that he wanted to search for a girls college,

that at that time he knew about his bank account, that he do not know since when he knew it, that as Asif had asked him, he had told him at Delhi about having an account in the ICICI bank, that he had asked for Rs. 30,000/- from him in Delhi, that he had asked his brothers whether they had the money. He had stated that Asif and Sami had told him and his brothers that they are in financial difficulty and requested to arrange for Rs. 30,000/-,but they could not arrange it. He had not stated before me that Asif had asked him whether he has any bank account, that he told him that he has it, but it is at his house, that the accused no. 5 was not attentive to the business in 2003-2004. He had stated to me that when Asif came in February 2006 and he asked him why he had come and he stated that he had come for some confidential visit and had discussed it with accused Majid, but he did not tell me that he cannot tell about it to him. He had not stated to me that he questioned him as to why he is doing that work, that he said that he is doing it as he wants to do something for Islam, that he did not feel it good, that one day he said that he wants to do some work about jihad and that Asif and some of his friends are going to do some big work for jihad. He had told me that Majid

told him that Asif and some other elements are contemplating some major jihadi action in India. He had not stated to me that he told him that he does not want to do that work and he does not want to be concerned with it, that in May 2006 accused no.5 told him that he wants to do some work for Islam and whether he would help him, that he said no, that the six persons came and greeted the accused no.5 and told their names.

196. I had recorded the further statements of Vishal Kishore Parmar (PW-74) on 7th and 08/11/06, they are the same now shown to me, they bear my signatures and their contents are correct. He had first met me in the Bhoiwada office on 02/11/06. I cannot tell the time when he met me, but it may be in the evening. PI Khanwilkar recorded his statement on that day. He had not stated in detail that on 07/11/06 he was made to sit in the side room, that there were seven more persons like him sitting in that room, that SEO Purandare introduced two panchas to them saying that they would help him in the identification parade, that they started from there after some time, that officer Patil brought a person by name Barve there and introduced him saying that he would also conduct an identification

parade, that the policeman went inside, that he came out after some time, gave something to Barve and left the place, that thereafter they were taken inside the prison in a room on the right side, that they were made to sit in that room and SEO Purandare latched it from outside, that SEO Purandare came there after sometime and asked them whether police had shown them any accused or any photographs of any accused, that they said no, that a panch came after some time and took them inside one by one, that he was at the third number, that he took him inside, that he knocked on the door of the room saying that he has brought a witness, that the door was opened and they were taken inside, that he saw fourteen persons standing in a row inside the room and SEO Purandare writing something, that he stopped writing when he went inside and asked him to look at those persons and say whether he could identify anyone out of them, that he looked at those persons one by one, but he did not identify anyone, that he told him accordingly, that the panch then took him to a room on the left side, that the two persons who had preceded him to the identification room were sitting there, that after all eight had gathered in that room, they were again taken to

the first room, that the next identification parade then started, that he was the third to go inside the identification room, that SEO Purandare asked him to see whether he could identify anyone out of the fourteen persons, that he identified one person who was at serial number seven, that SEO Barve came there thereafter and introduced them to two panchas, that he asked them whether the police had shown them any accused or any photographs of any accused, that they said no, that the identification parade started thereafter and same procedure as per the earlier procedure was adopted twice, that he did not identify any person in those two parades, that from there they eight persons went to the Aurthur Road Prison, that same procedure was done for going inside the prison, that he conducted three identification parades adopting the same procedure, that at the time of the first two parades, there were fourteen persons standing in a row and at the time of the last parade there were seven persons standing in a row. However, he had stated to me that on 06/11/06, he had received a message requesting him to attend the office of ACP Patil on 07/11/06 at 9.00 a.m., that accordingly he attended the office and ACP Patil introduced SEOs Purandare and Barve to him, that

thereafter he accompanied the SEOs, panchas and some more witnesses to the MCP, that the SEOs organized separate parades in the jail premises, that in the identification parade held by SEO Purandared he had identified the accused, who gave his name as Ehtesham Qutubuddin Siddiqui and told the SEO about the role played by him.

197. I had recorded the further statements of Rajesh Chandrakant Satpute (PW-77) on 7th and 08/11/06, they are the same now shown to me, they bear my signatures and their contents are correct. He had stated before me the contents of portion marked B from the statement dated 07/11/06. (It is marked as **Ext.2517**). I did not record his first statement dated 03/11/06, it was recorded by PI Khanwilkar. I had recorded the statement of Jagannath Tukaram Golhar (PW-86). He had stated before me the contents of portion marked A from his statement. (It is marked as **Ext.2518**). I had recorded the statement of Dyandeo Savaba Powar (PW-94). He had stated before me the contents of portion marked A from his statement. (It is marked as **Ext.2519**). He had not stated before me that then the CMM asked him and his staff to wait outside, that they

went outside and that they were again called inside the court hall at about 3.00-3.15 p.m. I had recorded the statement of Deepak Madhukar Bhavsar (PW-100). He had stated before me the contents of portion marked A from his statement. (It is marked as **Ext.2520**). I had recorded the statement of Nana Dagdu Shinde (PW-103). He had stated before me the contents of portion marked A from his statement. (It is marked as **Ext.2521**), however, there appears to be a typing mistake in the date. I realized the mistake now. I had read it at that time, but I did not realize it at that time. The witness also did not tell me about the mistake. It is not true that my subordinate officers prepared the statement and I signed on it without reading it. I had recorded the statement of Balu Sambhaji Gangurde (PW-105). He had not stated to me specifically that he had gone to the DCP office in police van, but he stated that he was asked to go in police vehicle and accordingly he went. He had not stated to me that after he reported to the DCP, he asked him to wait outside for some time, that he called him inside in his office at about 1645 hours and told him that the accused by name Dr. Tanveer is in his custody and that he is giving him in his custody. He stated that according to the letter the

DCP (Preventive) handed over the accused Tanveer Ahmed to him. He had not stated to me that the DCP directed him to take him to the police station after getting him medically examined, to take care of him, to provide food to him and not to allow anyone to meet him including his relatives, friends and police. He had stated that he was directed to keep the accused in a separate cell and should not be allowed to meet or talk with anybody. He had not stated to me that he veiled the accused after taking him in his custody, that he and his staff then took him to the GT hospital in a police van and got him medically examined there, that he took him to the police station from there, that on the next day, i.e., on 05/10/06 he veiled the accused and along with the two constables that were with him, he took him to the office of the DCP (Preventive) in police van. He had stated that he took out the accused Tanveer Ahmed Ansari from lockup of the police station at 1635 hours and he was produced before the DCP (Preventive), CB CID, Mumbai at 1700 hours in proper escort and in veil. He had not stated to me that he reported to the DCP that he had brought the accused. He had stated that the DCP took custody of the accused and asked him and his staff to wait outside the cabin. He

had not stated that he and the accused were inside his office, that he also directed him to get the accused medically examined. He had stated to me in different words that DCP Mohite gave the accused in his custody along with two sealed envelopes addressed to the CMM and directed him to produce the accused before the CMM. He had not stated to me that he veiled the accused and kept the sealed envelopes addressed to the CMM in the locker of our police station safely. He stated that he had made station diary entry, that he put the accused in the lockup and gave the instructions to the guard amaldar as given on the earlier day. He had not stated to me that he also informed the duty officer PSI Lokhande and the night PI Diwadkar and gave them the instructions as given by the DCP. He had stated that he alone went to the CMM on the next day. He had not stated to me that then along with his staff, he took the accused before the CMM, but he was asked to wait for some time, that at about 1630 or 1645 hours the CMM asked him to bring the accused in his chamber. He had stated initially that he produced the accused before the CMM along with two sealed envelopes and a letter given by the DCP. He had not stated to me that the CMM asked me to wait outside, that

thereafter at about 5.30 p.m. he gave the accused in my custody and asked me to take him back, that he brought the accused outside, veiled him and brought him down to the police station. He had stated to me that he contacted DCP (Preventive) for further instructions.

198. I had recorded the statement of API Vinod Mahadeo Randive (PW-106), it is the same now shown to me, it bears my signature and its contents are correct. He had not stated before me that he would be able to identify the accused if shown to him. I had recorded the statement of PSI Prakash Babulal Thakur (PW-110), it is the same now shown to me, it bears my signature and its contents are correct. He had stated before me the contents of portions marked A, B and C from his statement. (They are marked as **Exts.2522 (1 to 3)**). He had not stated to me that at about 1400 hrs. the orderly of the DCP called him and told him that the DCP has asked whether he had brought vehicle, that he told him that he had not brought vehicle, that the orderly told him that the DCP has directed him to bring the vehicle and a veil, that accordingly, he sent a constable and he brought a vehicle that was mobile-2 of their police station and a veil, that then the orderly told him that he is called in the cabin of the DCP, that he

went inside the cabin of the DCP, that the DCP asked him whether he had brought a vehicle and veil, that he said yes, that a person was sitting in front of him on a chair, that the DCP told him that the said person is an accused caught by the ATS in C. R. No. 156/06 of Borivali Railway Police Station, that he told him to take the accused in veil to the Police Station and that he would give him two letters that he should give to the Sr. PI, that he also told him to get the accused medically examined, that he said that he would also give oral instructions, that he told him to veil the accused while taking him out of the office and while bringing him to his office, that he told him the name of the accused Sohail Mehmood Shaikh, age 37 years.

(Adjourned as court time is over).

Date : 09/03/2012

(Y. D. Shinde)
Special Judge

Date : 12/03/12
Resumed on SA

199. He had not stated to me that he asked his constable to prepare a requisition for the medical officer of the G. T. Hospital, that he signed it, that then he took the accused in veil alongwith the head constable and the two constables in the mobile-2 vehicle to the G. T. Hospital, that the staff who takes the requisition letters was not at his place, that he obtained the OPD case paper of the accused and produced him before the medical officer at 1515 hrs., that after the medical examination, he gave the requisition at the OPD counter and obtained the acknowledgment of the clerk at 1520 hrs., that then he brought the accused in veil with his staff in the vehicle to the police station, that they took the accused in the vehicle to the G.T. Hospital for getting him medically examined, that he told his constable to obtain the OPD case paper, that there was a rush there, that he took the accused in the cabin of the medical officer at 11.00 a.m., that after his medical examination was over, he obtained the copy of the OPD case paper and put the accused in the vehicle, that he told the court clerk to inform the magistrate that he had brought an accused, that

the court clerk informed the magistrate and told him that the magistrate has called us inside his cabin, that he took the accused inside the cabin of the magistrate in veil, that he asked him to wait outside, that after about 15-20 minutes the magistrate called him inside his cabin and told him to take the accused to the DCP, that he veiled the accused and took him to the vehicle and they all went to the office of the DCP. With respect to the last sentence, he had stated that accordingly he took charge of the accused and produced him before the DCP (HQ-I) in proper escort and in veil at about 1230 hour. He had not stated that he alone went to the cabin of the DCP, that the accused and his staff were in the vehicle, that he told the DCP that he had got the accused medically examined, that he had taken him to the magistrate and he has brought him back to him, that the DCP asked him to wait for some time, that the DCP told him to hand over his custody to ACP Patil of ATS and to obtain his acknowledgment on the office copy of the letter of having received the custody of the accused, that he called the amaldar of ATS and directed him to take the custody of the accused, that he put his signature on the office copy of the letter and gave it to him. He had however, stated that the

DCP had given directions to handover the accused Suhail Mehmood Shaikh to ACP Patil of ATS, Mumbai.

200. I had recorded the statement of PI Subhash Janardan Gaikwad (PW-116), it is the same now shown to me, it bears my signature and its contents are correct. He had not stated to me that his statement was read over and explained to him. I had recorded the statement of PSI Dhananjay Pandharinath Sonavane (PW-122), it is the same now shown to me, it bears my signature and its contents are correct. He had stated before me the contents of portion marked A from his statement. (It is marked as Ext.2535). He had not stated to me that the DCP had directed him to get the accused medically examined. He had stated that he was directed by the DCP to produce the said accused before him on 25/10/06 in proper escort and in veil. He had not stated to me that he had veiled the accused when he took his custody on 23/10/06, that he told the havildar on guard duty to keep the accused in a separate cell and that he also personally checked the cell no.1 where the accused was to be kept, that the reader of the DCP informed the DCP about he having brought the accused, that he came outside and told him that the DCP has asked

us to wait, that they sat in a nearby cabin with the accused for about 3 ½ hours, that the DCP came outside at about 7.45 or 8.00 p.m. and said that there was a law and order problem in Bhendi Bazar area and told them that he is going there and would come back, that he returned at 9.30 p.m. and called him inside his cabin and that he told him that he cannot record the confessional statement of the accused on that day and asked him to take him back to our police station and to follow the instructions as given on the earlier day. He had stated to me that as per the letter he was directed to take the accused back to Azad Maidan Police Station and keep him in a separate lockup as kept on the earlier day, as due to law and order problem in Zone-I, it was not possible to the DCP to record the confessional statement of the said accused.

201. I had recorded the statement of PI Iqbal Hasan Shaikh (PW-162), it is the same now shown to me, it bears my signature and its contents are correct. He had stated before me the contents of portions marked A and B from his statement. (It is marked as **Ext.2536 (1 and 2)**). I had recorded the statement of PI Rajaram Ramchandra Joshi (PW-163), it is the same now shown to me, it

bears my signature and its contents are correct. He had stated before me the contents of portion marked A from his statement. (It is marked as **Ext.2537**). I had recorded the statement of PI Arvind Narayan Wadhankar (PW-167), it is the same now shown to me, it bears my signature and its contents are correct. He had stated before me the contents of portions marked A and B from his statement. (It is marked as **Ext.2538 (1 and 2)**).

202. (Learned advocate asks the witness to go through Ext. 2386). The panchanama is signed by API Dinesh Kadam. It was not handed over to me by PI Dinesh Ahir. I may have wrongly stated the name of PI Dinesh Ahir in my chief-examination as the first name Dinesh is common. (Learned advocate asks the witness to go through the case diary). As per the case diary dated 11/10/06 the statements of Amir Khan Karamat Khan and Khurshid Begum were recorded by PI Tajne, but the dates on which he recorded them is not mentioned. I cannot say exactly whether I had seen the statements signed by PI Tajne. As per the case diary he had recorded the statements. (Learned advocate calls upon the prosecution to produce the said statements. Learned SPP submits that the concerned

witnesses have already been examined and PI Tajne was also examined. The statements cannot be used for any other purpose except for contradiction. Therefore, this prayer cannot be granted).

Q. You have not filed in the court the statements of the above witnesses containing the signatures of PI Tajne?

A. I have produced the statements that were handed over by PI Tajne, but I cannot say now whether they were signed by him or his subordinates. Seven statements were recorded on that day and some of them may have been signed by his subordinates also.

(Learned advocate asks the witness to go through the said statements in the chargesheet and state as to who had signed them).

The statements of these two witnesses dated 10/10/06 are not signed by PI Tajne, but are signed by PSI Sachin Kadam, who was working under him and these are the statements that were handed over to me by PI Tajne. (Learned advocate asks the witness to go through the case diary). There is no mention in the case diary of CR No. 77/06 about the statement of Abdul Rehman Dawrey being recorded. I came to know about it now. It is not true that the bogus statement and case diary are prepared. (Learned advocate asks the witness to go

through Exts.664, 665, 667). All three are signed by PI Tajne, but I cannot tell who wrote the documents. They were not written before me. It is not true that the documents are written with the help of panchas who have worked for the ATS many times.

203. I do not remember whether the accused no. 13 Asif Khan was using mobile no. 9867209894 belonging to his friend Ayub Shaikh. The technical team may have checked the CDRs of this number, if it was given to them. It is not true that the technical team had given me the information about the location of the accused on 11/07/06. I cannot say whether the CDRs showed that the location of the mobile on that day from 9.05 a.m. to 6.25 p.m. was at Kandivali Lokhandwala at the place of his work. It was not revealed in my investigation that remaining 20 kgs of RDX was given by the accused no. 6 Mohd. Ali and accused no. 13 Asif Khan to Shabbir Ahmed Masiullah, the accused no. 2 in MCOG 23/06 pertaining to Malegaon blast case. I do not know whether this story is mentioned in the chargesheet of that case. ACP Shengal did not tell me that the RDX remaining in this case was used in the Malegaon blast case of 2006. I do not know why these two accused are involved in that case. It is

not true that I and ACP Shengal prepared this story to involve these two accused in that case. I am not aware whether traces of RDX are also shown recovered in that case, whether seven accused had given confessional statements in that case.

204. It was not revealed during my investigation that the accused no. 7 Sajid Margoob Ansari was a planter, that the accused no. 13 Asif Khan was the planter of the Matunga blast. It is true that the alias name of the accused no. 13 is mentioned as Junaid.

205. It is not true that when the investigation came to me, our initial theory was that pressure cookers were used for keeping the bombs. It was our theory that household utensils were used. It was not revealed as to exactly which household utensils were used. It was disclosed during the investigation that electronic timer/triggering devices were used for causing explosions. It was not revealed whether the triggering devices were remote controlled or inbuilt timer devices, because they were prepared by the Pakistani people and we could not get any information from the present accused. Therefore, I cannot say even today whether the triggering device was remote controlled or having inbuilt timer. The use of quartz watch, part of

which was found in the Andheri blast, was thoroughly inquired into and subsequently it was found that quartz watches were not used as timer devices.

206. (Learned advocate asks the witness to go through the final report). The name of the Sachin Krishnaji Koltharkar appears at sr. no. 9 in the list of witnesses, his age is mentioned as 24 years, occupation-cable operator and his address is shown as Mahendra Smruti, Walambe Marg, Parel Village, Mumbai. At sr. no. 39 the name of Sachin Krishna Koltharkar, age 26 years, occupation-service and address is shown as Dattakrupa Housing society, 7th floor, room no. 24, Parel Village, Mumbai-12. I have not interacted with these witnesses. I cannot say whether both are one and the same person. (Learned advocate asks the witness to go through Exts. 1742 and 2380). The panch witness by name Suresh Shambhu Mahindrakar in both these documents may be the same person.

(Adjourned for recess).

Date : 12/03/12

Special Judge

Resumed on SA after recess

207. I do not think that lockup diary and lockup register are

required to be preserved for five years. I do not know whether PI Sunil Deshmukh destroyed lockup diary and lockup register of Matunga Police Station much earlier than the period prescribed in the standing order. PI cannot do that. Order of ACP and some times DCP is required. Request letter is sent by PI. It is not true that in order to prevent the accused no. 4 Ehtesham from getting their copies, PI Deshmukh destroyed them. I do not know whether record of 2006 was destroyed in 2009. (Learned advocate asks the witness to go through Exts. 1087 and 1088). It is true that Ext. 1088 shows that the lockup charge book from January 2004 to December 2006 was destroyed and Ext. 1087 shows that it was destroyed in 2009. (Learned advocate asks the witness to go through Ext.2542). It is true that Appendix-B in the standing order shows that lockup registers are to be preserved for five years. It is not true that I told PI Deshmukh to destroy the lockup registers as RTI applications would be filed to take copies. (Learned advocate asks the witness to go through page 29 of the Hindi and page 34 of the English editions of India Today produced with the application Exts. 2543. They are marked as **Exts. 2544 and 2545**). The Hindi edition is dated 30/08/06 and page 29 shows the

photographs of accused no. 1 Kamal, accused no. 2 Tanveer and accused no. 11 Zameer and accused Khalid and Mumtaz, who were later on discharged. The English edition is dated 16/10/06 and page 34 shows the photographs of accused no. 1 Kamal, accused no. 2 Tanveer and accused no. 11 Zameer. It is not true that these photographs were provided to the media by the ATS officers before the identification parade. It is not true that deliberately a particular set of officers was selected. I do not know whether PIs Tajne, Kolhatkar, Iqbal Shaikh and Sunil Deshmukh and the handwriting expert Jayant Kashiram Aher have faced prosecutions under the Prevention of Corruption Act or cases under this Act are still pending against them. I know that PI Khanvilkar is facing some prosecution under the same Act. I am not aware whether PI Kolhatkar and Jayant Aher are still under suspension, but I know that PI Khanvilkar is under suspension. I do not know whether PI Iqbal Shaikh and Sunil Deshmukh were removed from service for one year. It is not true that these officers were deliberately selected to frame these accused. Witness volunteers – on the contrary all the officers having good investigation qualities and resources were selected and many of them were having

police medals.

208. Jayjeet Singh was Addl. CP of the ATS for Mumbai city in 2006. Subodh Jaiswal was the Addl. CP of the ATS for moffusil area. It is not true that proposal for prior approval was sent to the Addl. CP, ATS, Mumbai, it was sent to the Addl. CP Jaiswal, who was looking after the moffusil. It is not true that Addl. CP, Mumbai refused to grant the prior approval. It is true that it was sent through the DCP (M), ATS. Nawal Bajaj was the DCP, ATS for Mumbai and Bawaskar was the DCP, ATS for rest of the Maharashtra. I do not know whether station diary entry was made about sending the proposal for prior approval through DCP, Mumbai, ATS to the Addl. CP, Mumbai, ATS. PI Khandekar did not tell me about making such entry. I did not come across such entry. (Learned advocate asks the witness to go through the station diary dated 18/09/06). There is no entry of sending such a proposal. (Learned advocate asks the witness to go through the station diary entry no. 20 dated 24/09/06). It is true that the entry shows that the proposal was submitted through DCP (M), ATS to the Addl. CP, ATS, Mumbai. Witness volunteers- The designation of both the Addl. CPs was Addl. CP, ATS, Mumbai. For the sake of

convenience one was looking after the work of Mumbai and the other was looking after the work of moffusil. This entry does not mean that the proposal was sent to Addl. CP Jayjeet Singh. The station diary entry was made by PI Khandekar. It is in his handwriting. (Learned advocate prays that the true photocopy of the entry be taken on record and exhibited. Hence, It is marked as **Ext.2546**). It is not true that I deposed falsely that for the sake of convenience the jurisdiction of the Addl. CPs was divided. It is not true that as the requirement of two prior chargesheets was not fulfilled, Addl. CP Jayjeet refused to grant prior approval, therefore, I have not produced the proposal. It is not true that no proposal for prior approval was sent to the Addl. CP, ATS, who was looking after moffusil work.

209. I had recorded the statement of PI Khandekar on 24/09/06 as a information under Section 23 (1)(a) of the MCOB Act. His statement was recorded on 25/09/06. I cannot tell the time when I recorded his statement on 25/09/06, but the statement on 24/09/06 was recorded in the evening. It may be approximately after 8.00 p.m. Evening time may be upto 10.00 p.m. if I record a statement at 10.00 p.m. I did not record the statement of PI Khandekar two or three days

after recording his first statement.

Q. You did not send statements of witnesses who were not called for the identification parades and the documents that are not filed with the chargesheet to the various sanctioning authorities?

A. The statements of witnesses and documents on which the prosecution relies and which are produced in the court were sent.

The sanctioning authorities did not ask for any more documents than those that were sent to them.

210. I cannot tell whether the accused no. 2 Tanveer was in police custody from 14/09/06 to 28/09/06, but he was in police custody in CR No. 59/06 on 24/09/06 when the investigation was given to me. PI Agrawal was investigating CR No. 59/06. The accused no. 2's name was mentioned in the prior approval, therefore, I arrested him in CR no. 156/06 after making inquiries with him. No officer told me about his involvement before the investigation was given to me. The investigation of CR no. 156/06 was with me when I arrested him in it. I did not know that advocate Amin Solkar was on record as his advocate in CR no. 156/06. I had the residential address of the accused. I do not know whether before the

investigation came to me brother of the accused used to come to the ATS office to meet him, that his family members used to come with tiffin twice a day for him, whether the court had granted the facility of home food to him. I did not send any ATS officer to his house to inform about his arrest. Agripada Police Station had informed his family members after I directed them to do so and they have made a station diary entry to that effect. (Learned advocate asks the witness to go through the station diary and state whether the entry of compliance is made). There is no such entry in the station diary. Copy of the station diary of Police Station Agripada may be in my file. It is not produced in the court. I do not know whether written intimation is required to be given to the family members of the person who is arrested. Arrest panchanamas were not prepared about the accused who were already in police custody, when they were shown arrested in CR No. 156/06. I remember that a writ petition was filed on behalf of the accused no. 2 in the High Court. PI Joshi looked after that writ. It is not true that he had discussion with me before filing his affidavit. However, he informed me subsequently that the writ was dismissed by the High Court. I do not know whether the prayer in the writ was of

not arresting him in other pending crimes. I do not know whether it was the contention of PI Joshi in his affidavit in the High Court that all seven cases are different. I remember that the writ petition was disposed off after the provisions of the MCOB Act were applied. It is not true that the accused no. 2 was hurriedly arrested in CR No. 156/06 to frustrate the purpose of the writ petition.

211. I remember that only the accused no. 1 Kamal was produced before the magistrate court on 25/09/06, as it was his remand date in CR No. 59/06 and he was remanded to judicial custody. It is true that the accused no. 2 was not produced before the magistrate on that day, but he was produced before the special court. It is true that he was produced before magistrate on 26/09/06 at 4.30 p.m. and was remanded to judicial custody in CR No. 59/06. I do not remember whether his remand date in CR No. 59/06 was not 26/09/06, but it was 28/09/06. It is not true that I gave false information in the special court that the accused has not engaged advocate.

212. I do not remember whether PSI Gangurde (PW-105) had given me medical papers dated 04/10/06 of the accused no.2. I

cannot say whether he had given the copy of Ext. 1083, which is now shown to me. It is true that none of the accused made any voluntary statement before me and there was no discovery of any article in my presence from any accused. It is not true that I gave false evidence that most of the accused belong to SIMI, that they went to Pakistan via Iran for training. It is not true that I knew that the accused had gone only for ziarat and business, that nothing incriminating was seized from the houses of accused Kamal, Mohd. Ali and work place of accused Sajid Ansari, that nothing incriminating was seized in the flats at Carter Road, Bandra and Mira Road, that no chemical bottles were recovered from the hospital at the instance of the accused no. 2, that the accused had personally obtained Iran visa for ziarat, therefore, there is no entry in the case diary about recording the names of the travel agency witnesses, that no information was recorded under Section 23 (1) (a) of the MCOB Act, that on the say of PI Mandge, the accused no. 13 Asif Khan is implicated in the crime, that all the accused were illegally detained by the DCB CID, local police stations and the ATS and on the directions of CP Roy and Jt. CP Raghuvanwhi, they were falsely involved in this case, that these

two and Addl. CP Jaiswal used to personally interrogated the accused and they were investigating the case, that no accused was informed about the grounds of arrest and no information was given to their family members, that by way of part of atrocities and torture, the accused were sent to the DCB CID, Unit of PI Salaskar and to the Unit-I, that all the accused were brutally tortured by the ATS officers and superiors, that false medical records were prepared in collusion with the medical officers showing reduced marks of injuries, that it was revealed in the investigation that none of the accused was near the site of any blasts at the relevant time and was at their house or work place, that I framed such accused who were regularly attending the ATS office by showing them as wanted accused, that I prepared a false story that the accused had assembled on 8th,9th and 10/07/06 at the house of accused no. 6 Mohd. Ali and had assembled bombs, that none of the accused except the brothers accused no. 3 and 9 and brothers-in-law accused no. 7 and 8, were acquainted with each others, that all the DCPs in Mumbai were investigating the case and assisting the ATS. It is true that the articles that were destroyed, were not destroyed in the presence of the accused or their advocates or

before the district magistrate. It is not true that the accused were arrested in one crime after the other for retaining them in police custody by falsely telling the court initially that they are separate cases and then coming out with the case that it is a single larger conspiracy, that none of the accused expressed his desire to make a voluntary confessional statement, that deliberately they were not produced before the magistrate for recording their confessional statements, because I was knowing that they would not make them, that drafts of the confessional statements, sanction orders and the consents were prepared in my office and I got them either copied by the concerned authorities and DCPs or I got them signed, that deliberately on the say of Jt. CP Raghuvanshi and CP Roy, I suppressed record which is consistent with innocence of the accused, that I implicated the accused no. 6 and 13 in the Malegaon blast case of 2006 in collusion with ACP Shengal to pressurize the other accused.

(Adjourned as court time is over).

