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Examination-in-chief by adv Sharif Shaikh for A4 & A5

My parents, my two brothers and my wife are my family members. My father was earlier in Saudi Arabia, working as a labourer in National Center Company and I was at my native place at village Yunuspur, Post Khetasarai, Dist- Jaunpur, UP. I came to Mumbai in 1996 after completing 10th standard and did 11th standard in Maharashtra College, Nagpada. I was staying during this period at the address of Mira Road given above. After completing the 12th standard, I got admission in Narayan Nago Patil Engineering College, Pen, Dist. Raigadh in 1998 for the degree course in Chemical Engineering. I was in the 3rd year during which I used to come to Mira Road on Thursday or Friday as I was staying in the hostel. Kurla police arrested me on 27/09/01 when I was in the 3rd year and was returning to Mira Road. Police took my name and address, but did not tell me anything and put me in the lockup. I was produced on the next day in the 11th Court, Kurla and was released on bail, but police did not release me and involved me in a new case. I was police custody in that case for 15 days. Police used to inquire with me about my background and family during this period. I was released on bail thereafter on condition that I should attend Kurla Police Station twice a day, therefore, I could not complete my education. I started my printing business of DTP thereafter in 2002 at my house in the name Graphic Point. I used to print letterheads, receipt books and other office documents. I used to do the DTP work on the computer at my house and get the work printed at a printing press near Bhayander railway station. I started publishing company by name Shahadah Publishing House in 2004 and did the work at my house. I used to print religious books and then give advertisement in the newspaper Urdu Times and magazine Urdu Book Review. I used to get orders from book sellers at Delhi, Hyderabad, Lucknow, Allahabad, Kanpur, Deoband, Aligadh in UP, Jodhpur, Kota in Rajasthan, Surat and Ahmedabad in Gujarat, Ujjain, Indore, Devas, Jabalpur in MP, Patna and Bihar, Bangalore in Karnataka and Mumbai, Akola, Nagpur, Thane in Maharashtra and then supply the religious books. The book sellers used to send me letters or contact me on phone for placing the order.

I used to be called at the Mira Road Police Station during the above period whenever the Sr. PI of that police station changed or if there was any blast or incident, and I was tortured and threatened that I would be involved in a big case. They used to tell me not to complain against the police. I was called in the said police station in this manner 9-10 times. I remember the name of the last officer who was Sr. PI Murade. I also used to be called at Kurla Police Station and Crime Branch, Dahisar Unit and used to be asked in detail about my background. They used to abuse and torture me and threaten me not to complain against them or they would involve me in some big case.

I was called by ATS officer Shailesh Gaikwad at the office of the ATS at Kalachowki in November 2005 and inquired with about my background and allowed to go in the evening. I had gone to my native village in the last week of December 2005 and had gone to Patna, Allahabad, Aligarh, Deoband and Delhi for obtaining orders for my books. I had also gone to Rajasthan, Gujarat and MP for the same purpose and returned to Mumbai on 26/03/06. I was married in April 2005 at Allahabad, therefore, I used to stay in Mumbai and also at my native village as my wife used to stay with my parents at my native village.

I was acquainted with one Nathuram Tedgure in connection with the printing business. He had purchased a mobile handset containing sim card no. 9867139179 of Bharti Airtel. I purchased it from him as he was going to Qatar and I started using it for my personal and business purpose. I never went to Govandi or Bandra (W) during the period of my stay in Mumbai from 1996. I used to get most of my printing work done from Huma Offset at Byculla. I used to get the film of printing prepared at Sakinaka. I used to purchase papers for printing from the paper market opposite VT station. I used to go to near Masjid station for sending the printed books by transport. I was required to tour the places mentioned above for collecting orders and payment.

I was doing my business as above upto 24/07/06. I was at Mira Road on 08/07/06. I had gone to Mumbra on 09/07/06 and was at Mira Road on 10/07/06. I got up in the morning on 11/07/06, offered namaz in Shams Masjid, which is opposite my house, returned home and started doing the typing and design work on the computer. I again went for namaz at 1.30 p.m. in Shams Masjid. I went to a cyber cafe from there and then returned home. I had again gone to the said masjid at 5.30 p.m. for namaz, returned home and again went there at 7.15 p.m. When I was returning home from there I came to know from the public that there were train blasts in Mumbai and also ahead of Mira Road Railway Station. I started going to the spot for helping the injured, but I came to know from the people who were returning from there that the police are not allowing anyone to go there. Hence, I returned to my house. My mother called me from her mobile on my mobile after some time from the village to ask me about my whereabouts and we talked for about 5-6 minutes. I had talked on my mobile with my business contacts from 8th to 11/07/06 as usual and used to send sms for news on no. 8888. I can show my locations on these days from the calls in the CDR Ext.3765 (3). This CDR is of the mobile that I was using. The tower location codes from 7th to 11/07/06 are of different locations. The first call on 08/07/06 is with my mother on no. 9935661938

at 8.35 a.m. There are many calls to the accused no. 7 Sajid on 8th to 10/07/06 on no. 9867244681. I had business relations with him since one year and used to contact him for computer maintenance work and he also used to bring printing work to me. The call that my mother had made is at 8.54 p.m. on 11/07/06. The many other numbers are of my business contacts.

(Adjourned as court time is over).

Date : 30/04/13 Special Judge

Date : 02/05/13

Resumed on SA

I was at my house on 11/07/06 and during the day on 12/07/06. PI Murade came to my house in the evening at about 8.00 p.m. and inquired with me as to where I was on 11/07/06 and asked me to come to the police station on the next day as he would take my statement. I went to the Mira Road Police Station on 13/07/06 at 9.00 a.m. Some other officer, whose name I do not remember, made inquiry with me, took my mobile and checked it. PI Murade made inquiry with me thereafter and thereafter a constable took my complete statement on computer. I was allowed to go home in the evening. I was at my house on 14/07/06 when 3-4 officers from DCB CID, Dahisar Unit came to my house at about 10.00 a.m. and took me in a police van to the Crime Branch office of Dahisar Unit. They inquired with me and took my statement there and allowed me to go home in the evening at about 8.00 p.m. I was doing my work thereafter. PSI Sunil Mane of ATS came to my house at about 9-10.00 a.m on 24/07/06 and asked me to attend Nagpada Unit of the ATS and accordingly I reached there at about 2.00 p.m. Officers Shailesh Gaikwad, Dinesh Ahir, PI Vilas Joshi and many constables were there. They did not make any inquiry with me, but put me in the police vehicle after some time and took me to the Bhoiwada lockup. They took me on the second floor in a room of the lockup and made me lie down on a bench and then started beating me by flour mill belt. After torturing me for quite a long time, officer Shailesh Gaikwad started asking me one question that when I had gone to Pakistan. I repeatedly told him that I had not gone to Pakistan as I had never gone out of India. They also checked the calls on my mobile and kept it on the table. At that time there was a call on my mobile and I received it. However, they snatched the mobile from me and canceled the call. I was inquired with and tortured there for two hours and thereafter taken to Nagpada. Constable Tushar Sawant recorded my statement in the night upto 1.30 p.m. I was handcuffed to a window.

