



Name: Asif Bashir Khan

Age: 41 years

Occupation: Private Service (Civil Engineer)

Res. Address : 304, B-31, Sector-11, Shanti Nagar, Mira Road (E), Dist. Thane

Examination-in-chief by adv Khan Abdul Wahab for A13

My family consists of my old mother, my wife, my son, who studies in the 11th standard, my daughter, who studies in the 5th standard and one more daughter, who studies in the 3rd standard, my brother, his wife, their son, who is in the first standard and a younger daughter. My father died in May 2011. My father was working in Jain Irrigation Systems Limited, Jalgaon as a tractor mechanic and he toiled hard to educate me and my brother. I studied in Urdu medium upto 10th and did a civil engineering diploma. My brother has done BE in production engineering. I started doing jobs since 1992 after my final examination. I joined as a site engineer during my last year in the Maharashtra Boilers and Tubing Corporation at Jalgaon in August 1992 for supporting my family financially and left that job in January 1993 after I passed. I joined Jain Irrigation Systems, Jalgaon in March 1993. I used to do an extra part time job from March 1993 as an architect assistant with Surykant Wakalkar at Jalgaon. I got married in February 1996 and I left the extra part time job in October 1996 as I found less time for my family. My son was born in December 1996. I used to attend my job regularly.

Politician-cum-builder MLA Sureshdada Jain and then Addl. SP Nawal Bajaj conspired to remove the slum area known as Khwaja Nagari, which was a prime location in Jalgaon and did police firing on 01/09/99. My distant relative Mohd. Salim Khan, aged 35 years, died in that firing. I and my family gave a memorandum to the SP Bhupender Singh that the firing was illegal and made with the intention to clear the slum area. Nawal Bajaj called me in his office and threatened that if I do not take back the application and memorandum against him, he would spoil my life and would involve me in false cases. I told him that the person who has died is my relative, therefore, I applied for inquiry. I returned back and gave copy of the memorandum to BJP leader Eknath Khadse, so that he should build up political pressure.

I returned home in the evening of 17/09/99. Constable Mahajan came in the night and told me that API Jamdade of Bazar Peth Police Station, Bhusawal has called

me. I told him that I have no concern with Bhusawal and asked him why the Bhusawal police is calling me. He told me that if I do not come, he would arrest and take me. I voluntarily went with him to Bhusawal as my parents panicked. I was produced before API Jamdade, who was the in-charge of Bazar Peth Police Station. He asked me my name, my family background, my work place and my daily activities. I asked him why I was called there after I told him all about me. He asked me what quarrel I have with Nawal Bajaj and I told him that I have no personal quarrel, but my relative had died in illegal police firing and I had given a memorandum for judicial inquiry against him, because of which he is upset with me. He asked me what concern I have with SIMI. I told him that I do not know anything about SIMI. He asked me whether I was its member and I said no. He told me that Bajaj is pressurizing him to make a false case against me at Bhusawal. He told me that it was his last year of retirement and that he would make a case against me because of the pressure and he advised me to meet the SP and talk with him, because if there is one case against me, the police will continue to implicate me in other cases. He gave me an example that if they catch a cycle thief, they foist all such unsolved cases on him. He told me that a record will be prepared against me and my life would be spoiled. I told him that he is making a false case against me and he told me that if the SP tells him, he would take back the case. He arrested me and I was bailed out on the next day. I went with my family and met SP Bhupender Singh and told him that Bajaj has prepared a false case against me as I gave a memorandum against him for judicial inquiry. He phoned API Jamdade at Bazar Peth Police Station and made inquiry and when he was convinced that a false case had been filed, he ordered on phone to discharge me under Section 169. I had met Ishwarlal Jain, NCP leader, in November 1999 with my family and had requested him to make judicial inquiry into the firing and to remove the false case against me. API Jamdade discharged me from that case in January 2000.

(Adjourned for recess).

Date :

02/08/13

Special Judge

Resumed on SA after recess

I was pressurized to resign from my job at Jain Irrigation in October 1999. I joined Suryakant Wakalkar full time in that month itself. API Tare of MIDC Police Station, Jalgaon came to my house on 03/12/1999 in the evening and told me to accompany him to the police station. I went with him. He made inquiry with me about my name, qualification and my job and asked me whether I had any connection with SIMI. I said that I do not know SIMI and have no connection with it. He told me that Nawal Bajaj has ordered him to arrest me in CR No. 178/99. I told him that I am innocent and have no connection with SIMI. He asked me what quarrel I have with Nawal Bajaj as he is repeatedly receiving phone calls from him. I told him about my relative dying in the firing in September about which I had demanded judicial inquiry and had met leaders of different parties, because of

which he has become my enemy. I was released on bail on the next day, i.e., 04/12/99.

Sureshdada Jain and Nawal Bajaj again caused firing in the slum area on 22/06/00 as it was not being vacated. Three persons were killed in it. Hussain Dalwai, MLA of Congress Party, visited Jalgaon on behalf of the government in that connection and I and other people demanded judicial inquiry. Government appointed judge Joshi to make the inquiry.

Constable Arun Nikam came to my house on 02/08/01 and told me that SDPO Sarang Awhad had called me. I went there on 03/08/01 at 9.00 a.m. The SDPO called me in his office at 11.00 a.m. PI Subhash Patel of LCB, Jalgaon was with him and he inquired with me about all my details. I asked him why I am called again and that I am doing my job regularly. He told me that they have caught some people in CR No. 103/01 including Shakil Hannan, a co-accused in the earlier case. I told him I did not know Shakil Hannan and I came to know that he is a co-accused when I received the chargesheet. I was shown as present in his house and SIMI literature was recovered from his house. I told him that I do not know about SIMI and I have no concern with it and why I am called. I told him that I am attending the court dates regularly and had lastly appeared on 20/06/01. He told me that I am just called for inquiry. He called the 10-12 persons that he had arrested and asked me whether I know them. I told him that I have no connection with them. He asked them also whether they know me and they said no. He told me to give detailed statement and I gave it. He returned at 4.00 p.m. and told me that they have made inquiry and have found that I am not connected in that case, but asked me to come on 04/08/01 as API Tare who had gone to Nasik, would be returning on that day. I went back at 6.00 p.m. My father was disturbed. I told him that police had just inquired with me and allowed me to go.

I went to the office of SDPO, Sarang Awhad at 9.00 a.m. on 04/08/01. He called me inside his office at 10.00 a.m. PI Subhash Patel and API Tare were with him. All were in civil dress. The SDPO again took my statement. I told him to inquire with API Tare about the first case, which was a false case and I was not involved in it. He inquired with API Tare about the first case and API Tare told him that Nawal Bajaj had told him to implicate me in that case. He asked me some more questions about the case and asked me whether I had attended any program of SIMI to which I said no. He told me to go with PI Patel before the SP Kulwant Kumar. I was made to sit outside the office, PI Patel went inside and called me inside after half an hour. Nawal Bajaj and PI Patel were with the SP. PI Patel told the SP that he had made inquiries with me and I am not involved in the case. The SP then asked why I was called. PI Patel told him that they had caught Shakil Hannan and I was his co-accused in the earlier case. I told the SP that the first case against me was false and I do not know the said Shakil. Bajaj told me not to meet Shakil at any time and not to provide legal aid to him or to go to meet him in the court. I told him that there is no question of doing so as I do not know him and have no concern with SIMI. He told me that they would not leave me even if I go to meet him in the court, that they have made inquiries and have found that I have no connection with the case and they are releasing me and that I should serve my family. The date of

the earlier case was on that day itself, i.e., on 04/08/01, but I did not go there as I was very much frightened. I directly went home and started my routine work.

My daughter was born in October 2002, because of which there was increase in the financial burden on me. Therefore, I contacted my friend Arvind Shah of Jalgaon, who was working in Mumbai in Khaleed and Associates Construction Company, Mira Road to search for a good job for me. There was a problem at my place of employment in January 2003 as my job was on percentage basis and I had asked for increase in the percentage, but Suryakant Wakalkar had refused. I again phoned Arvind Shah and told him that I direly need a job. He told me that there is a vacancy in his company and asked me to come and give interview. I came at the end of February 2003, gave interview and was given the job after considerable negotiations. I started searching for a flat on rent there. He took me to an estate agent. The board on his office was of A to Z Property Agent and Communication Center, Shop No. 14, B-32, Sector-11, Mira Road (E). I inquired and came to know the name of the agent as Mohd. Zaheer. He asked me where I do the job and I told him that I work at Mira Road and that I would be joining in March and that I want to take the flat in March. He showed me the flat, the address of which I stated above. He told me that the owner of the flat is one Mohd. Atik Imtiyaz Ahmed, who stays at Ghelabhai Street, Mumbai Central and that he would call him in the evening and I should talk with him. I went to his shop in the evening. The owner had come there. He showed me the flat and I told him that I approve it and I am ready with the payment terms, which were deposit of Rs. 20,000/- and rent Rs. 3000/- per month. I told him that I will not take possession at that time, but I will take it in March. He agreed and I returned to Jalgaon.

I told my family and parents about securing the job and that I would get better payment than Jalgaon. My parents told me to shift there with my family and my father would not be shifted as he was suffering from cancer. I resigned from my job with Suryakant Wakalkar in March 2003 and came to Mumbai and joined Khaleed and Associates Construction Company, prepared the leave and licence agreement of the flat by meeting the agent, on which I and the owner signed. One copy was given to the agent and I retained one copy. I started staying in that flat. The agreement was for 11 months. I requested the owner to extend the period of the leave agreement, when the 11 months period was nearing completion in February 2004. He extended it again for 11 months.

My brother got married in 2004 for which I had gone with my family to Jalgaon. My father's condition was not good at that time. My brother was working as a production engineer in the Jain Irrigation. I requested him that I would take my parents with me to Mumbai, but he refused and I returned back to Mumbai. I regularly attended my job. I again got the lease period of the flat extended for 11 more months. I used to regularly visit Jalgaon as my father's health had worsened.

I saw the advertisement of Lokhandwala Construction Company in the Times of India in February 2006. I gave my CV in the Santacruz office of that company writing my present address and the details of my earlier employments from August 1992 upto March 2003 and from then to that date in Mumbai. I was called and gave interview in March 2006 and they selected me and I filled up the form of that

company with the details of my permanent address at Jalgaon and residential address in Mumbai and previous employments and affixed my passport size photographs. I joined the company on 20/03/06 and entered the campus after signing on the muster and putting the time of 9.00 a.m., after I gave my employment number 7764 to the security guard and muster keeper, who verified it from the office. I go regularly went for the job and the work used to be over at about 6.30 p.m.