Date : 12/03/2012

(Y. D. Shinde)
Special Judge

Date : 13/03/12
Resumed on SA

213. It is not true that I circulated photographs and video CDs of all accused to the media, that all the witnesses were shown the accused, their photographs and video CDs before the test identification parades, that I and my officers blocked information requested by the accused from various authorities, which was consistent with their innocence, that the accused no. 6 Mohd. Ali never went to Dubai, that I deliberately did not collect the information about the scheduled and actual time of arrival and departure of trains from the Western Railways as it was inconsistent with the versions given by the witnesses, that the claimants of the body in the Matunga blast and the record pertaining to it is deliberately suppressed and that body has been introduced as that of one of the accused and unclaimed, that I prepared a false story that the accused went to Pakistan, met Azam Chima, underwent training at Muzzafarabad and were getting finance, that the accused killed at Antop Hill in an encounter was in fact killed in police custody and the bogus encounter was shown, that I prepared a false story that the bombs

were assembled at the house of the accused no. 6 Mohd. Ali and from there they were transported to Bandra, that the final report of the encounter at Antop Hill is deliberately not clubbed with this case as I know that the histo-pathological report was showing that there was a high level of ethyl alcohol in his body, that the maps and books are planted, that the handwriting opinion is managed. It is not true that I do not wait for the CA report before lodging an FIR in cases that are investigated by me and in which explosives and arms were found with the person. There is no necessity of CA report for lodging an FIR under the Arms Act, but it is necessary in the case of explosive substance.

Q. As per your understanding whether you are required to produce only that material which shows the guilt of the accused or you are required to produce all the material, except the case diary, that you have collected during the investigation?

A. I am not required to produce only that material which shows the guilt of the accused, but I am supposed to produce all the material on which the prosecution is going to rely.

214. I may have received a copy of the letter dated 03/10/06

given by the Jt. CP to the DCP for recording the confessional statement of the accused no.2, a day or two thereafter. I do not remember who received it and when. No station diary entry was prepared about receipt of the letter, as it is not necessary. I did not also make any entry in the case diary. The copy of the letter received by me is not produced with the chargesheet. I did not feel it necessary to make station diary entry or mention in the case diary about receipt of the copy of the letter. It is not true that other than my words I have no evidence to show the receipt of the copy of the letter. The copy is the evidence. I cannot say who took the letter from the Jt. CP to the DCP. I did not take the statement of any officer who carried the said letter from the Addl. CP to the DCP. (Learned advocate asks the witness to go through Exts. 1015 and 1016). The letter Ext.1015 was received by the DCP on 04/10/06. The time of receipt is not mentioned. It contains the acknowledgment signature of DCP Mohite. Ext. 1016 does not contain my acknowledgment signature. I cannot tell the name of the officer or staff who brought the letter and I did not record his statement. The signature is of some API of the ATS, but I cannot identify it. The time of receipt of the letter is not mentioned on

it. Station diary entry was not made about receiving it. It must be mentioned in the case diary. (Learned advocate asks the witness to go through the case diary). On going through the case diary dated 04/10/06, I say that there is a mention about receipt of the letter, its outward number and the date and time when the accused was to be produced before the DCP. There is no reference about who received the letter and at what time it was received. The outward number is 1985/DCP/Preventive/06 dated 04/10/06. I received the letter in my hands on 4th itself, but I cannot tell the exact time when I received it. It does not bear my signature or any endorsement or any remark, but it is addressed to me. The directions given in Ext. 1016 were complied with. As per the letter the accused was to be produced at 2.00 p.m. on 04/10/06. I cannot say whether the accused was not produced at 1400 hours on that day. After receiving the letter of the DCP I prepared Ext. 1018 at about 1200 hours to 1.00 p.m. As per the letter the accused was sent for production before the DCP at 3.00 p.m. I did not take the acknowledgment signature on Ext.1018 of the officer who took it to the DCP. I must have taken it on the office copy that is in my file. I now again say that no such signature must have been

taken, because it is not necessary. I did not file it in the court as the fair copy was in the court. I did not make a station diary entry about giving this letter. This letter was carried by PI Khandekar along with the accused on 04/10/06 about half an hour or one hour before 3.00 p.m. I did not take his statement on this point as he was assisting me in the investigation. (Learned advocate asks the witness to go through Ext. 2395). It was prepared on 04/10/06, but I cannot tell the time on which it was prepared and when it was handed over to PI Khandekar. It does not contain the acknowledgment signature of PI Khandekar. This is the office copy that is produced in the court. There is no station diary entry about giving this letter to him. I do not know where the original is. It is true that the time of production of the accused in this letter is 1400 hours. It is not true that DCP Mohite was busy in the bandobast duty on 4th to 06/10/06 of the visit of the Prime Minister. I do not know whether the DCP was not in his office at 1400 hours on 04/10/06. It is not true that the entire correspondence with DCPs is prepared subsequently.

215. KEM Hospital is not the hospital that is appointed for the medical examination of the accused in the custody of the ATS. It

is not true that the medical officers of the KEM Hospital prepared the record as per our wish. It is correct that St. George, Nair, J.J. and GT Hospitals are government or municipal hospitals. It is not true that KEM Hospital is far away from this court than the above hospitals. It is true that KEM Hospital is not at a lesser distance from this court than the above hospitals. I do not know whether the accused no. 1 to 4 and 9 to 11 were not taken to the above four hospitals, but they were taken to the KEM Hospital after they were remanded to judicial custody on 09/10/06. It is not true that I know that they were taken to the KEM Hospital. I was present in the court at the time of remand on 09/10/06. The accused had complained of torture and some of them had retracted their confessions on that day. I am not aware whether the court had given directions for getting the accused medically examined. It is not true that I told PI Tambe to take the accused to the KEM Hospital for medical examination as I had managed the doctors at the KEM Hospital that they should not mention about injuries, that therefore, I have not produced the OPD case papers of the accused of 09/10/06. It is not true that since beginning it was our effort to involve the persons who had gone to foreign countries. (Learned

advocate asks the witness to go through the station diary entry no. 18 dated 15/07/06). It is not true that from this entry it so appears. (At the request of the learned advocate of the accused the true photocopy of the entry is marked as **Ext.2547**). (Learned advocate asks the witness to go through the station diary entry no. 13 dated 19/09/06). It shows that the accused no. 8 was called and thereafter allowed to go. (At the request of the learned advocate of the accused the true photocopy of the entry is marked as **Ext.2548**). (Learned advocate asks the witness to go through the station diary entries no. 06 dated 17/09/06, entry no. 3 dated 18/09/06). They show that the accused no. 8 was called and thereafter allowed to go. (At the request of the learned advocate of the accused the true photocopy of the entry is marked as **Ext.2549, 2550**). (Learned advocate asks the witness to go through the station diary entry no. 15 dated 13/09/06). It shows that API Varpe had brought the accused no. 8 for inquiry in connection with the railway bomb blasts as per the directions of the superiors. (At the request of the learned advocate of the accused the true photocopy of the entry is marked as **Ext.2551**). (Learned advocate asks the witness to go through the station diary entry no. 16

dated 17/08/06). It shows that APIs Dinesh Kadam, Varpe, Kolhatkar and PSI Sachin Kadam and staff left for confidential inquiry in the area of Mumbra, Dist-Thane (At the request of the learned advocate of the accused the true photocopy of the entry is marked as **Ext.2552**). (Learned advocate asks the witness to go through the station diary entry no. 01 dated 18/08/06). It is true that it shows that the same officers brought accused no. 8 and one more person to the office. (At the request of the learned advocate of the accused the true photocopy of the entry is marked as **Ext.2553**). It is not true that majority of the entries shows that API Varpe had interrogated the accused no. 8 on those occasions. (Learned advocate asks the witness to go through Ext. 1777). It shows that API Varpe had gone with PI Khanvilkar to search for the accused no. 8. API Varpe did not inform me at any time that the accused no. 8 used to regularly attend the ATS office. It is not true that Park Site Police Station, Vikroli and DCB CID, Unit-VII had provided the information about the accused no. 8 to us. I do not know whether the accused no. 8 was called to the Park Site Police Station on 12/07/06, they made inquiries with him, recorded a statement and after making station diary entry no. 43

he was allowed to go, whether Crime Branch Unit called him on 17/07/06, inquired with him and allowed him to go.

216. Statement of one Abdul Naeem was taken on 05/10/06.

It is not true that on 28/09/06 he had produced copy of leave and licence agreement that he had entered in to with the accused no. 8. It is not true that permission of Addl. SP Jaiswal was taken for arresting the accused no. 8. He was intimated. It is not true that I falsely chargesheeted the accused in this case.

(Adjourned for recess)

Date : 13/03/12

Special Judge

Resumed on SA after recess

Cross-examination by Adv Sharif Shaikh for A4

217. PI Rathod had informed me that the accused no. 4

Ehtesham was arrested in local act case and he was taken over from the custody in that case. I cannot say when he was first arrested by the ATS officers. I did not inquire with PI Rathod about it. I did not feel it necessary as it was not important for me. On asking PI Rathod had informed me that the accused was arrested in LAC case and he was arrested from that case. The LAC case was of the ATS. I did not go through the station diary of that case to ascertain the date of his

arrest in that case. I had recorded the statement of PI Ahir about the LAC case against the accused and possibly the details of the date of his arrest, the place from where he was arrested and the offences for which he was arrested may be in the statement. I am not sure whether he was arrested in the LAC case of 24/07/06. I have not gone through his arrest panchanama and arrest proforma of that case. It will be correct to say that I did not feel it necessary. I do not know whether any personal belongings like mobile, currency notes, diary, pen, wallet, etc., were seized at the time of his arrest. I do not remember whether I had asked the investigating officer of that case and whether he had informed me about interrogating the accused in connection with this case. I do not know for how many days he was in police custody in that case.

218. PI Tajne was incharge of Kalachowki ATS office and PI Ahir was incharge of Nagpada ATS office in 2006. If junior officer in a team made any investigation, he had to report it to the PI heading the unit and the PI had to report to the ACP or DCP. This reporting need not be in writing and need not be mentioned in the station diary. However, they were expected to mention it in the case diary. I think

that the accused was in police custody when he was taken over by PI Rathod in CR No. 77/06. I had not taken the extract of the station diary or case diary of the LAC case at the time or prior to the arrest of the accused in this case.

219. I was knowing that the accused was residing at Mira Road before his arrest. I did not personally visit his residence. I did not give directions to any officer to visit his residence. I did not feel it necessary to inquire with the family members of the accused about his whereabouts on 11/07/06 as inquiry was already done in this connection. PI Rathod had informed me about it. He did not give me any statement of the family member of the accused recorded in this connection. PI Rathod informed me on the point of his whereabouts on that day that the accused had participated in the bomb blasts. PI Rathod told me about the inquiry that he had conducted, which includes inquiry with the accused also. He did not inform me about contacting any family members of the accused and inquiring with them. I and my subordinates have not recorded the statement of any family member of the accused in this case. We have also not recorded the statement of any person residing in the building of the

accused no. 4 that he was not present in his house on 11/07/06. None of my subordinates reported to me about having made inquiry in the vicinity of the residence of the accused. It is not true that I was knowing that the accused was in his house on 11/07/06, therefore, I did not inquire with his family members or persons in the same building or in the vicinity as they would have told me that he was in his house on that day.

220. It will be correct to say that after arresting an accused, his house search is to be taken as soon as possible. I do not remember whether search panchanama of the house of the accused was taken in the LAC case. I did not take the search of his house during my investigation. The reason for this is that he was arrested much later after his first arrest in CR No. 77/06 on 12/08/06. I do not remember whether any investigating officer had not conducted the house search panchanama of the arrested accused after 12/08/06. His family members were informed when he was arrested in CR No. 156/06. I have to see the station diary to tell their names.

(Learned advocate requests at 3.45 p.m. for adjourning the cross-examination as he does not have the papers with him. Hence, adjourned to 14/03/12).

MCOB SPL.21/06

PW 186/264

Ext.2361

Date : 13/03/2012

(Y. D. Shinde)
Special Judge

Date : 14/03/12
Resumed on SA

221. PI Rathod had told me after the application of the provisions of the MCOB Act, about the accused no. 4 being involved in the blasts. I cannot say whether it was before the accused gave confessional statement. I did not ask PI Rathod as to on what basis he had arrested the accused. I did not ask him and the other investigating officers as to on what grounds they had asked for further custody of the accused from time to time. However, I was knowing that there were seven different cases and the investigating officers of those cases were taking the custody of the accused for investigation. I cannot tell the exact number of days for which the accused was in the custody of PI Rathod. I do not remember whether PI Rathod had recorded the statement of any witness or whether any article was recovered from the accused, during his investigation concerning the accused. I had asked PI Rathod on what basis he is saying that the accused had participated in the bomb blasts. He had informed me that it was on the basis of the interrogation of the said accused and the other accused. The accused had not given any confessional

statement during his custody with PI Rathod. I did not ask PI Rathod what kind of investigation he made in respect of the information given by the accused and the other accused concerning his involvement in the case. I had not asked the other investigating officers about it. It will not be correct to say that there was no admissible evidence with any of the investigating officers in respect of the accused. It is true that I knew when the investigation came to me that confession of co-accused is inadmissible against an accused under the Indian Penal Code and Unlawful Activities (Prevention) Act. When the investigation came to me, the admissible evidence that was against the accused was the evidence about he being member of SIMI, he was arrested earlier in the offences under Unlawful Activities (Prevention) Act, at the time of arrest he was found with in possession of objectionable books, even after the ban, he was continuing with the activities of the SIMI and collecting funds for the organization, he was knowing most of the arrested accused in this case, etc. There was no specific evidence at that time that he had participated in the commission of the bomb blasts, except his oral admissions. The LAC case was under the Unlawful Activities (Prevention) Act. I do not remember

whether statement of any witness was recorded in respect of the accused being member of the SIMI and he collecting funds for the organization.

222. I do not know whether it was in the news and also shown on the television from the next day of the blasts that members of SIMI are involved in these blasts. It will be incorrect to say that from the next day of the blasts, the ATS, DCB CID and the local police stations of Mumbai city had picked up many Muslim boys under the pretext that they are members of SIMI. The head office of SIMI in India was in Delhi. I have never visited it. I had heard that that office is closed, therefore, I did not think of going there and verifying the membership list. The accused had told me that the office is closed. As the office was not in existence and the office bearers must not be there, there was no question of I thinking it necessary to go personally or depute any officer to the head office of the SIMI for making this inquiry. I do not remember the names of the persons who were the president, secretary, treasurer of SIMI prior to it being banned. The SIMI was a lawful organization before it was banned. I did not make efforts to find out whether it was registered or not. I

know that the founder was a professor of Aligarh University. I did not meet him as I heard that he had settled in USA. I did not make inquiry whether a prescribed form is necessary to be filled in for becoming a member of SIMI. I had no means to find out about the registered members of SIMI prior to 2001, as the office was closed. Therefore, I did not make any effort to find out the registered members all over India or in the States. I did not make any inquiry to know whether all the accused had filled in forms for becoming members of SIMI. It is true that before the ban there used to be programs of SIMI. If such programs are organized in private places, then permission of the police is not necessary. The SIMI might have conducted programs in public places. I did not inquire with the local police stations in Mumbai to try to find out whether any accused had applied for permission to conduct programs in public places, as it was not necessary.

223. Speech disturbing communal harmony is an offence under Section 153A of the I. P. C. I had made inquiries whether there was any case against the accused no. 4 under Section 153A of the I.P.C. registered with any police station prior to the ban on SIMI. The

notification about the ban on SIMI was circulated to all the police stations in Mumbai city through police notice.

Q. Whether a general order was issued by the State Government circulating the notification or specific orders to individual police stations were issued?

A. The notification was by the Central Government and its copy was received by the Commissioner of Police, Mumbai and the same was published in the police notice. It might have been received through the Home Department of the State Government.

The notification dated 27/09/01 must have been published in the police notice on the next day of the ban.

Q. Whether it is true the cases against the accused no. 4,2, 7 and 8 that were registered at the local police stations in Mumbai for unlawful activities concerning SIMI, were all concerning the incidents dated 27th, 28th and 29/09/01?

(Witness submits that he will have to go through the chargesheet).

A. On going through the Exts. 462, 463, 1516 and 1518, it is seen that those cases pertain to the incidents of those dates.

It is not true that the accused no. 2, 4, 7 and 8 were arrested in those

cases on the false allegation that they belong to SIMI. It is not true that only because of their arrest in those cases, we are saying that they are members of SIMI. There is other independent evidence also. Those cases were pending in the court at the time of my investigation. It is not true that none of the accused was a member of SIMI prior to the ban and even thereafter. It is not true that I falsely implicated the accused in this case saying that they are members of SIMI.

224. I had not seen the accused no. 4 on 27/07/06 in the ATS office. I joined the head office at Nagpada on that day. I had not seen the said accused on 28/07/06 in the ATS office. I met my superiors DCP Bajaj, Jayjeet Singh and Jt. CP Raghuvanshi on 27/07/06. They told me that I would have to supervise the investigation of this case. They did not inform me that any accused was arrested as he was member of the SIMI. The bomb blasts case was an important case for the ATS from the day of the blasts and not only on 27/07/06. I did not ask as I am not supposed to ask my superiors as to what investigation they or the subordinates officers have done. They did not apprise me of the investigation that had

been done. It will not be entirely correct to suggest that I was personally supervising the investigation being conducted by the subordinates officers and collecting information from them till the time the investigation came to me. I had never personally investigated any bomb blasts case before this case. I knew that there had been many blasts in Mumbai prior to this case and they had been investigated by the Mumbai Police. I did not personally meet any investigating officer of the 1993, Ghatkopar 2002 and Gateway of India, Zaveri Bazar 2003 blasts to take their assistance and to know as to how the investigation is to be conducted. I was not knowing that in those cases the incidents of more than one blasts were initially investigated by different police stations and then after exhausting the police custody in all the cases, the Crime Branch clubbed all the cases and filed chargesheet before the court as one case. It is not true that purposely seven different crimes were registered in order to keep the accused longer in the police custody and to torture and harass them. There was a general order from the Commissioner of Police directing all the officers of police station and the Crime Branch to assist the ATS in the investigation by making inquiries about the blasts and

passing on information to the ATS. I do not know whether there was a written order.

225. I will have to see the station diary to say whether I had informed the relatives of the accused no. 4 for his arrest under MCOG on 28/09/06. It is mentioned in the station diary entry no.5 dated 28/09/06 that relatives of the accused were informed about his arrest through Police Station Mira Road. That police station must have complied with the direction. There is no station diary entry about that police station having reported compliance. It was important to inform the relatives of the accused about his arrest. I did not feel it necessary to personally or through subordinate give a written memo of arrest to the relative of the accused and obtain his acknowledgment on it. I know that one of the officers was knowing the phone numbers of his relative and of a very good friend of the father of the accused. I did not inquire with Mira Road Police Station whether they had informed his relatives, but I distinctly remember that one of the officers had informed about his arrest to the friend of the father of the accused.

226. I do not know whether the accused no. 4 had engaged

any advocate from 28/07/06 to 28/09/06. It is a general practice that when we arrest an accused, we inform him that he can engage an advocate. It is correct that we have to inform the accused about his legal rights at the time of his arrest and we do it. I did not mention in the station diary about giving such information to the accused.

227. I do not know Lt. Col. Purohit. I did not see him in the ATS office during the period I was there. I may have attended 4-5 lectures during this period. I do not know whether Lt. Col. Purohit had given lectures in 2006 and 2007 to the ATS officers on the topic of combating terrorism. It is not true that he trained DCP Bajaj and other DCPs and all the ATS officers how to prepare bombs from the RDX and how to diffuse them, that he had brought the RDX from army, that the said RDX has been planted and shown to be recovered from the accused no. 1 and others in this case. I have read that Lt. Col. Purohit is arrested for his involvement in the Malegaon blast case of 2008. No colleague informed me about recovering RDX from his possession.

228. I knew that the accused no. 4 had been sent for narco analysis test before the investigation came to me. I do not remember

in whose custody he was when he was sent for that test. I did not see the papers concerning the narco test when the papers of investigation were handed over to me by the concerned investigating officer, therefore, I had not seen the consent form of the accused. I did not send the accused for narco test after I took over the investigation. I came to know that every accused was sent once for the scientific test, but if it was not completed in one sitting, he was called again. It is not true that the accused no. 4 was sent four times for the scientific test as we were not getting the answers that we required. We presume whenever an accused in our custody that he has a threat to his life and we take necessary care to safeguard his safety. I think that the transcripts of computer data, sim card data and CD data were in code language. The FSL people were unable to decode the data. Till today we have not got it decoded. I do not remember whether the application before the special court for extension of time to file the chargesheet was made on the grounds of safety of the accused and decoding of the code language. It was revealed from the interrogation of the accused that they were passing information in code language. There is no document to show that I made

investigation in respect of code language. It is not true that no code language was used by the accused and no there was no threat to their life, but these grounds were taken only to get an extension of time for filing chargesheet. I did not disclose about the code language of the sim card to the court when I file the application. I did not ask from the nodal officers of any service provider to decode the code language of the sim cards.

229. I did not take the photograph of the accused no. 4 when I arrested him. When the case papers came to me, I did not enquire with the officers as to who has taken his photograph, who was the photographer, how many copies were obtained and where the photographs had been circulated.

(Adjourned for recess).

Date : 14/03/12

Special Judge

Resumed on SA after recess

230. I did not ask the subordinate investigating officer as to why he had taken the photographs. There is no question of asking whether any of them had taken video shooting of the accused in police custody, because they had not done so. I was not knowing that

before sending an accused for scientific test, his photograph is required to be affixed and his signature is to be taken on consent form. I was only knowing that court permission is required. In many cases I had taken blood samples of the accused and sent them for blood grouping. Consent of the accused is not required to be taken for taking his blood sample.

Q. Did it come to your knowledge during the investigation that another organization by name Students Islamic Organization of India (SIO) had been formed at the same time the SIMI was formed?

A. As per my knowledge Student Islamic Organization was subsequently named as SIMI.

I did not make efforts to find out whether their aims and objects are similar. I did not feel it necessary to go through the aims and objects of SIO, but I know the aims and objects of SIMI. I did not file any application before any authority in India for obtaining certified copy of aims and objects of SIMI, because it was not necessary. It is not true that the aims and objects of SIMI were legal, therefore, I did not collect the certified copies. I have not read the aims and objects. I was knowing that people upto the age of 30 years can become the

members of the organization, but subsequently that age limit was also relaxed. I did not come to know during the investigation that SIO and SIMI are the branches of Jamat-e-Islami. I know about the existence of organization by name Jamat-e-Islami, but I do not know whether it is in existence since the British period. I am not aware whether Shahid Badar Falahi, President of SIMI held a press conference on 28/07/06 in Delhi in which journalists of all the newspapers were called and the news reporters attended it, whether it was relayed live on television and reported in all the newspapers on the next day, that he had contended that SIMI is not behind the blasts in the present case. I know that he is an important office bearer of SIMI, but I do not know whether he is president of SIMI for India. I did not feel it necessary to record the statement of office bearer or member of SIMI who were attached to SIMI prior to the ban.

231. I attended the tribunal only once in connection with the ban on SIMI and gave evidence. I do not know whether office bearers of SIMI were present before the tribunal. I did not feel it necessary to inquire with the staff of the tribunal whether the office bearers of SIMI were present. It is not true that I made inquiries with the officer

bearers of SIMI and they told me that none of the accused are members of the SIMI.

I did not ask my subordinate investigating officers as there was no question of asking as to whether they had given the photographs of the accused no. 4 to their subordinates for being shown to the taxi drivers, as photographs were not to be shown to anyone. For the same reason I did not ask them whether they have shown the photographs to the police staff, railway staff and the canteen staff at the Churchgate Railway Station.

(Adjourned as court time is over).

Date : 14/03/2012

(Y. D. Shinde)
Special Judge

Date : 15/03/12
Resumed on SA

232. I think that the accused no.4 was not arrested in C. R. No. 59/06 of Vasai Road Railway Police Station. If it is so mentioned in the station diary, I will have to verify it. (Ld. Adv. asks the witness to go through Ext.2372). It is true that it is so mentioned in the station diary entry no. 5 dtd.28/9/06, but it is inadvertently mentioned as I am sure that he was not arrested in C.R. No.59/06. It is not true that most of the station diary entries were fabricated by me and my subordinate officers. When the investigation came to me and I went through the papers I found that the investigating officers had conducted the investigations properly to the best of their ability. I did not ask the officers whether they had inquired with any taxi drivers at Churchgate and Mira Road taxi stands. At that time I did not feel that it was an important fact. I did not ask the investigating officers whether they had inquired with the neighbours of the accused no.6 whether the accused no.4 had visited his house on 11/7/06 or prior to that day. It is true that in the area in which the house of Mohd. Ali is situated, there are huts and chawls. I do not know whether there is no building

in the Shivaji Nagar area of Gowandi, as I did not visit it. I was told that the house of the accused no.6 is not on the main road, but it is in a lane. I did not come to know that there is a water tap in that lane and many people take water from that tap. After the investigation came to me, I did not show the photograph of the accused no.4 to any neighbour of the accused no.6 as there was no question of showing photograph of accused. I did not make inquiries with the neighbours as to whether the accused no.4 had visited the house of accused no.6 on 11/7/06 or prior to that day. I did not make inquiries and did not direct my subordinates to inquire with the neighbours of the accused no.6, whether any unknown person had come to his house with big bags on 11/7/06 or prior to that day. I did not inquire with the shopkeepers on the main road from which the lane goes to the house of the accused no.6, as to whether they had seen a Maruti car bearing no. MH-01 V 9568 parked on the road 2-3 days prior to 11/7/06. I did not do all the above things as I knew that there would be no benefit from it. It is not true that I did not do all the above things, because I and my superiors have cooked up the story about accused no.4 and other accused gathering at the house of accused

no.6 a few days prior to 11/7/06 and preparing bombs.

233. I had produced the accused no.4 and other accused on 28/9/06 in this special court, but as the presiding officer was on leave, I produced them before Judge Thipse at Sewree at about 1.00 p.m. At that time the accused no.4 did not tell the judge that he wants to make a confessional statement. I had personally interrogated him on that day. I interrogated him when I arrested him for about 5-10 min. I do not remember whether I interrogated him after the remand. There will be no mention in the case diary or station diary about the time of interrogation, if any, by the subordinate officers after the remand. I had interrogated the accused on 29/9/06, but there is no mention in the case diary or station diary about the period of interrogation. On that day he had expressed his desire to make a confessional statement before superiors. I did not make an entry in the station diary about this, as it is not necessary, but it is mentioned in the case diary. I have correctly stated in my chief-examination that the officers interrogating the accused told me about it. It is not true that I prepared a false case diary that during my interrogation the accused expressed his desire to make a confessional statement. It is true that

it is necessary to record the confessional statement of an accused at the earliest after he expresses his desire to do so. I know that under section 164 of the Cr.P.C. the accused can be produced before a magistrate for recording his confessional statement. I do not know whether it was a working day on 29/9/06. I knew that there were courts of 2-3 magistrates at Bhoiwada itself and a magistrate is specially deputed for urgent work in the evening for the city of Mumbai. I did not request the magistrate at Bhoiwada or the CMM or the night magistrate on that day to record the statement of the accused. I did not intimate the special court on that day that the accused no.4 wants to make a confessional statement, as it is not necessary. I did not produce the accused before the CMM from 29/9/06 to 6/10/06 requesting him to record the confessional statement of the accused. However, on that day I had submitted the proposal to the Jt. CP, ATS requesting that an officer of the rank of DCP be appointed under the MCOB Act for recording his confessional statement. It is not true that the accused has not expressed his desire to make a confessional statement on 29/9/06, therefore I did not produce him before any magistrate from 29/9/06 to

6/10/06, that I and my superiors have made false entries in the case diary and prepared a bogus letter to show that the procedure for recording the confessional statement was properly followed.

234. During my service period, I have been posted at a place having majority Muslim population. It is not true that mother tongue of Muslims is Urdu. Witness volunteers- in Mumbai their mother tongue is not pure Urdu. It is not true that there are many schools of Urdu medium in Mumbai, but there are some schools in Muslim dominated areas, including BMC schools. I came to know during the investigation that the accused no.4 had taken initial education in Urdu. I am not sure whether it was upto the 10th standard. There is a slight difference in Urdu and Hindi language. It is not true that there is a large difference, that the accused no.4 took education in Urdu, that his mother tongue is Urdu and while talking in Hindi he uses Urdu words, that I prepared the confessional statement of the accused, therefore, I have put Hindi words in place of Urdu words in it.

235. I did not send any reminder to the Jt. CP after submitting the proposal for appointing a DCP for recording the confessional statement of the accused as to why no one is appointed

upto 4/10/06. I do not remember whether the accused was represented by any advocate when he was produced before the court on 28/9/06. I had seen the letter that was sent by Jt. CP Raghuvanshi to DCP Karale as I had received a copy. It is not true that he had sent the letter in connection with accused by name Ehtesham Qutbuddin Ansari, but I remember that there is a typographical mistake in writing the surname Ansari instead of Siddiqui. I had noticed the mistake at that time itself. I did not take steps to correct it as it was a typographical error. Other than the letter Ext.1054, I had sent the letter Ext.1056 to DCP Karale while forwarding the accused to him. I did not ask the Jt CP whether he had sent any document to the DCP other than Ext.1054. I do not remember whether I had a talk with DCP Karale in person or on phone on 3rd or 4/10/06 or till receipt of the copy of Ext.1054. It is not true that the confessional statements Ext.1057 and 1060 were sent to the DCP alongwith Ext.1054, that therefore in the letter Ext.1055 the DCP had mentioned the surname of the accused as Siddiqui. It is true that name of the accused is written as Ehtesham Qutbuddin Siddiqui in Ext.1055. It is not true that the letter Ext.1054 is not concerning the accused no.4, but is

concerning the accused by name Ehtesham Qutbuddin Ansari. I have not gone through Ext.1064 before I gave evidence. It is not true that accused no. 4 was not produced before the CMM, but some person by name Ehtesham Shaikh was produced.