Officers Vilas Joshi and Shailesh Gaikwad continuously tortured me in the morning and evening from 25/07/06 upto 28/07/06. They had taken away my mobile. They had taken my search on 24/07/06 in the night and had taken Rs. 25,000/- that was in my pocket and PAN card and debit card and had kept them in a cupboard. K. P. Raghuvanshi came there at about 4.00 p.m. on 28/07/06, inquired with me about the bomb blasts and as I did not know anything about them, I told him so. He then directed officers Shailesh Gaikwad, PI Vilas Joshi and ACP Kisan Shengal to torture me to such an extent that I would not be recognizable. The three officers then started torturing me with the help of constables, gave shocks to my private parts, beat me by belt on my palms and soles by making me lie down on bench and after

the beating was over, two constables banged my palms on the floor and my soles on the wall. They did this in order to hide any signs of beating. PI Shailesh Gaikwad remained with me and other officers took the key of my house and went to Mira Road and returned at about 10.00 p.m. with all the articles in my house loaded in two vehicles. The articles included a computer, laser printer, scanner, blankets, ten gunny bags filled with books and eatable articles. They switched on the computer in the Nagpada office. They did not prepare any panchanama. They produced me in the Mazgaon court on 29/07/06. Officers Shailesh Gaikwad and Dinesh Ahir threatened me while going to the court not to tell the court about anything that had happened during last four days. They did not tell me anything about the case and brought me back from there. Dinesh Ahir told me that I am arrested in a SIMI case and that I would be released on bail after 15 days. They put me back in the Bhoiwada lockup.

I was again taken to Nagpada on 03/08/06. PI Vilas Joshi, PSI Shailesh Gaikwad and constables tortured me for the whole of the day saying that I should admit having done the bomb blasts. When I did not say anything they took me in front of DCP Nawal Bajaj. He told me that they had told him that I had admitted having done the bomb blasts. I complained to him that they were torturing me to admit having done the bomb blasts. He directed that those two officers should not interrogate me. They took me to the Bhoiwada lockup in the morning of 04/08/06 and put me in the lockup. I was taken to the KEM hospital on that day. I complained to the medical officer that the police have beaten me and that there is pain in my thigh. The medical officer referred me to the orthopedic department. My entire body was x-rayed and I was given pain killers. When I was taken out of the hospital and put in the police vehicle, PI Sunil Deshmukh threatened me not to complain or they would cut me. He and other constables took me to Chandan Chowki. I was made to lie down on a bed. Some people came there with injections and glucose bottles and told me that they are treating me for the pains that I had. An officer of the FSL, who had chickenpox marks on his face, was amongst them. I told them not to give me injection, but they tied my hands and feet to the bed. I saw that K. P. Raghuvanshi, Nawal Bajaj and Addl. CP Jaijeet Singh had also come there. Saline bottle of glucose was given to me and they gave me an injection saying that a person speaks the truth by its effect. Then they started making inquiries with me and I gave answers. I fell unconscious and regained consciousness in the morning. They brought me back to Bhoiwada on 05/08/06. En route the constable told me that I was subjected to narco test, during which the officers who inquired with me said that I am not involved in the bomb blasts.

I was taken from the lockup on the first floor to a room on the second floor in the Bhoiwada lockup on 02/08/06, where Commissioner of Police A. N. Roy, DCP Nawal Bajaj, API Kolhatkar and many officers were present. I saw that an accused was being brutally tortured there. I came to know later on that he was the accused no. 3 Faisal. They had stretched his legs to 180 degrees and were inquiring with him as to who had done the bomb blasts and he was repeatedly denying his involvement. (Adjourned for recess).

**Date : 02/05/13 Special Judge
Resumed on SA after recess.**

6. N. Roy asked me whether I know him. I told him that I do not know him and I have not seen him. I was taken to the Nagpada office on 06/08/06. K. P. Raghuvanshi interrogated me on 14/08/06 at Nagpada in connection with the bomb blasts. PI Salaskar of Crime Branch took me to the Anti Robbery Squad of Crime Branch at Kurla on 14/08/06. I was arrested in this case on 12/08/06 when I was in the lock-up of Bhoiwada. I was taken to the Killa Court and remanded to two days police custody. I was produced before the Mazgaon Court on 14/08/06 and remanded to police custody upto 25/08/06. My both hands were tied to the windows behind me at Kurla and I was kept in this position till morning. I saw in the night that PI Salaskar and officer Phadake were severely torturing a person. I realized that he was the person by name Mohd. Alam Gulam Qureshi when he gave evidence as PW-59 in the court. I also saw officer Alaknure beating the accused no.6 Mohd. Ali and taking him from there. They brought an old person there after some time. I came to know later on that he was accused no.3 Faisal's father. Officers Phadke and Dalvi and constables forcefully removed his clothes and made him naked and paraded him. They were pressurizing accused no.3 Faisal to accept the crime of the bomb blasts or all his family members will be similarly treated. They brought a veiled woman there, whose veil was forcefully removed in front of all. There were other accused there. I came to know later on that they were accused Tanveer, Muzzammil and Sohail. Thereafter Muzzammil was tied similarly to the window that was by my side. Faisal was taken to the cabin of PI Salaskar and I heard his loud shouts from there. Officers Phadke, Alaknure and constables came near me and started pulling the hairs of my beard. I was beaten by hands and legs by all officers and constables who went by that place.

I was brought to the Bhoiwada lock-up in the morning on 15/08/06. I was taken to the second floor after 3-4 days. There was some senior officer there and DCP Bajaj. The said officer inquired with me and told me that they shoot any Muslim if they catch him. I came to know in May, 2007 when I saw the said officer's photo in the newspaper, that he was the ATS Chief of Gujarat by name D. G. Wanjara and had been arrested in fake encounter case of Sohrabuddin. I did not see that officer again. I was taken to the Kalachowki ATS office on 21/08/06 and taken to the Detection Room. I saw a person handcuffed to the floor there. Officer Tajne came there after some time and abused the constable who had kept me there as to why he had kept me there. I was immediately taken out and taken to Nagpada. I came to know later on when I received information under the RTIA and the photograph of that person, that he was Mohd. Ali @ Abu Umed killed in an encounter at Antop Hill, who was shown as co-accused in this case in the role of a planter. I got copy of chargesheet from Antop Hill Police Station about the said case of encounter under the RTI and it is alleged in the chargesheet that some explosives were seized from him. He is shown as a resident of Pakistan in the chargesheet in this case. These documents are filed by the accused no.7. I have filed in the High Court the photograph that I had received.

I was then put in the lock-up at Bhoiwada on 23/08/06. I was taken to the Crime Branch, Unit-II on 24/08/06. PI Hargude, API Dabale and PSI Azam Patel interrogated me and tortured me and beat me by belt. They recorded my one page statement at 4.00 a.m. I was produced in Mazgaon Court on 24/08/06. The judge

had asked me whether I had any complaint against the police. I said no as the police had threatened to involve me and my family members in the bomb blasts case and that they would again torture me. I was remanded to police custody upto 08/09/06 and taken to Bhoiwada and after some time API Dabale took me to Unit-II of Crime Branch. I was again tortured there and threatened that I would be killed in fake encounter. I was taken back to Bhoiwada lock-up in the night on 25/08/06. I was taken to the second floor two days thereafter before ACP Vinod Bhat. He inquired with me about the case and told me that he had read all the papers of investigation of our case and that he is confirmed that I and the other persons who had been arrested till then were not involved in the bomb blasts. He told me that there is strong pressure on him from A. N. Roy and K. P. Raghuvanshi to prepare and file a false case against us in connection with the bomb blasts. He told me that he is not ready to act as per their say, but they are pressurizing him saying that they would involve his wife in a case. I was then sent back to my lock-up. He said that he would give up his life but not involve us in the false case. Some days thereafter a constable was reading newspaper outside the lock-up and I happened to read the title of a news item saying that ACP Vinod Bhat of the ATS had committed suicide.