My friend Shaikh Mohd. Ayyub was residing in the adjacent building. I took an Airtel mobile sim card no. 9867209894 from him. He used to work in a mobile repairing shop and had the business of selling mobiles. I used to have my mobile handset with me continuously at the job and at the house. I did not keep it switched off at any time. I went to my job regularly in April, May and June 2006. I never went to Shivaji Nagar, Govandi during this period and used to go to Kandivali to my job and then to my house.

I left my house at my regular time on 08/07/06 and resumed my job at 9.00 a.m and did the work of civil billing engineering during the whole day. My mobile was with me for the whole day. I was receiving and making calls from my mobile. There were seven staff members in my office and most of my time was consumed in checking bills. Ten sub-contractors work in the Lokhandwala Complex at Kandivali. There were ten other engineers working on the site. We used to check the work submitted by the contractors as to whether it was as per the drawing and used to pass the bills after consultation with the site engineers. I used to return home at about 6.30 p.m. after duty.

It was Sunday on 09/07/06 and I was at my house with my family on that day. I was receiving and making calls from my mobile during the day. I did not go to Shivaji Nagar, Govandi at any time on 8th and 09/07/06.

I left my house at my regular time on 10/07/06 and resumed my job at 9.00 a.m. I was doing my job. My senior engineer S. T. Deshpande told me that we have to take a meeting on 11/07/06 as there is overload of work and bills are not being passed and that chief facilitating officer Shetty, who had received complaints from the contractors, would also come for the meeting. I left my office at 6.30 p.m. after working for the whole day and went home.

I woke up at 5.30 a.m. on 11/07/06 as per my daily routine, did namaz and left house at 8.00 a.m. after completing the daily chores, caught the train at Mira Road. My mobile was with me and switched on. I reached Kandivali Station and went to the Lokhandwala complex in an autorickshaw. Security guard Ramsingh and muster keeper Sandeep Patil gave me the muster when I reached the office and I signed and put the time as 9.05 a.m. I started my work of checking bills in the office. I started getting calls regularly after 9.45 a.m. and worked upto 1.00 p.m., ate my tiffin during the lunch break of 1.00 to 1.30 p.m, again started my work. My colleagues were with me. S. T. Deshpande called me from the head office in Santacruz at 4.30 p.m. and told me that he would reach in half an hour with the manager. They both came at 5.10 p.m. and had a meeting with me and the staff in the office about pending bills and how to overcome the pendency so that the

contractors would not have any complaint. The meeting continued upto 6.15 p.m. I completed my work thereafter and I and my colleague Santosh Gosai left and I put my out time as 6.35 p.m. Security guard Ramsingh was present and I put the time in the presence of time keeper Sandeep Patil. We went out together and had some snacks as we had attended the meeting. We went to the auto stand after 15 minutes at about 6.45 p.m. to catch an auto. There we came to know that there had been blasts at different places in the Western Railways. I felt sad on hearing it and I told my colleague that I condemn the terror act. When I started in the auto, the auto driver told me that the trains had stopped and there is heavy rush of public for going by road and it is difficult to go to Kandivali station. I got a message from the service provider that I should not panic, that there is train blasts and to stay calm, when I was about to reach Thakur complex, Kandivali (E). I told my friend that I would go home by bus. I got down at the highway and Santosh went in the opposite direction towards Dadar by bus. I started by bus for going to Mira Road. The bus was going very slow as there was heavy rush. I got a phone call from my family just before 8.00 p.m. when I was at S. V. Road, Dahisar. I reached home at about 9.15 p.m. in great difficulty. Contractor Kale called me at about 10.00 p.m. and inquired whether I had reached properly as there had been a blast at Mira Road. I told him that I reached comfortably at 9.15 p.m. He again called me and inquired about the blasts and I told him that I had seen the news on the television about which I am very sad. I told him on seeing injured persons being taken out, that I would not go for work on the next day.

I came to know when I woke up on 12/07/06 that the trains were not running. I called S. T. Deshpande that I would not come for work as the trains are not running and it is difficult to come by bus and my family is also in a shock. I was at my house with my family for the whole day. I did not go to Carter Road, Bandra on 11th or 12/07/06. I started doing my job as per routine from 13/07/06. I was in regular contact with my friend Mohd. Ayyub Shaikh on the number 9867244681 by which he used to recharge the mobile and I used to talk with him also.

I came to know on 19/08/06 that my mother had suffered a severe heart attack. I therefore went to Jalgaon with my family. I admitted her in the hospital of Dr. Chaudhary and served her. I had informed Santosh Gosai about it and that I would not be coming on duty. I stayed at Jalgaon as my father was also not well.

I went to Belgaum with my family for an outing after my mother started feeling better and stayed at the house of my friend at Hassan Cottage. The ATS team of Mumbai picked up my brother from Jalgaon on 01/10/06 and inquired about me and he told him that I had gone to Belgaum with my parents and family. He accompanied them on 02/10/06 from Jalgaon to Belgaum to show them my address. PSI Kandharkar and staff came with my brother to the house where I was staying at about 12.30 or 1.00 a.m. of 03/10/06. I asked them why they have so picked up my brother. They told me that Nawal Bajaj has called me and that they are arresting me. I asked them why they are arresting me and that I have not committed any crime. PSI Kandharkar told me that if I do not accompany them, they would take my wife and mother with them and that I should say whatever I want to say to Bajaj. They started with me at 1.00 p.m., abused and tortured me in

the vehicle, in which they had handcuffed me. Kandharkar called Bajaj and told him that they had caught his scapegoat.

I was taken to Chandanchowki at 10.30 a.m. and produced before PI Sunil Deshmukh, who inquired with me about my name and my residential address at Mumbai. I asked him why they had arrested me, thereupon he told me that Nawal Bajaj would tell me all about it. He told me to accompany him to my residence at Mira Road as he wanted to check it and asked me whether I had its key and I said yes. He then veiled me, took me out of the Chandanchowki, made me sit in the backside of a green Bolero Jeep no. MH-01-BA-4255 alongwith staff and he sat in front. He told me to take him to the agent from whom I had taken the flat. I took them to the A to Z Property and Communication Center when we reached Mira Road. He sent a constable and called the agent Mohd. Zaheer and asked him whether he knows me. The agent said that my name is Asif Bashir Khan and I stay in the flat that he has secured for me. PI Deshmukh asked him about the name of the owner and about the agreement and he informed that the owner stays at Mumbai Central. He gave the copy of the agreement to PI Deshmukh, who told him that the key of the flat is with me and asked him to accompany us. I opened the flat with the key, entered it and then the staff and the agent entered. PI Deshmukh asked the agent to be with us as he wanted to search the entire flat and he searched the entire flat, but did not find any objectionable thing as articles of my personal belongings and utensils were only in the flat. We all then went out of the flat and he asked me to lock the flat, which I did with the key and went down to the office with them. They brought me to the Nagpada ATS office, produced me before DCP Nawal Bajaj, who asked me whether I recognized him and I told him that I know him since the time he was in Jalgaon. S. K. Jaiswal came in the office after some time. Bajaj told me that he has not forgotten me and that he had got me arrested and that he would spoil my life and asked the staff to take me out. PI Deshmukh took me to ATS unit Kalachowki, produced me before ACP Tawde, introduced me to him and told him that I am arrested on the say of Bajaj. ACP Tawde asked him what they had done during the day. PI Deshmukh told him that they had tortured me somewhat in the morning and had taken me to my house at Mira Road. ACP Tawde asked him whether anything was recovered. PI Deshmukh told him that no objectionable thing was recovered. ACP Tawde said that that would not do. He asked a constable to call Tajne and told Tajne to make arrangements to show some recovery from me in the next few days and take me to my place of work. I told him that I have worked at Kurla and also at Mira Road and now I am working at Lokhandwala in Kandivali. He told Deshmukh to go to my places of work.

PI Deshmukh and staff took me in the same jeep to Kurla and when we reached Kurla bus depot, he said that there is a heavy rush because of Ramzan and we would come later on and now would go to ATS Unit Vikroli. I was handcuffed and made to sit in the office of the Vikroli Unit and PI Deshmukh started talking with the staff there and told them that he wanted to prepare witnesses and they should search for their people. He told them to search for KD cheater and to ask him to meet Tajne. He then brought me back in the same jeep to Kalachowki and started beating me by belt.

(Adjourned as court time is over).

Date :

02/08/13

Special Judge

Date : 05/08/13

Resumed on SA

(Witness requests that he be shown the documents that the prosecution has produced with application Ext.3928). I am relying on the logbook Ext. 4180 of the vehicle MH-01-BA-4255 produced by the prosecution. The entry dated 03/10/06 shows driver number 10054 and the route shown is Chandanchowki to Mira Road to ATS Nagpada to Kalachowki to Vikroli Chowki to Chandanchowki and it contains the signature of PI Sunil Deshmukh.

PI Tonpi showed me 15 postcard size photographs of persons after returning to Chandanchowki. Those persons were unknown to me. I came to know later on that 12 photographs were of the accused no. 1 to 12 and three were of three persons who were discharged from this case. PI Tonpi snapped my photograph and asked me to give a statement from my birth till arrest. He took my statement for two and a half hours. He handcuffed me to a hook on the floor and left me there. He, PI Sunil Deshmukh and staff interrogated me at 8.30 a.m. on the next day, i.e., on 04/10/06. PI Deshmukh told me that they would produce me in the court and if I complain there, he would involve my brother and family in the case. I told him that I am innocent and I do not know anyone, thereupon he said that I should not talk more or else they would involve me in the Malegaon case. They took me from Chandanchowki to Bhoiwada and produced me before ACP Patil, who produced me before the MCOC court and I was remanded to police custody upto 13/10/06. ACP Patil and Sunil Deshmukh took me back to Nagpada office and produced me before K. P. Raghuvanshi, S. K. Jaiswal and Nawal Bajaj. Raghuvanshi asked me my name and I told it and said that I am innocent and I have no concern with the case. He said that he knows that I have no concern with the case, but I am involved only to apply the provisions of the MCOC Act and that I should become approver if I want to get released from the case. He told me that they have done the setting with Bhatkar madam and if I do not become approver she will hang us. I started crying because I had no involvement in the case. Nawal Bajaj said at that time that I should listen to what his superior is saying and I know that they have done firing twice at Jalgaon, but nothing has happened to them and there has been no effect of the complaints and memorandum that I filed against him. I told him that he is harassing me from many days and will not escape from the law. As on today's date Sureshdada Jain, his partner in the Jalgaon scam, is in judicial custody. S. K. Jaiswal told Deshmukh to take me away and beat me to such an extent that I become ready for becoming approver. Sunil Deshmukh and staff shifted me to Chandanchowki. They took me to a room where there were video cameras. PI Tonpi, Sunil Deshmukh and staff started beating me after I was stripped. PSI Kandharkar brought a flour mill belt on which the words 'meri awaj suno' were written and gave me 50 blows each on my palms. They gave me similar 50 blows each on my soles and on my back by making me sit down. They asked me to bang

my palms and soles on the floor when they became swollen. They seated me on the ground and stretched my legs to 180 degrees. They repeatedly asked me whether I would become approver or not and I said no. They gagged me by cloth when I started shouting loudly. They brought my legs together when I started falling unconscious and sprinkled water on my face and revived me. I went for urinating and saw that I was passing blood through the urine. I requested Deshmukh that I needed medical help, but he told me that I will not die and before I die they would give me medicine. He told me that he would phone my brother Aziz Khan and I should tell him to bring the file that I had prepared against Nawal Bajaj. He asked me my number and I gave the telephone number of my house 02572263039. He dialed that number, my brother picked up the phone, he told my brother to talk with me and that they would release me on 13/10/06. I told my brother to bring the file on 13/10/06. PI Deshmukh then took my detailed statement.