236. I have not made station diary entry about sending the accused with PSI Deore to the DCP. PSI Deore may have made such an entry. He had returned to the office after reaching the accused to the DCP. This was an important fact. I did not mention it in the station diary. I cannot say offhand whether after returning PSI Deore did some work, unless I go through the station diary. It is not true that PSI Deore was with the accused in the DCP office continuously till the time the accused was brought back. I do not remember whether PSI Deore made station diary entry when he brought back the accused. It is not true that there is no station diary entry of 6th and 7/10/06 about PSI Deore doing some work in the ATS office, as he was with the accused continuously till the time the accused was brought back. I do not remember whether I have received any letter from the DCP on 7/10/06 that the recording of confessional statement of the accused was completed. I have produced all the documents in respect of

recording of confessional statement of the accused. I have not suppressed any document. I knew the mobile number of DCP Karale as all numbers of superiors officers are available with us. I do not remember whether I had talk with him on 6th and 7/10/06 on his mobile or with his PA or with his office staff. I do not remember the exact time when I asked PSI Deore to go to the DCP office and bring back the accused. I cannot say even approximately whether it was in the morning, afternoon or evening. After receiving the message from the DCP office that the work of recording of confessional statement of the accused was over, I sent PSI Deore to bring him. I do not remember whether station diary entry was made about receiving message. It is not true that there is no such diary as I knew that I had send a readymade confessaional statement and I told the DCP that I would send PSI Deore at 4.00 p.m. for taking custody of the accused.

237. Accused was put in Bhoiwada lock-up after he was brought from the DCP. I do not remember whether any advocate had come to meet him in between 7th and 9/10/06 and between his police custody period. I do not know whether any relative of the accused had come to meet him on 7th to 9/10/06. (Ld. Adv. asks the witness to

go through the case diary). There is no mention about any relative of the accused coming to meet him in the police custody during this period. There is no entry in the case diary about any police officer or outsider had come to meet the accused in the police custody during this period. I do not remember whether any advocate or relative of the accused no.4 or any outsider met the accused no.4 and instructed him to retract his confessional statement. I had brought the accused to court on 9/10/06. I think that the accused retracted his confessional statement on that day. There was no complaint by me that any advocate had met the accused in the court and had instructed him to retract the confessional statement. It is not true that the accused had not expressed his desire to make a confessional statement, that he had not made any confessional statement and when he came to know that it was shown that he had given confessional statement, he retracted it before the court.

238. I do not remember today where I was on 6/10/06 upto 4.00 p.m. of 7/10/06, but I may be in my office. (Ld. Adv. asks the witness to go through the case diary and state whether there is an entry on those two days about he having done any work). There are

entries about my doing office work in my office. It is not true that I was alongwith DCP Karale in his office on these two days, that alongwith the DCP and with the help of the confessions that were recorded in earlier case, I prepared the questions of Ext.1057, that therefore the accused retracted the answers of Ext.1057 and Ext. 1060 before the court on 9/10/06, that I was with the DCP on these two days, therefore in my reply dtd.6/11/06 to an application by the accused I mentioned that the DCP has followed all the procedure for recording the confessional statement. I had sent the letter to the DCP for giving copy of confessional statement. I do not remember the date of the letter, but it was one or two days after the confessional statement was recorded. I did not know at that time that the CMM had forwarded the confessional statement to the special court. I had read the rules of the MCOG Act. I know that the DCP is required to send the copy to the investigating officer, but I do not know that he should do this after the CMM forwards the confessional statement to the special court. I do not know whether inward number was given to my letter to the DCP. I will have to see my file whether the office copy of my letter containing the acknowledgment of DCP office is there. It is not true that I had not

sent any such letter and it was not acknowledged by the office of the DCP. The DCP did not tell me that he cannot give me copy of the confessional statement till the CMM forwards the confessional statement in the special court. I did not verify from the CMM court as to when the confession was sent to the special court. It is not true that I and the DCP did not have any knowledge about the MCOG Act and Rules, therefore, we did not comply with any such things. I cannot say whether I had received the copies of all the confessional statements in this case before the CMM had sent them to the special court.

239. I cannot say whether mobiles were common in 2006. I was having mobile in 2006. I do not think that the call details of the mobiles of all the accused were important from the point of finding out the conspiracy. I do not remember whether I came to know that the accused no.4 was using mobile phone. I do not remember whether I had mentioned the ground in 2-3 remand applications that I was to confront the accused with the CDRs.

240. I did not arrest Mumtaz Choudhary. He was arrested in some of the cases by the former investigating officers. I was not

informed by them that some incriminating material was recovered at the consequence of the voluntary statement made by him. I do not remember whether any such panchanama was given to me and I had gone through it. I did not ask any investigating officer, but I came to know from the papers that he had been arrested on suspicion about his involvement in the case, but later on he was discharged as there was no sufficient evidence against him. I am not aware whether his passport, mobile and election identify card were seized by the police at the time of his arrest. No investigating officer informed me about obtaining a call details of his mobile. The technical team may have checked the call detail record, but I have not checked personally.

(Adjourned for recess).

Date : 15/03/12

Special Judge

Resumed on SA after recess

241. (Learned advocate requests that the files of remand applications 76/06, 78/06, 84/06 and 93/06 be shown to the witness. Learned advocate asks the witness to go through the applications). It is true that it is mentioned in all the applications the study of the CDRs used by the accused and others is in progress. I had not sent

any letter to the service providers of the mobile companies for obtaining the CDRs of the mobiles used by the accused. I do not know whether the accused no. 4 was using mobile no. 9867139179 at that time. I do not know whether API Bagwe had recorded any statements in connection with this mobile. I do not remember whether there was a statement of Anita Nathuram Tetgure recorded by API Bagwe in connection with this mobile. I do not know whether this mobile was seized from the accused at the time of his arrest in the LAC case. (Learned advocate asks the witness to go through Ext.1512). In the panchanama of LAC No. 04/06 of the search of the house of the accused, there is mention about finding one Nokia Company mobile with Airtel sim card bearing number 899192051206-4456729. I cannot say whether the above mobile number and this Airtel sim card is in the name of Nathuram Tetgure, whether the CDRs were collected by the technical cell and I am not aware when they received them. I did not take the statements of the persons who had talked with the accused no. 4 on 11/07/06 and with whom he had talked as I was not given the information about them.

Q. You did not feel it necessary to inquire with and take the

statements of all the persons with whom all the accused had talked on 11/07/06?

A. I have already answered that the work of scrutiny of CDRs was done by technical cell. PI Wadke was incharge of that cell. He had informed me that most of the mobiles are not in the name of the accused and there is no useful lead in the CDRs. Secondly, as per the Al-Qaida manual and training given to the accused, they were not supposed to use the mobile phones for operational purposes. This fact was also revealed from their confessional statements. Therefore, no importance was given to the CDRs and I did not feel it necessary to record the statements.

Q. Whether you knew about this at the time of the remand applications mentioned above?

A. I was knowing this fact since the time case came to me.

I did not feel it necessary to mention all these facts in the remand applications. Some of the mobiles were in the name of the accused. It is not true that I am stating the story about the use of mobiles by the accused as I do not want to produce the CDRs in the court. It is not true that it was in the CDRs, the location tower shows that the mobile

of the accused no. 4 was far away from the place of the bomb blasts and there was no communication between him and the other accused *inter se* on 11/07/06.

242. I came to know that Mumtaz Chaudhary had been produced in the court. (Learned advocate asks the witness to go through the station diary entries no. 15 and 19 dated 21/07/06). It is true that the contents of the entry no. 15 shows that PI Deshmukh and staff had left with panchas in pursuance of a voluntary statement made by Mumtaz Ahmed Maqbool Ahmed Chaudhary in connection with CR No. 77/06. The entry no. 19 shows that they returned to the office and had recovered certain articles from the said accused. (At the request of the learned advocate attested true photocopies of the entries are marked as **Exts.2560 and 2561**). It is not true that in the voluntary statement given by the said accused he had disclosed that he, accused Ehtesham and some other accused had committed the blasts, that therefore, I arrested the accused no. 4 in this case. I cannot produce the voluntary statement and panchanama. (Learned advocate calls upon the prosecution to produce the same). Learned SPP submits that if there is any such statement and panchanama he

will check it). It is not true that the contents of the voluntary statement and panchanama were against our story, therefore, they are intentionally suppressed. They were not given to me, therefore, I cannot produce them.

243. I cannot say whether the accused no. 4 was in police custody when I received and read his confessional statement and whether I read it after the accused had retracted giving it. I did not feel it necessary after going through the confessional statement to inquire with the neighbours of the accused no. 6 as to whether unknown persons had visited his house on 8th, 9th and 10/07/06, to inquire with the neighbours of the house of the accused no. 7 Sajid as to whether some Pakistani nationals had stayed at his house during that period or one or two weeks prior to that period. There had been inquiries as to whether persons with big bags had traveled in taxis near the house of the accused no. 3 Faisal. This inquiry was done after 09/10/06 after the accused no. 4 was remanded to judicial custody. I did not feel it necessary to make inquiries with the inmates of the building of the accused no. 3, or with the watchman or shopkeepers as that inquiry had been done already. It is not true that

I did not feel it necessary as the entire story was falsely fabricated by me and my superiors.

244. I do not remember whether I had called Mohd. Alam Sabir Qureshi or Mohd. Alam Gulam Sabir Qureshi to the ATS office. I know that I have recorded the statement of one Mohd. Alam, but I can tell his full name after going through his statement. On going through his statement I say that the full name of the witness is Mohd. Alam Gulam Sabir Qureshi. I do not remember where I had recorded it. I do not remember whether any subordinate officer had informed me that the said witness had come to the office or whether I had called him. I had met him. I cannot tell the time when I met him and the time is not mentioned in the case diary. It will not be correct to say that the accused no. 4 had disclosed during his interrogation that this witness was also involved in the conspiracy. (Learned advocate asks the witness to go through the case diary and state whether the witness had come on his own or he was called). On going through the case diary I say that it is not mentioned in it. We did not come across this witness near the houses of the accused no. 4 at Mira Road, accused no. 3 at Bandra and accused no. 6 at Govandi or at Churchgate.

Witness volunteers – his name was disclosed during the interrogation of the accused no. 3. I cannot say whether the witness was called immediately after his name came to be known. It is not true that in all the cases when the names of witnesses are revealed in the interrogation of an accused, the investigating officer contacts the witness immediately for verification. We contact the witnesses as per our convenience and not at our whims. It will depend on the availability of the witness, when the officer may be able to contact him.

Q. Whether you or any of your subordinate officer on your direction visited the house of this witness between 10/10/06 to 20/10/06?

A. After the name of this witness was disclosed, I must have told the officers to contact this witness and the witness must have been traced on 02/11/06 and on that day I recorded his statement. I did not visit his house and I do not know whether the subordinate officers visited his house. (Learned advocate asks the witness to go through the station diary and case diary and state when he told his subordinate officers about it). There may not be any entry in the case diary about this. It is not true that the ATS officers had forcibly picked

up the witness Mohd. Alam Gulam Sabir Qureshi from his house, had illegally detained him for seven days and had released him on the understanding that he would give false evidence against the accused no. 4 and other accused. It is not true that because of the threats given by me and my superiors he has deposed falsely against the accused no. 4 and other accused.

245. I do not remember whether the railway ticket or railway pass was found with the accused no. 4 at the time of his arrest and during his interrogation. I do not remember whether I interrogated him on this point. I cannot say whether statements of all witnesses concerning the accused no. 4 were recorded after he retracted his confessional statement. It is not true that after the accused retracted his confessional statement I prepared false witnesses to implicate him in the case.

246. I do not remember where SEO Purandare resides. There was no such thing as an idea to select him as SEO. I cannot say how many SEOs reside in the jurisdiction of Bhoiwada and Parel, but there are SEOs residing there. There is no list of local SEOs in the ATS office, but the officers know about the SEOs. I did not feel it

necessary to call for SEOs residing in the local jurisdiction. It is not true that SEO Purandare has conducted various test identification parades for the ATS. I had not explained the role of the individual accused to him. I did not feel it necessary to tell him to select panchas from passersby on the road. The SEOs do not bring panchas with them. Some witnesses had come to my office prior to the arrival of the SEO and some witnesses came later on. SEO Purandare was in my office upto 9.30 a.m. I cannot say whether I was with the SEO from 9.00 a.m. to 9.30 a.m., but I was in my office. The SEO did not give any instructions to the witnesses and the witnesses did not ask him anything in my presence during that period. The SEO did not write the names of the witnesses when I introduced them to him. There is no mention in the case diary or station diary as to which constable had called the panchas. I did not see the panchas. It is not true that I do not know as to how many persons were brought for being selected as panchas. 4-5 persons were brought. I knew that professional panchas should not be used, but there is no bar that a person cannot be used as panch witness for more than once. I cannot say whether the persons whom the SEO did not take as

panchas were professional panchas. I did not ask the panchas who were selected whether they had acted as panch witnesses earlier, whether they are witnesses and whether they have deposed as witness in court in any other case. The SEO was supposed to select the panchas, therefore, I did not feel it necessary to ask them about it.

247. PI Joshi was knowing the accused no. 4 by face. The SEO did not ask me to show the photographs or give the description of the accused as he cannot do so. PI Joshi may have made station diary entry of returning back to the office after reaching SEO Purandare to the prison. (Learned advocate asks the witness to go through the station diary). The eight witnesses came back to the office after the parades at about 4.00-4.30 p.m. PI Joshi had left with the witnesses and the SEO at 9.30 a.m. from the office and had returned with the witnesses and SEO Barve at about 4.00-4.30 p.m. It will not be correct to say that PI Joshi was with the SEO and witnesses from 9.30 a.m. to 4.00-4.30 p.m. SEOs, panchas, witnesses and any other officers other than the jail officers have to make entry at the gate of the prison before entering it. I do not know

whether the police officer who goes inside the prison with the order of the court and meets the superintendent of the prison has to make an entry at the gate while going out of the prison. My staff entered my name while entering the prison and I do not remember whether I signed while going out by putting the time. There is no relaxation for ATS officers from the prison rules and procedure. It will be correct to say that a person has to make an entry in the visitor register maintained by the prison while entering the prison, but I do not know whether entry is required to be made while leaving the prison.

(Adjourned as court time is over).

Date : 15/03/2012

(Y. D. Shinde)
Special Judge

Date : 16/03/12
Resumed on SA

248. I was in the prison on 07/11/06 for about 30-45 minutes. PI Joshi and other staff was also with me. I did not go to the office of the superintendent. I did not see any of my subordinate officers going to that office. I cannot say whether Supdt., Swati Sathe was present in her cabin. One police officer is sufficient to show the court order to the jail staff. There is no special reason for me to personally go to the prison on that day. Witness volunteers – the investigating officer goes to the prison as a routine course. More than one officer had gone to the prison on that day as SEOs, panchas and witnesses had gone in two batches, one with PI Joshi and one with me. The witnesses were not with me when I was in the prison as I was sitting in the chamber of one of the jailors. It will not be correct to suggest that I took 30-45 minutes to show the court order to the jail authorities. The prison officers did not tell me whether the accused in this case are lodged in general barracks or special cells or anda barrack and I did not ask them. I cannot say exactly whether I was in the prison from 12.15 to 12.45 p.m. It is not true that when I was in

the prison the accused no. 4 was brought before me, before the jailor and before the eight witnesses prior to the identification parade. I did not introduce SEO Barve to SEO Purandare in the prison. I introduced the witnesses to SEO Barve in the prison. It is not true that both SEOs had met each other in front of me in the prison.

249. The witnesses had returned to my office directly from the prison. I did not come to know when I recorded further statements of witnesses about the timings during which the parades were held. The SEOs and witnesses did not tell me how many times and at what times the accused no. 4 was made to take part in the identification parade. SEO Purandare did not tell me that he had prepared short notes, when he was taking the identification parades. It is not true that SEO Purandare had come to my office with the witnesses after the parade, that he prepared the memorandum of the test identification parade on the basis of his short notes and as per my instructions in my office.

250. I had met witness Amar Khan Sardar Khan. He was associated with SIMI, but I do not know whether he was its member. I was not knowing that there was a case pending against him under

the Unlawful Activities (Prevention)Act on the allegation that he belongs to SIMI. PC Ambekar and DCP Nawal Bajaj did not tell me that he is a member of SIMI. I had not heard the name of Ajmeri Shaikh prior to meeting him. I was not knowing that he had given statement in the Crime Branch, Unit-VII in connection with the Zaveri Bazar and Gateway of India bomb blasts. I have not come to know before I gave evidence that he has given statements in three other cases of Unlawful Activities (Prevention) Act concerning SIMI. I cannot say whether Tanveer, Faisal, Majid and Ehtesham are common names in Muslims. I have read the statement of Amar Khan some time after it was recorded. It is not true that he as well as Ajmeri Shaikh were the stock witnesses of the Crime Branch and they are now the stock witnesses of the ATS.

251. I have given evidence before the tribunal once, i.e., in the year 2008. I had filed an affidavit giving all the required details about SIMI. I cannot say whether the tribunal did not believe my affidavit and the material that I submitted before the tribunal. It will not be correct to say that I gave evidence before the tribunal in the year 2010. The presiding officer of tribunal before whom I filed my affidavit

and gave evidence was a lady. It may be that her name was Justice Geeta Mittal. I did not give evidence before Justice Sanjeev Khanna. It is not true that I gave evidence before the tribunal twice. I cannot say whether the tribunal did not believe my evidence.

252. I do not remember whether the accused no. 6 had complained to the special court on 09/11/06 that the ATS officers are pressurizing him to become an approver, give a confessional statement and to implicate the accused no. 4 in the bomb blasts case. It is not true that the accused no. 6 was remanded to judicial custody on 09/11/06. He was remanded to judicial custody on 26/10/06. It may be that he was produced before the special court for the first time after being remanded to judicial custody. The order of the court on 24/10/06 to produce the accused no. 7 at 1200 hours on 25/10/06 was important than recording his confessional statement.

Q. Whether you or any of your officers had informed the court at 11.00 a.m. on 25/10/06 that the work of recording of the confessional statement of the accused no. 7 was going on, therefore, we are unable to produce him?

A. The accused no. 7 had been sent to the DCP for recording of his

confessional statement in the morning of 24/10/06, i.e., before the order of the court and he was still with the DCP on 25/10/06 and this fact was brought to the notice of the court.

I did not inform DCP Mohite about the order of the court in the evening of 24/10/06, but I informed him in the morning of 25/10/06.

Q. Whether you had informed the court at 2.00 p.m. about the work of recording the confessional statement of the accused no.7 was going on?

A. I do not remember whether the court was again informed at 2.00 p.m.

253. It is in the Al-Qaida manual to make false allegations against police officers and courts. I had inquired with the accused no. 6 before he was remanded to judicial custody. He was arrested from Deonar. I do not remember whether he was arrested from any house or from the road, etc. I do not know whether he had come to Nagpada office before his arrest. It is not true that the location tower of the mobile of the accused no. 6 showed that he was near Nagpada office from 9th to 29/09/06 as I did not see the CDRs. It is not true that we were forcing the accused no. 6 to become an approver, that he

declined and therefore, I implicated him in this case and created witnesses Mohd. Alam Gulam Sabir Qureshi, Vishal Kishore Parmar and Amar Khan Sardar Khan against the accused no.4.

(Adjourned for recess)

Date : 16/03/12

Special Judge

Resumed on SA after recess

254. I had seen the FIR of the case at Khandwa against the accused no. 4. I had verified from an officer of that police station as to whether the accused is an accused in that case, when he had come to take his custody. I am not aware whether he was arrested in that case. I did not inform that officer that I had arrested the accused in this case, but our team had gone to Khandwa and they must have informed them. The officer from Khandwa had applied to this court to get the custody of the accused. I do not know whether the custody of the accused was handed over. (Learned advocate asks the witness to go through Ext. 1513). The name of the accused no. 4 does not figure in the list of accused in this document. It is not true that on my say the Khandwa police had filed the application in this court for getting his custody. I do not know whether the court had granted

custody, but they did not take the custody of the accused as his name was not in the list of wanted accused. It will not be correct to suggest that I did not conduct a fair investigation and did not place all the material disclosed during the investigation before the court. I did not write letters to the railway authorities or bus service authorities or public transport authorities or private tours and travels offices or civil aviation authorities to get information about the wanted Pakistani accused having traveled during the relevant period. I did not issue letter or summons to anyone in connection with the return of the Pakistani nationals. I did not call for information from mobile service providers as to whether any sim cards have been issued in the names of the Pakistani nationals. I did not have information about phone calls received on the mobiles of the accused no. 4 and 7 before 11/07/06 from public phones, therefore, there was no question of calling the public phone operators and inquiring with them.

Q. Whether from the point of investigation was it not necessary to find out by going through the call details of the accused no. 4 and 7 about the calls that they had received from public phones prior to 11/07/06?

A. This work was assigned to the technical team and they might have verified it, but I was not informed about it.

Since the officers informed me that there are no useful leads and for other reasons already stated, I did not think it necessary as an investigating officer to call for report about the CDRs. The officer did not inform me in writing. I cannot say whether PI Wadke is still in the ATS or in the police department. It is not true that PI Wadke informed me that the location towers of the calls on the mobiles of all the accused before their arrest show their presence near the ATS office, therefore, I have suppressed the CDRs and PI Wadke is not examined as a witness. It is not true that I am suppressing the CDRs for the reason that it will come on record that all the accused were illegally detained by the ATS officers before their arrest.

255. I had recorded the statement of PI Khandekar (PW-174) on 25/09/06, it is the same now shown to me, it bears my signature and its contents are correct. He had stated to me that the crime was registered on the FIR of PSI Nagesh Dhone, that about 28 persons had died. He had not stated that the 28 dead persons included passengers in that bogie and persons on platform no. 3. He

had stated that he came to know that about 100 persons had been injured, but had not stated that he then went and met Suresh Suvarna and inquired with him whether he had any more information, that he told me that he did not have any more information than what he had given in his statement, that during the period from 12/07/06 to 21/07/06, he and the officers in his team contacted about 50-60 injured persons in the hospitals with a view to obtain information, if any, that there were four office copies of letters forwarding the seized articles to the FSL, that one was of 12/07/06 and three were of 15/07/06, that he and API Wadmare decided to do the field work and PSI Patil was given the work of taking the statements of the injured and to give them copies of their statements or letters about they being injured for the purpose of compensation claims, that he had gone to the Borivali Railway Police Station during the field work and at that time he took statements of some injured who had come there, that PI Rathod was the investigating officer of CR No. 77/06 of Mumbai Central Railway Police Station, that PI Joshi, PI Kadam, PI Iqbal Shaikh, PI Agarwal and PI Wadhankar were the investigating officers of the other crimes, that ACP Tawde used to sit in the

Bhoiwada office as a senior supervisory officer, that PI Rathod arrested the first accused Kamal Ansari in his crime on 20/07/06, that he also arrested Faisal Shaikh, Ehtesham Siddiqui, Tanveer Ansari, Suhail Shaikh, Zameer Ahmed, Muzzammil Shaikh and two more accused, who were discharged later on and whose names he does not remember, that PI Rathod informed me that 500 gms black powder was seized from the house of Kamal Ahmed Ansari in Madhubani, Bihar and that the FSL report of that powder was received saying that it was RDX powder, that he also informed me that Kamal Ahmed Ansari had gone to Pakistan and had taken militancy training from Muzzafarabad in Pakistan occupied Kashmir, that he also informed him that when he took the search of house of the accused Faisal in Bandra (W), he had found two black spots and he had taken swabs of that spots, that he had also seized 26200 Saudi Riyals from his house, that he inquired with him as to whether the accused had given any explanation about the money, at that time PI Rathod told him that the accused could not give any satisfactory explanation as he did not have much source of income, that however, he told him that it was revealed in the investigation that the accused

had received the said Saudi Riyals from Azam Chima, commander of LeT, Pakistan via Rizwan Dawrey from Saudi Arabia, that he had also found books of SIMI, which was a banned organization, that he gave him information that he had recovered bottles of Sulfuric Acid, Hydrogen Peroxide and Acetone from the locker of the Sabu Siddhiqui hospital at the instance of the accused Dr. Tanveer Ansari, that he informed him that he had found literature connected with SIMI at the houses of accused Muzzammil, Faisal, Zameer, Suhail and Tanveer Ansari, that PI Dinesh Ahir of ATS had recovered literature connected with SIMI from the accused Ehtesham in an LAC case, that PI Rathod had recovered maps from the accused showing the marked route from India to Pakistan via Iran, that he had also found maps of Mumbai wherein some important and strategic points had been marked, that he also came to know that the accused Faisal Shaikh had visited Pakistan twice and had taken militancy training there and had sent Dr. Tanveer Ansari, Muzzamil Shaikh, Suhail Shaikh and Zameer for militancy training there and that he was being funded by Azam Chima for sending Muslim youth for training, that he came to know from PI Rathod and during his interaction with the

accused that the literature found with them contained the information as to how the democracy in India can be replaced by a Muslim Government, to create disharmony in different ways in the Indian society and how to do it, that he came to know that the ideology and object of SIMI was behind the railway blasts and it was to create public opinion against the government, so that the government would topple, that this fell within the meaning of promoting insurgency, that during the interrogation of the accused Tanveer Ansari and Ehtesham when they were in the custody of PI Agarwal and PI Kadam respectively, the officers had received information that one person by name Asif Khan Bashir Khan is an active member of SIMI and is connected with the railway blasts, that at the same time from his sources he confirmed that he had played a vital role in the Borivali blast, that he had escorted the accused Faisal Shaikh and Ehtesham for their scientific tests to Bangalore, that when he had the occasion of interacting with Ehtesham during the travel, he obtained some information about the involvement of Asif Khan Bashir Khan, that he gave the information that he had received from his sources to DCP Bajaj, that he came to know that Asif Bashir Khan is an active

member of the SIMI and there were some cases filed against him at Jalgaon, that he told ACP Tawde that he wanted information about the cases, that ACP Tawde sent a letter and then deputed an officer to collect the information. He had stated in his statement dated 24/09/06 that he got information that crime No. 178/99 was registered against Asif Bashir Khan for the offence u/s 153A(1) of the Indian Penal Code with the MIDC Police Station, Jalgaon, that he was released on bail in that case, but as he did not attend the court subsequently, he was declared as a proclaimed offender, that he also came to know that CR No. 103/01 was registered against him with the same police station for the offences u/s 153A(1) of the IPC r/w sections 4 and 5 of the Explosives Substance Act and section 120B of the IPC, that he had committed that offence though he was released on bail in the previous crime, that he was not arrested in this case, but the chargesheet was filed showing him as wanted accused, that other accused in this crime were tried and sentences of three to ten years had been imposed on them.

256. I do not know whether the ATS had kept the accused no. 5 to 8 under surveillance for many days before their arrest. I do

not remember whether I had so written it in the remand applications. (Learned advocate asks the witness to go through the application of RA No. 62/06). It is correctly mentioned in paragraph 12 of the application that a prolonged surveillance was therefore maintained on their activities. I cannot tell the names of all the officers who had interrogated the accused no.7 from the date of his arrest till he was remanded to judicial custody. (Learned advocate asks the witness to go through the case diary and station diary and state about it). As per the case diary dated 29/09/06 I had asked PI Ahir and PSI Shailesh Gaikwad to inquire with the accused. As per the case diary dated 23/10/06 I had asked PI Deshmukh and PI Tonpi to inquire with the accused. I may have asked them and other officers also in between to interrogate the accused, but it is not mentioned in the case diaries of other dates. No entries used to be taken in the station diary or case diary about the visits of Jt. CP, ATS.

Q. Whether entries are made in the log books of vehicles when the ACPs, DCPs, Jt. CP and Addl. CP of the ATS used to go to ATS units from the head office at Nagpada?