I was taken to Nagpada on 05/09/06 to the office of K. P. Raghuvanshi in the head office of the ATS. A. N. Roy, Jaijeet Singh and Subodh Jaiswal were present there. Jaijeet Singh and Jaiswal went away from there after some time. K. P. Raghuvanshi told me that they had not been able to catch the original accused, but as there is political and public pressure on them to catch the accused in the bomb blasts case, we should admit that we had committed the blasts. I told him that when we had not done the blasts, then why we should admit the guilt. He said that if I admit the guilt he will make me an approver and I will be released on bail and will be settled in some foreign country. K. P. Raghuvanshi was the chief of the ATS and A. N. Roy was the Commissioner of Police, Mumbai at that time. I told them that I cannot admit false things. K. P. Raghuvanshi then said that I am not understanding in a sophisticated manner and that I will understand after I am beaten. I was then put in the Bhoiwada lock-up. I was taken to Bangalore by train on 06/10/06 by officer Shashank Shelke, PW-150, alongwith accused Faisal and put in lock-up. We were then taken to the FSL. There was a board of Dr. S. Malini. We were taken to her. She inquired with me and did my polygraph test, brain mapping test and then put me back in the lock-up with the instruction not to eat anything in the morning.

(Adjourned as court time is over).

Date : 02/05/13

Special Judge

Date : 03/05/13
Resumed on SA

I was taken to Lady Curzon Hospital on 08/09/06 for narco test. I was taken to a room where Dr. Malini and DCP Nawal Bajaj were present. They interrogated me and then I was taken to an operation theater. I was made to lie down, given saline of glucose and injection. I became semi-unconscious. I was taken to the Bangalore airport after I regained consciousness. API Shelke and one constable accompanied me to Mumbai by air. API Shelke told me during the journey that it was proved in my narco test that I am not involved in the bomb blasts case and that I would probably be remanded to judicial custody on that day and then discharged. I was taken to Bhoiwada lockup when we returned to Mumbai and then taken to the Mazgaon court on the same day. Officer Shelke and PI Tajne told me not to say anything to the court. The judge did not ask me or say anything to me. No advocate was representing me. I was remanded to police custody upto 11/09/06 and put in the Bhoiwada lockup. I was again remanded to police custody on 11/09/06 upto 22/09/06.

I was again taken by flight to Bangalore alongwith accused no. 3 on 11/09/06. PI Wadhankar, ACP Shengal and 3-4 constables took us there. I was kept in a lockup at Bangalore. Narco test was again conducted on me at the same place on 12/09/06 by Dr. S. Malini. On this occasion she had not given me more injection, therefore, I was conscious. The narco test was video recorded. Amongst the questions she asked me, there was a question as to whether I had kept bomb in train and I said no, but she said that I should say that I had not kept bomb in train. Similar types of questions were asked to which I had to give negative answers. I was taken back to Mumbai on 13/09/06 by PI Khandekar. I told him during the journey that nothing has come against me during my narco test and I should be released. He told me that everything has come in the narco test. There was no other talk with him other than this. When we reached Mumbai and were going towards Bhoiwada, PI Khandekar received a phone call directing him to take me to Nagpada head office of the ATS. I was taken to the office of K. P. Raghuvanshi at Nagpada. There is a cabin behind his office. He took me in that cabin keeping PI Khandekar outside. He said the same things that he had said to me on 05/09/06. He read over the names of the accused and asked me whom I know. I told him that I knew only accused Tanveer and accused Sajid and did not know and had not met any other accused. I knew accused Tanveer as he was my co-accused in the case at Kurla. K. P. Raghuvanshi told me that if I do not admit the crime, they would kill me in an encounter as they had killed one person. He then called PI Khandekar inside his cabin and after some time called PI Tajne. He told them to bring a big rope and to tie me to the rope and take me to the jungle at Borivali and leave me there and when I start running to shoot me. He told PI Tajne to take me and give me special treatment.

I was then taken to the detection room in Kalachowki. There were handcuffs fixed in the four corners of that room and I was handcuffed to one of them. Sound absorbers were fixed in all four corners. There were two doors to that room, one opening outside and one opening inside so as to prevent sound from going outside.

Addl. C. P. Jaijeet Singh, API Khanvilkar, PI Tajne, API Kolhatkar, PSI Sachin Kadam, constable Salvi and 2-3 constables came in the room at midnight bringing rope and belt with them. They opened my handcuffs and tied my hands behind the back and I was made to sit on the floor with my legs stretched in front. A constable sat behind me on a chair entangling his legs in my arms that were tied behind. Ropes were tied to my both legs, the other ends of which were in the hands of two officers. Two constables started stretching my legs outwards. Addl. CP sat on a chair opposite me and continuously asked only one question as to who had committed the bomb blasts. Whenever I replied that I do not know, my legs used to be stretched more and they were stretched upto 180 degrees. Addl. CP left after one hour. Officer Khanvilkar then untied my hands and beat me on my palms by belt, because of which my palms became blue. All left thereafter after handcuffing me again. The AC of that room was switched on so that I would feel the cold as I did not have any blanket. I passed blood from the urine on the next day. I told them to do my medical checkup as I had the problem. Officer Tajne told me that there is no need of medical checkup and that the problem will be solved automatically.

I was taken to the office of PI Tajne on the next day. Raghuvanshi, Jaijeet Singh, Jaiswal, Tajne, Khanvilkar and Sachin Kadam were present there. Sachin Kadam was distributing sweets to the officers and asked me whether I would eat the sweets, because their persons have done a blast at Malegaon. K. P. Raghuvanshi told me that I should sign on some papers before a senior officer and that they would not do anything to me. I told him that I would not sign on any falsely written thing. I was then taken to a room by the side of the detection room. There was a handcart in that room. I was made to lie down on it and my entire body was tied by rope. My upper body portion was lowered, a cloth was put on my face and they started pouring water in my nose and mouth. This went on for about half an hour intermittently and I was feeling difficulty in breathing. DCP Nawal Bajaj and an officer of the FSL, who had come in the Chandan Chowki earlier, came there. They checked my blood pressure. Nawal Bajaj then scolded the other officers and asked them whether they wanted to kill me. He said that I was not to be killed, but I was to be languished in jail. I was untied and all of them left.

Tajne, Khanvilkar and Sachin Kadam came with some constables on the next day, removed all my clothes and tied my hands to a rod above my head. At that time I was dangling one foot above the floor. They attached two wires to the thumbs of my legs and one wire to my private parts. They then switched on the power supply from a machine and they did this for about 15 minutes and then left. I felt the shocks at the places where I was tied by the hands and in the entire body. I was untied after an hour and made to lie down. Those three officers returned in the night, made me to sit on a chair by the wall and fixed my head to the wall by plastic tape. They then dripped single drops of water on my head for two hours. I repeatedly asked them as to why they are so doing. They told me that they do not want to ask me anything and they are only following orders. Because of the water drops dropping on my head, there was pain in my head upto the chest.