PI Tonpi and Sunil Deshmukh came at 9.00 a.m. on 05/10/06 and asked me whether I am ready to become approver. They stripped me and started beating me by belt after I refused and were repeatedly saying that they would involve me in the Malegaon case as they had involved me in this case. They brought a machine to which wires were attached and gave electric shocks to my private parts. They revived me by sprinkling water on my face after I became unconscious. They again took my detailed statement. They asked me again at 11.00 a.m. on 06/10/06 whether I am ready to become approver. They started torturing me again by flour mill belt after I refused. They brought a two wheel handcart there and made me lie on it and lowered the portion where my head was. They checked my blood pressure by a BP apparatus, then put a handkerchief on my face and started pouring water on it. They stopped pouring the water when I started suffocating and my blood pressure lowered and again started it after 15 minutes. They did this three times after which I fell unconscious. They took my written statement again for about three hours when I was revived. PI Sunil Deshmukh told me that they are cross-checking my movements on 11/07/06 and where I had done the jobs at Jalgaon and Mumbai. PI Deshmukh and staff came at 9.00 p.m. and again started torturing me. PI Deshmukh and Tonpi came to my cell in Chandanchowki at 11.00 a.m. on 07/10/06 and asked me whether I am now ready to become approver. PI Deshmukh told the others to torture me after I refused and then he left. I was beaten for one and a half hours by flour mill belt. They brought liquid chemical and said that it is soya bean oil and injected it from my back, because of which I became restless and agitated, my condition deteriorated and I fell unconscious. PI Tonpi then took my statement for about two hours. He returned at 10.00 p.m. and handcuffed me with my hands above my head and made me stand in that position upto midnight. PI Tonpi and Kandharkar asked me at 9.00 a.m. on 08/10/06 whether I am ready to become approver. PI Deshmukh also came there at that time and but I refused to become approver. PI Tonpi and Kandharkar beat me by flour mill belt for about one and a half hours. PI Deshmukh went to Mira Road with some staff. They revived me when I fell unconscious and hanged me upside down to a hook in the ceiling. They placed a handkerchief on my face and started pouring water and stopped it when I started suffocating and shouting. They repeated this process three times and left me for one hour after I became unconscious. PSI Kandharkar and PI Tonpi came at 6.00 p.m. and started torturing me and continued

asking me whether I am ready to become approver. I was made to stand with my hands tied above my head upto 10.00 p.m. when I refused. They did my video shooting and told me to say that we had done the blasts. They tortured me again when I refused.

PI Deshmukh and Tonpi came in my cell in Chandanchowki on 09/10/06 and started inquiring with me about the places of my job and my whereabouts. PSI Kandharkar brought Shetty, Chief Facilitating Officer of Lokhandwala Construction Company after some time. Shetty became angry when he entered the room and saw my condition and asked them why they had arrested me. PI Deshmukh told him that they had arrested me for inquiry and would release me later on. Shetty had brought all original documents including my application form, muster, pay slips, Lokhandwala appointment form and original of the advertisement that had come in the Times of India and photocopies of all these documents. They took his detailed statement and asked him my phone number. Shetty searched in the phone book of his mobile, showed my number and gave the mobile to Deshmukh, Deshmukh gave it to me and asked me to confirm it. It was my number 9867209894 against my name Asif Engineer. Shetty gave the original advertisement that had been published in the Times of India and its photocopy to Deshmukh. Deshmukh gave them to me. Ext.2089 is the same photocopy. Shetty had written the date 15/02/06 above it.

Shetty gave the original of the CV and its photocopy to Deshmukh, who gave them to me. Ext. 2090 (1 to 9) is the same photocopy. Ext.2090 (1) contains my name and address of Mira Road and my passport size photograph. It contains the details of the jobs that I did at Jalgaon upto February 2003 and about the jobs in Mumbai upto March 2006. Photocopies of my certificates are with my CV alongwith certificates of work experience. Shetty gave the original and photocopy of application form Ext. 2088 to Deshmukh, who gave them to me. It is the same now shown to me, it contains my name, permanent address of Jalgaon and my address of Mira Road and its contents are the facsimile of my handwriting. I had pasted two passport size photos on the application. Shetty gave the original and the photocopy Ext. 2091 (1 to 3) of the appointment letter, which is the same now shown to me, it contains my name and the address of Mira Road and the facsimile of my signature and the joining date 20/03/06 at the end. Shetty gave the original and photocopies of my pay slips for the months of April to August 2006, Ext. 2093 (1 and 2), and they are the same now shown to me. Shetty gave a red coloured muster book of 2006 and photocopy of July 2006. Ext. 2094 is the same photocopy. My name is at serial no. 12 and the entry of 11/07/06 shows that I came to the office at 9.05 a.m. and left at 6.25 p.m. and it contains the facsimile of my signature and handwriting. PI Deshmukh gave Shetty his typed statement and on going through it Shetty said that it was correct, except the portion that he was shown my photograph. He said that I was before him and there was no question of showing my photograph. Deshmukh told him that they have to write it in this manner as I was in police custody. Deshmukh signed it by putting the date 09/10/06. I have produced its true copy and it is the same now shown to me. (It is marked as **Art.488**). Shetty told Deshmukh that I was with him and Deshpande in the Kandivali office upto 6.00-6.15 p.m. on the day of the blasts. Shetty left thereafter and S. T. Deshpande

came there after half an hour. He told Deshmukh on seeing me that I am an engineer in his office. Deshmukh told him that they have arrested me for inquiry and would release me later on. He told Deshmukh that he was with me in the Kandivali office upto 6 – 6.15 p.m. on the day of the blasts, that he had called me on my mobile at 4.30 p.m. from the Santacruz office. He searched in the phone book of his mobile, showed my number and gave the mobile to Deshmukh, Deshmukh gave it to me and asked me to confirm it. It was my number 9867209894 against my name Asif Engineer. I gave back the mobile to Deshpande, who told Deshmukh that there is no complaint about me at my work place and I have been unnecessarily arrested. His statement was completed and then he left. My colleague Santosh Gosai came after one hour, gave his statement, saw me and told them that I am an engineer working with him and that there was a meeting from 5.15 p.m. to 6.15 p.m. after which we had left the office together, had snacks at the rickshaw stop where we came to know about the blasts. He repeated what I had said at that time about being shocked and sad and about condemning the act and about the sms that I received at 7.05 p.m. Deshmukh asked him about my mobile number. He searched in the phone book of his mobile, showed my number and gave the mobile to Deshmukh, Deshmukh gave it to me and asked me to confirm it. It was my number 9867209894 against my name Asif Engineer. I gave back the mobile to Santosh. He was allowed to go after his statement was recorded. Deshmukh took my statement at 9.00 p.m. on that day and completed it. I told him that they are recording my statements since last 4-5 days, that there are no contradictions in them and that I am innocent and have no concern with the blasts and I do not know any of the co-accused. The ATS has not produced my statement recorded u/s 161. PI Deshmukh, Tonpi and Kandharkar conducted my narco test illegally at about 1200-1215 in the night. A person wearing an apron and having white spots on his face was with them. Deshmukh told me to repeat what they tell me and if I do not do as they say, they would give me more dose, because of which I may die. I refused and did not follow their instructions. Deshmukh tortured me there itself, made me half unconscious and did my narco test. I regained consciousness at 3.00 a.m. My condition was very bad.

Tonpi told me on the next day, i.e., on 10/10/06, that they are taking me to Kalachowki, where I have to sign some documents. They told me on asking that they are some panchanamas. ACP Tawde and Tajne, who were there, gave me some documents and asked me to sign them. I refused saying that I do not know what is written in them. ACP Tawde told me that if I do not sign on them, they would involve me, my brother and family members in the Malegaon case. They beat me for one hour when I refused, by flour mill belt on which the words 'andha kanoon' were written. Sachin Kadam thereafter brought four persons from outside, three gents and one lady. All had my post card size colour photographs in their hands. Sachin Kadam asked them whether they know me. All four denied saying that they had never seen me. Tajne and Sachin Kadam told them to see me properly and that I am Asif Khan. I was frightened as I did not know what was going on and why I am being identified, because I also did not knew those people. I came to know, who they were, when one of the gents, Amir Karamat Khan, gave evidence as PW-49 and the lady Khurshid Begum gave evidence as PW-51 and in her evidence stated that I was shown to her on 10/10/06. Sachin Kadam took their

statements outside and they left. PI Tajne and Sachin Kadam forced me to sign on the papers, but I refused. They misguided me that they are only panchanamas and even if I sign them, they would not be used against me. I refused saying that I have not done anything. They then tortured me by flour mill belt and made me stand for the whole night by handcuffing me above my head and did not allow me to sleep. They returned at 10.00 a.m. on 11/10/06 with officer Shelke and asked me to sign on the panchanama, which I refused. Tajne threatened that they would kill me in a fake encounter if I did not sign. I refused even then and they tortured me by flour mill belt for three hours, but I did not sign and became unconscious. I regained consciousness at about 10.00 p.m. and they made me stand for the whole night by handcuffing me above my head and did not allow me to sleep. My condition deteriorated, there were marks on my wrists and my legs were swollen. Tajne and Sachin Kadam again forced me on 12/10/06 to sign and they beat me again for two hours by flour mill belt after I refused. They injected the same chemical from my behind, that they had used at Chandanchowki. I was considerably restless and agitated and became unconscious. Sachin Kadam tied me with my hands handcuffed above. ACP Tawde came there and said that I should be allowed to sleep as I have court date on the next day. I was therefore allowed to sleep after one hour.

Tajne and Sachin Kadam came in the morning on 13/10/06 and asked me whether I am ready to sign. They misguided me by saying that if I sign on them, they would show it to the court and would release me. Tajne said after I refused, that they would involve my brother and family members in the Malegaon case as they have involved me in this case. Sachin Kadam took me to Bhoiwada ATS office, produced me before ACP Patil and told him that I had not signed on the panchanamas upto that time, whereupon ACP Patil slapped me and told me not to make any complaint to the court and they and the staff produced me in this court. I saw my brother with the file in the court premises. Sachin Kadam told my brother that if he wants to meet me he should come to Kalachowki. I did not complain to the court because of the threats, though I wished to complain. My police custody was extended upto 26/10/06.