A. Log books are maintained for all the police vehicles for

administrative purposes to see that they are used for official work and not misused. A vehicle assigned to an officer may be used by some other officer at any time. Entries are made in the log books about the vehicles used by these officers while visiting ATS units. I do not know whether Jt. CP Raghuvanshi visited Kalachowki office on 22/10/06. It is not true that on 22/10/06 Jt. CP Raghuvanshi, ACP Dhavale, PI Tajne, PI Khanvilkar, PSI Shailesh Gaikwad, PSI Sunil Mane, PSI Sachin Kadam, PSI Kolhatkar, PC-Shailesh Mane, ASI Awari and other officers had tortured the accused no. 7 at Kalachowki unit and at that time they had obtained his signatures on blank papers, that therefore, there is no station diary or case diary in respect of the accused no. 7. It is not true that the panchanama that is produced to day was prepared yesterday, that I have not produced the original panchanama, that the paper of the panchanama and the ink of the panchanama is new. It is not true that I did not conduct a fair investigation to nab the real culprits who caused the bomb blasts, that I conducted a biased investigation to implicate the accused, that no accused was member of SIMI or had any concerned with it, that I and my officers have shown photographs of the accused to the

witnesses who took part in the identification parade, that the accused no. 4 was illegally detained for four days prior to his arrest in the ATS office, that no accused expressed his desire to make a confessional statement and had not given a voluntary confessional statement, that the confessional statements are false and prepared by me and my superior officers, that I falsely implicated all the accused.

Cross-examination by Adv Shetty for A3, 8, 9, 11 and 12

257. My team had recorded the statements of wife and brother of the accused no.6. I must have seen those statements. (Learned advocate asks the witness to go through the statements in the volume of additional documents). There are statements of Saidunissa, wife and Hazrat Ali, brother of the accused. There are statements of Mohd. Naseem and Asgar Ali Kurshidali, neighbours of the accused. I did not call them for interrogation. The statements are seen to be recorded by PSI Kamble from ATS as per my direction on 28/10/06. The statements are filed with the chargesheet and they are cited as witnesses. PSI Kamble must have also been cited as witness. I do not know whether he and the four witnesses have been summoned and had examined. I have not inquired with my

subordinates whether summons have been collected for the four witnesses. I think PSI Kamble is still in the ATS. I am not aware whether the witnesses were called to the office for recording their statements and for how many days. I do not remember the date on which PSI Kamble handed over the statements to me. On seeing those statements I realized that the statements of relatives and neighbours of the accused no. 6 had been recorded. I cannot tell the date on which for the first time I gave directions to record their statements.

Q. Are you going to examine the police officer and the four witnesses?

A. It is the prerogative of the prosecutor.

I have not given any instructions to the prosecution about it.

(Adjourned as court time is over).

Date : 16/03/2012

(Y. D. Shinde)
Special Judge

Date : 19/03/12
Resumed on SA

258. I did not call the relatives of the accused no. 6 to the office after their statements were recorded. I did not instruct PSI Kamble to call them again after I went through their statements for the purpose of recording their further statements. It is not true that PSI Kamble and those four witnesses are not examined as their evidence will destroy our case.

259. I did not peruse the entire papers of investigation after I joined the ATS. PI Rathod arrested accused no. 3 and 9 on 27/07/06. I think that they were handed over by DCB, CID, Unit-II. I have no idea when the Unit-II officers detained them and from where. I did not verify it from the Crime Branch through out my investigation. It is true that the accused no. 9 was working in the Oracle company at Bangalore in July 2006. I do not know whether he was picked up from Bangalore or from Mumbai. I did not inquire with the Crime Branch as to in which case they had detained the two accused. I do not know whether they were detained by the Crime Branch in any case or not. I do not know which officer had brought them and detained them. I did

not feel it necessary to find out about it and to record the statement of the officer.

260. PSI Vilas Datir was deputed to the ATS at that time. He was one of the subordinate officers assisting me in the investigation of the present case. I did not record his statement. No one recorded his statement. I think that I have not recorded his statement and it must not have been filed with the chargesheet. I had directed him to go to Bangalore for the purpose of investigation. I do not remember the date on which he had gone to Bangalore. He had reported to me after returning and of having recorded statements of witnesses relating to the employment of the accused no. 9. I cannot say the exact number, but he must have recorded the statements of 5-6 witnesses. I had seen those statements, but I did not read them carefully. I must have been busy at that time, therefore, I may have not gone through the statements carefully. PSI Datir briefed me about the investigation that he done at Bangalore. I do not remember whether I could gather from his briefing and on going through the statements that the accused no. 9 was arrested from Bangalore. PSI Datir did not tell me that the accused was arrested at Bangalore on

22/07/06 by the Crime Branch, Unit-II, Mumbai. It did not come to my notice from the briefing and the statements that the accused was arrested on 22/07/06. I cannot tell whether all the statements are dated 09/11/06. The statements are filed in the chargesheet and the persons are cited as witnesses. PSI Vilas Datir is also cited as a witness.

Q. The prosecution does not want to examine PSI Datir and those witnesses?

A. The SPP will decide about this.

Q. Are PSI Datir and those witnesses relevant witnesses in this case or not?

A. They are relevant in connection with the employment of the accused, which was secured on the basis of forged educational certificates and for that a separate case is registered at Bangalore, therefore, they are not much relevant in this case.

I cannot tell the date when the case was registered at Bangalore. Employer of the accused no. 9 is the complainant in that case. Our office had sent the report to the Bangalore City Police prior to the investigation coming to me. I think that DCP Bajaj had sent the letter,

but I do not remember the date. I cannot tell whether it was before the date of the prior approval. I think that the letter was sent before the investigation came to me. I do not remember whether I sent any report to Bangalore after PSI Datir came back. I do not think that he submitted any report to the Bangalore City Police. I do not remember whether any report was sent to the Bangalore City Police after PSI Datir returned from Bangalore and handed over the statements to me. I do not remember whether no report was sent as I did not feel it necessary. PSI Datir was assisting me, therefore, I did not record his statement. I had not recorded the statements of any of the assisting investigating officers. It is not true that the accused no. 9 was arrested on 22/07/06 from Bangalore and detained illegally upto 27/07/06 and that is the reason why I do not want to examine PSI Datir and those witnesses from Oracle Company of Bangalore.

261. I cannot say whether the accused no. 3 was picked up from his residence on 21/07/06. I did not record the statement of the father of the accused no. 3 and 9, but his statement is recorded by some officer. I do not remember the name of the officer and on what date he had recorded it. Father of the said accused is a resident of

Naya Nagar, Mira Road. I did not visit his house. Statement of cousin sister of the said accused was recorded before the investigation came to me. I cannot tell the date on which it was recorded. I had seen the statement of father of the accused. I do not remember whether the statement of any other family member of the accused has been recorded. The statements of the father and the cousin sister of the accused are filed with the chargesheet and they are cited as witnesses. Statement of one Faisal, a childhood friend of the accused no.3, was recorded. I do not remember who recorded it and when. I think that it was recorded before the investigation came to me. I had seen that statement after the investigation came to me and the papers were handed over to me. I received the case papers of CR No. 156/06 on 25/09/06 and of other crimes on 13th and 14/10/06. I was one of the supervising officers from 28/07/06 upto 24/09/06. Four ACPs were supervising the investigation during this period. ACP Bhatt was the senior most, then ACP Shengal, then I and then ACP Tawde. No particular crime was assigned to any individual ACP. All the ACPs were collectively supervising the investigation of all the seven crimes, but ACP Tawde was supervising the day-to-day

investigation, ACP Bhat was looking after scrutiny of the papers and I was looking after field work, interrogation and guiding the officers. ACP Shengal initially supervised the day-to-day investigation and subsequently used to guide the investigating officers after ACP Tawde started supervising the day-to-day investigation. ACPs Tawde and Shengal have retired. ACP Shengal had served as Sr. PI of Bandra Police Station, which is in Bandra (W), but I do not know whether it is on the Hill Road. It is near the Lucky Restaurant Junction. The investigating officers were not producing the papers of investigation before me on day-to-day basis when I was the supervising officer. They were not required to place the papers of investigation before any ACP on day-to-day basis. All papers of investigation were not placed before me during the period from 28/07/06 to 24/09/06, but I had seen some papers. I had seen FIRs, panchanamas of scene of offences, some other panchanamas and statements of some witnesses of all seven crimes. In short, I had seen some papers of investigation of all the seven crimes. I can say that ACP Tawde was perusing all the papers of investigation of all the seven crimes, but I cannot say about ACP Shengal and ACP Bhatt. Out of the

panchanamas and statements that I perused, I cannot tell the nature of the panchnamas and the names of the witnesses and the dates on which they were recorded. I do not think that I have put my remark of having seen all the documents with my signature. I may have done so on some documents. Witness volunteers – I have not done so on the documents of the investigation that was made before the investigation came to me, but I may have put my signature and the remark seen or verified on some of those documents after the investigation came to me and when I perused them. I did not call those persons after the papers came to me for verifying their statements. I do not remember whether I have read the statement of witness Faisal. I do not know who had recorded his statement. That statement must be a part of the chargesheet and he might have been cited as a witness, but I will have to check the chargesheet to say exactly. (Learned advocate asks the witness to go through the chargesheet). After going through the chargesheet I say that person by name Shah Faisal Khurshid Alam Shaikh is cited as a witness and his statement was recorded on 03/08/06 by PI Rathod. I have put my endorsement under my signature. I cannot tell on what date I put it,

but it was after the investigation came to me. I do not remember whether on going through the contents of his statement I realized that he was taken in custody by the Crime Branch at 2.00 a.m. on 21/07/06 when he came to Mumbai from UP, whether on the same day police went with him to the house of the accused no. 3 and picked him up and took him to the Crime Branch. I cannot say whether he is a relevant witness and therefore, he is cited as a witness, as I do not remember the contents of the statement. I had gone through all the statements and documents that were recorded during my investigation and I had perused most of the documents of the investigation that was done prior to me. Perused means going through the statement.

Q. Is it necessary to submit all the documents collected during the investigation?

A. It is necessary to submit all the documents relied upon by the prosecution.

Q. Therefore, it is necessary to go through all the papers of investigation and apply the mind at the time of the filing the chargesheet?

A. It is necessary to go through all the documents, but not necessarily by me.

Normally, statements of witnesses and documents that are not material are not filed with the chargesheet. All the officers assisted me in the process of filing of the chargesheet. All the papers of investigation of all the crimes were with me when I filed the chargesheet. I and my team had gone through all the documents. According to me all the statements of witnesses and the panchanamas that were filed with the chargesheet were filed because they were relevant. The witness Shah Faisal Khurshid Alam Shaikh may also be a relevant witness, therefore, his statement is filed and he cited as a witness. I have not inquired with any subordinate officer whether this witness has been examined or not. I am not aware whether summons is issued to him or not. I do not know whether the prosecutor is going to examine him or not. Since I do not remember the contents of the statement, I cannot answer the question whether I am in a position to contradict you, if you say that the accused no. 3 was arrested on 21/07/06. It is not true that I and my team are purposely avoiding to examine that witness as it will be

revealed in his evidence that the accused was arrested on 21/07/06. I think I have seen the memo sent by the Crime Branch regarding handing over the accused no. 3 and 9. I cannot say unless I see the documents as to on what date the said accused were taken in custody. I think that those memos are filed with the chargesheet. (Learned advocate asks the witness to go through the chargesheet and state about it).

Q. Neither the memo nor the copies of the station diaries disclosed the dates of the arrests of the accused no. 3 and 9?

A. The memos and the copies of the station diary do not show that the Crime Branch had arrested the accused, however, their contents disclose that the accused were picked up, but the date is not mentioned.

I did not feel it necessary to record the statement of any officer of the Crime Branch Unit. Crime Branch did not give me any information as to when the accused no. 3 and 9 were picked up, from where they picked up and by which officer. It is not true that the accused no. 3 was arrested from his residence on 21/07/06 on being pointed out by the witness Shah Fasal, that statement of Shah Faisal discloses this

fact, therefore, he is not examined. I did not find it necessary to call the said witness and interrogate him in this case. I do not know whether the said Faisal Shah is from Lucknow. I do not know whether he was to come to Mumbai from Lucknow on 04/07/06 by railway, but he canceled the tickets, that he had booked tickets for 11/07/06, but he canceled them also, that ultimately he started from Lucknow on 19/07/06 and arrived at Mumbai at 2.00 a.m. on 21/07/06 where he was picked up by Crime Branch, that he was inquired with and then he showed the residence of accused no. 3. I cannot say whether all these facts are disclosed in the statement of this witness recorded on 03/08/06 as I have not gone through it. It is not true that I am feigning ignorance as the contents of the statements are not favourable to the prosecution.

(Adjourned for recess).

Date : 19/03/12

Special Judge

Resumed on SA after recess

262. I did not call father of the accused no. 3 and 9 or any of his family members for inquiry after 28/07/06. I did not record the statement of their father. I have heard that he has made complaints to

various authorities including the Prime Minister of India about the arrest of accused no. 3 and 9 and subsequent torture and ill-treatment by the police. I have not seen the complaints. I do not remember whether the union or state government or my superior officers including the Commissioner of Police had called my report in this connection and whether I had sent any explanation about it. I started attending the remand work since 25/09/06. I attended the court on all dates of police custody remands and on most of the dates for the judicial custody remands. I cannot say whether I used to be in the court before 11.00 a.m. on all the dates. There may be station diary entries during the police custody remand about leaving the office with the accused and returning back. I did not attend the remand work from 28/07/06 to 24/09/06. I attended remand work on 25th, 28th, 29th, 30/09/06, 4th and 09/10/06. I cannot say for sure whether there was remand date on 18/10/06 and 03/11/06. There was remand date on 20/10/06. (Learned advocate asks the witness to go through the record and state at what times he had gone for remand work and returned on the above three dates). On going through the station diary I say that there is no entry in the station

diary about it. On going through the case diary I say that there was no remand date on 18/10/06. However, there were judicial custody remands on 20/10/06 and 03/11/06. The timings of going for that work and coming back are not mentioned. There was remand date on 09/11/06. I do not remember the exact time or even the approximate time upto which I was in the court on that day. It is not true that there is no mention about the timings of going for and coming back for the remand work. Such timings must have been mentioned in the station diary about the police custody remand, but not about the judicial custody remand, as we do not take the accused with us for the judicial custody remand. Station diaries are maintained for the movements of the police officers, amongst other things. It is not always necessary to mention the timings of officers coming on duty and their movements upto the time they leave the duty. Station diary entries are made generally for important events and for important movements of the officers. Police manual contains the provision for maintaining the station diary. It is mandatory for all the police stations. The ATS maintains the station diary. I do not remember all the detailed provisions about maintaining the case diary, but important

events, important incidents, registration of the offences, arrest of accused, movements of the officers, etc., are written in the statement. I cannot specify when a station diary is not required to be made about the movement of an officer, but it is not necessary if he informs his superior about his movement more particularly in special branches like Crime Branch, ATS. There is no separate manual or special rules in the manual for special branches.

Q. Whether there is anything in the police manual that the rules and regulations are not mandatory, but are optional?

A. The spirit behind the rules has to be seen. Practical approach has to be taken. Witness volunteers -the ATS has four units, but only one station diary. This station diary was maintained at Kalachowki office. Nagpada, Juhu and Vikroli were the other units. When I was there these units did not maintain station diary. PI Ahir was the head of the Nagpada Unit, PI Sunil Deshmukh was the head of Juhu Unit and PI Khaire was the head of Vikhroli Unit. Record of movements of the officers of all the units was maintained at Kalachowki. The station diaries were not maintained at Nagpada, Juhu and Vikroli units as the ATS was declared to be a police station

having its office at Kalachowki. I am not aware about any directions given by Commissioner of Police or any other superior officers about maintaining record of movements of the officers and the other three units at Kalachowki only. The ATS was formed in 2004. I do not know whether the above four units were formed at that time itself. There was a notification under the Cr. P. C. for formation of the ATS. The ATS is functioning as as per the provisions of the Cr. P. C and Police Manual. I have gone through the notification. The units were not formed under the notification. I do not remember whether any special guidelines were issued along with the notification as to how the ATS would function. Juhu Unit is about 15-20 kms and Vikroli Unit is about 20 kms from the Kalachowki office. Juhu Unit is also known as Chandanchowki. I cannot tell the exact duration of the remand work. I remember that we were required to spend one day on one occasion when we were sent from this court to Sewree court for the remand. It is not true that the remand work used to continue for a long time as there were thirteen accused. The remand work used to be finished in one or two hours. I remember that when the accused were remanded to judicial custody, they had made allegations about torture and

assault during police custody. Almost all the accused had made the complaint. The accused no. 1 to 4 and 9 to 11 were in police custody from the date of their arrests till 09/10/06, accused no. 5 to 8 and 12 till 26/10/06 and accused no. 13 till 09/10/06. When I took over the investigation accused no. 1 to 4 and 9 to 11 were in police custody. Remaining were arrested later on. The accused no. 4 was in police custody in CR No. 87/06 and the others were in police custody in CR No. 59/06 when I took over the investigation. I think that I asked for the judicial custody on 09th, 26/10/06 and 01/11/06.

263. I do not remember whether I had seen the representation made by the father of the accused no. 3 and 9 to the Prime Minister. I am not aware whether the representation had gone through member of parliament Abu Azmi. It is not true that the accused no. 3 and 9 were subjected to ill-treatment and tortured during police custody. It is not true that their father was called to the ATS office on several occasions and was illegally detained and therefore he lodged complaints to various authorities including the Prime Minister. I did not send the accused no. 3 and 9 to the Crime Branch, Unit – II during their police custody upto 09/10/06. I am not

aware whether any of my subordinate had sent them, but definitely not after the investigation came to me. PC Ambekar was not attached to the ATS. He was attached to the unit of PI Salaskar, i.e., Anti-Dacoity and Robbery Cell. The office was situated at Kurla. After the investigation came to me, PI Salaskar was not part of the ATS team, but I used to take his assistance as and when required with the permission of the superiors. He was sent to Kolkata to arrest the accused Majid. He was sent as he was more resourceful and not because there was shortage of officers in the ATS. The other occasion of taking his assistance was on 04/10/06 for taking accused no. 11 to a DCP for recording his confessional statement. On this occasion his assistance was taken not because he is more resourceful. Bhabha Hospital is near PI Salaskar's office in Kurla. I cannot say whether there was a shortage of officers on that day. It is not true that it is because he was more powerful than other officers in dealing with accused. It is true that after the blasts took place efficient policemen were deputed to the ATS. I cannot say whether the name of PI Salaskar was in the list of the deputed officers. Teams of officers were not formed after I joined the ATS, they had been formed earlier

and officers were being posted on deputation even thereafter. I was not aware whether there was any directions of taking him in a team of the ATS. I utilized his services on the two occasions on my own after informing my superiors. I did not ask for written permission and they did not give any written direction.

264. My superior officer had got the information that the accused no. 5 is available in West Bengal. I think it was Jt. CP Jaijeet Singh, who had got the information. He informed me about the information as I was the investigating officer. There was no remand on 07/10/06. (Learned advocate asks the witness to go through his record and state whether there was remand on 07/10/06). On going through the case diary I say that there was no remand on 07/10/06. It is not true that the accused no. 3 and 9 had retracted their confessional statements on 07/10/06. I was present in the court when the accused were produced on 09/10/06. I cannot tell the exact time when I reached the court with the accused on that day and at what time I left the court. It is true that the accused no. 3 and 9 were produced before this court on 09/10/06 for the first time after recording their confessional statements. Same is the case about the

accused no. 1, 2, 4, 10 and 11. I did not come to know on that day that on behalf of the accused no. 3, 9 and 11, retraction of their confessional statements was filed on 07/10/06. It is true that advocate Shahid Azmi appeared for some of the accused during the period of remand. I think that accused no. 1 to 4 and 9 to 11 had filed separate applications on 09/10/06 for retracting their confessional statements. I do not remember whether the court had separately recorded their statements of retraction. I do not remember whether I had obtained copy of the roznama dated 09/10/06. Copy of roznama dated 07/10/06 was not obtained. I cannot tell the specific date of receiving the confessional statement of the accused no. 3. The accused no. 1 and 3 were the first lot of accused that were sent for recording of the confessional statement on 03/10/06, therefore, I cannot say whose confessional statement was first recorded. I cannot tell as to copy of whose confessional statement I received first. I received copies of all the confessional statements from the concerned DCPs. I may have received the copies 2-3 days after the statements were recorded. I cannot say when the envelopes containing the confessional statements were opened in the court. We have submitted our reply to

the retractions, but I do not remember whether it was on the same day or thereafter. I must have submitted the replies under my signature through the SPP. Replies were not signed by the concerned DCPs as there was no question of filing such reply. I do not remember whether the accused no. 1, 3 and 11 have filed applications on 03/11/06 retracting their confessional statements. I had appeared before the court for the remand date on 09/11/06. I remember that the accused no. 3, 8, 9, 11 and 12 had made complaints of ill-treatment and torture. I do not remember whether they were sent for medical checkup and the report was called for on the next day. (Learned advocate asks the witness to go through the roznama dated 03/11/06 of RA No. 78/06). It is true that it is mentioned in the noting that I am present. (Learned advocate asks the witness to go through the roznama dated 09/11/06 of RA No. 84/06). It is true that it is mentioned in the noting that I am present. (Adjourned at 5.10 p.m. at the request of the learned advocate).

Date : 19/03/2012

(Y. D. Shinde)
Special Judge

Date : 20/03/12
Resumed on SA

265. The accused no. 3 was taken to the KEM Hospital for routine checkup most of the times. I am not aware whether he was sent to the Crime Branch, Unit-II and for how long he was there. I saw the station diary entry, Ext.2466, for the first time during my evidence. I cannot say in whose handwriting it is. It is true that false entries are not made in the station diaries. The contents of the entry show that the accused no. 3 was sent to the Crime Branch, Unit-II and he must have been sent. No one had asked my permission to do so as I was not the investigating officer at that time. Same is the case about the accused no. 4 as per the entry Ext.2464. ACP Tawde was supervising the investigations by the seven investigating officers, hence, he was called as the chief investigating officer. (Learned advocate asks the witness to go through Exts. 2464 and 2465). The contents of the entry Ext. 2464 show that on the letter of PI Hargude of Unit-II of the Crime Branch, PI Dabhade had taken the custody of the accused no. 4 with the permission of the ACP, who was the chief investigating officer of the ATS. The contents of the entry Ext. 2465

show that the accused no. 4 was given in the custody of PI Dabhade of Unit-II of the Crime Branch. The contents of entry Ext. 2464 show that the accused no. 4 was handed over to PI Dabhade at 2045 hours on 24/08/06 and the contents of entry Ext. 2465 show that he was brought back at 0745 hours on 25/08/06.

Q. It shows that the accused was detained in the Crime Branch for the entire night?

A. It shows that the accused was with PI Dabhade for the entire night.

I cannot say as I was not aware that he was taken as to when he was brought back after being taken at 3.20 p.m. on 25/08/06. (Learned advocate asks the witness to go through the subsequent station diary and tell about it). There is no station diary entry on 25/08/06, 26/08/06 or 27/08/06 about the accused being brought back. During that time the ATS was doing the investigation of other cases also. I think that CR No. 04/06 pertains to the Aurangabad Arms Haul Case. I do not know whether PI Tajne was one of the investigating officer of that case. PI Sunil Deshmukh and ACP Dhavale were investigating it. I do not know whether live detonators

were seized in that case. (Learned advocate asks the witness to go through Ext. 2468). As per the entry the accused no. 3 was handed over by PI Joshi to API Kamble of the Crime Branch, Unit-II at around 1530 hours, as per the instructions of the superiors. I cannot say which case was being investigated at that time by the Crime Branch, Unit-II. (Learned advocate asks the witness to go through the station diary entries from 28/08/06 to 30/08/06 and state whether there is any entry about accused no. 3 being brought back). There is no such entry on these days. There is no entry on these days about any type of investigation regarding the accused no. 3 even upto 01/09/06. I cannot say for what purpose the accused no. 3 and 4 were taken to the Crime Branch. As there is no entry, I cannot say upto what day they were detained there. As I was not knowing about all this, there was no question of I or my subordinate officer recording the statement of any officer of the Crime Branch in this connection.

266. I had perused the complaints lodged by each and every accused before this court on 09/11/06. I cannot say whether I studied them in detail. We filed the reply containing the proper answers to the allegations. All the replies must have been signed by

me and must have been filed by taking advice of the SPP. I cannot say whether we filed it after 15 days. All the accused were kept in the Bhoiwada lockup during their police custody period. There is movement register in the lockup. The officials sitting at the gate of the lockup make entries about the accused being put in the lockup and taken out from the lockup and about bhatta being given to the accused. The lockup is manned by policemen 24 hours, but there is no officer. These entries are necessary to be made. Movement register shows the number of the accused who are in the lockup. Names of the accused persons who are in the lockup are mentioned in the lockup register. The lockup register is different from the movement register. The particulars like name of the accused, date and time of his arrest, the case in which he is arrested, the offence for which he is arrested and the name of the investigating officer of that case, if any personal belongings are found with the accused during his search, are also mentioned in the lockup register. The accused are not given numbers in the lockup, but they are identified by their names. The lockup register is maintained as per the police manual. Entry is made in the lockup register when an accused is put in the

lockup, but it is not made when he is taken out for the purpose of investigation. I do not remember whether it is in the police manual that no entry is required to be made when an accused is taken out from the lockup for the purpose of investigation. No entry is required to be made when an accused is to be taken out from the lockup for being taken out of the police station for the purpose of inquiry or investigation. I do not remember whether it is so mentioned in the police manual or the standing orders. Witness volunteers-such entry is required to be made in the station diary. I do not remember which chapter and which rule in the police manual or which standing order provides for making entries in the lockup register. I have not checked the lockup register during my tenure, but I had seen it. I have not seen and checked the movement register. Witness volunteers - there are no rules for maintaining the movement register, but it is maintained for the convenience of the staff on lockup guard duty. Checking the lockup register means checking it on a regular basis and seeing means if you have an occasion to see the register for some purpose. Seeing and checking are different. Lockup register is required to be maintained as per the rules, but I cannot comment

whether it has its own legal sanctity. I did not go through the lockup register before filing the chargesheet. I did not feel it necessary as it is not our practice to file extracts of the lockup register with the chargesheet. I did not feel it necessary to produce the extracts of the lockup register along with my reply to the complaints made by the accused about torture.

267. All the accused were mostly taken to the KEM Hospital for medical examination. They were sent for medical examination as per my direction after the investigation came to me. It was in compliance of the directions given by the Supreme Court and also if some accused was sick. Whenever the accused were taken for medical examination, their casualty papers were brought by the staff and kept in a separate file. I cannot say about OPD case papers. The staff did not used to place the casualty papers before me on coming back from the hospital. I have not checked those medical papers till now. I did not feel it necessary to go through the medical papers and submit them to the court when I replied to the complaints of torture by the accused. I was expecting when I filed the chargesheet that the accused would make false allegations of torture against the police as

per the Al-Qaida manual and the training given to them. I have read the Al-Qaida manual. I cannot tell the number of the chapter in the manual where it is so mentioned. Allegations are made against police for various reasons in other cases, not necessarily on the basis of Al-Qaida manual. DCP Bajaj gave me a copy of the Al-Qaida manual when I came to the ATS. It was a photocopy. I think there is no author, printer or publisher or date of publication mentioned on that book. It was in English language.

268. I did not choose to file the medical papers of the accused inspite of the expectation that they would be complaining of torture, as there is no such practice. Therefore, till the medical officer was examined, the copies of the medical papers and the file of the medical papers was retained in the ATS office. It is not true that they were retained as they were relevant and material papers, but they were retained as it is our routine practice. I cannot say whether I wanted to rely on them. As per the law all the documents on which the prosecution relies are to be filed with the chargesheet.

269. Station diary entries are the relevant documents having a bearing on the case. (Learned advocate asks the witness to go

through applications Exts. 1857 and 2360). Documents submitted with these applications are relevant documents. They were not submitted with the chargesheet. They were submitted for the first time with these applications. I did not submit them along with the chargesheet as I used to submit copies of the station diaries and internal correspondence at the time of giving evidence as per the practice followed by us. I cannot say whether this practice is based on the police manual, standing order and the Cr. P. C. It is a practice followed sometimes during the evidence of the investigating officer and sometimes even before when it is called for by the defence. I did not instruct the prosecutor or the officer incharge of the conduct of the case to produce them before the charge was framed. Further investigation was carried out after the submission of the chargesheet in this case. I subsequently submitted a bunch of documents as additional documents on 30/04/07 running in 897 pages as per the index in the volume. It is true that various documents that have been produced by the prosecution after the trial started, have not been produced with the additional documents. It is not true that the copies of station diary entries, the medical papers of the accused persons,

the internal correspondence between the investigating officers and other documents produced were suppressed with the intention of hampering the defence. It is not true that I wanted to deny a fair trial to the accused, therefore, the documents were produced at the last stage.

(Adjourned for recess).