I was taken to Mazgaon court on 22/09/06, produced before a magistrate, but I was not unveiled. The magistrate did not ask me anything and I did not tell him anything as the police officers had threatened me not to say anything or they would kill me in an encounter or in the jail. No advocate was representing me on that day. The magistrates did not ask me whether I wanted legal aid on the dates when I was produced in the Killa Court and the Mazgaon Court. Raja Thakare used to appear on behalf of the ATS in all courts. I was remanded to police custody upto 06/10/06. I was not allowed to meet any person whenever I was produced in courts.

I was then taken to Kalachowki and beaten on my soles by belt. I was again taken to Bangalore on 25/09/06 by flight, kept in the lockup and Dr. Malini conducted narco test on me on 26/09/06, which was videographed by a cameraman, who did the same work every time. There used to be injuries on both earlobes every time when the narco test was conducted. Accused Faisal was also taken with me. His narco test was conducted on 27/09/06. We were taken back to Mumbai by flight on 28/09/06. I told Addl. CP Jaijeet Singh to show the video shooting of my narco test during my police custody from 13th to 25/09/06, when he told me that I had stated everything during the narco test. It was shown to me and I told them that it was morphed and edited video. I knew this as I had used a software of video editing. I realized this as I saw that the portions of my denials were deleted. I have not seen that CD again.

I and Faisal were brought back to Mumbai on 27/09/06 and brought to this court on 28/09/06, but not produced before the court. From here we were taken to Sewree Court and produced before judge Thipsay. He did not ask us anything and remanded us to police custody upto 09/10/06. We were not told why we were produced in the sessions court. I came to know when I was remanded to judicial custody that the charges of the MCOC were applied, therefore we were produced in the sessions court. I did not tell anything to the judges as I was threatened by the police. I was then taken back to the lockup.

Sachin Kadam took me to Kalachowki on 29/09/06 and started torturing me in different ways and told me that I was brought there for being heated and then to be taken to an officer. I was taken to the Nagpada office at about 8-9.00 p.m. CP A. N. Roy was present there. He told me that they had made a plan to involve me in this case and they would be taking press conference on the next day. He told me to admit the crime and that I would be released early and if I did not do so I would languish in jail. I was taken back to Bhoiwada lockup.

Officers Tajne and P. P. Deore came to the lockup on 05/10/06 and took me to Matunga to an office on the first floor that had the name plate of DCP Dattatray Karale. The DCP asked both officers to go outside, then asked me my name, address, education and told me that I had done the blasts and whether I wanted to say anything. I told him that I had not done the blasts and I do not want to say anything about it. The DCP told me that my entire statement was sent, in which I had admitted having done the blasts. I told him that I had not given any such statement. He then called both officers inside and told them to take me back to their lockup. I was taken back to the Bhoiwada lockup and from there I was taken

to Kalachowki, where I was tortured as before. They told me that I have only to sign and not to do anything else. They threatened that if I did not sign they would involve my father and brother in the bomb blasts case. They showed me photographs of my two younger sisters in their mobile and asked me whether I wanted to see how they behave with them or whether I am ready to sign. They told me that I had seen what happened with accused Faisal's father and they would do the same thing with my father and sisters. Because of this I told them that I would sign wherever they say. I was then taken back to Bhoiwada lockup.

Officer Deore produced me before DCP Karale at Matunga on 06/10/06. He took out papers from the file and placed them before me and asked me to sign. I started reading the papers and found that my name and address were correctly written, but the entire remaining contents were falsely written. I told the DCP about it and said that I would not sign. I was made to sit there for half an hour. Officer Tajne came there thereafter and repeated the same threats that he had given to me in the night. The DCP said that what officer Tajne saying is correct and I should sign. Then I signed on two pages. API Randive came there with two constables and I was taken to the Matunga Police Station. Fifteen minutes thereafter I was taken to Sion Hospital, produced before the doctor, who asked me whether I had any problem. I told him that I have fever and pain in the entire body. He checked my blood pressure and made me lie down on a bed and checked my body. He then did some paper work and told me that I was to be sent for x-ray and blood and urine tests. The tests were not done, but I was brought back to the Matunga lockup. I did not know the name of that doctor at that time, but I came to know that he was Dr. Anil Singhal, from the information that I obtained under the RTIA. I was in the Matunga lockup on 06/10/06.

Officer Tajne and Deore came to the lockup at about 10.00 a.m. on 07/10/06. There were some typed papers with them and there was a line drawn on every paper. They asked me to sign on the line. They did not allow me to read the papers. I signed as I was frightened because of the threats. I was taken out from the lockup at 4.30 p.m. and officer Deore took me to a cabin on the first floor in Killa court. A person was sitting there and PI Tajne and one more ATS officer were sitting there. The unknown person asked me my name and date of arrest and then I was taken back to the Bhoiwada lockup.

PI Raja Mandge came and met me in the night and told me that I would be produced on the day after tomorrow before a judge, that I should not make any complain to him against them and not to say anything about what had happened in the police custody. He threatened that if I complain they can again take my custody for 15 days and the threat given by officer Tajne would be carried out at that time. I was taken to the second floor of the Bhoiwada lockup on 08/10/06. DCP Nawal Bajaj was present there. He told me that the papers on which I had signed is my confessional statement and told me not to say anything about it when I go to court. He told me that if I wanted to tell about it, I may do so, but then they would involve my father and brothers in the case. I was again put in the lockup.

I was then produced in this court on 09/10/06 before judge Bhatkar madam. She asked me whether I wanted to say anything. I told her my signatures are taken on

some papers in which false things were written. I was then remanded to judicial custody.

I was then taken to the KEM Hospital, where my medical checkup was done. I did not make any complaint there and then I was taken to the prison. Prison officer Satish Gaikwad was inside the prison when we entered it. He slapped all seven of us and I was put in the Anda Cell, where there were four other persons. We were not medically checked in the prison. We were produced on 20/10/06 in this court. I took permission from the judge to meet my family members. My uncle Arshad, my mother and wife had come to meet me and I talked with them. My uncle told me that police had phoned him once and had told him that they had arrested me, but he should not engage any advocate or else they would arrest him also and asked him not to come to meet me. We used to be brought to the court from the jail and back.

I was taken to the KEM hospital many times, once to the JJ Hospital, once to GT Hospital, once to Sion Hospital and once to Bhabha Hospital during the police custody. Police used to tell me not to make any complaint. The doctors did not ask us anything, the constables used to fill up our names and the doctors did not check us properly.

Police had brought the accused Sajid to the Nagpada office on 21/08/06 and tied him by handcuffs. I had seen accused Mohd. Ali in police custody on 31/07/06 at Nagpada. I started writing in Hindi in the prison after 20/10/06, whatever that had happened in police custody. I filed it in the court as a complaint on 03/11/06, when I was produced in the court. It is in RA No. 78/06. (Learned advocate requests that the RA be taken out and be shown to the witness). The complaint now shown to me, is in my handwriting, it bears my signatures on all pages and its contents are correct. (It is marked as **Ext. 3798**). When I went out of the court on 03/11/06, PI Tajne came there with a person and pointed me to him and said that this is Ehtesham. I came to know that he was Vishal Parmar, when he gave evidence in court.