They took me back to Kalachowki and they and Tajne forced me to sign on the panchanamas. Sachin Kadam called my brother inside when I refused and took the file from my brother and tortured him in my presence and pressurized me to sign by threatening that if I do not do so, they would involve my brother in the case. They handcuffed my brother to a hook on the wall and made him sit on the floor and stripped me naked, beat me and tortured me by flour mill belt for one hour. They made me sit on the floor and stretched my legs 180 degrees apart, repeatedly saying that I should sign on the panchanamas. They kept me in that position for long when I refused. They brought my legs together when I started falling unconscious. I bled through my urine when I went for it after some time. I requested for medical help, but they refused. They stretched my brother's legs 180 degrees similarly when I refused to sign. They brought his legs together when he fell unconscious. They made me lie on a two wheeler handcart and lowered the portion where my head was and started pouring water on my face. When my blood pressure lowered, they put handkerchief on my face and started pouring the water.

They stopped when I started suffocating and made me sit and said that they would do this to my brother also. They beat my brother by flour mill belt. They hanged me upside down when I refused on their asking whether I am ready to sign. They put a cloth on my face and poured water. Tajne said, when my condition worsened, that if I sign they would release my brother. I was helpless and I told them to release my brother and that I would sign. They removed his handcuffs and let him out. I signed on a paper at one place that they showed me, when I was satisfied that my brother was released. They asked me to put the date as 09/10/06 and I put it. I signed on a second paper at a particular place where they asked me to sign and put the date 09/10/06 as instructed. I did not know what those documents were and who had written them. I came to know when I received the copy of the chargesheet that they are recovery panchanamas, which were marked as Exts. 664 and 665. They are false and bogus. Sachin Kadam kicked me forcefully on my back after I signed. I fell down and became unconscious.

I was running fever when I woke up next day morning, i.e., on 14/10/06 and my condition was bad. I was taken to a hospital at 8.30 a.m. I told the doctor that I was heavily tortured. There were injury marks on my body. The doctors asked the ATS officers about it and the officers told him that it is a matter of national security and he should not write my complaints. The doctor wrote my name and the entry is at Ext. 2340. I refused to put my thumb impression when he told me to do so saying that he has not considered what I told him. He admitted me in the hospital and gave me saline, medicines and injections. The ATS officers told him not to prepare the record of my admission.

I was brought back to Kalachowki and Tajne said that they have got their work done from me and I should be taken back to Bhoiwada. I was then produced before ACP Patil at Bhoiwada, who asked PSI Wadke and Bagwe to interrogate me. They interrogated me and asked my mobile number, which I gave. They asked me to rest for the time and that they would come on the next day morning with the entire CDR of my mobile. I was taken before them at 8.00 a.m. on 15/10/06. PSI Wadke had a file with him that contained printout of CDR of mobile. There were 25-30 bunches in the file. Bagwe asked me my name and mobile number and gave me a bunch of CDR printout. I saw that it was the record of Airtel company having my name and mobile number. I checked it. (Witness requests that he be permitted to refer Ext.3767. Permitted). It was a printout of CDR of my mobile with locations on separate page. I had seen the printout with Bagwe, which was similar to Ext. 3767 and the locations were similar to those on Ext. 3767 (5). I explained all the calls that I had made and had received. Majority calls were of my colleagues and contractors in the Lokhandwala construction. I showed the landline numbers of the Santacruz office and Lokhandwala office to them when they asked me to do so. 02226494592 and 02226487766 are the numbers of the head office at Santacruz and 02226494492 and 02226491807 are the numbers of the office at Kandivali. They told me that they would call those persons whose mobile numbers were in the CDR and would verify with them in my presence. They then asked me to show my whereabouts on 7th, 8th and 10/07/06 on the basis of the locations shown in the CDR and I showed them that I was at Mira Road and Kandivali Lokhandwala complex and the location of my calls on 09/07/06 are of Mira Road as it was

Sunday. They checked the CDR with locations as showed by him. I had never gone to Shivaji Nagar, Govandi at any time during those days.

They interrogated me in detail about the CDR of 11/07/06. I got the first call on 11/07/06 at 9.51 a.m. from a contractor, when I was at Kandivali office. I got calls at 10.32, 12.11, 12.21, 1344 hours. I received an sms at 2.05 p.m. I got a call from Deshpande from Santacruz office at 4.32 p.m. from no. 02226464504. I got an sms at 7.07 p.m. when I was near Thakur complex, Kandivali (E). My son had called me at 7.54 p.m. when I was at S. V Road, Dahisar. I got a call at 8.05 p.m. when I had reached Mira Road. Santosh Gosai had called me from landline number 02232417058 at 8.53 p.m. Contractor Kale made a phone call to me at 10.15 p.m. from 09322690008. He again called me at 10.16 p.m. from the same number.

(Adjourned for recess).

Date :

05/08/13

Special Judge

Resumed on SA after recess

I did not go to Churchgate and Carter Road, Bandra on 11/07/06 as per the location of my mobile in the CDR. On 16/10/06 PSI Wadke and Bagwe called the persons to whom I had made phone calls and who had made phone calls to me on my mobile on 11/07/06. Many persons came on 16th, 17th and 18/10/06 and confirmed that they had called me and received calls from me. Their statements were recorded.

I was produced before Dr. S. Malini in the Lady Curzon Bowring Hospital at Bangalore on 20/10/06. She inquired about my history and wrote it, then laid me on a bed, attached a drip to me, fixed the BP apparatus and told me that if I co-operate with them, they would give me a small dose and if I do not co-operate, they can give me more dose. DCP Nawal Bajaj was called inside by her. He had a questionnaire with him. She injected a small dose in the saline bottle, because of which I became semi-unconscious. She pinched me at my sides to make me more conscious and used to catch my ears by pliers. She told me to repeat what they say. She told me to say 'maine blasts nahi kiya', 'maine bum nahi banaya', 'maine conspiracy blasts karneki nahi ki' and 'main co-accused ko janata nahi hu', etc. and they were doing the video shooting of the statements that I was making and if I did not talk properly they used to torture me. I regained consciousness after five hours and I vomited quite a lot and my health deteriorated. PIs Tonpi and Kandharkar brought me back to Mumbai by air in the night and took me to Chandanchowki. They showed me the CD on the next day morning and I saw that the negative words were edited and the sentences appeared to be positive. I told PI Tonpi why they are doing this to me and no such things had happened there. He told me that they want to show the CDs to their seniors and political leaders and if I want to save myself I should become approver. Narco test was again done on me on 24/10/06 at Chandanchowki and they repeated that I should say what they say otherwise they can give me more dose and kill me. I was shifted to Bhoiwada lockup after I regained consciousness.

ACP Patil and PI Tajne took me out of the lockup at Bhoiwada on 26/10/06 and told me that they would be producing me before the court and if I complain, they would involve me, my brother and family in this case and the Malegaon case. I was produced in this court and remanded to police custody upto 01/11/06. PI Tonpi and Kandharkar again took me to Bangalore in the night on that day and did not give me food or water for more than 12 hours as narco test was to be done. I was taken to Sanjay Gandhi Hospital on 27/10/06 and produced before Dr. S. Malini. Nawal Bajaj was present there. Dr. S. Malini told Nawal Bajaj on seeing me, that nothing had come out in my narco test on the last occasion and she would not do it again. DCP Bajaj requested her repeatedly to do it, but she did not do the narco test on that day. I was shifted to the lockup of the crime branch at Bangalore, given some food in the night and PI Tonpi told me that he is calling Raghuvanshi to tell them to do the narco test and I should not eat food in the night. I met Dr. Malini in the Lady Curzon Hospital when I was taken there on 28/10/06. Nawal Bajaj was there. She repeated the same procedure of conducting the narco test on me on that day. I was shifted to Mumbai by air that night and taken to Chandanchowki.

PIs Deshmukh, Tonpi, Kandharkar and staff tortured me on the next day, i.e., on 29/10/06. PI Deshmukh was repeatedly saying that they would produce me before a big superior officer and I should sign on some written papers before him and if I refuse, they would involve me and my family members in the Malegaon case. I was produced before DCP Makrand Ranade at Borivali DCP office in the night of that day. PI Tonpi was with me in his cabin. He asked me my name, family background and told me to sign on a bunch of written papers. He slapped me when I refused to sign and threatened me that if I do not sign, they would involve my family members in the Malegaon case and put my children in the remand home. I kept on refusing to sign till midnight. Therefore, PI Tonpi shifted me to Borivali lockup that was by the side. He threatened me and hung a saline bottle filled with water above my head and dripped water on my head drop by drop throughout the night. There was heaviness in my head and I had fever because of this. PIs Deshmukh, Tonpi, Kandharkar and staff of Chandanchowki came there and tortured and threatened me. PI Deshmukh said that if I am ready to sign, he would bring the papers in the lockup and I could sign there. PI Deshmukh told Kandharkar when I refused, to take the vehicle to Jalgaon and bring my family from there. He said that they would bring my entire family there and would rape my wife and mother in the presence of all if I do not sign. I told him that I signed on the panchanamas because of their pressure, but would not sign again. They left me there. I was taken out and produced before DCP Ranade in the morning on 31/10/06. He asked me whether I am ready to sign and I refused, thereupon he said that now I would not be in his custody and the ATS will do whatever with me and they would involve me in the Malegaon case. PSI Kandharkar and staff took me to Bhoiwada and tortured me by belt and when my condition became bad, they left me there and went away. S. L. Patil and staff brought some people to Bhoiwada in the lockup. Those people had my postcard size colour photographs in their hands. S. L. Patil asked them whether they know me and they said no. He told them to look at me properly and that I am Asif Bashir Khan. I became frightened and disturbed at that time as I did not know them. I came to know their names as PW-59 Mohd. Alam Gulam Qureshi, PW-60 Kishore Popatlal Shah and PW-63 Santosh Kedar Singh, when they gave evidence in

the court. They identified me in the court as they had seen me during police custody.

8. L. Patil and his staff came at 8.00 a.m. on 01/11/06 and told me that they are going to produce me in the court on that day and I should not complain or else they will involve me in the Malegaon case. I did not complain because of the threats when I was produced before the court, though I wished to complain. I was remanded to judicial custody upto 09/11/06. PSI Kandharkar told me while I was being taken to the prison, that I should become approver otherwise they would involve me in the Malegaon case. I was kept in the Anda cell.

ATS officers came to meet me in the prison on 02/11/06 and asked me to become approver and when I refused they said that they would not let me free. I was again taken out of the cell on 04/11/06 and Govind Patil told me that Nawal Bajaj had come to meet me. Nawal Bajaj again pressurized me to become approver and when I refused he said that he will spoil my life.