Date : 20/03/12

Special Judge

Resumed on SA after recess

270. I do not remember at what time I left my office on 09/11/06 for the remand work, when I reached the court, at what time the remand work was taken out and when I reached my office after completing the remand work. I do not remember whether on that day they made complaints against the Supdt., MCP, Swati Sathe that she has not endorsed the retraction statements of all the accused. I do not know whether her say was called on 16/11/06. (Learned advocate asks the witness to go through his record to answer the question about the time of attending the court on 09/11/06). Time is not mentioned in the case diary. Police custody remand applications were normally taken at about 11.30 a.m. I attended the court at the time of

several judicial custody remands. There was no normal time for taking up the remand applications for judicial custody, as it was dependent on the production of the accused from the prison. For this type of remand also I must have come to the court at about 11.30 a.m. On almost all dates the remand work was done in the morning session.

271. I had recorded the statement of Dyandeo Savaba Powar (PW-94) on 09/11/06. I do not remember the time when I started recording the statement and when it was over. The timing of recording the statement is not recorded anywhere, either in the station diary or case diary. I do not remember whether it was recorded in the morning or in the evening. It is not true that I did not record his statement. I cannot answer the question as to whether I could not have recorded the statement between 10.00 a.m. to 3.00 p.m. as I do not remember at what time I left for going to the court. This witness was called for giving statement and he did not come on his own. It is true that his statement was pertaining to the recording of confessional statements of the accused no. 9 and 5, which were completed on 06/10/06 and 25/10/06 respectively. The statement of

the said witness was not recorded immediately after 06/10/06 as it was as per the convenience of time. It is not true that I wanted to wait for the formality of the confessional statement of the accused no. 5 being recorded on 25/10/06.

272. I participated in the interrogation of many accused till the invocation of the provisions of the MCOB Act, i.e., most of the accused out of the accused no. 1 to 4 and 9 to 11. The discharged accused were also amongst the accused who were interrogated, but it was not on several occasions. It must be on 1-2 occasions. I do not remember the names of the officers who were with me when I interrogated the accused. I may have interrogated the accused no. 3 on 3-4 occasions before the invocation of the provisions of the MCOB Act. I cannot tell the duration of the interrogation on every occasion. I do not know the names of the officers who were with me when I interrogated him. The duration of the interrogation may be 1-2 hours, but not 2-3 hours. I may have interrogated the accused no. 9 on 2-3 occasions before the invocation of the provisions of the MCOB Act. I cannot tell the duration of the interrogation on every occasion, but it may be for half an hour to one hour. I may have interrogated the

accused no. 11 on 1-2 occasions before the invocation of the provisions of the MCOB Act. I cannot tell the duration of the interrogation on every occasion. I may have interrogated the accused no. 1 on 3-4 occasions and the accused no. 2 on 2-3 occasions.

273. I interrogated the accused no. 3 on 4-5 occasions during his police custody after the invocation of the provisions of the MCOB Act, but I cannot tell the dates. I can tell about one date, it was on 01/10/06. On that day he expressed his desire to make a confessional statement. I do not remember the remaining dates. I cannot tell the duration of the interrogation. I cannot tell the time at which I interrogated him on 01/10/06. I do not remember the names of the other officers, who were present on that day. I do not remember whether PI Rathod, PI Joshi, PI Shaikh, ACP Tawde, ACP Shengal were present. I remember that I had interrogated the accused no. 1 and 9 also on that day. I cannot tell from what time to what time the accused no. 9 was interrogated. I do not remember whether on that day the accused no. 9 was the first to be interrogated or it was the accused no. 3. The accused no. 9 also expressed his desire to make a confessional statement. The accused no. 3 and 9

had expressed their desire to make confessional statements before other officers prior to 01/10/06, but I do not remember the dates on which they had so expressed and the names of the officers. I was not the first officer before whom they expressed their desire. The officers reported to me about the desire of the accused. I do not remember whether it was one officer or more than one officer to whom the accused had expressed their desire. I had interrogated the accused no. 3 after 01/10/06, but I do not remember the date on which I first interrogated him after 01/10/06. I do not remember whether I interrogated the accused no. 9 after 01/10/06. All the remaining accused expressed their desire before me to give confessional statements except the accused no. 8. They had expressed their desire before other officers prior to they doing so before me. I cannot tell the dates on which and the names of the officers to whom they expressed their desire. The accused did not express their desire to make confessional statements till the investigation of the case came to me. I am aware that even for the offences under the other penal laws, the confessional statements of the accused can be recorded under Section 164 of the Code of Criminal Procedure. It is true that it

is not necessary that the provisions of the MCOB Act have to be invoked only for recording confessional statements of accused. For the offences under the Indian Penal Code and Unlawful Activities (Prevention) Act, the confessional statements of the accused cannot be recorded by police officer of the rank of Superintendent of Police. It is not true that prior to 01/10/06 none of the accused had expressed their desire to make confessionals statements. The accused no. 2 and 4 expressed their desire on 29/09/06. It is true that till that time the accused no. 1, 2, 3, 9 and 11 had almost been in police custody for 60 days in different crimes.

274. I got it confirmed from the accused no. 2 on 29/09/06 that he wanted to make a confessional statement. I do not remember the date on which and the name of the officer before whom, he had expressed his desire prior to that day. It is true that the accused no. 1 to 3 and 9 to 11 were sent to the DCPs for recording their confessional statements in the first week of October 2006. The DCPs sent all these accused to the CMM, but I cannot tell whether the CMM was S. S. Shirke. I do not remember the date on which I received the copy of the confessional statement of the accused no. 3

and of any of the accused. The officers who took the accused from the DCP to the magistrate after their confessional statements were recorded, did not report to me. I did not call them and record their statements. My subordinates also did not record their statements. I think I have recorded the statement of PSI Dasurkar (PW-101). (Learned advocate asks the witness to go through the record and state about it). I had recorded his statement on 19/10/06 as he had handled the accused when he was in the custody of the DCP. I do not remember whether he was the same officer who took the accused to the magistrate after his confessional statement was recorded. (Learned advocate asks the witness to go through Ext. 1222). It is true that it is mentioned in this document that PSI Dasurkar produced the accused no. 3 before the CMM. I again say that I had recorded the statements of the officers who had produced the accused before the CMM after their confessional statements were recorded. It is true that after the confessional statements of the accused were recorded and they were produced before the CMM, they were handed over to the custody of the ATS. I do not remember whether the officers who had taken the accused before the CMM had brought them to the ATS

office. I did not record the statements of the officers on the day when the accused were brought to the office. I did not ask them to submit any report. I recorded the statement of PI Subhash Gaikwad of Bandra Police Station on 20/10/06. He had produced the accused no. 1 before the CMM after his confessional statement was recorded. I do not remember whether he reported to me at the time of handing over the accused and which officer had taken his custody. PSI Prakash Thakur of L. T. Marg Police Station, PI Deepak Bhavsar of Borivali Police Station, PSI Gangurde, PSI Nana Dagdu Shinde and PSI Dhananjay Sonavane of Azad Maidan Police Station, API Vinod Randive and PSI Ram Divekar of Matunga Police Station, are the police officers who had produced the different accused before the CMM after their confessional statements were recorded and subsequently handed over their custody to the ATS. However, I did not record their statements on the day when they handed over the custody of the accused. They did not give any written report and any document apart from the memo, when they handed over the custody of the accused.

275. The custody of the accused no. 3 must have been

handed over to the ATS on 07/10/06 after recording his confessional statement, but I do not remember at what time. I do not remember having interrogated him immediately on that day. I have interrogated him after that day, but I do not remember the dates. He was remanded to judicial custody on 09/10/06. I must have interrogated him on 1-2 occasions in between 07/10/06 and 09/10/06. I do not remember the duration of the interrogation on both occasions and the names of the officers who assisted me. I cannot tell the times when I interrogated him. The accused did not make any voluntary statement of disclosure to me at any time during the course of investigation. Same is the case about all the remaining accused.

276. The accused no. 6, 7 and 12 expressed their desire to make confessional statements before me on 19/10/06 and prior to that before other officers, but I cannot tell the date and the names of the officers. The accused no. 5 and 13 expressed their desire to make confessional statements before me on 20/10/06 and prior to that before other officers, but I cannot tell the date and the names of the officers. I do not remember the names of the officers who had interrogated the accused prior to 19/10/06.

277. The accused expressing their desire to make confessional statements and their making the confessional statements before the DCPs were not video recorded. Recording of confessional statements has its on sanctity and it has got to be maintained. They are not supposed to be published in the print or electronic media. I am not aware about publication of the process of making the confessional statement of the accused no. 12 published in the Mumbai Mirror and the Times of India dated 11/07/07. I came to know about it when the accused no. 12 filed a complaint in this court. I know that his so called confessional statement was shown by some TV channel, but I do not know whether it was Aaj Tak. I had not seen the telecast. I came to know about it on the next day in the office. I did not submit any report to the CP after coming to know about it. I have not taken any action against the TV channel for it. I do not know whether Jt. CP Raghuvanshi took action about it. I did not discuss this issue with the CP and Jt. CP and there was no question of having any discussion with the DCPs, who had recorded the statements of the accused no. 6 and 12 as they had not video recorded it. I had gone through the application that was filed by the accused no.12 in

the court regarding the news and the telecast. I do not remember whether photocopies of the news items in the news papers were attached with that application. I do not remember whether his photograph was also published in the news item. Both accused had filed applications about the news items. I cannot say whether as per the report in the newspapers, the CD of the video recording of the confessional statements of both the accused were available with the Aaj Tak channel. I do not know whether any action has been initiated by the Mumbai Police in connection with the news item and telecast. I had filed the reply to the application of the accused no. 12 under my signature.

(Adjourned as court time is over).

Date : 20/03/2012

(Y. D. Shinde)
Special Judge

Date : 21/03/12
Resumed on SA

278. I did not verify whether any action has been taken on the application given by the accused no.12. I cannot tell how the CD was obtained by the media. I was in the ATS till 30/06/08.(Learned advocate asks the witness to go through the record of MA 500/07). It is seen to be filed by the advocate of the accused no. 12 on 04/08/07 and my reply is dated 27/08/07. I did not personally inquire about the CD after this application was filed. I did not record the statement of the representatives of the Times of India and Mumbai Mirror. I did not contact their editors to find out about the reporter. I did not contact anyone from the Aaj Tak channel to find out from where they got the CD. I cannot say whether the CD with the Aaj Tak channel must not be the original.

Q. Do you think that possessing of CD by the media alleging to be a recording of the confession by the accused before the DCP and telecasting it and publishing it in the print media amounts to tampering with the evidence?

A. Firstly, no DCP had video recorded the confessional

statement of any accused and therefore, CD that may be available with the media cannot be the alleged confessional statements given by the accused before the DCP. So, there is no question of tampering with the evidence. I cannot say whether it will amount to contempt of the court. Neither me nor my subordinate officers made any efforts to collect the CD from media and to verify its contents. Since, I have not seen the CD, I cannot say whether the contents of the CD are the same as that of the copy of the confessional statement that was in my possession. It is not true that I purposely and deliberately did not investigate this aspect.

279. After the arrest of the accused no. 12, I came to know that his brother Walid was a press reporter, but I do not know whether he was attached to Mid Day newspaper. Before that I had not contacted him and none of my officers reported me that they had contacted him. API Dinesh Kadam and staff went to Secunderabad, Andhra Pradesh, one or two days prior to the arrest of accused no. 12, but I do not remember the exact date. His house at Secunderabad was searched on 30/09/06. (Learned advocate asks the witness to go through Ext. 2386). I must have seen this

panchanama on 30/09/06 or 01/10/06, however, I did not put the date below my signature. I do not know how API Kadam came to Mumbai from Secunderabad. The traveling tickets were not produced. I had deputed PSI Yadav for making inquiries about the employment of the accused at Secunderabad/Hyderabad and during that inquiry he again took the search of the house of the accused. (Learned advocate asks the witness to go through the record and state whether it was done on 02/11/06). On going through the panchanama I say that it was prepared on 02/11/06. It is true that no objectionable thing was found in the search. Witness volunteers – the search was taken as it was revealed in the interrogation that there was a CPU in his house, however, during search the CPU was found without hard disk. The search was mainly for seizing the CPU. It is so mentioned in the panchanama. I cannot say since when API Kadam and PSI Yadav were attached to the ATS, but both of them were in the ATS when I joined it. I did not record their statements as they were assisting me in the investigation. I do not know whether they are examined. They are cited as witnesses. I cannot say whether the prosecution is going to examine them. They were involved in the investigation of this case

prior to 30/09/06. API Dinesh Kadam was in the team of PI Tajne, but I do not remember in which team PSI Yadav was. PSI Sachin Kadam was also in the team of PI Tajne. (Learned advocate asks the witness to go through Ext. 2386). It is true that API Dinesh Kadam is an efficient officer, but I do not know whether he had investigated several serious cases. He went to Secunderabad on my instructions and of my superiors also. It is true that the panchanama did not mention finding of CPU. PSI Yadav did not seize the CPU as there was no hard disk in it. PSI Yadav recorded statements of some 6-7 witnesses at Secunderabad concerning the employment of the accused and about the house in which he was staying. I think he had collected some documents. API Dinesh Kadam did not record any statement at Secunderabad when he went to arrest the accused. The statements of the witnesses recorded at Secunderabad are with the chargesheet and they are cited as witnesses. I do not remember whether some of the persons were witnesses to the fact as to how the accused no. 12 was arrested at Secunderabad. Witness volunteers – those witnesses were on the point of accused no. 12 having secured employment on the basis of forged educational documents, for which

an offence is registered at High Ground Police Station, Secunderabad. PSI Yadav placed those statements before me when he returned to Mumbai and I perused them. I do not remember whether I perused them when I submitted the chargesheet. I filed those statements in the chargesheet as they are relevant to the case. PSI Yadav was deputed to make investigation of this case as well as to make investigation about the forged documents submitted by the accused while obtaining employment.

(Adjourned for recess)

Date : 21/03/12

Special Judge

Resumed on SA after recess

280. API Dinesh Kadam, PSI Avari and one constable were sent to Hyderabad on 28/09/06. I do not now remember the mobile number of PI Sunil Deshmukh using at that time. I cannot say where he was on 29th and 30/09/06. I do not now remember the landline numbers of the ATS office at that time. I do not know whose mobile number was 9967111115 and whether it was of PI Sunil Deshmukh. I cannot say whether the landline number of the ATS office was 26708271 at that time.

Q. Are you in a position to contradict me if I say that PI Sunil

Deshmukh had gone to Secunderabad on 29th and 30/09/06 to bring the accused no. 12 after contacting the accused no. 12?

A. I had not sent PI Deshmukh for that purpose, nor he had reported to me that he had gone to Secunderabad. Therefore, I am not in a position to say anything.

I do not remember whether he had reported about doing any investigation and whether he was in Mumbai on 29th and 30/09/06.

Q. Are you in a position to contradict me if I say that he was in constant touch with Waleed Hussain, brother of the accused no. 12 prior to 29/09/06?

A. I cannot say because he did not report about it to me.

The information about the computer in the house of the accused no. 12 at Secunderabad was revealed to me and other officers during the interrogation of the said accused. I do not remember the e-mail address of the accused no. 12 and whether he had revealed it to me.

I cannot say whether I had recorded this revelation anywhere.

Witness volunteers – revelation by the accused are recorded in the accused statements and sometimes they are in the personal knowledge of the interrogating officer. I do not remember the mobile

number of the accused no. 12. I do not know about he having any landline number at Secunderabad.

Q. Do you agree with me that e-mail address, mobile numbers and landline numbers of the accused persons are important material required to be collected for the purpose of investigation?

A. They are required to be collected for obtaining important leads in the investigation.

Information about mobile numbers of all the accused was collected. Information about e-mail addresses and landline numbers of some accused was collected. I do not remember the e-mail address of the accused that we collected and of which accused. Computer sets of some of the accused were seized. (Learned advocate asks the witness to go through the case diary or station diary or any document, if he wants to, to state about the e-mail address of the accused no. 12). E-mail address must not be in the station diary or case diary, but it may be in the accused statement. Statement of the accused is not with me. I do not remember whether nhk_21@yahoo.com and naveedh@email.com were the e-mail addresses of the accused no. 12. It is not true that at the request of his brother, the accused no. 12

contacted PI Sunil Deshmukh on his mobile and after collecting the address from the accused PI Sunil Deshmukh went to Secunderabad and brought the accused no. 12 to Mumbai. PSI Avari brought the accused before me in the morning on 30/09/06. I cannot tell the exact time unless I see the station diary. (Learned advocate asks the witness to go through the station diary). The station diary entry Ext. 2379 shows that he was produced at 11.30 a.m. The entry is in the handwriting of API Shelke. The entry preceding that entry no. 5 is of 10.15 a.m. and the entry subsequent to that entry is of 11.45 a.m. The entry Ext. 2379 shows that the accused was brought to Mumbai at 10.30 a.m. The entry shows that PSI Avari alone brought the accused and API Dinesh Kadam remained behind at Secunderabad. I do not know in whose handwriting Ext. 2380 is. It is a printed format of the arrest panchanama. Names of the police officers who were present at the time of the arrest, except the name of PSI Avari, are not mentioned in it. PSI Avari or API Dinesh Kadam did not produce any arrest panchanama drawn either on 29th or 30/09/06 at Secunderabad. There is no special reason why the panchanamas of the accused no. 5 and 12 were prepared in printed format, whereas

for the other accused the panchanamas were entirely handwritten on plain paper. I had directed PSI Yadav to search the house of the accused no. 12 and specially to search for the CPU, but not his office. I do not remember the date on which the case at Secunderabad was registered against the accused in connection with the forged documents that he submitted for getting employment. I cannot tell the name of the complainant unless I see the copy of the FIR that is filed with the chargesheet. That complaint was lodged after the accused was brought to Mumbai. I remember that a letter was sent by DCP Bajaj to the Commissioner of Police, Hyderabad as a consequence of which the case was registered against the accused. It was sent after PSI Yadav came back from Secunderabad. I cannot tell the date on which he left for and came back from Secunderabad. He collected some evidence, therefore, we were satisfied that the accused had submitted the forged documents. I think that some police officer from Secunderabad had come for investigation of that case, but I do not remember whether he had come when the accused was in police custody. I do not remember the name of the officer and whether he had come before I submitted the chargesheet in this case. I do not

know whether he recorded the statements of PI Sunil Deshmukh, API Dinesh Kadam and PSIs Avari and Yadav. I cannot say exactly whether I handed over the documents concerning the forgery only when the said officer came to Mumbai for investigation. He had come after the FIR was registered. He must have interacted with API Dinesh Kadam or PSI Avari. I do not remember having had any interaction with him. It is not true that that false case was foisted on the accused no. 12 at my instance.

281. I may have interrogated the accused no. 12 on 3-4 occasions from the date of his arrest during his police custody. I cannot tell the dates on which, the duration for which and the officers who were with me during the interrogation.

282. I did not visit the house of any accused. Statements of the accused were recorded after their arrest. The accused were not giving all the details at one time, therefore, I cannot say whether detailed statements were recorded. The residential addresses of the accused were known to us after their arrest as they were obtained from the accused. We had informed the relatives of the accused after their arrest under the MCOB Act. A wireless message was sent to SP

Madhubani to inform the relatives of the accused no. 1 after his arrest and accused no. 5 was arrested at Kolkata and immediately his relatives and local police were informed. I did not go to Kolkata to arrest the accused no. 5. (Learned advocate asks the witness to go through Ext. 2374). I do not know in whose handwriting it is prepared. It bears my endorsement as seen. It is prepared in Kolkata. I do not know who had made the endorsement in the note on the left side. I do not know who is Shaikh Kalu, whose name is written by the side of a thumb impression, but he is a witness to the panchanama. Inspection memo is the memo about inspection of the body of the accused at the time of his arrest. I think it is not necessary to take the inspection in the presence of a doctor. Some officers of the Mumbai Police have prepared the proforma of the arrest and inspection of the accused for their convenience. They are not provided by the department. (Learned advocate asks the witness to go through Ext. 2380). The proforma of the atak panchanama Ext. 2380 is also prepared by some officers for their convenience. I have not prepared any such proformas during my tenure. I do not know whether PI Salaskar had prepared them. Column no. 17 in Ext. 2380 is of the names,

addresses and signatures of the witnesses present at the time of arrest. It is true that name and address of witnesses present at the time of arrest is not mentioned in Ext. 2374. The name of Shaikh Kalu is written as witness. It is true that the offences for which the accused is arrested is not mentioned in Exts. 2374 and 2375. There is no endorsement in both about informing his relatives. It is true that the offences for which the accused no. 12 is arrested is not mentioned in Ext. 2380. This was prepared in Mumbai in my office, but the officer who prepared it did not write the offences. It is not true that there is no endorsement about informing his relative about his arrest. I do not remember who had informed his brother. I do not remember whether any written report was given to me about informing relatives of the accused no. 5 when he was arrested at Kolkata. I did not receive the feedback from the Supdt., of Police, Madhubani about informing his relatives about his arrest. I did not send any reminder. I did not verify whether the wireless message was complied, because I know that such things are complied.

(Adjourned as court time is over).

Date : 21/03/2012

(Y. D. Shinde)
Special Judge

Date : 22/03/12
Resumed on SA

283. I do not remember the names of the officers who had interrogated the accused no. 12 apart from me, but I remember that PI Tajne, PI Khanvilkar and PI Sunil Deshmukh had interrogated him amongst others. Sometimes the interrogation was independent of me and sometimes it was together. I do not know whether PI Deshmukh had gone to Secunderabad for the purpose of investigation in this case. It was necessary for my subordinate officers to inform me about they going outside for the purpose of investigation, but if I was not available they could go by informing my superior or colleague ACP. If they did not go after informing me, they had to report to me after coming back if something useful was there to report. The subordinate officer is expected to report to me when he had gone out for the purpose of investigation without informing me. I do not remember whether PI Sunil Deshmukh had gone to Secunderabad without informing me and he did not report to me. I cannot say whether PI Tajne and PI Khanvilkar interrogated the accused no. 12 separately or together. The first remand of the said accused was over on

13/10/06 and the second on 26/10/06. We were closely interrogating the accused persons to get information. I do not remember whether the accused no. 12 was interrogated daily. I cannot say on which day he was not taken out and interrogated. He did not make any voluntary statement of disclosure before me during the interrogation. I do not remember how many days prior to 22/10/06 I had last interrogated him, which is the first day after 22/10/06 on which I interrogated him and which was the last day on which I interrogated him before he was remanded to judicial custody on 26/10/06. I do not remember the date on which and the name of the officer who told me that the accused expressed his desire to make a confessional statement. I interrogated the accused for about half an hour on 19/10/06. I had also interrogated the accused no. 6 and 7 on that day for half an hour each. All three were not brought before me together for interrogation. I cannot tell the timings when they were brought before me and of their interrogation. I do not remember the dates on which and the names of the officers who told me that the accused no. 6 and 7 expressed their desire to make confessional statements. On that day all the three accused did not expressed their desire to make any

voluntary statement of disclosure before me. I sent the accused no. 12 to the DCP on 23/10/06 for the purpose of recording his confessional statement, but I cannot tell the time at which he was sent. I do not remember whether he was brought before me after 19/10/06 and before 23/10/06 for the purpose of interrogation. No other officer interrogated the accused during this period in my presence. I cannot tell the exact time when PI Khanvilkar and other officers produced the memorandum of the accused no. 12, the seizure panchanamas and the sketches Exts. 636 to 641 and the articles seized under the panchanama. I cannot tell the names of the other officers, who were with PI Khanvilkar when he produced the above documents and articles. The sketches were probably drawn by PSI Sachin Kadam.

284. I had visited Chandanchowki office before as well as after the invocation of the provisions of the MCOB Act as supervisory officer and other work prior to it and for the purpose of the investigation after it. I was aware on 22/10/06 that search of the house of the accused no. 6 had been taken earlier. The Maruti car that was seized was brought to Bhoiwada office and then taken to

Kalachowki office. I did not direct my officers to take photographs of the car from various angles when it was brought to the Bhoiwada and Kalachowki office. I think that the photographs of the car were not produced when the car and the other articles were produced before me. The original owner of the car was Gulam Raza Badani. I directed my subordinates to record his statement. I think statements of 3-4 witnesses were recorded in connection with the car. I cannot tell the dates of recording their statements. Statements of the owner, his son-in-law, one agent and one mechanic were recorded. PI Khanvilkar probably recorded their statements. I will have to see the record. (Learned advocate has no objection). On going through the record I say that that PI Khanvilkar had recorded the statement of Gulam Raza Badami on 30/10/06 and of Afzal Mohd. Hussain Alwani (PW-39) on 02/11/06. I had verified the statement of Gulam Raza Badami on the same day and seen the statement of Afzal Alwani, but I cannot say on which date. I had put the date below my signature on the statement of Gulam Badami.

285. I cannot tell off hand which articles I sent to the FSL, Kalina on 26/10/06. Badami and Alwani did not produce his

documents before me. I did not take the statements of any witness in connection with the seizure of the car. The car was brought by the same day from the FSL by the same staff who had taken it there. I cannot tell for how long it was in the FSL office. It was examined by the forensic experts at the FSL office and they directed to take it back, therefore, it was brought back on the same day. I did not instruct them to send it back on the same day. (Learned advocate asks the witness to go through Ext.1686). The letter was prepared by PI Khanvilkar on my instructions and signed by me. I think that the contents are correct. I do not remember whether after sending this letter I had no occasion to send another letter asking the FSL authorities to send the car back on the same day. It is true that the stains that were found in the car were not sealed when the car was sent to the FSL. The purpose behind covering the stains with brown paper was to see that dust or other articles are not intermingled with the stains and to prevent tampering. I was having information that the car was last used on 10/07/06. It was disclosed in the investigation that it was not used from that date upto 22/10/06. I did not record the statement of any witness in this connection, but statement of one

Rizwan Khot was recorded by my subordinate officer, but I do not remember his name and the date on which the statement was recorded. That was the only statement. The key of the car was kept with him. (Learned advocate asks the witness to go through the FSL report Ext.2391). It is true that it does not show that the portions of the car where the stains were found were covered with brown paper. It also does not mention how the samples were taken from the stains. I did not see the stains in the car. It is not true that there were no stains in the car and the car was planted on the accused, that the confessional statement of the accused is my creation to implicate him. I did not verify the documents that were found in the car, but PI Khanvilkar had verified it. I cannot tell the date on which he verified it. The cassettes found in the car were not played. I do not know what they contain, but they were of some film songs. I think that the accused had retracted his confessional statement before this court on 09/11/06. I do not remember whether the court recorded the statement of the accused when he was produced for remand on 30/09/06 and 13/10/06. I do not remember whether the accused no. 12 had filed complaints in the court after filing chargesheet that the

officers are visiting the prison and pressurizing him and threatening him to become an approver, whether he had filed such a complaint on 21/04/07 or on any date.

286. I may have interrogated the accused no. 11 on 3-4 occasions during the period from 28/07/06 to 02/10/06. Those were the occasions on which I participated in the interrogation along with other officers, but I do not remember their names. I do not remember the date on which and the name of the officer before whom the accused expressed his desire to make a confessional statement. I was informed about it 1-2 days prior to 02/10/06.

(Adjourned for recess).

Date : 22/03/12

Special Judge

Resumed on SA after recess

287. The house search panchanama of the accused no. 11 was placed before me along with the case papers that were handed over to me by PI Rathod. He did not make any statement of disclosure before me and nothing was recovered at his instance after the investigation came to me. I requested the Jt. CP on 02/10/06 to appoint a DCP for recording his confessional statement. I am not

aware whether the accused wrote a letter on 02/11/06 to this court complaining against the ATS. He had filed an application on 09/11/06 retracting his confessional statement and making allegations against the ATS officers. I do not remember whether he had made allegations against the Supdt., Arthur Road Prison in that application. I had gone through the retractions filed on 09/11/06 by all the accused. I do not remember whether I had gone through the letter dated 02/11/06 sent by the accused no. 11, which was with his retraction on 09/11/06. I had filed my reply to the retractions filed by the accused. The replies were prepared by me with consultation with the SPP. I do not remember whether I had gone through the letter dated 02/11/06 sent by the accused no. 11 marked as 'L1', when I prepared my reply. The reply was in connection with the retraction, but I do not remember whether it was also in connection with the letter dated 02/11/06. I did not visit the Mumbai Central Prison during the investigation except on 07/11/06. PI Joshi recorded the statement of Supdt., Swati Sathe of MCP. I do not remember the date on which he recorded it. I think that it was in connection with the facilities in the prison for organizing test identification parade. I do not remember

whether it was much prior to 09/11/06. (Learned advocate asks the witness to go through the retraction Ex. L-1 and the reply to it in the remand papers). The reply is in connection with retraction Ex. L and the application Ex. L-1 dated 02/11/06. It is true that the dates on which and the names of the officers to whom all the concerned accused expressed their desire to make the confessional statements is not recorded anywhere.