I, Sajid and Tanveer were taken out from the Anda Cell on 07/11/06 at 12.35 p.m. and told that our identification parade will be conducted. We were made to stand amongst several people outside the Anda barrack gate. Accused Mohd. Ali was brought there after some time. 8-9 witnesses came there one by one. Three out of them pointed towards me. We were again put back in the Anda barrack at 12.40 p.m. I had not seen those three persons again and they were not brought to the court. I was produced in the court on 09/11/06. We orally complained to the court and the judge recorded our complaints and directed our advocates to give the complaints in writing. The advocates took instructions from us, wrote our complaints and filed them in court. The assistant of advocate Amin Solkar wrote our complaints.

(Adjourned as court time is over).

Date : 03/05/13

Date : 06/05/13

Special Judge

Resumed on SA

It was marked as Ext. D in the record that was kept separately. (Learned advocate requests that the said exhibit be taken out and be shown to the witness). The complaint now shown to me is in my handwriting, it bears my signature on the last page and its contents are correct. (It is marked as **Ext. 3799**). I got the copy of my alleged confessional statement in December, 2006. A judge, who told his name as S. S. Shirke, had come to visit the prison in the last week of December, 2006. I came to know at that time that I had not been produced before that person in the Killa Court as shown in the documents in the alleged confessional statement. He was the CMM at that time. I do not know till today as to before whom I was produced in the Killa Court at the time of my alleged confessional statement. I was transferred to Byculla Prison on 14/01/07 from the Arthur Road Prison. I asked Swati Sathe, Superintendent of Arthur Road Prison as to why I was being transferred. She showed me an order of this court transferring me and the accused Kamal to that prison and transferring the accused Tanveer, Faisal and Mohd. Ali to Thane Prison. I tried many times to find out the reasons for the transfer from the record of the case, but did not get it. I came to know later on when I was again transferred to the Arthur Road Prison and read the roznama of Malegaon case, that the SPP had filed an application in that case for the said transfer. We were kept in the circle in the Byculla Prison upto the first week of March, 2007 and then transferred to Kalyan Prison. We had requested the court several times before that to transfer us to some other prison, where there is high security zone, as the police had threatened to kill me in the prison also.

I was in the Arthur Road Prison on 30/11/06 when I got the copy of the chargesheet. There was no high security zone in the Kalyan Prison. I requested the court several times to transfer me to some prison where there is high security zone, but I was not transferred. I had also filed MA 493/07 for transfer from prison.

I was transferred to the Arthur Road Prison on 22/06/07 when the case was to start. I then started reading the chargesheet and found that there is one witness who had stated to the police that he had seen me boarding a train at Churchgate on 11/07/06 with a bag, two witnesses who had stated that they had seen me at the house of accused Mohd. Ali, one witness who had stated that he had seen me at Bandra, 3-4 witnesses who had stated that I was doing the work of SIMI and my alleged confessional statement. I gave the first application under the RTI to the Matunga Police Station for obtaining the lockup diary of Matunga Police Station of 6th and 07/10/06. I got the true copy of the lockup diary through the prison superintendent, to whom it was sent alongwith a forwarding letter, but I did not get the forwarding letter. I produced the true copy and it is marked as Ext. 1093 at the time of the deposition of PW-106. I do not have the office copy of the said RTI application.

I had filed an application under the RTIA to the Antop Hill Police Station for obtaining the copy of chargesheet and photograph of the person killed in an encounter on 22/08/06. I obtained the said information, but I filed it in the High Court in Cri. PIL no. 8/12. Accused no. 7 Sajid has filed the said copy of chargesheet and photograph. I had filed the PIL against K. P. Raghuvanshi, A. N.

Roy, D. G. Vanzara, DCP D. R. Karale, Nawal Bajaj and against all those officers and constables who were involved in the fake encounter of Abu Umed, for judicial inquiry into the encounter. I withdrew the petition as the High Court told me to go to the police station or magistrate first. Therefore, I sent a written complaint to the Antop Hill Police Station through the jail after two months. I did not get any reply, therefore, I complained to the Commissioner of Police, Mumbai against the Sr. PI of Antop Hill Police Station. I tried to get information about the status of my complaint by an RTIA application. I got information that my complaint is being investigated by Unit-IV of the Crime Branch. I did not know what happened to my complaint, therefore, I filed application under Section 156 of the Cr. P. C in the 51st Court Kurla about one and a half to two months before today. It is pending.

(Adjourned for recess).

Date : 06/05/13

Special Judge

After recess.

(Advocate Abhishek Pande h/f Sharif Shaikh requests at 3.15 p.m. to keep back the matter for half an hour as the learned advocate is in the High Court. Hence, K.B.

Later on at 3.45 p.m.

Advocate Tamboli h/f Sharif Shaikh requests at 3.45 p.m. to keep back the matter for half an hour as the learned advocate is still in the High Court. Hence, K.B.).

Later on at 4.00 p.m.

Resumed on SA

Supdt., Swati Sathe came to our Anda barrack on 07/12/06 and threatened us in order to make some accused in our case as approvers. She segregated all of us thereafter. I filed a written complaint that was given MA No. 790/07 in connection with said incident. Supdt., Swati Sathe and Jailor Govind Patil used to harass us by not following the court orders about taking articles in prison, daily searching our cell and our articles. Jailor Govind Patil came to our barrack on 28/06/08 and told us that they have received the order of our jail transfer. I told him to show the order. He said that he would show it and then left. He came back with four warden and two constables and took me out forcefully by beating me. When nearly all the accused of our case and of Aurangabad and Malegaon cases had come outside the Anda barrack, Supdt., Swati Sathe ordered them to beat all of us. We were not able to walk because of the beatings and we were picked up and put in vehicles. The copy of my chargesheet and other papers remained in that prison.

I was taken to Kolhapur Central Prison, Kalamba and put in Anda barrack. I was not treated there, but only given pain killers. I had suffered a fracture to my hand. I was examined medically as per this court's order and then plaster was applied to my hand and the injuries were recorded in the medical report. I had filed an application dated 06/10/12 under the RTIA to call for the medical report. Its carbon copy is the same now shown to me, it is in my handwriting, its contents are correct

and it bears my signature. The registered postal receipt is pasted on the application. (It is marked as **Ext.3800**). I received a reply on 05/11/12 from the Government Information Officer and CAO of the CPR Hospital, Kolhapur. The forwarding letter is the same now shown to me. (It is marked as **Ext.3801**). The medical papers and the MLC certificate were sent with the letter and they are the same now shown to me. (Learned advocate requests that the said documents be exhibited. Learned SPP objects on the ground that they are certified copies and cannot be taken in evidence. The OPD case papers are marked as **Exts. 3802 (1 to 3)** and the MLC certificate is marked as **Ext.3802 (4)**, subject to the objection).

I had handed over a petition to the Arthur Road Jail authorities before my transfer to Kolhapur Prison, for being sent to the High Court for conducting fresh investigation in this case and the Superintendent of Mumbai Central Prison was made the respondent. I had told the prison authorities on 28/06/08 that my other cases are going on at Mazgaon court and I should not be transferred. At that time Supdt. Swati Sathe had told me that I am being transferred as I had filed that petition. The jail authorities did not send the petition to the High Court after the jail transfer order was received by them. I requested the court and the prison authorities including the IG Prisons to transfer me to Arthur Road Prison for attending my pending cases, but I was not transferred. I was transferred to Arthur Road Prison on 30/09/09 after the High Court passed an order.