PSI Govind Patil came in the barrack on 07/11/06 and told me that I have to come out for identification parade. A constable wrote my name when I went to the office near the high security gate. The accused no. 1, 3 and 12 were with me. He wrote the names of all four and put the time as 1.30 as 'jawaak'. ACP Patil and some ATS officers were standing outside. Some other prisoners were also there. ACP Patil again told us that we should become approver and should support them, then only we can come out of the case. I and the other accused refused. PSI Govind Patil took us back to the Anda barrack and the constable at the office made the entry as 1.50 p.m. as 'awak'. These entries are at Exts. 2474.

I wrote a complaint through my advocate Afroz Siddiqui when I was produced in court on 09/11/06, which was marked as Ext.N. (Witness requests that he be shown Ext.N). It is the same now shown to me, it bears my signatures on all pages and the signatures of my advocate and its contents are correct. (It is marked as **Ext.4280**). Bhatkar madam told me to underline the lines when I told her that they had threatened to rape my family members and put my children in remand home and I underlined them.

ATS took me in custody on 13/11/06 in the Malegaon blast case and produced me in the court on 14/11/06. I told the madam that I am innocent and I am being falsely involved in the 7/11 and Malegaon case. She remanded me to police custody. ACP Shengal took me and produced me before Nawal Bajaj. DCP Bawaskar and Raghuvanshi were also there. Raghuvanshi said that nothing is going to happen to them though I may make complaints against them and that they have again taken my custody. I was shifted to Kalachowki and pressurized to become approver. Some other arrested accused were there. They were unknown to me. I came to know later on that they were the accused no. 1 to 5 in the Malegaon case. I was tortured continuously in custody in that case and Kisan Shengal gave false remand applications and repeatedly got my police custody extended. I was again taken to Bangalore on 04/12/06 and I was again subjected to narco test, but they did not detect anything in it. DCP Bawaskar pressurized me on return, to sign on the confessional statement and tortured me when I refused.

I and accused Mohd. Ali were produced before the court on 06/12/06. I again complained to the court that I am innocent and have been falsely implicated in both the cases. I was again kept in the Anda cell after being sent to judicial custody. I came to know at that time that the chargesheet of 7/11 is filed and I got its copy. I was shocked and felt sad on reading the brief facts of the case in the first volume because it was entirely false and bogus. The chargesheet was truncated and the names of the witnesses were deleted and it was difficult to understand it, but I made efforts to understand it. I asked my co-accused about the material in the chargesheet and all said that all things are false and bogus and the ATS has prepared a false story and foisted it on us. I received the copy of the chargesheet in the Malegaon case on 21/12/06 and when I read the brief facts of the case, I was shocked and felt sad as it was a false and bogus chargesheet. It was also truncated and the names of witnesses were deleted at all places. I read and understood it with great difficulty and asked all the co-accused in that case about the material in the chargesheet and they told me that it is a false and bogus chargesheet.

Jalgaon police took my custody on 29/12/06 in CR No. 103/01 and PSI Dhakrao of MIDC Police Station was also there, when they produced me before PI Patil of LCB on 30/12/06. I asked him in what case he had arrested me. He told me the CR number and that I am not wanted in that case, but they are fitting me in that case on the say of S. K. Jaiswal and Nawal Bajaj, as two chargesheets are required for application of MCOCA and I am being involved in the chargesheet against some other person. PSI Dhakrao told me that when PSI Deore had come to him on 29/09/06, he had said the same thing to him, that Asif Bashir Khan is not a wanted accused and not at all wanted in CR No. 103/01. He said that he had written a certificate behind the colour photograph that was brought by PSI Deore from Mumbai. (Witness requests permission to refer to Arts-376 to 378. Permitted). These photographs are the enlarged copies of my photograph that I had given with the application form to Lokhandwala Construction company. I was remanded to judicial custody on 12/01/07 in that case.

I was shifted back to Arthur Road Prison on 18/01/07. I filed a bail application on 25/02/07 in this case. I was produced at the time of framing charge in August 2007. The charges that were read over were false and bogus, I denied them and requested judge madam to transfer the case to some other judge.

We challenged the application of the MCOCA upto the Supreme Court. Adv Shahid Azmi gave me copies of confessional statements of the co-accused. I was shocked and saddened on reading them. I personally asked my co-accused as to what is written in their confessional statements and how my name appears in them, because I did not know any co-accused before. All of them told me that all the confessional statements are false and bogus, that their signatures were obtained forcibly and they are not their statements. I then realized that they were also forced to sign as I had been forced. I was shocked and saddened when I got the copies of the confessional statements in the Malegaon case and read them, because my name appeared in them though I did not know any of them before. I personally asked my co-accused in that case as to how my name appears in the confessional statements. All of them told me that all the confessional statements are false and

bogus, that their signatures were obtained by torturing and pressurizing them and they came to know as to what is written in them for the first time and they did not know it before that.

(Adjourned as court time is over).

Date :

05/08/13

Special Judge

Date : 06/08/13

Resumed on SA

I and my co-accused were taken to the ground in the prison on 28/06/08. Superintendent Swati Sathe said that they are transferring us to other jail, but will not allow us to go on our legs. The alarm was sounded and lathi charge was done on me and my co-accused and torture was done on the accused of Aurangabad Arms Hauls Case. We did not get any medical aid. I and the other co-accused, except accused no.3, 4 and 8, were packed in a vehicle and taken to Nagpur Central Prison traveling for 24 hours. We were not given medical aid on reaching there. It was a Sunday. We were ten accused and were kept in separate barracks. I was kept with life term convicts in order to torture me. We were properly checked medically after twenty days after the order of this court. I was there for fifteen months during which I could not study my case. I saw a letter dtd. 03/11/06 written by an ATS officer to the President of India displayed in the news on the Zee 24 Taas channel on 15/10/08 at 9.00 p.m. It was written in the letter that innocent persons are framed in the 7/11 case by junior officers under the pressure of A. N. Roy, K. P. Raghuvanshi and S. K. Jaiswal. The video CD of the said broadcast is at Art.450. I also saw the broadcast of confessional statement given by Sadiq Israr that was shown on CNN IBN channel at 8.00 a.m. on 27/02/09. The details of how he and his accomplice had prepared the bombs and planted them in the western railways on 11/07/06 were shown and it was also shown that he stated about setting timers to go off at 6.30 p.m. Video CD of this broadcast is at Art.451. I pray to the court to see the two CDs once before the judgement in the interest of justice.

We were shifted back to Arthur Road prison in September, 2009 as per the order of the High Court. I tried to read the chargesheet after coming back, but as it was truncated, I could not give any application under the RTI Act. I was never a member of SIMI and I did not attend any program of SIMI. I did not do any planning or conspiracy in this case and I did not supply any material for preparing bomb. I did not harbour any terrorist. I have no involvement in this case, I did not know any co-accused before my arrest and I had no contact or communication with any co-accused before my arrest. I am not involved in the Malegaon blast. I did not plant any bomb in the western railways at any time. Raguvanshi and company have falsely involved me in this case in the same manner as they falsely involved me in the Malegaon case.

I realized when Kishor Popatlal Shah, PW-60, gave evidence and falsely identified me, that he is the same person who was brought by the ATS officers on 31/10/06 at Bhoiwada lock-up and had shown me to him. I made an application under the

RTIA thereafter, its carbon copy now shown to me is the same, it is in my handwriting, it bears my signature and its contents are correct. (It is marked as **Ext.4281**). I obtained the information Ext.2098 which shows that train no. VR 621 arrived at 1732 hours at Churchgate Railway Station, which falsifies the evidence of PW-60 that when he went to platform no.3 at 5.30 p.m. the train was standing there. When I saw that he gave false evidence against me, I gave an application under the RTIA to the Quilla Court to obtain chargesheet of the case in C. R. No. 129/02 against him filed by L. T. Marg Police Station. Its carbon copy now shown to me is the same, it is in my handwriting, it bears my signature and its contents are correct. (It is marked as **Ext.4282**). I obtained the information Exts.2501 and 2502 (1 to 14) which show that he was arrested on 11/07/02 by Kisan Gaikwad in that crime for the offences under sections 406, 409 420, 414 r/w 34 of the IPC.

I sent an application under the RTIA to the PIO, ACP, South Control Room, Nagpada to obtain the true copy of station diary about arrest of PW-60 on 11/07/02. Its carbon copy now shown to me is the same, it is in my handwriting, it bears my signature and its contents are correct. (It is marked as **Ext.4283**). I got the information by two forwarding letters, which are the same now shown to me (Forwarding letters are marked as **Exts.4284 and 4285** and true photocopy of station diary entry of L. T. Marg Police Station is marked as **Ext.4286**, subject to objection by the Id. SPP about their proof). Station diary entry no.61 shows that Kisan Gaikwad had arrested PW-60 on 11/07/02. Accused no.7 had sent the application Ext.4234 to the Borivali Court under the RTIA and he gave me the information Exts.3417 to 3419 that he obtained. They show that Naina Kishor Shah, wife of PW-60, had complained against him that he does not do any work, drinks liquor and gambles, because of which he is heavily indebted and is torturing her for obtaining money by selling the flat and shop at Borivali and that he was arrested on 10/03/07 and about which C. C. No.1246/PW/07 is registered in respect of C. R. of Kasturba Marg Police Station. Some papers like FIR, complaint and statement of son Kiran Kishor Shah were not certified as true copies, therefore I obtained them under the RTIA from PIO, ACP, North Control Room, Kandivali (E). They were received by forwarding letter Ext.3421 and 3422 and the true copies are at Exts.3423. I became sure on receiving the above information that PW-60 gave false evidence against me because of the pressure of ATS officer Kisan Gaikwad. I made an application to the PIO, DG Office, Mumbai to obtain information about PW-144 Satish Ahir. Its carbon copy now shown to me is the same, it is in my handwriting, it bears my signature and its contents are correct. (It is marked as **Ext.4287**). I received a forwarding letter but did not get the certified information. The forwarding letter is the same now shown to me. (It is marked as **Ext.4288**, subject to objection by the Id. SPP about its proof). Therefore I again wrote a letter to obtain the true copy. Its carbon copy now shown to me is the same, it is in my handwriting, it bears my signature and its contents are correct. (It is marked as **Ext.4289**). True copy of the order was sent to me with a forwarding letter. They are the same now shown to me. (Forwarding letter is marked as **Ext.4290** and the order is marked as **Ext.4291**, subject to objection by the Id. SPP about their proof). By this order, PW-144's increment was stopped for one year for making a weak case.