288. The house search panchanamas of the accused no. 3 and 9 were also seen by me for the first time when PI Rathod handed over the papers of investigation to me. It is true that there is no discovery under Section 27 of the Evidence Act from the accused no. 8 and 9 during my investigation.

289. I did not visit the residential premises of the accused no. 8. He was a permanent resident of Ghatkopar. It appears from the station diary entries shown to me that he was called to the ATS office several times before his arrest. He was not produced before me on those occasions. PI Khanvilkar and staff arrested him from Ghatkopar. I had deputed them for tracing him. PI Khanvilkar did not inform me at that time that the accused was regularly visiting the ATS

office and he was being interrogated. It is not necessary in special branches to place the station diary before the senior-most officer of the unit. It is necessary to do so in the police stations. I was not the head of the ATS unit at that time. We were five ACPs. ACPs Tawde, Shengal and Dhavale were assisting me in the investigation. The station diaries were not placed before me daily and I had not seen them. I did not see them on my own. It was not my practice to check the station diary as to whether the events and the steps that were taken in the investigation as well as arrest of the accused and movements of the officers are recorded or not. Bound registers or books are not provided for maintaining the case diary in Mumbai. Case diaries are not placed before the superior officers in special branches. It is required to be done in police station. It is the practice in the police station to place papers of investigation on day to day basis along with the case diaries before the Sr. PI and ACP. There must be a provision in the standing orders about it. I do not remember whether it is mentioned in the standing orders that this is required to be followed by the police stations only and not by special branches, but it is a practice that is followed. Commissioner of Police

is chief of Mumbai Police, but he is under the Director General of Police and the Director General is under the Home Ministry. There is no direction by the Home Ministry for Mumbai Police not to follow the Cr. P.C., but there are separate provisions for Mumbai City in standing orders. The directions in the Cr. P. C about investigation are required to be followed strictly, but as far as police manual and standing orders are concerned, practical approach may be taken. I cannot say whether it is written in the police manual or the standing orders that practical approach can be taken.

290. The accused no. 3 had not expressed his desire before me upto 01/10/06 to make a confessional statement or voluntary statement of disclosure. I cannot say exactly, but I may have interrogated the accused no. 3 on 4-5 occasions during the period from 28/08/06 to 01/10/06. I do not remember the names of the number of officers who interrogated him, but they may be PI Khanvilkar, PI Tajne, PI Deshmukh and some of the former investigating officers. The accused was brought back on 07/10/06 after recording his confessional statement, but I cannot tell the time on which he was brought. He was handed over to some subordinate

officer. I interrogated him during the period from 7th to 09/10/06, but I cannot tell the exact time.

291. I did not peruse the case papers of any crime till the papers were handed over to me for the investigation under the MCOB Act. All the seven investigating officers were independently investigating the crimes. I used to interact with them during that period. They were informing me about the progress of the investigation and I used to guide them. I did not use to peruse the case papers during the interaction. I realized during my investigation that the seven bomb blasts were a part of a single larger conspiracy. I had come to this conclusion by 09/10/06. It is true that it is only thereafter that I moved for clubbing all the cases together. There was no direction, but I discussed it with my superiors and then put up a noting seeking permission to club all the seven crimes together. I received the letter under the signature of DCP Bajaj granting the permission. I did not go through the case papers of all the seven crimes before that, except CR No. 156/06 as I was investigating it from 24/09/06.

292. I must have interrogated Tafheem Akmal on 1-2

occasions. He was brought from custody from Jammu and Kashmir. I do not remember the date on which I interrogated him for the first time. He was in the custody of the ATS for 14 days. He was sent to judicial custody thereafter. He was arrested in CR No. 78/06. It became part of CR No. 05/06 of the ATS subsequently. He was in judicial custody in CR No. 78/06 till the date of his discharge, probably upto 13/10/06. He was sent back to Kashmir after that day.

293. According to me household utensils were used for keeping the bombs and they were kept in black rexine bags. This theory was revealed after the confessional statements of the accused were recorded. The theory was of use of household utensils including cookers. So according to me cookers were also used for placing the bombs. The officers had gone for taking the search of the house of the accused no. 6 as per my direction. I did not ask them to find out cooker or household utensil and, if found, to seize it. They seized the cooker and brought it on their own. On that day it was not my confirmed opinion that household utensils and cookers were used. Till that day, i.e., till 29/09/06 there was no definite conclusion about the article used for keeping the bombs, because the accused were

changing their versions from time to time.

(Adjourned at the request by learned advocate at 4.40 p.m.)

Date : 22/03/2012

Special Judge

Date : 26/03/12
Resumed on SA

294. (Learned advocate asks the witness to go through the station diary entry no. 16, Ext. 2466). I cannot say whether Crime Branch, Unit-II was investigating any case against the accused no. 3 in August 2006 or were investigating any case pertaining to all the arrested accused in this case. I think that the entry is not in the handwriting of PI Joshi. As per the entry the accused no. 3 was handed over to API Kamble of DCB, CID, Unit-II on 28/08/06 at 3.30 p.m. as per the directions of the superiors. I cannot say which superior officer directed handing over of the accused.

Q. If the accused is handed over to the Crime Branch, his custody will not be with the ATS?

A. If the accused is handed over for the purpose of interrogation temporary, then his custody continues with the ATS.

I do not know whether in the above case permission of the magistrate was taken before handing over the custody of the accused no. 3 to the Crime Branch. I do not know whether such permission was taken in connection with the other accused, whose custody had been given

to the Crime Branch.

Q. What do you mean by temporary custody?

A. It is our general practice to allow officers of other police stations or units to interrogate the accused and allowing them to interrogate is called temporary custody.

Mostly they are interrogated in the same police station by the officers of other police stations. According to me interrogation of an accused in the custody of a particular police station by officers of other police stations or units can be allowed at the discretion of the investigating officer or his superior officer, but not as a general rule. The officers of other police stations sometimes make application and sometimes it is without application also. I do not know whether it is specifically mentioned in the police manual or standing order that an officer of a particular police station can interrogate an accused in the custody of some other police station, but it is our general practice. I do not know whether Unit-II of the Crime Branch had made application for interrogating any of the accused in this case. The ATS was under the Commissioner of Police, Mumbai, when I was in the ATS, but the chief of the ATS was also required to report to the Commissioner,

State Intelligence Department. The ATS was under the Commissioner of Police for administrative purposes and for other purposes it was under the Commissioner, SID. I was in the Crime Branch for seven years as a PSI from 1983 to 1988 and as a PI from 2003 to 2004. Therefore, I am well conversant with the functioning of the Crime Branch. The ATS and the Crime Branch are two different establishments. There are 4-5 DCPs in the Mumbai City Crime Branch. There must be 12 zones and equal number of units of the Crime Branch at that time plus other units also like CIU, Anti-extortion cell, Anti-robbery and Anti-dacoity cell, MCOB cell, etc. All these units come under the DCP (Detection). I do not remember who was the Jt. CP, Addl. CP and DCP (Detection) of the Crime Branch at that time. Nawal Bajaj and Bawiskar were the two DCPs, Jayjeet Singh and Subodh Jaiswal were the Addl. CPs and Raghuvanshi was the Jt. CP of the ATS at that time. All these officers did not have the charge of the Crime Branch at that time. It was not possible for me to interrogate an accused in the custody of the Crime Branch without the permission of the concerned investigating officer or his and my superior. I cannot term it as a temporary custody, if an accused is

handed over to the custody of the Crime Branch from the custody of the ATS. An entry is required to be made in the station diary or the case diary if the custody of an accused is given to some other department and when he is returned back. I do not know when the accused no. 3 was brought back to the ATS after his custody was given to the Crime Branch on 28/08/06 at 3.30 p.m. (Learned advocate asks the witness to go through the station diary and state whether there is any entry about the accused no. 3 being brought back after 28/08/06). There is no such entry upto 01/09/06. Station diary entry no. 1 of 02/09/06 shows that the accused no. 3 was taken for medical examination. I cannot say whether it is mentioned in the case diary as to when the accused was brought back from Crime Branch, Unit-II. There is no entry in the station diary from 28/08/06 to 01/09/06 about I or my subordinate officer having interrogated the said accused during that period. I did not record the statement of API Kamble of Crime Branch, Unit-II. It is not a surprise to me that some of the accused in this case were taken to the Crime Branch for some period for interrogation. However, I came to know about for the first time during my evidence. It is not a surprise to me because it is a

general practice. It is not true that it was within my knowledge that the accused were taken out of the custody of the ATS by the Crime Branch without the permission of the court to torture them and to compel them to go with the line of the investigating officers.

295. The ATS was formed by the Government of Maharashtra in the year 2004 under a separate notification. It is an independent body under Special I. G. I do not know whether it was to work with the help and assistance of Central Intelligence Department. There were no separate units, one for Mumbai and one for rest of Maharashtra, when I was in the ATS. There were two Addl. CPs. One was supervising the work of Mumbai City and Thane District and the other was looking after the work of the rest of Maharashtra for the sake of convenience. I do not know whether it was in the notification that there were to be an Addl. CP for Mumbai and one for rest of Maharashtra. (Learned advocate asks the witness to go through Ext. 1611). It is true that it is so provided in the notification. It is not true that when I was there, the Addl. CP for Mumbai was known as Addl. CP, ATS-1, Mumbai and the Addl. CP for the rest of the Maharashtra was known as Addl. CP, ATS-2. It is true that it is not in the

notification that Thane District is included in Mumbai. Jaiswal was the Addl CP for rest of Maharashtra and Jaijeet Singh was for Mumbai.

296. I was not consulted before the proposal for prior approval was submitted. I was not informed, but I was aware. I became aware while interacting with ACP Tawde and PI Khandekar. Submitting the proposal was not the collective decision of ACP Tawde, PI Khandekar and me. I think ACP Bhatt was no more at that time. I do not know whether ACP Shengal was knowing about it. ACP Tawde and PI Khandekar had not taken my opinion before submitting the proposal. I did not suggest to them that this is a fit case to invoke the provisions of the MCOB Act. The remaining investigating officers did not consult me about invoking the provisions of the MCOB Act. PI Khandekar did not show me all papers of investigation before he submitted the proposal. I did not see any paper of the crime that he was investigating. I might have seen some papers of the investigation being done by PI Rathod, but I had not seen any paper of the investigation being done by the remaining officers. I cannot elaborate what papers I had seen of the investigation of PI Rathod. I cannot

give the number of occasions on which I had interaction with all the seven investigating officers, but it was on several occasions. Sometimes it was with one investigating officer, sometimes with more than one and sometimes with all together. I cannot tell the number of occasions when I had interaction with all the seven investigating officers together. The interactions used to take place in the ATS office. I used to guide them sometimes and used to discuss about the progress of investigation. No investigating officer ever produced any papers of their investigation during our interactions. I interacted with them without looking into their papers. I did not direct them except PI Rathod to produce the papers before me.

297. The fact that the bomb were kept in the household utensils and carried in the rexine bags was revealed during the interrogation of the accused prior to their confessional statements being recorded. It was not revealed before the proposal for prior approval was sent.

(Adjourned for recess).

Date : 26/03/12

Special Judge

Resumed on SA after recess

298. Before 24/09/06 the accused were changing their versions from time to time and nothing was certain. It is true that except the versions of the accused there was no independent material as to what was the container used for keeping the bombs and carrying them. In their versions before 24/09/06 some of the accused were saying that cookers were used for keeping the bombs and some were saying that household utensils were used. These were the only two versions given by the accused. They did not clarify the type of household utensils used. Pressure cooker is also a household article. It is not true that we conducted the investigation keeping in mind only these two possibilities. We investigated from all angles. I did not have any occasion to examine the detonators. I cannot say whether PI Tajne was investigating any other case. I think that CR No. 04/06 of the ATS is pertaining to the Aurangabad Arms Haul Case. I do not know anything about that case. I cannot say whether PI Tajne was investigating officer of that case. I do not know who is Mohd. Riyaz Nawabuddin. I remember that a person by this name, a Pakistani national, was arrested by the ATS in connection with arms and explosives. I do not know whether he was arrested

from Wadala Truck Terminus and whether a vehicle was seized from him. PI Tajne was in the team that arrested him. The said accused was convicted in that case and I have got its certify copy. I do not know whether that case is registered as CR No. 04/06, but it must be a case under Local Act, because Arms Act and Explosives Substances Act cases are registered under Local Act. Both Acts are Local Acts. They are registered as Local Act Cases (LAC), because in Mumbai city cases under the IPC are registered as CR and under other Acts are registered as LAC. There must be some provision in the standing orders, but it is a practice that we are following in my service of 36 years. I do not remember whether I have come across such provisions in the standing order or guidelines.

299. I do not remember whether the accused Mohd. Riyaz Nawabuddin was arrested during the night of 21/08/06 and 22/08/06 and I am not aware whether he was found with American dollars. I cannot specify whether he was found with a pistol with five live cartridges. I am not aware whether a blue coloured Maruti van was seized from him. I cannot specify whether 1520 gms black powder, alleged to be RDX and five live detonators were seized from him. I do

not know for how long he was in police custody. It is true that there was an encounter at Antop Hill following the arrest of the said accused. PI Tajne took part in that encounter. It was after the disclosure statement made by this accused. I did not interrogate him after his arrest. It is not true that immediately after his arrest I came to know that a Pakistani national had been arrested with arms, explosives and RDX. I cannot tell after how many days I came to know about it. I do not remember whether PI Tajne reported to me about it. I cannot tell the date when I came to know about it and the name of the officer from whom I came to know it. That accused may have been in police custody for at least 14 days. I do not remember whether I had any discussion with PI Tajne about that case during those 14 days. I did not have any discussion about it with my superiors, DCPs, Addl. CPs and Jt. CP. I did not feel it necessary to interrogate him during his police custody or judicial custody period. Witness volunteers – this is because PI Tajne had already thoroughly interrogated him. The interrogation was not done in my presence, but he had reported to me about it when the investigation of this case came to me. I cannot say whether PI Tajne had done so on his own

or on my query, but it was during our interaction. I had not perused the case papers of that LAC case. PI Tajne did not place the papers before me. I cannot tell the number of days after the arrest of the said accused he had informed me, but it was after the investigation of this case was came to me.

300. The person who was killed in the encounter was a Pakistani national by name Mohd. Ali @ Abu Umed @ Abu Osama. I do not remember the date of the encounter. Arms and explosives were found in the premises where he used to stay. I do not remember what type of arms were found. I do not remember whether AK47 rifle was found. I cannot say whether black powder suspected to be RDX was found. Some explosive substance was found and it turned out to be RDX, but I cannot say whether it was black or white powder. The case papers of that encounter, including the spot panchanama, were not placed before me. Witness volunteers – a copy of the FIR is in this chargesheet. I had procured it from ACP, Matunga Division. Till the submission of the chargesheet in this case, no case paper of that encounter was placed before me. I had called for a copy of the FIR and some other documents from ACP, Matunga Division. PI Tajne did

not submit a report to me after the encounter. PI Sunil Deshmukh, PSI Sachin Kadam and others had taken part in that encounter. PI Sunil Deshmukh was head of the team. I did not call for any papers of that case from PI Deshmukh or PI Tajne. ACP, Matunga Division had supplied copy of FIR and copies of some other documents also including spot panchanama. I cannot tell the exact date when I got them. It is not that I called for the papers only for the purpose of submitting the chargesheet in this case. I did not carry out any investigation in connection with the encounter on the basis of the papers. I think that copy CA report about the explosive was also sent. I do not remember whether I have filed only copy of FIR in this chargesheet. I will have to see the record. (Learned advocate asks the witness to go through the chargesheet and tell about it). Copy of FIR is only filed and it is in the volume of additional documents. It is filed as it is a relevant document. The incident was registered on 22/08/06 as CR No. 195/06 of Antop Hill Police Station. PI Tajne was the complainant.

Q. Do you think that the spot panchanama and other papers including the CA report of that case had any bearing on this case or not?

A. I do not think that the spot panchanama and other papers including the CA report of that case had any bearing on this case.

It is true that the ATS has not investigated that case. It is true that though I called for and received copies of several papers of that case, I filed only the copy of the FIR. I do not remember how much RDX and how many detonators were found in the premises of that person. I remember that RDX was found, but I do not remember whether detonators were found.

301. The said Mohd. Ali @ Abu Umed @ Abu Osama was one of the accused involved in this case. He was not the main brain behind the bomb blasts in this case. During the course of investigation it was revealed that he along with three other persons had illegally entered India two months before the bomb blasts. I cannot say whether he was well conversant with the procedure of preparing bombs and handling explosives. The RDX that was found in his premises was capable of causing explosion. As per our information, Mohd. Riyaz Nawabuddin had not come along with Mohd. Ali @ Abu Umed @ Abu Osama in India. I do not know whether according to our information they were staying together at

Antop Hill. I do not know when Mohd. Riyaz Nawabuddin arrived in India and how long he stayed. According to the information that I had he and Mohd. Ali @ Abu Umed @ Abu Osama were not associates, but they knew each other. I was not in the habit of perusing the station diary of our unit daily during the course of investigation. I may be on duty on 22/08/06. I did not visit the spot of the encounter or the hospital. (Learned advocate asks the witness to go through station diary entries no. 1 to 3 dated 22/08/06). I do not know in whose handwriting the entry no. 1 is. This entry shows the arrest of Mohd. Riyaz Nawabuddin. It is true that the entry shows that the case was registered as CR no. 04/06 and not LAC. The entries no. 2 and 3 show that as per the statement made by the said accused to the effect that he will point out his 'sathidar' who is also a Pakistani, who is residing at Antop Hill and then he led the ATS officers and pointed out the flat and then the encounter took place. The Marathi word 'Sathidar' may mean a friend or acquaintance. The meaning of the word 'associate' in Marathi is 'sahakari'. 'Saathidar' need not be associate in the crime. I do not use the word 'Sathidar' for associates in the crime. (At the request of the learned advocate the true

photocopies of the station diary entries not 1 to 3 dated 28/08/06 are marked as **Exts.2566 to 2568** respectively).

302. It is not true that I did not consider the case papers of the encounter including the spot panchanama and the CA report. These documents were the documents corroborating the conclusion that the said person was one of the accused in this case. I did not see the CA reports of the detonators and the RDX seized from Mohd. Riyaz Nawabuddin though he was the 'sathidar' of the person killed in the encounter. I do not know the owner of the vehicle that was found with Mohd. Riyaz Nawabuddin. I did not make any inquiry about it.

303. I came to know from PI Tajne after the investigation came to me that Mohd. Ali @ Abu Osama @ Abu Umed was involved in the bomb blasts case. It is not true that he did not tell me about the 'sathidar' Mohd. Riyaz Nawabuddin. I do not remember whether I had seen the final report of the encounter case. It was filed by ACP, Matunga Division. I do not know whether in the entire papers of the encounter case the name of the deceased was shown as Mohd. Ali, aged about 25 years only and no alias names were shown. I do not

remember whether 1450 gms RDX was found in his room. (Learned advocate asks the witness to go through the case papers of the encounter case that are filed along with application Ext. 2358 and to show which document describes the deceased along with his alias names). None of the papers along with Ext. 2358 show the name of the deceased as Mohd. Ali @ Abu Umed @ Abu Osama.

304. I do not know whether CA report of the RDX that was found with Mohd. Riyaz Nawabudddin was received. That RDX was not connected with the bomb blasts in this case. That is the reason why the CA report in that case is not submitted with the CA reports in this case. I had not seen and perused the CA reports of explosives and RDX that were seized from Mohd. Ali. I cannot say whether the CA reports of those explosives and RDX had no bearing with this case, therefore, I did not file them. I did not feel that it was important to file them in this case. It is not that only because PI Tajne told me that I say that the said Mohd. Ali was involved in this case. The inquiry about it was prior to the filing of the chargesheet in the first instance. The photograph of that person that was available was taken after the encounter. I cannot tell the date on which I received it. I

received it about 15 days after the investigation came to me. I was provided with three photographs. They were shown to all the eight witnesses who had taken part in the test identification parades, but they did not identify the person in the photograph. They were also shown to witness Mohd. Alam.

305. I had not seen the body no. 41 that was recovered from a blast site. I had not seen its photograph. I saw the photograph of the reconstructed face. The eight witnesses of the test identification parade did not identify the person from the photograph of the reconstructed face. Mohd. Alam also did not identify it. Out of the photographs of the two persons, i.e., Mohd. Ali and body no. 41, he identified only Mohd. Ali. I had shown only two photographs to him.
(Adjourned as court time is over).

Date : 26/03/2012

(Y. D. Shinde)
Special Judge

Date : 27/03/12
Resumed on SA

306. I did not see the detonators seized from Mohd. Riyaz Nawabuddin or in the encounter case. I had seen the CA reports in the encounter case, but not in the case of Mohd. Riyaz Nawabuddin. Therefore, I had no occasion to compare the CA reports of the detonators in the encounter case with the CA reports in the case of Mohd. Riyaz Nawabuddin. I cannot say as I had no occasion to compare whether the RDX and detonators found in the encounter case are similar to the RDX and detonators found in the case of Mohd. Riyaz Nawabuddin.

Q. Are you aware that on the basis of comparison of the CA reports of two different cases concerning the same type of weapons and explosives, the weapons and the explosives can be compared and identified?

A. As far as weapons are concerned, if they are factory made, then on the basis of CA reports they can be compared. But, if the weapons are not factory made, they cannot be compared. As far as explosives are concerned, on the basis of CA reports they cannot be compared

as to whether they are from the same source. As regards detonators, they are mostly factory made and on the basis of the CA reports, it can be found out whether they are manufactured in the same factory.

Q. What are the ingredients of RDX?

A. I cannot tell about its ingredients, but it is a newly invented explosive.

I cannot say of what chemicals RDX is made of. Each and every explosive contains certain chemicals and has its own composition. I did not compare the detonators seized from Mohd. Riyaz Nawabuddin with the detonators seized in the encounter case personally or through the CA reports. I cannot say whether the CA reports would have probably led me to the conclusion whether they are made from the same factory or not. I had not personally investigated any cases prior to 28/07/06 involving detonators and RDX. I was not associated in any manner with the investigation of the 1993 blasts. I had seen detonators and RDX prior to 28/07/06 during training. I am not aware about explosive C4, which is a chemical term used for Cyclonite. I have not heard of explosive by name Semtex. I cannot say which country manufactures RDX. I am not aware that

explosives manufactures are bound by international conventions to add unique marker chemicals to their products. I have not seen any tagged explosives till now. The name of the country manufacturing RDX and detonators and/or its origin is not mentioned in the CA reports. None of the CA reports regarding the explosives substances in this case mentions the name of the country manufacturing RDX and detonators and/or its origin. I cannot say as I am not aware whether unique marker on the chemical in the explosive as per the international convention will be beneficial in the identification of the said explosive. I had not seen any untagged chemical in an explosive.

307. Comparisons of weapons cannot be made with the help of bullets fired from the weapons. Markings and other features on a weapon can help in identifying it.

308. I stated yesterday that the RDX seized from Mohd. Riyaz Nawabuddin was not connected with this case on the basis of the information given by PI Tajne. It is not true that Mohd. Riyaz Nawabuddin was an associate of Mohd. Ali @ Abu Umed @ Abu Osama. It is not true that Mohd. Ali @ Abu Umed @ Abu Osama was

killed in a bogus encounter and to avoid any further complications in that case, we let off Mohd. Riyaz Nawabuddin though he was suspected to be involved in the present bomb blasts case.

309. I cannot say exactly when for the first time I realized that all the seven bomb blasts were parts of a single larger conspiracy. I submitted a proposal on 09/10/06 through DCP Bajaj to the Jt. CO for clubbing the seven crimes together. The realization about a single larger conspiracy came after the confessionals statements of some of the accused were recorded and also on the basis of the other evidence that was collected. There was no material against any of the accused in CR No. 156/06 when its case papers were handed over to me on 25/09/06. I realized during my interaction with the seven investigating officers upto 24/09/06 that there was material collected against the accused about their involvement. The material was that they were members of the SIMI, they were indulging in activities of the SIMI even after the ban, most of them had gone to Pakistan and had undergone training in handling of arms and explosives, they were working for L-e-T, large amount of funds were received from Azam Chima, Chief Commander of L-e-T,

they were having previous cases, etc. This material was on the basis of the investigation conducted by PI Rathod. PI Deshmukh, PI Tajne, PI Khanvilkar, API Dinesh Kadam, API Kolhatkar and other officers were assisting all the investigating officers. They were not associated with any particular investigating officer of a particular crime. Admissions by the accused in their interrogation reports was the material showing their involvement in bomb blasts. It is not true that there was no material till 24/09/06 showing the direct involvement of the accused in the bomb blasts.

310. It is not that 18/10/06 was the first occasion for any eye-witness to approach us. Before that there was an eye-witness by name Kishore Popatlal Shah in the Borivali blast. He had approached PI Khandekar, but I cannot tell the date. He had not recorded his statement. He was placed before me probably on 05/11/06. I did not record his statement on that day. His statement was recorded by Borivali Railway police probably on 14/07/06. His statement was not recorded after that day by any ATS officer, but I recorded his further statement on 7th and 08/11/06 after the test identification parades. I did not ask about his medical papers when he was produced before

me on 05/11/06. I cannot say whether they were collected by any ATS officer before 05/11/06. He on his own did not produce his medical papers on 05/11/06. I had not seen him prior to 05/11/06. I knew that he had been traveling in the affected bogie on that day and had sustained injuries. I inquired with him for about 15-20 minutes. I did not feel it necessary to record his statement as it was already recorded. I came to know that he was a regular traveler in the western railways. I did not ask him to show his monthly pass or railway ticket of that day. No eye-witness except Kishore Popatlal Shah approached me or any other ATS officer before 18/10/06.

311. I cannot tell the time when Subhash Nagarsekar came to me on 18/10/06. No one directed him to come to the ATS, he came on his own. I do not remember whom he approached in the ATS office before he came to me. He was brought to me by somebody. I do not remember that person's name. Two-three officers were present when I interrogated him. I did not record his statement. PI Mandge recorded his statement. I cannot tell the timings of starting to record his statement and it being over. I questioned him for 10-15 minutes. Thereafter, I directed PI Mandge to record his statement. I

do not remember whether he recorded it in my room or in my presence. It was placed before me after it was completed. I do not remember the time when it was placed before me. I cannot say whether PI Mandge himself typed the statement or some other policeman typed it. I do not know whether any officer was assisting him during the recording of the statement. I had not directed anyone to assist him. I cannot say whether Subhash Nagarsekar was a regular traveler in western railways. I think that he is resident of Girgaon. I did not inquire with him as to whether he was associated with any political party. I do not know whether he was a prominent person from Girgaon area having background of RSS. I did not inquire with him about railway pass or ticket of that particular day.

312. Devendra Lahu Patil had come to my office on 20/10/06. I cannot tell at what time he came and left. I did not inspect his travel documents. He did not produce any travel documents pertaining to the date of incident. I do not remember whether he did not show any travel documents to me. I do not remember whom he contacted first after coming to the ATS office and who brought him before me. I questioned him for 15-20 minutes. PI Joshi recorded his

statement. I do not remember whether it was recorded in my presence. After I inquired with him, I directed PI Joshi to record his statement. I cannot tell for how long PI Joshi was recording his statement and at what time it was placed before me. I do not know whether any other policemen assisted PI Joshi. I did not record the statement of anyone out of the eight witnesses, who took part in the test identification parades. It is true that before the test identification parades all the eight witnesses had come before me. I cannot tell whether I inquired with all the eight witnesses for 15-20 minutes each.

313. I did not verify from the passengers of the trains, whose statements were recorded, about their travel documents like season pass or railway ticket of that day. I do not know whether my subordinate officers had verified it. I did not feel it necessary to verify it. It will be incorrect to say that I recorded the statements of the eight witnesses.

314. I do not remember the time on 02/11/06 at which Vishal Parmar came to the ATS office. It was the first occasion when he came to the ATS office. I do not know that except Kishore Shah, none

out the eight witnesses had approached any police station before coming to the ATS office for giving statement. I did not question them about it. PI Khanvilkar recorded the statement of Vishal Parmar. Someone from my office brought him to me, but I do not remember his name. I do not remember whether PI Khanvilkar brought him. I do not remember whether PI Khanvilkar recorded his statement in my presence. I cannot say for how long the recording of the statement continued and at what time it was placed before me, but it was placed on the same day.

315. API Wadmare recorded the statement of taxi driver Santosh Kedar Singh on 03/11/06. Some constable had brought him before me, but I cannot tell his name. His statement was not recorded. I do not know at what time Santosh Singh was brought before me. I questioned him for 10-15 minutes. I do not remember whether it was recorded in my presence. I cannot say for how long API Wadmare took his statement. I did not inspect and take his badge and driving licence. I do not know whether API Wadmare did so.