I started collecting information under the RTI after the trial started, about the witnesses who gave evidence, because the names and addresses of the witnesses were truncated in the copy of the chargesheet given to me. I had never seen PW-59 Mohd. Alam Gulam Sabir Qureshi at any time before my arrest. I gave an RTIA application on 21/11/11 to the Barelli Passport Office for obtaining the information regarding his passport. Its carbon copy now shown to me is the same, it is in my handwriting, its contents are correct and it bears my signature. The registered postal receipt is pasted on the application and the AD slip behind the application. (It is marked as **Ext.3803**). I had sent the application as the witness had stated that he had got a passport from Barelli Passport Office. I received reply Ext.3088 that no passport had been issued to such person.

I had sent an application dated 22/09/10 under the RTIA to the ENT Hospital, Opp. BSNL Tower, Churchgate before PW-74 Vishal Parmar gave evidence, to obtain information whether any person had visited the hospital on 11/07/06 between 2.00 p.m. to 6.00 p.m. Its carbon copy is the same now shown to me, it is in my handwriting, its contents are correct and it bears my signature. The registered postal receipt is pasted on the application. (It is marked as **Ext.3804**). I received information Ext.3062 that no patient was treated and no person visited the hospital during those timings on that day. I again sent an application under the RTI on 11/03/11 after his evidence to the same hospital to ask about the information of the person, whom PW-74 stated having gone to meet on that day, and I had also asked for visitors entry book. Its carbon copy is the same now shown to me, it is in my handwriting, its contents are correct and it bears my signature. The registered postal receipt is pasted on the application. (It is marked as **Ext.3805**). I received reply Ext.3063 that no person by name Baban Rankhambe works there. Photocopy of visitor's entry book was sent. It did not include the name of Vishal Parmar. It

was also written in the information that Baban Rankhambe might be a security guard provided by BMC. Therefore, I again sent an RTIA application on 20/06/11 to the same hospital asking for true copies of attendance register and visitor book. Its carbon copy is the same now shown to me, it is in my handwriting, its contents are correct and it bears my signature. The registered postal receipt is pasted on the application. (It is marked as **Ext.3806**). I received the information Exts. 3065 (1 and 2), 3066 and 3067 (1 to 3). The name of Vishal Parmar was not in the visitor's book and Baban Rankhambe's name was not in the attendance register. I gave an application under the RTIA on 17/09/12 to the BMC to provide the information regarding Baban Rankhambe. Its carbon copy is the same now shown to me, it is in my handwriting, its contents are correct and it bears my signature. The registered postal receipt is pasted on the application. (It is marked as **Ext.3807**). The information was received saying that there is no person by this name as security guard. It is the same now shown to me. (It is marked as **Ext.3808**). Thereafter I again applied to the BMC to furnish the names of all the security guards by an application dated 27/11/12 under the RTIA. Its carbon copy is the same now shown to me, it is in my handwriting, its contents are correct and it bears my signature. The registered postal receipt is pasted on the application. (It is marked as **Ext.3809**). I received the information under covering letter. It is the same now shown to me. (It is marked as **Ext.3810**). The information about the security guards at various places in Zone-I of the BMC was provided. It is the same now shown to me. (Learned advocate requests that it be exhibited. Learned SPP submits that they be exhibited subject to they being proved. Hence, they are marked as **Exts. 3811 (1 to 12)**).

PW-74 had stated that he had caught a train after 5.15 p.m. from Churchgate. Therefore, I sent an application under the RTI on 18/04/11 to the PIO, Divisional Railway Office of Western Railways to send information about the train in which the blast had taken place at Mira Road. Its carbon copy is the same now shown to me, it is in my handwriting, its contents are correct and it bears my signature. The registered postal receipt is pasted on the application. (It is marked as **Ext.3812**). I received information Ext. 3049 alongwith the letter Ext. 3267 that the train had come to Churchgate at 5.07 p.m. and had left at 5.19 p.m.

(Adjourned as court time is over).

Date : 06/05/13

Special Judge

Date : 07/05/13

Resumed on SA

PW-74 had stated that the train that he had caught had come on the platform after 5.15 p.m. Therefore, I again applied under the RTI on 16/04/12 to the railways asking for the time that is required by a slow train or fast train from Churchgate to Dadar. Carbon copy of my application is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it, (It is marked as **Ext.3821**). The PIO provided true copy of train control chart Ext.3052 alongwith the forwarding letter Ext. 3269. I again applied to the railways on 30/05/12 under the RTIA to call for the timings of the up trains to Churchgate on 11/07/06 from 3.00 to 7.00 p.m. Carbon copy of my application is the same now shown to me, it bears my signature, its contents are correct and the postal receipt

is pasted on it, (It is marked as **Ext.3822**). The PIO provided the true copy of the train control chart Ext. 3051 alongwith the reply Ext. 3270.

PW-74 had stated that after getting down at Dadar he had gone to the BMC bank to meet Lalit Waghela. Therefore, I sent an application under the RTI on 25/04/11 to call for information whether any person by name Lalit Waghela works there and was present on 11/07/06. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3823**). I got information Ext. 2911 that no such person works there. I sent an application on 09/05/11 to the BMC to get information under the RTIA whether any person by that name works in the BMC. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3824**). I got the information Ext. 3083 that a person by that name works in the BMC as a motor loader and that he was absent from duty on 11/07/06.

I sent an application on 24/11/11 to the Central Control Room of the police at Byculla (E) to get information under the RTIA whether PW-74 had acted as panch witness for the cases registered at Tardeo Police Station. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3825**). The information was refused initially, but later it was provided after the order of the 1st Appellate authority by Ext. 2908, that the said person does not reside on the address given by me since last 4-5 years and had acted as a panch in one case. I checked the chargesheets of the under trial accused of other cases in the prison to find out whether PW-74 had acted as panch witness in any other case. I came to know that he had acted as panch witness in three test identification parades. I obtained the certified true copies of the test identification parades and final reports from the court and filed them in this court and they are at Exts. 3296, 3297 and 2883. I have produced the certified true photocopy of the final report in Special Case No. 08/12. It is the same now shown to me. (It is marked as **Ext.3826**). I have produced the certified true photocopy of the final report in Sessions Cases No. 798/11 and 436/11. They are the same now shown to me. (They are marked as **Exts.3827 and 3828**).

I sent an application on 02/04/12 to the office of the Commissioner of Police, Mumbai under the RTIA for obtaining information as to in what cases PW-74 and other two witnesses have acted as panch witnesses. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3829**). I received information Ext. 3071 that PW-74 had acted as panch witness in LAC No. 11/06 of DCB CID, Unit-II. I obtained certified copy of the final report of that case, i.e., CC No. 675/PW/06, it is the same now shown to me. (It is marked as **Ext.3830**). I sent an application to the office of the BMC at Dadar under the RTIA for obtaining attendance sheet of July, 2006 of Lalit Waghela. I received information Ext. 3084 alongwith reply Ext. 3274 that he was absent on 11/07/06.