I realized when Santosh Kedar Singh, PW-63, gave evidence and falsely identified me, that he is the same person who was brought by the ATS officers on 31/10/06 at Bhoiwada lock-up and had shown me to him. I sent an application under the RTIA to the RTO office to obtain information about taxi no. MRK-8286. Its carbon copy now shown to me is the same, it is in my handwriting, it bears my signature and its contents are correct. (It is marked as **Ext.4292**). I got the information Ext.1853 that taxi no. MRK-8286 and MH-02-WA-8139 are owned by Satishkumar K. Singh, which falsifies the evidence of PW-63 that he is the owner of the taxi. I obtained information in respect of PW-175 Devram Dagdu Vadmare by my application Ext. 4287. I got the information. It is the same now shown to me. (It is marked as **Ext.4293**, subject to objection by the Id. SPP about its proof). It shows that a departmental inquiry was ordered against him. I came to know that a case was registered by the Anti Corruption Bureau against him vide C. R. No.12/98, which was registered as ACB Special Case No.53/01, that he was convicted under section 342 of the IPC in that case and he had filed an appeal in the High Court. I therefore obtained certified true copy of the final report and the judgement of the special court and they are the same now shown to me. (Certified copy of FIR and chargesheet is marked as **Ext.4294** and certified copy of judgement is marked as **Ext.4295**). It is alleged in the chargesheet that Vadmare had demanded Rs.30,00,000/- from the complainant and had threatened him that if he did not give the money, he would involve him and his family in a bogus narcotics case and he had illegally detained the complainant for which he was convicted. I became convinced that PW-175 pressurized PW-63 and made him a witness against me. I was shocked when Shashikant Balwant Barve, PW-82, gave evidence about holding test identification parade on 07/11/06, because I was taken out of the Anda Cell for twenty minutes from 1.30 p.m. to 1.50 p.m. only and no test identification parade was conducted during this period. The memorandum of test identification parade Ext.844 is false and bogus. I applied to the Collector office under the RTIA to collect the information whether he was really an SEO. Its carbon copy now shown to me is the same, it is in my handwriting, it bears my signature and its contents are correct. (It is marked as **Ext.4296**). I got the information alongwith the two forwarding letters, which are the same now shown to me. (The forwarding letters are marked as **Exts.4297 and 4298** alongwith photocopy of GR, subject to objection by the Id. SPP about its proof). The stamp of PW-82 on Ext.844 shows the serial no.631, but the information shows that he was not an SEO during that period and one Shamkumar Gangaram Lakampalli is the SEO at that serial number. This shows that SEO Barve, PW-82, was a bogus SEO and he had prepared a bogus memorandum of test identification parade.

I realized when Mohd. Alam Gulam Sabir Qureshi, PW-59, gave evidence and falsely identified me, that he is the same person who was brought by the ATS officers on 31/10/06 at Bhoiwada lock-up and had shown me to him. I had never met him, but he gave false evidence. (Witness requests that he wants to refer to the true copies of log book produced by the prosecution alongwith application Ext.3928). The certified true copy of the log book of Bolero vehicle no. MH-01-SA-131 shows that ACP Patil had not gone to Chandanchowki on that day. This falsifies the evidence of PW-59 that ACP Patil had recorded his statement in Chandanchowki on 02/11/06. (As witness has referred to the contents of the document at page 55 of the list

Ext.3929 with the application Ext.3928, it is received in evidence and marked as **Ext.4299**). It contains the signature of ACP Patil.

I realized when Aamir Karamt Khan, PW-49, and Khurshid Begum, PW-51, gave evidence and falsely identified me, that they are the same persons who were brought by Sachin Kadam on 10/10/06 at Kalachowki lock-up and had shown me to them. They gave false evidence that they had seen me in the flat at Poonam Park, Mira Road(E). I realized when Kevalkumar Jain, PW-55, gave evidence and falsely identified me, that he is the same person who was referred to as KD cheater by Sunil Deshmukh on 03/10/06 when he had taken me to Vikhroli ATS chowki. His evidence is false. Accused no.8 gave the application Ext.3950 under the RTIA and obtained information Exts.3427 and 3428 (1 to 39) about the chargesheet against the said person. This information shows that he is chargesheeted in C. R. No.80/06 by Parksit Police Station, Vikhroli for the offence under section 420 read with 34 and arrested on 04/03/06 and the case is registered as C.C. No.319/PW/06. I realized on obtaining this information that the memorandum and panchanama Exts.664, 665 and 667 are false and bogus, because the said witness is a cheater and signed the documents on the say of Tajne.

Accused no. 7 gave an RTI application Ext.4236 and obtained information Exts.3433 to 3435 and Arts.452 (1 to 6), which show that PW-33 Dilip Vitthal Ayare is chargesheeted under sections 141, 142, 145, 147, 148, 149, 427, 341, 435 and 506 of the IPC by Samta Nagar Police Station in C. R. No.31/10 in which he was arrested on 30/01/10. He has acted as a dummy panch witness in the panchanama of the Borivali spot.

I did not give any voluntary statement of disclosure on 09/10/06 and no recovery was done at my instance. I was not taken to Poonam Park on that day, no panchanama was prepared and no recovery was made in my presence. PW-55 gave false evidence and evidence of Tajne is also false. I was in Chandanchowki for the whole day with Sunil Deshmukh on 09/10/06. I had no concern with Poonam Park, Mira Road. I did not go to that flat at any time and did not stay there and I had not brought and kept any material there. I was staying at the address that I gave. I came to know when I read Exts. 664, 665 and 667, that the other panch Jitendra Champalal Jain is also a regular panch witness of ACP Shengal and Tajne. I obtained certified copies of panchanama and evidence given by him in S. C. No.791/06 of C. R. No.01/06 of ATS Police Station, from the High Court. They are at Exts.3430 and 3431.

I was not involved in the Malegaon case even then the supervising ACP Shengal, S. L. Patil and Tawde filed bogus report of the case in the remand applications and misguided the court and obtained my custody in that case. I obtained certified copies of all the remand applications of me and my co-accused from this court and they are the same now shown to me, produced by me with my application Ext.4274 that I gave before I started evidence. (They are marked as **Exts.4300 (1 to 12)**). The NIA bulldozed the investigation of the ATS, when it investigated the case and said that bogus accused have been arrested by the ATS and it arrested another set of accused. I obtained certified copy of supplementary chargesheet filed by the NIA and produced it with my application Ext.4274 before I gave evidence. (It is marked

as Ext.4301). The NIA gave no objection to the bail application given by us in that case as they felt that we were innocent and this court ordered our release on bail on 05/11/11. I produced certified copy of the order with my application Ext.3097. (It is marked as Ext.4302). The ATS knew that bogus persons have been falsely arrested in MCOC Special Case No.23/06, even then it framed me and my co-accused to save the original perpetrators of the blasts. ATS officer S. K. Jaiswal gave the prior approval on 02/11/06 in the said case fully knowing that we had no concern with the case. Its certified copy is at Ext.3441. He gave the prior approval on 24/09/06 in the present case similarly, though there were no two chargesheets against me. I am not shown as wanted in C. R. No.103/01 of MIDC Police Station, Jalgaon. No such chargesheet exists, therefore, prosecution has not produced the second chargesheet in this case, even then S. K. Jaiswal gave prior approval without application of mind.

ATS showed bogus recovery of RDX under a bogus panchanama dated 19/09/06, Ext.3443, and produced its bogus forensic reports, Exts.3444 (1 to 3), showing traces of RDX, whereas it is made clear in the investigation of the NIA that all this is bogus and false. Traces of RDX are shown to be recovered from me in the same manner in this case by preparing the false memorandum and panchanama Exts.664, 665 and 667 and by filing bogus forensic report.

(Adjourned for recess).

Date :

06/08/13

Special Judge

Resumed on SA after recess

I obtained certified copies of statement of ACP S. L. Patil recorded on 12/12/06 by ACP Shengal, search panchanamas of my and accused Mohd. Ali's house and other documents from this court from the chargesheet of MCOC Special Case No. 23/06. They are the same now shown to me. (They are marked as Arts. 489 to 496 as the statement under section 161 cannot be read in evidence and the other documents are unproved documents). ACP Patil has falsely denied all these documents though they are part of the chargesheet of that case and has also denied having given statement. I obtained certified copy of chargesheet filed by the ATS in MCOC Special Case No.23/06 and produced it with my application Ext.4274 before I gave evidence and it is the same now shown to me. (It is marked as Ext.4303). The chargesheet is filed by ACP Kisan Shengal on 21/12/06 citing S. L. Patil, Vasant Tajne, Arun Khanvilkar, API Kolhatkar, Sachin Kadam, Dinesh Kadam, Kisan Gaikwad as witnesses. All these persons have worked for falsely involving me in the Malegaon 2006 case. It is alleged in para 10 of the chargesheet that I and Mohd. Ali supplied 20 kgs RDX to Shabbir Masiullah and my bogus role is shown in paragraphs 8 to 14.

ATS has obtained confessional statements of my co-accused by force and under duress in this case in which I am mentioned, in the same manner in which it obtained confessional statements of co-accused in the Malegaon blast case mentioning me. The certified true copies of confessional statements of the co-accused in the Malegaon case are at Exts.3439 (1 to 48) and they are bogus and

false. It is proved in the investigation by the NIA that the confessional statements are given by the accused under pressure and duress. Same is the case about the confessional statements of my co-accused in this case. Statements under section 164 have been taken forcibly in this case as they were taken in the Malegaon case. There is a bogus and false test identification panchanama in the Malegaon case in which a witness is shown to have identified me and accused Mohd. Ali and had seen us preparing bombs. Same is the case about Ext.844 in this case which is bogus and false.

1. N. Roy, ATS chief Raghuvanshi, Jaijeet Singh, S. K. Jaiswal, DCP Nawal Bajaj, DCP Sanjay Bawaskar, Supervising ACPs S. L. Patil, Kisan Shengal, Tawade, PI Sunil Deshmukh, Tajne, Khanvilkar, Mohite, API Kolhatkar, Shelke, PSI Sachin Kadam, API Tonpe, PSI Kandharkar, Dinesh Kadam, Dinesh Ahir and Kisan Gaikwad and all constables have criminally conspired and involved me and my co-accused in this case and in the Malegaon case. I am innocent. I and my co-accused are not involved in the Malegaon as well as in this case. The ATS has discharged accused Sadiq Israr in this case to save the original accused. Prosecution did not allow me to be released on bail in the Malegaon case for five years, though the chargesheet was false.