316. Santosh Singh and Rajesh Satpute were not brought

before me together. I do not remember who was brought first. Rajesh Satpute was brought to the ATS by a constable, but I cannot tell his name. His statement was not recorded by me. PI Khanvilkar recorded the statement of Rajesh Satpute. I had asked him about his residential address, it was of Jijamata Nagar, Kalachowki. It is in the jurisdiction of Kalachowki police station at a half kilometer distance from the Kalachowki ATS office. I did not see the RC book of that taxi and badge and driving licence of the witness. I did not ask him to produce them. I do not know whether PI Khanvilkar asked him to produce them. Those documents were not placed before me along with the statement. I cannot say whether he was driving his own taxi or someone else's taxi on the day of the incident. I did not make any inquiry about it. After the statement was placed before me, I came to know that he was driving the taxi of someone else. I cannot say whose taxi it was. I do not remember the name of the owner of the taxi.

(Adjourned for recess)

Date : 27/03/12

Special Judge

Resumed on SA after recess

317. Cotton Green Station is at a distance of 200 meters from Kalachowki ATS office. I do not know about Zakeria Bunder Road in Cotton Green. I do not know Vishwavihar Hotel in Cotton Green. I don not know whether one Prakash Jedhe was the owner of the taxi that was driven by Rajesh Satpute and he used to live opposite Vishwavihar Hotel near Cotton Green Station. I do not remember whether I came to know after verifying the statement of Rajesh Satpute that Prakash Jedhe resides in Jijamata Nagar in Kalachowki area. I did not obtain information about taxi number MH-01-J-4066 from the RTO. I did not record the statement of Prakash Jedhe and did not tell anyone to record it. The constables had made inquires with the taxi drivers at my instance. I had directed number of officers and constables in general to make inquires to find out the taxi drivers. This direction was given about 15 days prior to 03/11/06. They were making efforts, but they succeeded in finding two taxi drivers on 03/11/06. They did not bring any other taxi drivers before me during these 15 days.

318. I did not visit any spot of blast or inspect any affected bogie since the time I joined the ATS on 28/07/06 upto the date of

filing the chargesheet.

319. I did not see and go through the agreement produced by Sajid Mohd. Chand (PW-48). I had not made any correspondence with the Collector of Mumbai in this connection. ACP Tawde has retired. It is not true that I did not give any directions to any investigating officer after 28/07/06 upto 24/09/06. I had guided them. The search of the houses of the accused no. 10 and Rizwan Dawrey at Pune on 31/07/06 was not as per my directions. Same is the case about the house search of the accused no. 11 on 31/07/06. The officers going for search for house of an accused with the accused may take panch witnesses with them while starting from the police station or may call the panch witnesses at the spot. (Learned advocate asks the witness to go through Ext.756). It is true that PI Dinesh Kadam had taken panchas from the jurisdiction of Bhoiwada Police Station while going to Pune for the search of the houses of accused no. 10 and Rizwan Dawrey. I saw these panchanamas when PI Rathod handed over the papers of the investigation to me on 14/10/06. G. D. Ambekar Marg starts from Parel village and goes upto Kalachowki Police Station. Haffkin compound is in the lane behind

KEM Hospital. It is also within the jurisdiction of Bhoiwada Police Station. PI Dinesh Kadam was with the Crime Branch before coming to the ATS. I do not know about PSI Arjun Gaikwad. (Learned advocate asks the witness to go through Ext. 716). It is true that the panch witness Pritam Mhatre is a resident of Hindmata, within the jurisdiction of Bhoiwada Police Station. (Learned advocate asks the witness to go through Ext. 527). It is true that both panchas are from the jurisdiction of Bhoiwada Police Station. It is true that none of the supervising ACPs participated in the house search panchanamas at Pune of the accused no. 10 and Rizwan Dawrey and at Worli of the accused no. 11. I think that Ext. 527 is in the handwriting of PI Tonpi. (Learned advocate asks the witness to go through Exts. 533 and 534). ACP Shengal participated in the search of the house of the accused no. 3 and accused no. 9. It is true that both panchas in these panchanamas are from Hill Road, Bandra.

320. I do not remember whether I had interrogated the accused no. 13 on 09/10/06. I had directed ACP Tawde and PI Tajne to interrogate the accused no. 13, but I do not know whether they had interrogated him at Bhoiwada or Kalachowki office. I do not

remember who recorded the statements of Abdul Rehman Dawrey (PW-71), Mushtaq Ahmed (PW-46), Mohd. Usman Patni (PW-47), Wasi Mohd. (PW-45), Afzal Hussain (PW-43), Hidayatulla Sulke (PW-64), Bilal Shaikh (PW-66), Mohsin Junaid Khan (PW-67) and on what dates. I saw the statements of these witnesses when PI Rathod handed over the papers of investigation to me. The correspondence with Attari Railway Station was not made by me or at my instance. I did not record the statement of any person from Attari Railway Station. I cannot say when the correspondence with Attari Railway Station was started, but it was made by PI Rathod and the supervisory officer.

321. SB-II branch in the Mumbai Police deals with arrival and departure of foreigners and verification of applications received for obtaining passports. Bureau of immigration deals with the immigration work at the airports. It is a branch of IB, i.e., intelligence bureau. The bureau of immigration does this work since 1998 as per my knowledge. Even now SB-II verifies the passport applications and recommends issuance. Verification of documents, place of residence and antecedents is done by local police stations. I did not record the

statement of any officer of the SB-II or from the bureau of immigration.

322. I saw the panchanamas that were drawn at Madhubani, Bihar and the statement of API Kolhatkar, when PI Rathod handed over the papers of the investigation to me. I did not send the statement of API Kolhatkar to Madhubani. It was sent under the direction of superiors, but I cannot tell on what date. I had corresponded with the District Magistrate of Madhubani. It was in connection with sanction under the Explosive Substances Act. I had sent the proposal, but I do not remember the date. The proposal is not produced with the chargesheet. I have sent proposals for obtaining sanctions/consent orders from various authorities under various Acts. I had sent the required material with the proposals. I had sent the photocopies of panchanamas at Madhubani, statements of witnesses from Madhubani, CA reports, FIR, confessional statements of the accused, etc., to the District Magistrate, Madhubani for obtaining consent. A list of documents was also sent with the documents. The case registered at Basupatti was given CR No. 102/06. It is not true that I did not send copy of FIR to the District

Magistrate, Madhubani. The office copy of the proposal may be in the file. (Learned advocate asks the witness to produce copy of the proposal sent by him to the DM, Madhubani to obtain consent for prosecution under the Explosive Substances Act). It is true that all the sanctions and consent orders under different Acts, except under the MCOOC Act, were received after the chargesheet was filed on 30/11/06. I submitted the proposal to the District Magistrate, Mumbai on 02/03/07 for obtaining consent under the Explosive Substances Act. The proposal for obtaining sanction under the Unlawful Activities (Prevention) Act was submitted on 15/11/06. The sanction was received on 04/01/07. The first proposal for obtaining consent under the Explosive Substances Act was sent to the District Magistrate, Mumbai Suburban District before filing of the chargesheet. Subsequently proposals were sent on 02/03/07 to District Magistrate, Mumbai City, District Magistrate, Mumbai Suburban District and District Magistrate, Thane District. I remember that I had sent draft of the consent order to the District Magistrate, Mumbai City. It was not my practice to send draft of the consent orders. I do not think that it is a wrong practice to send draft of consent orders to the consenting

authorities. It is a general practice in the Anti-Corruption Bureau. Vishwas Patil was the District Magistrate, Mumbai Suburban District to whom I had sent the first proposal. I do not remember whether I had not annexed draft of the consent order with the proposal. I did not send draft of the consent orders to District Magistrate, Mumbai Suburban District and District Magistrate, Thane District. I have not sent draft of the consent orders to any other authority other than the District Magistrate, Mumbai City, Valsa Nair. I had sent a draft of the consent order to the District Magistrate, Mumbai City, Valsa Nair, because I thought that it is required as it was a practice in the Anti-Corruption bureau, but thereafter, we had discussion and I was advised not to send drafts of the consent orders. I had discussions with PI Wabale and DCP Bajaj on 02/03/07 during which I had informed them that I had sent draft of the consent order. After the advice I did not send drafts of the consent orders to the other two District Magistrate. The proposals to DMs, Mumbai Suburban District and Thane District were also sent on 02/03/07. I sent proposal on 12/12/06 for obtaining sanction for prosecution under various sections of the IPC. I did not send draft of the sanction orders to the

Government for sending this proposal. It is not true that I had sent the drafts of the consent orders to each and every authority, that I am lying before the court because the consent order given by DM Valsa Nair contains the draft of the consent order and that I am giving false explanation.

(Adjourned as court time is over).

Date : 27/03/2012

(Y. D. Shinde)
Special Judge

Date : 28/03/12
Resumed on SA

323. I have asked the ATS to search for the office copy of the proposal that I sent to the District Magistrate, Madhubani. They are searching for it. The sanctioning or the consenting authority has to study the material with the proposal and apply its mind independently and accord the sanction or consent. It is not true that I did not send copy of the FIR with the proposal to the District Magistrate, Madhubani, but I had sent draft of the consent order. I saw the consent order issued by the District Magistrate, Madhubani in the month of May 2007, when it was filed in the court. I have not submitted copies of the proposals sent to the sanctioning or consenting authorities, with the chargesheet. I have not filed office copy of forwarding letter sent to the FSL, Hyderabad. I do not remember the date on which I received the report from the FSL, Hyderabad. The report was not filed with the chargesheet. The forwarding letter was sent by PI Rathod and I think that CPUs, hard disks, mobiles, CDs, etc., were sent with it.

324. I did not visit Kausa Mumbra in Thane during the

course of investigation. PI Khanvilkar had recorded the statement of Mehmood Azim Qureshi (PW-65) on 05/10/06. His statement before the magistrate was recorded on 08/11/06. PI Khanvilkar must have called him to the ATS office during the intervening period, but I cannot say on how many occasions. I do not remember whether I directed PI Varpe to record his statement or to inquire with him. I had inquired with the witness on 05/10/06. PSI Datir's full name is Vilas Datir. I do not think that he was attached to Bhoiwada Police Station before joining the ATS.

325. It was disclosed during the investigation that 15kgs RDX was brought by Pakistani nationals and the detonators were procured locally. The detonators were procured by the Pakistani nationals, therefore, it is not known from where they procured them. I have not come across any local made detonators. I cannot say whether there was any investigation to find out the source of the detonators that were found in the encounter case. I did not feel it necessary to make such investigation. The officer making the investigation of encounter case did not report to me about the investigation. I do not know who was the senior most PI who

assisted the ACP, Matuga Division in the investigation of that case.

Q. Whether you felt it necessary to investigate regarding the RDX and detonators found in the encounter case as you were confirmed that the accused killed in the encounter was involved in the present bomb blasts case?

A. Since the CA reports of RDX and detonators were received and as the accused Mohd. Ali @ Abu Osama @ Abu Umed was dead and there was no other associate of him available for interrogation, I did not feel it necessary to make inquiry with regards to the RDX and the detonators.

I cannot tell the date on which I had received the copies of the CA reports in respect to the RDX and detonators found in the encounter case. The copies of the CA reports were received prior to the submission of the chargesheet in this case. I had recorded the statement of ACP Inamdar, who had investigated the encounter case, on 10/11/06. That was the only statement recorded of any officer from the investigation team of that case. I did not take the statement of ACP Inamdar after 10/11/06. The dead body of Mohd. Ali was not disposed off till that day as there were no claimants. ACP Inamdar

was the ACP of the Matunga Division. I am not certain whether Police Station Antop Hill was under the jurisdiction of ACP, Sion Division. (Learned advocate asks the witness to refresh the documents and answer the question). On going through the list of telephone numbers with me, I say that Antop Hill Police Station is under the jurisdiction of ACP, Sion Division. From the statement of ACP Inamdar I can say that ACP Manohar Dalvi of Sion Division had investigated the case till 06/11/06 and thereafter ACP Inamdar of Matunga Division took over the additional charge of Sion Division. He had not investigated the encounter case before 06/11/06. It is not true that he did not produce any papers of the investigation of the encounter case before me when I took his statement. It is not true that his statement was recorded only to show that the dead body was lying unclaimed in the morgue at Sion Hospital. The purpose of recording his statement was to have information about the encounter, the registration of the case, the evidence collected and about the disposal of the dead body, etc. I faithfully recorded the statement given by him. (Learned advocate asks the witness to go through the statement). It is not true that he did not state anything about the

development in the investigation. It is true that he did not state about the specific documents that he produced.

Q. In the entire statement of ACP Inamdar did not disclose the progress of investigation in the encounter case except for saying that ACP Manohar Dalvi investigated it?

A. I cannot say.

I do not know where ACP Manohar Dalvi is at present. ACP Inamdar must have retired. I had thought of recording the statement of the officers of the investigating team of the encounter case prior to 10/11/06, but I could not do so for want of time. I did not ask ACP Inamdar about the officers who had assisted ACP Dalvi. I did not record the statement of ACP Dalvi after I recorded the statement of ACP Inamdar. It is not true that ACP Inamdar did not investigate that case. He is cited as a witness in this case. I do not know whether he is going to be examined as a witness. I have filed only the copy of the FIR of the encounter case in this chargesheet. I think it is filed in the additional documents. I think the copy of the FIR must have been remained to be filed with this chargesheet through oversight. I did not feel it necessary to file the copies of the other documents of that

case, therefore, I did not file them with the chargesheet. It is not true that I deliberately did not file those documents as it would have been fatal to this case.

326. PSI Awari assisted me in the investigation. I do not know whether he was attached to Police Station Bhoiwada in 2003. (Learned advocate asks the witness to go through the documents filed along with Ext. 1789). I do not know whether he was attached to that police station from 2001.

327. I think that the accused no. 1 to 7, 12 and 13 were sent to Bangalore for scientific tests. I do not remember the date on which the accused no. 12 was sent and for how many days he was there. He was sent when he was in police custody. I do not remember the name of the officer who had taken him to Bangalore. Reports of brain mapping and lie detector tests are filed with the additional documents. Reports of narco tests are not filed as they are not admissible. These were the only three scientific tests to which the accused were subjected. All narco tests were done only at Bangalore. I remember that narco analysis test of the accused no. 12 was done. I do not remember when he was taken and when he was brought

back. The accused no. 5, 6, 7,12 and 13 were sent to Bangalore as per my directions. I had filed the application to the court to take permission for sending the accused no. 12 to Bangalore for scientific tests. I cannot tell the date of the order of the court. The accused were sent for scientific tests along with the forwarding letter. I am not aware of the procedure of the brain mapping, lie detector and narco analysis tests. I had not referred any accused person for scientific tests prior to this case. I had no occasion to go thorough the reports of scientific tests conducted on any accused person prior to this case. I am not aware of the effects of the scientific tests on the body of the person subjected to such tests and about the chemicals used in such tests. I do not remember whether I had described the brief facts of the case and had given the questionnaire required to be put to all the accused sent for the tests, along with the forwarding letter. I think brain mapping and polygraph tests are one and the same. It is necessary to inform the brief facts of the case to the laboratory conducting the tests. The questionnaire may or may not be sent. The expert forms his own questionnaire. I have not personally observed the conduct of any of the scientific test on any person.

328. I do not remember the dates on which the accused no. 13 was sent to Bangalore and brought back and the name of the officer who had taken him. It is true that no narco test of any accused has been carried out in Mumbai. This is because these facilities were not available in Mumbai at that time. I remember about the accused no. 13 being subjected to the narco test. I do not remember whether he was subjected to brain mapping and lie detector tests. Copies of reports of narco tests were not made available to the accused. It is true that no document in respect of narco tests of all the accused has been filed with the chargesheet.

(Adjourned for recess).

Date : 28/03/12

Special Judge

Resumed on SA after recess

329. It was disclosed during the investigation that the Pakistani persons were staying at three places in Mumbai, i.e., at the residence of the accused no. 3 at Bandra, at the residence of the accused no. 7 at Mira Road and in the office of SIMI at Mira Road. After the blasts they had gone to the residence of the accused no. 8 at Mumbra. I had seen the agreements of the places at Bandra, Mira

Road and Mumbra. The agreement of the place at Mumbra was produced by the owner of the flat, but I do not remember his name and the date on which it was produced. I did not personally record the statement of any person in connection with the flat at Mumbra. It was revealed during the investigation that some of them had stayed at Millat Nagar, Andheri, but that place was not traced and to whom it belonged. Apart from all the above places no other place was revealed as the hideout of the Pakistani nationals. I do not remember whether I had personally inquired with the owner of the flat at Mumbra. I do not remember whether an officer by name Londhe was working with me in the ATS at that time. I did not direct my subordinates to seal the four premises where the Pakistani nationals had stayed. No flat at Borivali, Jogeshwari and Goregaon was disclosed as the hideout of the Pakistani nationals. It has not come to my knowledge that any of the accused had purchased or taken on rent any flat in Mumbai other than the flats at Mumbra, Bandra and Mira Road for providing hideouts to the Pakistani nationals.

330. I do not remember on which dates the accused no. 5, 6 and 7 were sent to Bangalore for scientific tests, when they returned

back and the names of the officers who had taken them. I remember that they were subjected to narco tests, but I do not remember whether they were subjected to any other tests. Reports of some accused about their brain mapping and lie detector tests are filed with the chargesheet. I cannot say without seeing the chargesheet whether I have not filed any reports of any scientific tests in connection with the accused no. 5, 6, 7, 12 and 13. (Learned advocate asks the witness to go through the chargesheet). Report about brain mapping test of the accused no. 7 is filed. No report of any other scientific tests of the accused no. 5, 6, 7, 12 and 13 is filed, except the report of brain mapping of the accused no. 7. I do not remember whether I had sent the questionnaire along with the forwarding letter of the accused no. 7.

331. I do not remember the dates on which the accused no. 1 to 4 were sent for scientific tests at Bangalore and the number of occasions on which they were sent. The accused were not sent for scientific tests at Bangalore before 28/07/06. The accused no. 3 and 4 were sent on more than one occasion, but I cannot say on how many occasions, their dates and for how many days on each

occasion they were at Bangalore. I do not remember the names of the officers who had taken the accused to Bangalore. The forwarding letters on every occasion were either prepared by me or by my subordinates under my directions. Most of the forwarding letters were signed by the DCP or by the Addl. CP. I do not remember whether I had sent the questionnaires with the forwarding letters of the accused no. 1 to 4 and 7. I do not remember whether I had prepared such questionnaires. The accused no. 1 to 4 were sent in September 2006, but I do not remember whether it was in the first week. They and the accused no. 7 must have undergone the brain mapping tests. I am saying that they must have undergone the brain mapping tests as their reports are received. I cannot say for how many days they were subjected to narco test. The accused no. 1 to 4 were subjected to lie detector test, but I do not remember about the accused no. 7. I cannot say about the accused no. 1 and 2, but the accused no. 3 and 4 were sent for scientific tests at Bangalore on 24th or 25/09/06 for the last time. They were sent for narco tests. I do not remember now as to on how many occasions they had been sent. The reports of the tests were received by my superiors. They used to come to the ATS

office at Nagpada. The reports were received in the names of the officers who had signed the forwarding letters. They were not passed on to me immediately. I do not mean to say that I had no access to the reports. I had perused all the reports. The reports were used as aids to the investigation. It is not that the accused were sent repeatedly as the earlier reports were not satisfactory. They were sent again as the tests were not over completely on the earlier occasion.

Q. Whenever the accused were sent for scientific tests, they were not sent back to Mumbai unless and until the tests were over?

A. Regarding narco tests, the person is required to be sent in trance and if he comes out of the trance earlier, the test cannot be completed and for other session of trance, some time gap of 2-3 days is required to be given. Therefore, the accused used to be sent back and asked to be brought back again. I do not remember whether the officers of the FSL used to send any written reports for sending back the accused for tests. I do not know whether, when the accused were first sent for polygraph tests, they were repeatedly subjected to the tests on 3-4 occasions.

332. It was not disclosed during the investigation that the bombs were placed in umbrellas and RDX was brought in black bags. It was not disclosed that the detonators that were used in the bomb blasts were brought from Pakistan. It was not disclosed that the accused no. 3 had taken a flat at Borivali for keeping the Pakistani nationals.

333. The reports of the scientific tests of the accused no. 1 to 4 that were filed with the chargesheet, were of the tests conducted in September 2006, but I cannot say whether they were of the first week of September. The reports of the tests that were conducted on 24th or 25/09/06 were not submitted with the chargesheet as they were relating to the narco tests. It is not true that I have intentionally suppressed the reports of scientific tests because they were not the correct and true reports and they had been obtained from Dr. S. Malini, who is under cloud now.

334. I do not remember the date when the case against the accused no. 9 for forgery and cheating was registered at Bangalore. It was registered after his arrest in this case. It is true that it was registered on the basis of the letter given by the ATS. I do not

remember the name of the officer who sent the letter. The ATS officer did not lodge the FIR. It was lodged by the officer of the Oracle company.

335. I did not collect any documents from the customs departments on the border of Nepal and Bihar for 11/07/06. Entries are made at the border whenever person crosses the border of a country where passport and visa is required. As per my knowledge passport and visa is not required for crossing the border of India and going in Nepal and no entry is required to be made. I do not know whether the accused no. 1 is having motor bike no. BR-32-A-7377. I am hearing this for the first time. As per my memory the accused no. 1 had stated that he does not have a driving licence or owns any motor cycle, therefore, there was no question of verifying his driving licence. It is not true that I have seized the driving licence of the accused no. 1 and it is in my custody. It is not true that on 11/07/06 the accused no. 1 was in Bihar and had crossed the border of Indo-Nepal border and there is entry to that effect in the register of Nepal Customs. I do not know whether his house at Basupatti is very near to the Nepal border.

336. PI Bhavsar (PW-100) had not stated before me that after he had sent the accused with PSI Suryavanshi, DCP Ranade called him and gave him a letter addressed to the Sr. PI to keep the accused in the lockup and to produce him before the CMM on the next day and that he also gave him two sealed letters along with forwarding letter addressed to the CMM. However, it is in the statement that the DCP, Zone-XI handed over letter no. 6066/DCP, Zone-XI/PA/06 dated 06/10/06 in the name of the Sr. PI of Borivali Police Station, Mumbai with a direction to produce the accused before the CMM on 06/10/06 at 1100 hours and till then the accused should be kept in the police station's lockup as kept on earlier day. The DCP, Zone-XI had also handed over two sealed envelope in the name of CMM and a separate letter no. 6065/DCP, Zone-XI/06 dated 06/10/06 in the name of CMM, Mumbai. I did not record the statement of PSI Suryavanshi.

337. It is not true that though there was no material against the accused, I created evidence to involve them falsely in this case and that this is the reason why the evidence favourable to the accused has been suppressed and the concocted evidence and

material has been placed before the court, that the witnesses are all got up witnesses to suit the case of the prosecution and that the persons who are well acquainted and having good relations with the officers of the investigation team have been taken as witnesses to support the prosecution case.

Cross-examination by Adv Rasal for A1, 5 and 6

338. (Not available. PI Mohite informs at 4.50 p.m. that on inquiry on phone it is learnt that adv Rasal has gone home and is busy in the Kalyan court tomorrow and would come after examining the witness there. Hence, adjourned).

Date : 28/03/2012

**(Y. D. Shinde)
Special Judge**

Date : 29/03/12
Resumed on SA

(Learned advocate Shetty requests that he be allowed to put a few questions to PW-186 as they remained to be put. Learned SPP has no objection. Since, the cross-examination by the Id adv for the A1,5 and 6 has not yet begun, the request is allowed).

Further cross-examination by Adv Shetty for A3, 8, 9, 11 and 12

339. The office copy of the proposal that I sent to the District Magistrate, Madhubani is not yet found. It is not that I do not want to produce it. It will be produced when it is found.

340. I do not remember the date when the dead body of Mohd. Ali @ Abu Umed @ Abu Osama was disposed off. I did not show the dead body to any of the witnesses who had taken part in the identification parades, but I had shown them photographs of the dead body. I remember that the dead body was disposed off after the chargesheet was filed as there were no claimants. I had not seen the dead body.

341. I did not take legal opinion before submitting the proposal for sanction under the MCOB Act. I had consulted my

colleague officers and DCP Bajaj. The colleague officers were the officers who had assisted me in my investigation. I had also discussed it with my colleague ACPs. I did not consult Addl. CP Jaijeet Singh and Jt. CP Raghuvanshi. I prepared the proposal with the help of my colleagues. The proposal was forwarded through the proper channel, i.e., DCP, Addl. CP and Jt. CP of the ATS. There was no meeting with them after the proposal was sent. There was no discussion with them about the proposal after it was sent. As per my knowledge insurgency means undermining the authority of the State and acts committed for that purpose. I am saying this on the basis of my experience and study. According to me all acts grave or smaller will contribute to insurgency. One accused by name Suhail Shaikh from Pune was an absconding accused when I filed the chargesheet. His full name was Suhail Usman Gani Shaikh. The full name was not disclosed before sending the proposal. It was disclosed after the chargesheet and the additional documents were filed. His address of Pune also came to be known. All this information was revealed after submission of the additional documents. I again say that this information was revealed positively after the chargesheet was filed,

but I am not sure whether it was before or after the additional documents were filed. I remember that PI Rathod had recorded the statements of his brother and wife. I am not sure about the date when they were recorded. I do not remember whether I filed them with the additional documents. I am sure that they were not filed with the chargesheet, because at the time of filing the chargesheet, his full name and full address was not known. Therefore, he was referred in the chargesheet as Suhail Shaikh from Pune. I did not prepare and file the draft charge with the chargesheet. I do not remember the names of brother and wife of the said accused. (Learned advocate asks the witness to go through the volume of additional documents and point out the statements). They are at pages 439 and 441 and are dated 24/01/07. Before this date no statement regarding that absconding accused was recorded. I cannot say on what date exactly the information about the full name and address of the absconding accused came to be known after the chargesheet was filed and before the statements of the two witnesses were recorded on 24/01/07. The final report Ext. 2451 was prepared by me. It is true that in the final report Ext. 2451 the name of the said accused is

mentioned as Sohail Shaikh @ Nasir, R/o Opp Shivaji Market, Near Silver Inn Hotel, Pune. This much address was available at the time of filing of the chargesheet.

Q. Despite this much address being available you need not chose to record the statement of any person regarding that accused?

A. This address was not the full address. We were making efforts to obtain the full address and trace the relatives. Therefore, no statements regarding that accused could be recorded before 29/11/06.

342. PI Rathod and PI Wabale may be present when I discussions with the Commissioner of Police after I sent the proposal. I do not remember whether any other officer was present. It is not true that the application of the provisions of the MCOB Act to this case are *mala fide*, the application of the said provisions is only in view of Sections 18 and 19 of the MCOB Act.

Cross-examination by Adv Rasal for A1, 5 and 6

343. (Adjourned to 02/04/12 as per the order on the adjournment application Ext. 2574 filed by Adv Ashwin Rasal h/f Rasal).

MCOB SPL.21/06

PW 186/438

Ext.2361

(Y. D.

Shinde)

Date : 28/03/2012

Special Judge

Date : 02/04/12
Resumed on SA

344. I had gone through most of the case papers of the investigation done by the officers of the railways and the ATS in all the crimes and had also got acquainted with the facts from interaction with them. It is not true that during my investigation I did not call any witness whose statement had been recorded by them. I had called Kishore Popatlal Shah and some other witnesses. I do not remember the names of the other witnesses and to which crime they were related. Kishore Popatlal Shah was concerned with the crime registered at Borivali Railway Police Station. I think he was having cloth business. It is not true that by calling him my investigation was not furthered. He was one of the witnesses, who took part in the identification parades. His first statement was recorded by an officer of the Borivali Railway Police Station in CR No. 156/06. PI Khandekar did not record his statement. He was not reporting to me everyday in connection with the investigation that he was doing. He did not discuss the instructions given by DCP Bajaj. I was not knowing about the steps that he took and the persons whom he contacted in

pursuance to the instructions given by DCP Bajaj. I had recorded the statements of the investigating officers of the ATS after the provisions of the MCOB Act were applied to the case and the investigation came to me. I recorded the statement of PI Khandekar immediately on the day when the prior approval for applying the provisions of the MCOB Act to the case was received, i.e., on 24/09/06. I recorded statements of the other investigating officers on 25/09/06 and 13th and 14/10/06. Some of the accused were arrested in CR No. 59/06 of Vasai Road Railway Police Station and there was remand application. PI Agrawal was the investigating officer. He had produced the accused for remand before the Addl. CMM at Mazgaon. Vasai Road Railway Police Station falls within the jurisdiction of Railway Police Commissionerate. I am not aware whether the railways has their own magisterial courts. I am not aware whether in the crimes within the jurisdiction of Vasai Road Railway Police Station, the remands are taken to the Vasai railway court. I know that there are separate railway courts for crimes registered with the railway police stations. There was no question of taking remands from the railway courts by the officers who were making the investigation initially. I did

not see the remand applications filed by the investigating officers of the ATS. All the papers of investigation conducted by the previous investigating officers were handed over to me after I took over the investigation. They included copies of remand applications.