PW-75 Amar Sardar Khan had stated that there is only one case registered against him. Therefore, I sent an application under the RTI on 23/04/12 to the Eastern Control Room, Police, Chembur for obtaining information as to the cases that are registered against him. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is

marked as **Ext.3831**). I received information Ext. 3086 alongwith the forwarding letter Ext. 3087 that there are three cases registered against him.

(Adjourned for recess).

Date : 07/05/13

Special Judge

Resumed on SA after recess.

PW-80 Kirti Purandare had stated that he has not conducted any test identification parade after the parade in this case. Therefore, I sent an application on 21/12/11 to the South Control Room of Police at Nagpada under the RTI for obtaining certified true copies of memorandum test identification parade dated 07/03/10. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3832**). I received the certified true copy Ext.3291 alongwith panchanama Ext. 3290. I obtained certified copy of the final report in Sessions Case No. 366/10, it is the same now shown to me. (It is marked as **Ext.3833**). It and the panchanama revealed that he had conducted a test identification parade after the parade in this case. I gave an application on 23/02/12 to the PIO, MCP under the RTI for obtaining certified true copies of the 'Aropi Awak Jawak Register' of 7th and 08/11/06 maintained in the Anda cell, as it was shown in the memorandum of the test identification parade that the TIP was conducted for 35 minutes and PW-74 had stated that he had seen me at about 1.15 or 1.30 p.m. on 07/11/06 in the parade. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct. (It is marked as **Ext.3834**) The information was provided by Exts. 2473 and 2474, from which I learnt that I was taken out at 12.35 p.m. from the Anda Cell and kept back at 12.40 p.m. This entry was made in my presence in the register.

PW-93 DCP Phadtare had stated that he had recorded the confessional statement of accused Muzzammil on 4th and 05/10/06. Therefore, I sent an application on 12/11/12 to PIO, office of DGP, Mumbai under the RTI for obtaining bio-data sheet of DCP D. M. Phadtare and the date on which he joined Zone-V. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3835**). I received the bio-data sheet alongwith covering letter, which is the same now shown to me. (It is marked as **Ext.3836**). It was written that he had joined at Zone-V as DCP on 10/10/06.

The copy of the bio-data sheet is the same now shown to me. (It is marked as **Ext.3837**, subject to the objection by the learned SPP about its proof).

PW-104 DCP Karale had stated he did not remember about the encounter on 22/08/06 at Antop Hill. I sent an application on 05/12/12 to the PIO, Motor Parivahan Vibhag under the RTI for obtaining the log book entry of vehicle used by DCP Karale from 01/07/06 to 30/10/06. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3838**). I received the information Ext.3276 alongwith the covering letter Ext.3275, that vehicle of DCP Karale was in Sector-VII, Antop Hill and Antop Hill Police Station on 21st and 22/08/06. I sent an application on 12/09/11 to the PIO, Motor Parivahan Vibhag under the RTI for obtaining the log book entry of vehicle used by DCP Karale, vehicle used by Anti-Robbery Squad, Kurla and vehicle used by DCP Nawal Bajaj in October, 2006. I do not have its

office copy. I received the information Exts. 3277 to 3280. I came to know from the information Ext.3279 that the vehicle of API Alaknure had gone to Arthur Road Prison on 07/11/06 at the time of the test identification parade. I sent an application on 21/02/11 to the PIO, Motor Parivahan Vibhag under the RTI for obtaining the log book entry of vehicle No. MH-01-BA-4277 used by Matunga Police Station on 6th and 07/10/06. I do not have its office copy. I received the information Ext.3290 with forwarding letter Ext.3289.

I sent an application on 25/04/11 to the PIO, KEM Hospital under the RTI for obtaining the entries regarding my medical checkup between 28/07/06 to 13/08/06. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3839**). I received the information Ext. 2040 alongwith forwarding letter Ext.2039 that I had complained on 04/08/06 about pain in thigh. I sent an application on 26/12/11 to the PIO, LTMG Hospital, Sion, Mumbai under the RTI for obtaining the information regarding the nature of the complaint and about the advise given by the doctor for chest x-ray, blood and urine test. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3840**). I received the reply that I should give the MLC number or name of patient to enable them to give the information. I then filed first appeal and got the information Ext. 3091 that the x-ray and tests mentioned above are advised in case of complaints of fever and chest pain. I sent an application on 30/01/12 to the PIO, JJ Hospital under the RTI for obtaining the information as to when the advise is given by the doctor for chest x-ray, blood and urine test. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3841**). I received the information Ext. 3069 that the x-ray and tests mentioned above are advised in case of complaints. I sent an application on 13/04/12 to the PIO, St. George Hospital under the RTI for obtaining the information as to when the advise is given by the doctor for chest x-ray, blood and urine test. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3842**). I received the information by the covering letter, which is the same now shown to me. (It is marked as **Ext.3843**. The information is marked as **Ext.3844**, subject to the objection by the learned SPP about its proof). It was in the reply that the tests are advised in case of rib fracture and other complaints. This information was received after the order by the first appellate authority.

PW-153 Nitin Alaknure had stated that he had recorded the statements of PW-75 and PW-76, who had stated that he had recorded their statements in between 2.00 to 3.00 p.m. on 28/10/06. Therefore, I sent an application on 27/04/12 to the PIO, Commissioner of Police, Mumbai under the RTI for obtaining the true copy of the station diary entry of Anti-Robbery Squad from 27/10/06 to 02/11/06. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3845**). I received the information Exts. 3271 to 3273 alongwith the forwarding letter Ext. 3092, that Nitin Alaknure had returned to the office of the Anti-Robbery Squad at 1.45 p.m. on 28/10/06. PW-76 had stated that he was not on duty on 28/10/06. I came to know from the information Ext.3273 that he was doing night duty on that day.

PW-160 A. P. Sinha had stated that he was authorized to issue sanction order under UA (P) Act. I sent an application on 24/06/08 to the Home Department, Maharashtra State under the RTI for obtaining the information whether A. P. Sinha was authorized to give sanction under the UA (P) Act. Its office copy is at Ext.1705 and I got the information Exts. 1703 and 1704 with forwarding letter Ext.1702, that he was not authorized to give the sanction under the UA(P) Act before 21/06/07. I had obtained the certified copies of the notification Exts. 1703 and 1704 from the Ministry of Home Affairs, New Delhi, which are at Exts. 2594 and 2595 with the covering letter Ext. 2593.

I sent an application on 27/02/12 to the PIO, Department of Publication, Government of India, New Delhi under the RTI for obtaining the true copy of gazette of UA(P) Act, 1967 and UA(P) Act, 2004. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3846**). I received the true copies Exts. 3287 and 3288 alongwith forwarding letter Ext. 3286.

PW-166 S. S. Zende had stated that he had signed the consent order on 09/03/07. I sent an application on 21/11/11 to the PIO, office of Dist. Collector, Thane under the RTI for obtaining the log book entries of vehicle used by PW-166 from 02/03/07 to 10/03/07. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt and AD slip is pasted on it. (It is marked as **Ext.3847**). I received the information Ext.2982 alongwith forwarding letter Ext. 2981, that he had not gone anywhere on 09/03/07.