I have been put to financial loss and my father died of cancer without proper medical care as I am falsely involved in both the cases and my brother has to shoulder the responsibility of my wife and children. I was the sole bread earner of my family and because of my false involvement in the cases, they have to suffer. I did not hide myself at any time. I did the jobs at Jalgaon and at Mumbai in my own name openly by giving my addresses and photographs and my landline number of Jalgaon and mobile number. Nawal Bajaj had told me not to go to meet my co-accused in the Jalgaon case, therefore I did not go there and therefore my bail was canceled. I came to know later on before my evidence, that I am declared a proclaimed offender in that case, about which I did not know anything. My record is spoiled and my life is at stake because of Nawal Bajaj. I request this court to direct the NIA to make the investigation of this case to unearth the truth, as per the truth that was unearthed during the investigation of the Malegaon case by the NIA. I am innocent and I should be discharged from this case and action be taken against the persons who have implicated me in this case.

Cross-examination by SPP Raja Thakare for the State

I had no occasion to come in contact with Mumbai Police before this case. I had no occasion to come in contact with any officer or staff of the Mumbai Police before this case except Nawal Bajaj and therefore they were unknown to me and *vice versa*. It is true that prosecution has not asked for summons to summon Nawal Bajaj as a witness and he has not been examined as a witness.

It is true that I had said no to the question asked by this court during my statement under section 313 of the Cr. P. C. as to whether I want to examine myself on oath. Witness volunteers – I was confused because of discussion with different lawyers. I have full faith in my lawyer and in this court. I had said yes to the question during my statement under section 313 of the Cr.P.C. whether I want to examine any defence witness. My witnesses are included in the common list that was given on

behalf of all the accused. It is true that the name of Nawal Bajaj was not included in it. It is true that I did not apply to direct the prosecution to examine Nawal Bajaj as its witness. Witness volunteers – I feared that Nawal Bajaj would take more revenge if I do so. It is true that I did not apply to the court to examine him as a court witness. It is not true that the allegations that I made against him are not included in my written submission filed with my statement under section 313 of the Cr.P.C. It is true that his name is not mentioned in connection with the cases at Jalgaon. Witness volunteers – my written submission is short and brief.

1. You feel that Nawal Bajaj has a big hand to play in involving you in this case ?

Ans : He also has a hand.

I know that he was at Jalgaon upto 2001. I was staying at Jalgaon in 2001 and was staying there upto March, 2003. I came to Mira Road thereafter and started doing the job. I was staying in Mira Road since then upto 2006. I do not have personal knowledge as to when and as to where Nawal Bajaj was posted after 2001. It is true that no police from anywhere in Maharashtra troubled me from 2001 upto 2006.

It is true that the case RCC No.219/01 instituted in connection with C. R. No.178/99 of MIDC Police Station, Jalgaon is still pending against me. Witness volunteers – I am on bail in that case, but I cannot go there because of section 10 of the MCOCA and therefore it is pending. It is true that the case S. C. No.126/02 instituted in connection with C. R. No.103/01 of MIDC Police Station, Jalgaon is still pending against me. Witness volunteers – The S. C. No. 126/02 was not tried against me and I was not a wanted accused in that case. It is not true that I was shown as wanted accused in the charge that was framed in that case. I do not know whether my co-accused in that case are convicted. Witness volunteers- because I was not accused in that case and they were not my co-accused. It is not true that I knew that I would be convicted in that case, therefore, I absconded. It is not true that I have concocted the story about Nawal Bajaj having involved me in the cases at Jalgaon and in this case in order to get sympathy of the court.

It is true that I had not applied for bail in the Malegaon case during the period of investigation by the ATS. I know that after the ATS, the investigation was transferred to the CBI. Witness volunteers – it was only on paper, but the team of the PPs was the same till the investigation was taken up by the NIA and it was only when the said team was not there, that the truth came out.

Q – Do you know that the work of the public prosecutor is to conduct the case before the court and he has no concern with the investigation ?

Ans – It is only on paper. I did not name you though I know that you used to be in the ATS office and used to sit with Raghuvanshi.

It is not true that I am making these allegations as per the Al-Quada Manual that requires us to make allegations to malign the investigating agency, prosecuting

agency and the judiciary. It is not true that as a part of this we made baseless allegations against the previous judge Mrs. Bhatkar.

I know that CBI filed the report of their further investigation in the Malegaon case. Witness volunteers – it was a false report. It is true that no material inconsistent to the material of the ATS was disclosed in its report. Witness volunteers – we had given the material, but the CBI did not place it before the court. I had applied for bail when the CBI was investigating the case. It was rejected. It is true that I did not go to the High Court against that order. Witness volunteers – I did not have sources to do so. I did not apply for discharge to this court during the period the investigation was with the CBI. I had applied for bail when the investigation was given to the NIA. It is true that this court granted bail to us as the NIA gave no objection to our bail application. Witness volunteers – the no objection was given as we were not involved in that case. It is true that it is not mentioned in the report filed by the NIA to the bail application that there is no evidence against me. It is true that till today I have not been discharged by the NIA in the Malegaon case. Witness volunteers – I have filed application for discharge. I filed it after the NIA filed supplementary report. Two dates have gone by after it was filed. It is true that till this moment NIA has not given 'no objection' to my discharge application.

(Adjourned as court time is over).

Date :

06/08/13

Special Judge

Date : 07/08/13

Resumed on SA

It is correct that I am the last accused to be arrested in this case. Before my arrest I was watching the news on television about the bomb blasts in this case and reading them in the newspapers. I do not know who was arrested first in this case and when and from where. My remand was taken in the MCOC court after my arrest. I was produced alone on the first occasion on 04/10/06. I was not represented by any advocate on that day. There was no co-accused with me in the lockup during my first police custody period. Some persons were produced with me at the time of the second remand, but they were in veil. I was also veiled. My brother had engaged advocate Afroz Siddiqui for me on that day. I do not know who was representing the co-accused who were produced with me on that day. It is true that an advocate was representing me since this occasion of remand.

It is true that I feel that none of my co-accused have any concern with the case in the same manner as I feel that I have no concern with it. Witness volunteers- I had talked with them when we were remanded to judicial custody and they had told me about it. I cannot say whether we all were co-sufferers. I did not feel that it is necessary to know the facts of all the co-accused in the interest of the defence of all. It will be correct to say that I did not take any personal details of my co-accused other than what they told me about they being not involved. I did not think that it will be useful if we all accused come together and take a common defence and gather common information. I did not ask any of my co-accused to collect

information that would be useful for my defence and *vice versa*. I read the chargesheet after receiving its copy. I came to know majority of the allegations and the evidence that is against me, but I did not come to know them completely as the copy of the chargesheet was truncated. I read about the allegations and evidence in the chargesheet against my co-accused, but I did not pay much attention to them. I realized on reading the chargesheet that it showed my connection with different accused at different times. I did not take information from my co-accused about it. I have read the evidence given in this case. I read the evidence given by my co-accused. It is not true that I gave evidence on the documents that are on record. Witness volunteers- I gave evidence as I remembered it and referred to the contents of the documents when necessary. I did not take any notes about the events that took place from the date of my arrest till the date of my written submission with my statement u/s 313 of the Cr. P. C. I required two days to write my written submissions, i.e., on Saturday and Sunday. My co-accused have also filed written submissions. I did not read them or discuss their contents with the co-accused.

I do not know whether accused no. 3, 4, 7 and 12 stay at Mira Road. I do not know what mobile numbers were being used by which co-accused. It is true that a common application was made to call for CDRs of all mobiles used by all accused. I do not know which mobile number in the application belongs to which accused. I had given my mobile number, but I do not know who out of the co-accused had searched for and given the other numbers. It is true that I had not called for the CDR of any other mobile number other than mobile number 9867209894. I cannot say who had asked for the CDR of which number and for what purpose. It is correct to say that the reason for my calling the CDR of my mobile number is that I rely on it. I cannot say whether the CDRs of the other mobile numbers that are before the court are correct and complete or are incorrect and incomplete. I had not seen the list of mobile numbers given in the common application, therefore, I cannot say whether I had made or received any call to and from the other mobile numbers. I did not see the CDRs of the other mobile numbers that are before the court, except the CDR of my mobile number. I did not feel it necessary to verify the CDRs of other mobile numbers after going through the CDRs of my mobile number. Witness volunteers – because all the other co-accused were unknown to me.

I did not have a landline phone at my house at Mira Road. My brother was staying at Jalgaon when I stayed at Mira Road. The landline phone at my house at Jalgaon is 0257-2263039. My brother did not have any mobile phone. I have ration card since my birth at my Jalgaon address. I do not have ration card, electric bills, PAN card in my name of the address at Mira Road. Witness volunteers- the PAN card is of my Jalgaon address and the electric bills were in the name of the landlord Mohd. Atik Imtiyaz Ahmed. My driving licence is of my Jalgaon address. It is not true that I do not have any government document to show that I was living at the address of Mira Road that I have given.

1. You have not produced the agreement of the flat where you said you were living?

I had given it to Deshmukh on 03/10/06, but he has not produced it.

I do not remember now whose mobile number is 9223327081. 02223052593 is the number of a PCO. My friend, Santosh Gosai, had called me from this number on 11/07/06. I do not know the exact location of the PCO, but my friend stays at Shuklaji Street. I had received one or two calls from this number, but I do not remember whether I may have received many calls from it. My friend had a mobile number. I do not remember it now. He had made many calls from his mobile to my mobile. I may have made many calls to him on his mobile from my mobile. It is not true that I had close relations with him. Witness volunteers – my relations with him were as a colleague. I remembered the number of the PCO, though I do not remember the mobile number of Santosh Gosai who used to call me frequently on my mobile, because he was with me at the rickshaw stop when I came to know about the blasts and I had expressed my feelings of shock and sorrow about the blasts to him, because we went together upto the highway and because I had received an sms at 7.07 p.m. and he had called me after he reached his home and I reached my home. He had called me from that PCO at about 8.00 p.m. I do not remember whether I had received any call from him after 11/07/06 from that PCO. I do not remember when exactly I received a call from him from that PCO before 11/07/06. It is correct that his full name is Santoshsingh Bhimsingh Gosai. I do not know his exact residential address. It is not true that he was staying at Navi Mumbai in 2006 and his address was 608, Krishna Residency, Sector No. 20, Plot No. 13, Kharghar, Near Jalvayu Vihar, Navi Mumbai. I do not know the date from which he was working in the Lokhandwala Construction company, but it is correct that he was working with me as a billing costing engineer. I do not know whether his statement is in the chargesheet at page 0077 in Vol-F-III. Witness volunteers- because the chargesheet is truncated. It is not true that the material against the accused is not truncated. It is not true that I deposed falsely that my friend Santosh Gosai used to live at Shuklaji Street and he used to call me from the said PCO number and that he had called me at about 8.00 p.m. on 11/07/06.

1. There is no call from 02223052593 on 11/07/06 to your mobile number?

(Witness requests permission to go through the CDR Ext. 3767 of his mobile number. Permitted). I got a call at 8.53 p.m. from number 02232417058. It is true that I did not get a call from 02223052593 on that day.