345. I do not remember the date when the report of the FSL concerning the sample of the black powder that was seized at the house of the accused no. 1, was received. It is not true that till this report was received, barring suspicion there was nothing against the accused no.1. The accused no. 1 had admitted when he was in police custody, that he had gone to Pakistan and had undergone training in handling arms and explosives. He had disclosed this after about 10-15 days of his arrest. I did not see what were the contentions in the first remand application after his arrest. I have not submitted the copies of the remand applications in the court. It is not true that the copies of the remand applications are either misplaced or not traceable, that they are suppressed as they will go against the investigation and their non-availability is within my knowledge.

Q. Whether the station diary entry contains the names of the officers and the work that they have done during the day?

A. All work done by the officers cannot be entered in the station diary. If the work done is related to the investigation, it can be recorded in the case diary.

It is expected that movements of the officers are recorded in the station diary with their names.

346. PI Tajne had gone to Bihar on the information that he had received and after obtaining the permission of the superiors, but I do not remember the names of those superiors. Jt. CP Raghuvanshi, Addl. CP Jaijeet Singh and DCP Bajaj were supervising the investigation. Addl. CP Jaiswal was supervising the work of the ATS for the rest of the Maharashtra. Rest of Maharashtra means other than Mumbai City and Thane City. Addl. CP Jaijeet Singh was supervising the work of the ATS for Mumbai City and Thane City. DCP Bajaj and Addl CP Jaijeet Singh were being consulted and their guidance was taken by the subordinate officers. I do not know whether any application was moved before the Railway Magistrate, Vasai by the officers who had conducted the investigation. I did not move any application. There is no order from the Railway Magistrate about the ATS taking over the investigation. There is no order from

Addl. CP Jaijeet Singh or DCP Bajaj in that connection.

347. Jt. CP Raghuvanshi, Addl. CP Jaijeet Singh and DCP Bajaj were giving the guidance in the investigation. Commissioner of Police, Mumbai was also supervising the investigation. I do not know whether public bodies and NGOs were keeping constant watch on the progress of the investigation. It is not true that they were taking account of the progress in the investigation. I am not aware whether the opposition leaders had raised questions before the home minister outside the assembly, but I know that they had done so in the assembly. I do not remember whether the questions were regarding why the culprits in the crime had not been arrested though there was lapse of time. Witness volunteers - I remember that when the questions were raised, some of the accused had been arrested. It is not true that questions were also raised about the doubt of their involvement in the crimes. Jt. CP Raghuvanshi and sometimes Commissioner of Police were giving information to the print and electronic media. Jt. CP Raghuvanshi was knowing the progress of the investigation and he must be briefing the CP. He did not call me to give this information. I was called when the questions were asked in

the assembly. I am not aware as to who was informing the government about the progress of the investigation. Home department was updated about the progress of the investigation from time to time.

348. I was knowing that API Kolhatkar had brought the black powder from Basupatti to Mumbai by train. It is true that no sample of the black powder was given to the local police before it was brought to Mumbai. I am aware that there is a local court at Basupatti, Dist. Madhubani, Bihar. I know that no report was placed before it by the ATS officers or the local police about the seizure of the black powder at that time. At that time the ATS officers had not recorded the statements of the inmates of the house of the accused no.1 or his neighbours. PI Tajne had an occasion to visit Basupatti again after the seizure, but I cannot say whether it was on 24/07/06. I do not remember whether at that time also he did not record the statement of any inmates of the house of the accused no. 1 or neighbours. I personally did not visit the house of the accused no. 1 to ascertain its position and nearby location. API Kolhatkar and API Varpe were deputed for this purpose after the investigation came to me and they

have recorded the statements of inmates and neighbours, but I do not remember the dates on which they had gone. I will have to see the chargesheet to state as to when they had recorded the statement.

Q. Did you realize that necessary permission for transporting the black powder was not obtained by the officer who brought it?

A. According to me no permission for transporting the seized muddemal, though it was suspected to be an explosive substance is required.

It did not come to my notice that PI Tajne had informed the higher officer at Basupatti regarding the seizure of the black powder. It is not true that when the accused no.1 was brought to Mumbai, the information about informing of his arrest was given from Mumbai office to the Basupatti officers. It is not true that the black powder was planted on the accused no.1 and no black powder was seized from his house.

349. I have visited the Mumbai Central Prison before the test identification parades in this case. I know about the procedure of the prison for entry and exit of persons. I do not know about the general public, but when the police officer go in uniform, their names and

police station are required to be entered at the gate. The jail staff is present at the gate for making such entries. I do not know whether when the private persons are allowed to enter the prison, their names are entered and they are given a token bearing number, whether the purpose of the visit and the name of the officer whom they want to visit is also entered. I am not aware whether register of prisoners is maintained in the prison, whether the register contains entries about their names, addresses, age, case number, sections of offences and that their photograph is affixed in the register. I have seen the office of the superintendent of the MCP. I do not remember whether there are two big windows in that office. I have not seen the cage type portion constructed from the 1993 blasts trial. I do not remember whether it is visible from the windows of the office. I do not know whether if one wants to enter the inner portion of the prison after coming out of the office of the superintendent, one has to go through a gate where an officer makes entries about persons going in and out, whether entries are made in registers in respect of keeping the prisoners inside the barracks and taking them out. I did not make any inquiry about it. I accepted the memorandums of the parades that

were given by the SEOs. I cannot say which of the ATS officers who were assisting me had been attached to Bhoiwada Police Station. It is not true that I do not know about the police station postings of all the officers. I knew the postings of some officers. I knew that PI Joshi and PSI Datir were attached to J. J. Marg Police Station, API Mohite was attached to Police Station Malabar Hill, PI Khandekar was attached to Dadar Police Station, etc. The panchas used for the test identification parade were brought by my staff. I will have to see the memorandums to say whether the panchas were residents of the Bhoiwada area. On going through the memorandums I say that both the witnesses were from Bhoiwada area. I do not know about murder of a builder by name Khanwilkar in Bhoiwada area, whether it was alleged that one Suresh Manchekar was behind that murder, whether his mother Lakshmibai was involved as an accused in that case, whether PI Khanwilkar had investigated that case, whether Sachin Koltharkar was the prime witness in that case, whether he used to reside in the Bhoiwada Police Station and giving his services to the police and whether his father was also informer of the Bhoiwada police. It is not true that these panchas were selected in order to

facilitate giving information to the witnesses for identifying particular accused and as they would sign on whatever papers we asked them to sign. It is not true that no test identification parades were conducted and that the memorandums were prepared as per our instructions as desired by us. It is not true that I selected the SEOs who would do as directed, therefore, I did not select the SEOs from our area.

350. I had sent the officers to Kolkata, 3-4 days after I took over the investigation. No statement of any witness had been recorded about the involvement of the accused no. 5 before sending the officers to Kolkata. It is not true that after the accused no. 5 was brought to Mumbai, I came to know that he had a shoe shop at Kolkata, but his relatives had a shoe shop. I do not remember the name of the shop. I did not record the statement of the relative. I did not collect any evidence about the shop. I did not seize any record from the shop about the accused no. 5 working there. I did not record the statement of any of his family member. I do not know whether the local police station was near his house. I interrogated the accused from the day he was arrested. Other officers were also interrogating

him. It is not true that there is no noting about interrogating him prior to 26/10/06. There may be some notings in the case diary about the interrogation. There are notings in the case diary about interrogating the accused no. 1 and 6 before their confessional statements were recorded, but I cannot say whether the names of the officers who interrogated them are mentioned. I do not remember the names of the officers who had interrogated the accused no. 1, 5 and 6 before their confessional statements were recorded. The officers who were interrogating the accused used to brief me. The desire of the accused to make the confessional statements was informed by these officers. I tried to find out from them the reason for which the accused desired to make confessional statements. Witness volunteers - I learnt from the officers that all the accused in this case were arrested and the entire story behind the conspiracy was revealed to the police, therefore, the accused decided to make a clean breast of the crime by giving confessional statements before the superior officers. I cannot say whether from this I realized that the accused had knowledge that our superiors can record their confessional statements. I came to know about the desire of the respective

accused one or two days before I sent the letters to the Jt. CP for appointing DCPs. The Jt. CP did not inquire with me in respect of this topic. He did not call the officers before whom the accused had expressed their desire. All the accused were under constant interrogation from the date of their arrest. It is not true that I have not made any noting anywhere about the officers informing me about the desire of the accused. I did not record statements of those officers. There is no evidence before the court about the accused having expressed their desire before the said officers. It is not true that I am not in a position to tell what type of interrogation the officers carried out. I cannot tell for how long the interrogation was going on. It is not true that the officers interrogating the accused had induced and given promises to the accused, therefore they informed me about it and that is the reason why I am not in a position to disclose their names.

(Adjourned for recess)

Date : 02/04/12

Special Judge

Resumed on SA after recess

351. I did not suggest name of any DCP to the Jt. CP when I requested him to appoint DCP for recording the confessional

statements. The Jt. CP, ATS had appointed all the DCPs. The Jt. CP must be aware about referring more than one accused to a particular DCP. I was also aware about it. There was no question of suggesting to the Jt. CP that he had referred more than one accused to a particular DCP. I was aware that there were more DCPs in Mumbai, apart from DCPs to whom the accused were referred. It is not true that I did not make any inquiries with the accused after their confessional statements were recorded and they were brought back to the ATS office. I did not record the statements of the ATS officers who had taken the accused to the DCP and of the officers of the concerned police station who had taken them to the magistrates, on the same day when the accused were brought back. It is not true that the accused have never volunteered to make the confessional statements, that they had not made any confessional statements and the confessional statements are the creation of my office. It is not true that the application of the provisions of the MCOG Act was with the intention to record the confessional statements of the accused before the DCPs, that therefore, I did not inform this court about the desire of the accused to make the confessional statements. It is not true that

I and my superiors have tortured the accused on a number of occasions to extract their confessional statements, that the station diary entries about the officers being deputed are made to inspire confidence in the procedure of recording of the confessional statements, that I fabricated the corroborative evidence, that the accused were tortured consistently, therefore they complained to this court. The accused continued to be in police custody for 2-3 days more after their confessional statements were recorded. Thereafter, they were remanded to judicial custody. The accused no. 1 to 4 and 9 to 11 were produced on 09/10/06 and the accused no. 5,6,7 and 12 were produced on 26/10/06, for the first time for remand before the court after their confessional statements were recorded. I remember that the accused no. 1 had complained on 09/10/06 about the atrocities committed on them and had also retracted his confessional statement on that day. I think that some relatives of the accused no. 6 had made a representation about his arrest and torture to the Human Rights Commission. I do not know whether it was signed by 101 people from the Govandi locality. I remember having submitted reply to the Human Rights Commission. The accused no. 6 had filed

complaint against the ATS officers alleging torture. I do not remember whether he filed it on 07/11/06, 24/04/07 and 19/07/07. I do not remember whether the application filed on 07/11/06 was sent from the prison. It is not true that right from their arrest, the accused were tortured by the police and the ATS. It is not true that it was well within my knowledge that the accused were not concerned with the offences, but just to pacify the public outcry we have falsely involved them.

352. I do not remember whether appeals were made from time to time to the people to come forward and give information about the blasts, if they had any. I did not inquire with the officers who were there at that time. News about the arrest of the accused used to appear in the newspapers and television. There used to be news about the investigation of the case, but not continuously. Videos of the bogies in which the blasts had taken place were shown on the television. It is true that the concerned witnesses came forwarded after a considerable period after the blasts. Witness volunteers - but they came forward after the press conference of the Commissioner of Police on 30/09/06, except Kishore Popatlal Shah, who had come

initially. One of the witnesses came on 18/10/06, one on 20/10/06, two on 28/10/06 and one on 02/11/06. The Commissioner had not made an appeal in the press conference. It was an important fact that the witnesses had come on the basis of the information that they gathered from the press conference. It is not true that this fact is not mentioned anywhere. Witness volunteers – it is in their statements. It is not true that I am giving this reason for the first time today. It is not true that there is no reference about the press conference by the Commissioner of Police.

353. It is not true that after the blasts Arun Gawali was claiming to be the supporter of Hindus. I did not ask Subhash Nagarsekar about his relationship with Arun Gawali when I inquired with him. It is not true that the said witness was introduced by Arun Gawali and he is a got up witness. It is not true that it is convenient for people staying in Girgaon to go by Central Railway to Thane than by Western Railway. I do not remember whether I did not inquire with Subhash Nagarsekar as to how he returned from Thane.

354. I do not remember the date on which I had recorded the statement of Mohd. Shakil Mohd. Mehboob (PW-70) and how long he

was interrogated. It is not true that he is introduced as witness by coercion. It is not true that that the accused no. 5 had come to Mumbai at any time and was not involved in any illegal activity. It is not true that I did not seize any record from the shop of his relative as I was knowing that the entries would go against my investigation and that he had never come to Mumbai nor indulged in any illegal activity.

355. I do not remember the date on which CR No. 00/06 was registered against the accused no.1. I do not know when Basupatti Police Station registered the crime. I do not remember the contents of the letter that was sent to SP Madhubani. It is not true that the case was registered at Basupatti Police Station at the instigation of the ATS, Mumbai. It is not true that the ATS officers were knowing that the black powder that was seized from the house of the accused no. 1 was not an explosive, therefore, they did not give sample to the local police station, that because of the pressure of the ATS the consent order was passed by the District Magistrate, Madhubani, that he did not apply his mind, but passed the order just to satisfy our demand. The transfer petition to the Supreme Court was moved by the ATS through the Government of Maharashtra. We did not

approach the Patna High Court for the transfer. We had not applied to the magistrate court at Basupatti. It is not true that to fulfill the requirement of the MCOB Act, that case was registered against him and in order to get jurisdiction over that case we filed petition before the Supreme Court.

356. I did not meet PSI Revale of the BDDS. I was knowing that he was working in the BDDS. I do not know whether he was called for when the black powder seized from the accused no. 1 was brought to Mumbai. According to my knowledge he was summoned to the ATS of 09/10/06. It is not true that I did not call PSI Revale to show him the black powder as I knew that it was not an explosive substance. I do not know on what date the notification of the establishment of the ATS was published. The ATS did not have brass seal till August 2006. Seal of Kalachowki Police Station or of the police station in that area was used till the period the brass seal was provided to the ATS. A request is made to the concerned police station to use their seal and station diary entry was also made. Entry should be made in the station diary about taking the seal of other police station. I will have to see the case papers to say whether this

is mentioned in the case diary. Brass seal is an important article and its movements are important. It is not true that the entries are not made about using the brass seal of other police stations. It is not true that the brass seal of the Kalachowki Police Station was brought to the ATS office and used there and the constable had not gone to the Kalachowki Police Station. ATS office is in the same compound adjacent to the building of that police station. Bhoiwada ATS office is in the compound of the Bhoiwada Police Station. The office of the DCP, Addl. CP and Jt. CP of the ATS is in one building at Nagpada.

357. I did not separately intimate the court about clubbing together the seven crimes. The order concerning the clubbing is of DCP Bajaj. I had consulted him 2-3 days before 09/10/06. I submitted the proposal to the Jt. CP on 09/10/06. I received the assent signed by DCP Bajaj on 12/10/06. He was well aware about the facts of the case since beginning. It is not true that the seven crimes were clubbed together though there was no evidence and though they were not connected to each other.

(Adjourned at 4.40 p.m. at the request of the learned advocate)

(Y. D. Shinde)

MCOB SPL.21/06

PW 186/458

Ext.2361

Date : 02/04/2012

Special Judge

Date : 03/04/12
Resumed on SA

358. It is true that when I took over the investigation, I came to know that various police stations and Crime Branch Units were making inquiries about the bomb blasts. API Alaknure, API Phadake, PSI Mayekar and others were attached to the Anti-Robbery and Anti-Dacoity cell of the Crime Branch. After the bomb blasts all units of the DCB, CID and police stations were making inquiries about the bomb blasts. They supplied the useful information to the ATS. I cannot say whether they had detained suspects from their respective areas for inquiries. I had not called for their record in connection with it for the purpose of my investigation. PI Salaskar was not operating from Nagpada ATS office, but he used to assist in the investigation. He was not famous as an encounter specialist, but he was famous as a resourceful officer. It is not true that there was an amount of fear in the minds of people about him. I am not aware whether he and his staff had brought many people from the area of Shivaji Nagar in Govandi. I cannot say whether majority of the people staying in Govandi area are Muslims. I did not make inquiry with the units about

the people whom they had brought in connection with the bomb blasts and the type of inquiry they had made. I did not make inquiry as to in whose custody the accused no. 6 was upto 29/09/06. It is not true that the accused no. 6 was inquired with by PI Salaskar and his team from 31/07/06 to 09/09/06 at the Kurla Unit and the accused was inquired with at the Nagpada ATS office from 09/09/06 to 29/09/06, that the wife, son and brother of the accused no. 6 were called at the Nagpada office in the evening of 29/09/06, that during the period from 31/07/06 to 29/09/06, the officers of the ATS and Crime Branch Unit were regularly visiting the house of the accused no. 6. However, the officers may have visited the house of the accused no. 6 for inquiring about him. It is not true that during such visits the officers take search of the house of the suspect to find out any incriminating article. I was not in the team that took the search of the house of the accused no. 6. I did not visit his house during the course of investigation. I do not know whether there are many police chowkis in the area of his house and that it is a thickly populated area and has a predominantly Muslim populated area, as I has never visited that area. I do not know whether there is a kirana shop in the

chawl in which the house of the accused no. 6 is situated. I know that the accused no. 6 and his wife and children used to stay in his house. It is not true that this information is based on the information given by PI Salaskar and his team. It is not true that I had not called for the ration card to ascertain the persons residing in his house. I did not seize the ration card, but I remember that its photocopy is with the chargesheet. I again say that it may be in the case papers and I cannot say whether it is filed with the chargesheet. All the officers who were assisting me, helped me at the time of the filing of the chargesheet. The officers whose names that I mentioned as being in my team had so helped me. I cannot say whether ACP Shengal and PI Tajne told me that copy of the ration card is not filed with the chargesheet. It was disclosed during the investigation that the brother of the accused no. 6 used to reside on the first floor of that house. I do not know whether the house of the accused was in a chawl and there was a chawl in front of that chawl. I personally did not record the statement of persons residing around the house of the accused. I did not think it necessary on coming to know the measurements of the house and the articles in it, to visit it and inspect it. It is not true

that only two or three persons can stand or sit in that house. It is not true that I found that the cooker that was seized from his house was a cooker in use, that it was seized from the brother of the accused from the first floor of that house. It is not true that the cooker is planted and not seized from his house, that no such panchanama was prepared on that day and nothing was seized from his house. It is not true that I knew that PI Salaskar had brought the accused at Kurla Unit since 31/07/06.

359. I did not see the cooker, therefore, there was no question of knowing its capacity and diameter when it was brought to the office. It is not true that I did not make efforts to find out about the gasket of that cooker. It is true that it was my understanding that the gasket of that cooker must be of the Kanchan company, which would be useful for cookers of that company. It is true that therefore, I did not make any investigation in that connection. I did not inquire with ACP Shengal or PI Tajne as to at what distance Konkani Masjid is from the house of the accused no. 6.

360. Jt. CP Raghuvanshi did not come to my office after the arrest of the accused no. 6 and inquired with him. We do not keep

any records about the visits of the CP, Mumbai, Jt. CP and DCP of the ATS to our office. It is not true that though the crime was serious Jt. CP and DCP of the ATS did not interrogate the accused. The CP, Mumbai had not interrogated the accused. It is true that as there is no record about their visits, I cannot tell on what dates the Jt. CP and DCP had visited my office and interrogated the accused. However, I can say that the DCP was regularly visiting my office and he had interrogated the accused in my office. It is not true that all the officers in my team used to assist him during the interrogation, but some of the officers used to assist him. I do not remember the names of the officers who used to assist him. It is true that the DCP used to guide us during his visits to my office. It is not possible that I was not in a position to know whether the CP and Jt. CP had visited my office in my absence and had interrogated the accused. Other officers have interrogated the accused no. 6 on my directions. I do not remember whether the ATS officers had taken the accused no. 6 outside my office for the purpose of the interrogation. The accused no. 6 was under interrogation after his arrest, but I cannot say whether he was under constant interrogation. After the accused was remanded the

judicial custody on 26/10/06, the next date of remand was 09/11/06. It is true that on that day the accused no. 6 had complained about his torture during the police custody period. I do not remember whether in the complaint he had described about the kind of torture on him by the CP and Jt. CP in order to give the confessional statement and that they had told him to name Noorul Huda, Shabbir Ahmed, Raees Ahmed, Dr. Salman Farsi, Dr. Wahid and one Wajid as being involved in this crime, that they had promised to pay him Rs. 25000/- per month and to settle him in life if he accepts their suggestions, that as he was not acceding to their suggestions, he was physically assaulted and tortured by removing his clothes. It is not true that I know all these things, but I am deliberately avoiding to tell them.

361. I came to know during the interrogation of the accused no. 6, 10-15 days after his arrest, that he had a passport. I do not remember the date of his travel to Dubai. It is not true that I did not come to know about the date of his departure from India. I think that Muscat comes under UAE, but I am not sure. I did not try to ascertain the distance between Dubai and Muscat. I had asked for the details of his departure from India to UAE. I have to see my letter to say

whether it was in connection with his travel to Dubai or Muscat. I do not know whether Muscat is the capital of Oman. Oman is a country. I do not know whether Dubai is the capital of UAE. It is not true that I do not have any evidence about the accused no.6 having gone to Dubai. The evidence is the letter of the Airport Branch, SB-II, CID and letter given by Oman Airways. (Learned advocate asks the witness to go through Ext. 2420). It is true that the letter does not mention the destination to which the accused departed. (Learned advocate asks the witness to go through Ext. 2422). This letter is from the Oman Airlines. It is true that the destination to which the accused traveled is not mentioned in the letter. It is true that the details of the passengers who had traveled on 01/02/03 were provided with this letter. (Learned advocate asks the witness to go through the contents of Art. 381 (1 to 7)). Hence, they are marked as **Exts. 2581 (1 to 7)**. Ext. 2581 (6) is the list of passengers and baggage who traveled on 01/02/03 by Oman Airlines from Mumbai to Muscat. It is true that there is no other document other than Ext. 2581 (6) to show that the accused had traveled anywhere apart from Muscat. It is not true that the accused no. 6 had not traveled to Dubai at any time, that the

story of the accused no. 6 having traveled to Dubai is cooked up to suit our story, that he had never traveled to Pakistan, that he had never undergone a training, that it is my and my superiors creation about he having traveled to Pakistan and undergoing training, that I prepared his confessional statement according to this story and I am saying that it is his voluntary confessional statement.

362. I did not correspond with the railway authorities whether there was any electrical or mechanical fault in all the bogies that were affected in all the blasts.

(Adjourned for recess).

Date :03/04/12

Special Judge

Resumed on SA after recess

363. PI Salaskar did not record the statement of any person at Kolkata. It is not true that there is no evidence against the accused no. 5 about he having brought the Pakistani persons to Mumbai and for having helped them to go back from Mumbai, that there is no evidence against the accused no. 1 about he having training in Pakistan. There is a check-post at the Indo-Nepal border near Janakpur, Bihar. I do not know whether buses are available at

Janakpur for going to Nepal. It is not true that I have involved the accused no.1 in this case though there is no cogent evidence against him.

364. I had submitted the proposals for various sanctions and consents. I did not have personal discussion with all the sanctioning and consenting authorities. I had discussions with the Commissioner of Police, District Magistrate Valsa Nair, District Magistrate Zende and Jt. Secretary Deshmukh. During the discussions I became aware that they knew about the facts of the incident. I had given lists of documents with my proposals. I had not given summary of the facts of the case to them. I had met the Commissioner of Police twice or thrice and the Jt. Secretary Deshmukh also twice or thrice. I do not remember how many time I met the other authorities. The consent order of the District Magistrate, Thane was taken in respect of the blast at Mira Road and the discovery from the accused no. 3 and 13. The recovery from the accused no. 3 was from Dahisar Subway near Mira Road Station and from accused no. 13 from Mira Road. I had told Zende, District Magistrate, Thane about the facts of the case and had replied to his queries, but I do not remember whether I had

informed him about clubbing of cases and whether he had asked me about it. I had submitted the proposal to him on 02/03/07. I had not given him the schedule annexed to the consent order Ext. 1766. I had not given such schedules to any other authority except to Valsa Nair, District Magistrate, Mumbai. I had sent the schedule to her along with the draft consent order as it was a practice known to be in the ACB. I had not given drafts of sanction / consent orders and schedules to any other sanctioning authority for their convenience. It is not true that I had given drafts of sanction / consent orders and schedules to all the sanctioning/consenting authorities. It is not true that all the schedules annexed to the sanction/consent orders are identical and the same. It did not happen that the authorities took my help in preparing the sanction/consent orders. It is true that the consent order was taken from the District Magistrate, Thane as the incident at Mira Road had taken place in the jurisdiction of Thane. The copy of the proposal sent to the District Magistrate, Madhubani is not yet found, but the search is going on. The consent order was sought from that authority as the RDX was seized from his jurisdiction. It is not true that I had sent draft of consent order and schedule to him also. It

is not true that I had sent drafts of sanction/consent orders and schedules and the sanction/consent orders and schedules before the court are the fair copies of the drafts.

365. It is true that it did not come to my notice that there were any previous cases against the accused no. 5 and 6. It is not true that as against the accused no. 1 only the case at Delhi came to my notice. It is true that the other accused, including the wanted accused in this case, are not the co-accused of the accused no.1 in the case at Delhi. It is not true that I and my superiors have connived to involve the accused no. 1,5 and 6 in this case.

366. I was present in the court for remand on 28/09/06. It is not true that the accused no. 1 had told the court on that day that he is innocent. He was not brought to court on that day. It is not true that I depose falsely about it. It is true that when I filed the chargesheet I was aware that some more investigation was necessary, therefore, I prayed for permission under section 173 (8) of the Cr. P.C. I had filed this application on 30/11/06. I was aware at that time as to what part of investigation was remaining. I do not remember whether I made the court aware about it. At the time of filing of the chargesheet I had

come to know that the accused had retracted their confessional statements. It is not true that the accused no. 1, 5 and 6 were not concerned with the incidents of bomb blasts, that the accused no. 1 was at Basupatti on 10/07/06 as there was a marriage in the village, that I deliberately did not make any inquiry about it or having made the inquiry I suppressed it deliberately to involve the accused.

367. I do not know whether the accused no. 7 was at Bijnor in UP on 11/08/06. PSI Shailesh Gaikwad was one of the officers in the ATS and he assisted me in the investigation. I do not remember whether his mobile number was 9969102939. I do not know whether he had called from his mobile number on the mobile number 9224446830 of Dr. Javed and called him and the accused no. 7 to Mumbai, that when Dr. Javed met PSI Shailesh Gaikwad at the Nagpada ATS office, PSI Gaikwad asked him to send a telegram to call the accused no. 7 and accordingly the accused no. 7 appeared before him on 18/08/06. It is not true that I falsely involved all the accused. It is not true that the sanctions/consents were given by those authorities as they wanted to come out of the public outcry. It is not true that in order to come out of the situation the persons who are

not involved are made accused in this case, that I have failed to lay hands on the real culprits.

(Cross-examination by adv Rasal completed at 4.10 p.m. Learned SPP submits that he will make a statement tomorrow about closing the evidence of the prosecution and requests for keeping open the evidence of this witness as he wants to go through the examination-in-chief. Hence, adjourned).

Date : 03/04/2012

(Y. D. Shinde)
Special Judge

Date : 04/04/12
Resumed on SA

(Learned advocate Sharif Shaikh requests that he be permitted to put a suggestion to the witness in connection with his evidence before the tribunal for the second time as he has not yet received the certified or gazetted copies of the order of the tribunal. Learned SPP has no objection. Hence, allowed).

Further cross-examination by Sharif Shaikh for A4

Q. You had given evidence twice before the tribunal, the tribunal did not believe it and therefore, you are falsely saying that you gave the evidence only once?

A. It is not true that I am deposing falsely. After checking the record I found that I had given evidence before the second tribunal also in the year 2010. I cannot say whether the tribunal did not believe my evidence on both occasions.

No re-examination.

R.O.

Special Judge

Date:-04/04/2012

(Y.D. SHINDE)
SPECIAL JUDGE
UNDER MCOB ACT,99,
MUMBAI.