I do not know whose number is 02228870577. I do not remember whether I made any call to this number or *vice versa*. 02226494592 is the number of my head office at Santacruz. I do not know whose number is 02572262823. 9867244681 is the number of my friend Shaikh Mohd. Ayyub. Witness volunteers - he used to contact me from this number and *vice versa*. I met him first in January-February 2005 as he was staying in the adjacent building at Mira Road. I was not on visiting terms at his house and *vice versa*. He was residing in flat no. 204, building no. 32, Sector-11, Shanti Nagar, Mira Road (E). I do not know whether the name of the building is Amrapali. I became acquainted with him as he was doing the work of mobile repairing, selling sim cards and doing recharge. He used to do the business from his shop. He used to recharge from his mobile wherever he used to be. I was not on visiting terms at his shop. I do not know the name and address of his shop, but he used to go to Jogeshwari. The mobile number 9867244681 was

not in his name, but it was the mobile of his instructor and I do not know in whose name it was. He used to go to Jogeshwari at 9.00 a.m. and return in the evening. I had asked him and he had informed me that he goes for work at the shop of his instructor/sir. I did not ask the name of his sir. I never talked with that sir of his. I do not remember whether I made a call to this mobile number from my mobile and it was not picked up by Mohd. Ayyub, but was picked up by his sir. I had not asked for the SDR of my mobile number in the common application. I do not know whether the SDRs of other mobile numbers were called for. I may have made five calls from my mobile to the said number from May to July 2006 and may have received 16 calls from that number during that period. I used to call some times for recharging my mobile and Mohd. Ayyub used to call me as he was my friend.

I cannot tell the number of incoming and outgoing calls of my mobile during a day. I cannot tell for how many days the recharge of the talktime of my mobile once made used to last. We did not feel it necessary to go to each others house though we were residing adjacent to each other. Witness volunteers- we were not on visiting terms. I had no occasion to go to his shop and to get acquainted with his sir. I do not know the evidence given by co-accused Mohd. Sajid as I was not present during his cross-examination for three days as I was suffering from Malaria. I did not get copy of his evidence. I do not know whether as per the accused no. 7 Sajid, mobile number 9867244681 was continuously used by him and used to be with him. It is not true that I am stating falsely that this number was used by my friend Mohd. Ayyub.

I do not know whether as per the accused no. 7 Sajid, he was first called by the ATS in connection with the present case on 17/08/06. It is not true that he is my accomplice and associate in the conspiracy of the present case, that we were in telephonic contact with each other in connection with the conspiracy of the present case. It is not true that I left Mumbai and absconded on 18/08/06 when I came to know about accused no. 7 Sajid being caught by the police on 17/08/06, therefore, I did not mention in my written submission that I went to Jalgaon as my mother was sick.

(Learned SPP asks the witness to go through Ext.3767). It is true that I got two calls one at 06.07.23 hours on 10/07/06 and at 1.56 p.m. on 12/07/06 from 02223052593 on my mobile. I do not know whether the said number is of the PCO in the medical store near Faujia Hospital, Shuklaji Street, Mumbai. I do not know whether my co-accused Tanveer was serving in that hospital and whether his house was at a near distance from the hospital. It is not true that I stated falsely that my friend Santosh Gosai used to call me from this number, because he used to stay at Navi Mumbai. It is not true that this phone number was the command post from which my co-accused no. 4, 7 and 11 used to be in my contact. It is not true that after obtaining the CDRs of all mobile numbers we created a false story about the mobile number 9867244681 being a number of one Mohd. Ayyub. Witness volunteers – I have mentioned about Mohd. Ayyub in my written submissions that was given before the CDRs were produced.

(Learned SPP asks the witness to go through Ext.3767). It is true that there is not a single outgoing call from 11.00 a.m. on 04/07/06 upto the morning of 12/07/06

from my mobile. It is not true that my mobile was not with me, therefore, there is no outgoing call from it during this period and the person with whom I had kept my mobile only received the calls that came on my mobile.

(Adjourned for recess).

Date :

07/08/13

Special Judge

Resumed on SA after recess

It is not true that this shows the strategy of terrorists that we follow of not carrying our mobiles with us when we do acts preparatory to terrorist acts or do the terrorist acts as per the Al-Qaida manual. (Learned SPP submits that he wants to show a statement at page no. 541 of Vol-F-III to the witness and to ask him whether he had seen the said statement. Permitted only for limited purpose as per the prayer). I cannot say whether I had seen this statement. Witness volunteers- because I had the truncated copy of the chargesheet. (Learned SPP submits that he wants to show photocopies of documents following the statement at page no. 541 of Vol-F-III to the witness and to ask him whether he had seen the said statement. Permitted only for limited purpose as per the prayer). I cannot say whether I had seen these documents. Witness volunteers- because I had the truncated copy of the chargesheet. It is not true that the address that I have given was of the accused no. 7 Sajid in 2006. It is not true that the owner of the said flat is Mohd. Ateet Imtiyaz and he had entered into an agreement with the accused no. 7 Sajid in 2006. It is not true that I am denying having seen the above documents to avoid my close relations with the accused no. 7 Sajid from being exposed.

It is true that I had filed a writ petition in the Bombay High Court that the provisions of the MCOC Act are not applicable to the case as there are no two chargesheets against me.

Q It was rejected by the High Court?

My advocate told me that the High Court rejected it saying that this point can be raised at the time of trial. (Learned SPP submits that he is producing certified copy of the judgment with an application). It is not true that I deposed falsely that my advocate had told me that this point can be raised at the time of trial and therefore, the petition in the High Court was rejected.

I do not remember the mobile number of contractor Kale or S. T. Deshpande. Witness volunteers – I can tell the number of contractor Kale on seeing the CDR. It is not true that I am stating falsely that I got a call from contractor Kale on 11/07/06.

The Collector makes the appointments of SEOs. Witness volunteers- as per the information that I called for. I do not know whether the appointments of SEOs were made by GAD, Mantralaya, Mumbai before 02/04/05 and thereafter they are made by the District Collectors. I did not ask for information about Shashikant

Barve, SEO from the GAD department. It is true that his rubber stamp on the memorandum of test identification parade Ext. 844 contains his number as 631. (Learned SPP submits that he is drawing the attention of the witness to the photocopy of the GR dated 30/04/01 published on 08/05/01, which he is producing with an application with a request to direct the Sheristedar to verify its contents with the original GR that is with him and which is to be returned back to the concerned department). It is true that the name of Shashikant Balwant Barve is at serial no. 631. It is not true that I have produced incomplete and wrong information in this respect. It is not true that I am saying falsely that Shashikant Barve was not an SEO and he had not taken the test identification parade on that day.

It is true that the chargesheet **Ext. *** against PW-60 Kishore Shah is of a date later to the date of the offence of this case. I do not know whether it was a case of matrimonial dispute between him and his wife. I know that he is acquitted in that case. (Learned SPP asks the witness to go through Ext.2502). It is true that the address of Kishore Popatlal Shah is shown as of Bhiwandi. Witness volunteers- it is the address of a godown where he had hidden stolen property. It is true that the address of the accused no. 1 Kamlesh Shah, is shown as Room No. 38, 2nd Floor, Oswal Darshan Building, Anjur Phata, Bhiwandi. This is his residential address. It is true that the address of the accused no. 2 Navneet Shah, in that case, is not the address of the spot of the crime. It is not true that it is the residential address of that accused. It is true that the age of Kishore Popatlal Shah in that case of 2002 is shown as 39 years and his age might be 47-48 in 2011. I do not know, but it may be that PW-60 has given his age as 57 years. PW-60 has given his residential address as that of Borivali. I know that he had given interview on television after the blasts in this case as an injured in the bomb blasts. It is not true that there are many persons by the name Kishore Popatlal Shah and I am deliberately making a confusion and saying that the said case is against him.

It is true that Jitendra Champalal Jain has not given evidence in this case. I know that the Sewree Court had convicted the accused in the case in which he gave evidence. I do not know whether the documents that I obtained from the High Court are in respect of an appeal filed by the State against the acquittal of one accused. I do not know whether he had received threats not to give evidence in this case. It is not true that the threats were given on our behalf as we feared that if he gave evidence in this case, we would be convicted as the accused in the Sewree court had been convicted on his evidence. Witness volunteers- I came to know later on when the evidence of his co-panch was recorded, that he is a regular and experienced panch of the police.

I do not know whether Kewalkumar Jain, PW-55, has not been convicted by any court. It is not true that the case about which I gave evidence is in respect of a commercial transaction. Witness volunteers- it is in respect of cheating. It is true that the documents in respect of Dilip Ayare, PW-33, are in respect of a case after the date of the incident in this case. It is not true that as per the record of the taxi of Santosh Kedar Singh, PW-63, that I have produced, the taxi no. MRK 8286 is in the name of his brother Satishkumar Kedar Singh. It is not true that the record in

respect of PI Satish Ahir, PW-144, that I produced is in respect of an incident after the filing of the chargesheet in this case and after his evidence. It is not true that I have not brought any evidence to show that he fabricated or gave false evidence. It is true that Devram Wadmare, PW-175, was acquitted of the charges of corruption in the case about which I produced documents. Witness volunteers- tainted officers were taken in this case to create false evidence with the assurance that they would be released in the cases against them. It is not true that I have produced incomplete and wrong information to discredit the witnesses examined in this case in order to prejudice the mind of the court.

1. You had good relations with Ramsingh Laxmansingh?

He was security guard and I was an engineer in the same company. I have no reason to disbelieve him. There were many engineers working in Lokhandwala Construction company.

1. Some of the engineers were required to go out for work?

I have already stated that some were billing engineers and some were site engineers. It is not true if the engineers who went out for work did not return before the closing time, they used to put the time on the muster on the next day. It is not true that I was not on duty on 11/07/06, that I have not signed the muster and I stated falsely about it.

It is not true that no evidence of narco test of any accused is given by the prosecution. It is not true that I have made false allegations as per the Al-Qaida manual against the police officers and staff in connection with the alleged torture, allurement, inducement, ill-treatment, etc. It is not true that I have stated my residential address to mislead, that recovery is made legally as per my voluntary statement after my arrest, that I stated falsely that I did not know any of my co-accused, that I am directly involved in the conspiracy in this case and I am the main conspirator, that I was in telephonic contact with different co-accused in connection with the conspiracy of this case, that the confessional statements of my co-accused have been recorded legally and they have stated the truth about me in them and that I initially volunteered to give a confessional statement, but thereafter I said no. It is not true that my confessional statement was not recorded as I said no and this shows the legality of the procedure. It is not true that I gave evidence that is concocted on the basis of the documents that have come before the court, therefore, my written submissions do not include many important topics. It is not true that I deposed falsely.

No re-examination.

R.O. (Y.D. SHINDE)
SPECIAL JUDGE
Spl. Judge UNDER MCOC ACT,99,
Date:- 07/08/13 MUMBAI.