PW-168 Arun Sambhaji Khanwilkar had stated that he was reinstated on 18/08/10. Therefore, I sent two applications on 06/02/12 to the PIO, office of DGP, MS, Mumbai under the RTI for obtaining the information regarding his suspension and reinstatement and his bio-data. Carbon copy of the first is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3848**). I do not have the carbon copy of the second application. I received the information Ext.3058 and the bio-data Ext.3059.

I sent an application on 07/12/12 to the PIO, Home Department, MS, Mumbai under the RTI for obtaining the documents about the suspension of PW-168. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3849**). I received the information with a forwarding letter, which is the same now shown to me. (It is marked as **Ext.3850**). The documents sent with the letter are the same now shown to me. (It is marked as **Ext.3851 (1 to 91)**, subject to the objection by learned SPP about its proof). There is a letter in the documents dated 15/10/11 by PW-168 to the Home Minister, requesting lifting of his suspension as he had received a summons for giving evidence in the train blasts case and if it is not lifted, the defence lawyer may make allegations against him. I came to know that his suspension was lifted on 03/07/12.

I sent an application on 12/11/12 to the PIO, Office of DGP, Mumbai under the RTI for obtaining sanction order accorded in the case against PW-168. Its carbon copy is the same now shown to me, it bears my signature and its contents are correct. (It is marked as **Ext.3852**). I received information by letter, which is the same now shown to me. (It is marked as **Ext.3853**). The photocopy of the sanction order is the same now shown to me. (It is marked as **Art-454**).

I sent an application on 18/09/10 to the PIO, Central Control Room, Byculla, under the RTI for obtaining information regarding lac seal provided by Kalachowki Police Station to ATS between 01/07/06 to 30/11/06. Its carbon copy is the same now shown to me, it bears my signature and its contents are correct. (It is marked as **Ext.3854**). I received information Ext.2008, that the lac seal of Kalachowki Police Station was given to the ATS only once on 07/07/06. I sent an application on 11/11/10 to the PIO, Central Control Room, Byculla, under the RTI for obtaining true copy of station diary entry of Kalachowki Police Station regarding lac seal being given to the ATS. Its carbon copy is the same now shown to me, it bears my signature and its contents are correct. (It is marked as **Ext.3855**). I received the information Ext.2007.

(Adjourned as court time is over).

Date : 07/05/13

Special Judge

Date : 08/05/13

Resumed on SA

I sent an application to the department of telecommunication, Sanchar Bhavan, New Delhi under the RTI for obtaining CDR of mobile phone of all accused. I do not have its copy. The application was transferred to Patna, Mumbai, Bangalore and Kolkata. I received reply from Patna providing CDR, but not certified copy and certificate was also not given. Therefore, I again sent an application on 01/03/12 to the PIO, Director (TERM), Patna for obtaining certified copy of CDR with certificate of mobile number 9934610679. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3859**). I received the information Exts.3031 and 3032, which is filed with the statement under S. 313 of the accused no.1.

I sent an application on 10/10/11 to the Section officer and the PIO, Home Department, Maharashtra State, Mumbai for obtaining certified copy of letter sent by the ATS regarding the amendment in the notification. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt and the AD slip are pasted on it. (It is marked as **Ext.3860**). I received the information Exts. 3283 to 3285 that K. P. Raghuvanshi had sent a letter to the Home Department for amending the notification dated 17/11/04 alongwith a draft of the amendment and the notification was amended on 31/08/06.

I had read the chargesheet in the case of Indian Mujaheedin in which it was written that they had committed all the bomb blasts in India including Mumbai since 2005. Therefore, I sent an application on 30/01/12 to the PIO, Office of the Commissioner of Police, Mumbai for obtaining information about the number of bomb blasts datewise, that had taken place in Mumbai since 2001 till date. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3861**). I received the information Exts. 3074 to 3076 that only one bomb blast had taken place in Mumbai from 2005 to 2008.

In view of the list of the injured persons in this case, I sent an application on 03/10/11 to the PIO, Medical Branch of Western Railways, Mumbai for obtaining the medical certificates of all injured in the bomb blasts in this case. Its carbon copy is

the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3862**). I received the certified true photocopies of the medical certificates, which I produced alongwith my application Ext.2015. The medical certificates are the same now shown to me. (Learned advocate requests that the documents be exhibited. Learned SPP submits that most of documents are zerox of zerox copies. Hence, they cannot be marked as exhibits. Hence, they are marked as **Arts.455 (1 to 89)**).

I sent an application on 22/03/12 to the PIO, Ministry of Home Affairs, New Delhi for obtaining judgment of Justice Geeta Mittal and Sanjeev Khanna regarding ban on SIMI in 2008 and 2010. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3863**). I received the certified copies of the judgments with forwarding letters, which are at Exts. 3298 to 3300. Both the judgments show that the evidence given by PW-186 S. L. Patil in the SIMI Tribunal was rejected by both tribunals.

I sent an application on 16/10/12 to the PIO, Office of DGP, MS, Mumbai for obtaining the bio-data sheet of Dinesh Parshuram Kadam. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3864**). I received the bio-data by the forwarding letter, which is the same now shown to me. (It is marked as **Ext.3865**). The true copy of the bio-data is the same now shown to me. (It is marked as **Ext. 3866**, subject to the objection by the learned SPP about its proof). The information in the bio-data was that he was suspended in service once.

I had produced the certified true photocopy of the log book of the vehicles of the ATS during the evidence of PW-161. Thereafter the Motor Parivahan Vibhag stopped issuing certified true copies of the log books of the vehicles of the ATS for the reason that the ATS was exempted from the RTI. Therefore, I sent an application on 12/02/13 to the PIO, Motor Parivahan Vibhag, Nagpada, Mumbai for obtaining the letter sent by the ATS to exempt them from providing the information under the RTI. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3867**). I received the information alongwith the forwarding letter, which is the same now shown to me. (It is marked as **Ext. 3868**). Certified true copy of the letter dated 24/10/11 sent by PI, ATS, Mumbai to that department and certified copies of notifications dated 18/11/05 and 09/03/11, certified copy of letter dated 14/11/11 alongwith the certified true copies of the said notifications were sent and they are the same now shown to me. (They are marked as **Ext. 3869 to 3874**, subject to the objection by the learned SPP).

(Adjourned for recess).

Date : 08/05/13

Special Judge

Resumed on SA after recess.

We all accused prepared an application after being remanded to judicial custody, for being sent to the President and Prime Minister of India, Chief Minister and Home Minister of Maharashtra, contending that we all are innocent and are falsely involved in the case. We handed over copies of the applications to the prison authority, but they did not forward them. They did not forward them even after the

order of the court. I had sent a letter to the DGP, MS, Mumbai from Kolhapur prison, after the arrest of some persons in the Indian Mujahedin case in 2008, containing the same contentions. I did not have the copy of the application that I had sent from Kolhapur Prison, therefore, I had asked for its copy from the office of the DGP, MS, Mumbai and by the letter Ext. 3268 a photocopy of that letter had been sent. Art-427 is the same now shown to me, it bears the facsimile of my signature and its contents are correct. (It is marked as **Ext.3875**).

I sent a letter dated 06/09/10 to the Home Minister of India and copies to other authorities and a copy to this court, which is at Ext. 650. I did not get reply, therefore, I again wrote a letter dated 08/12/11 alongwith copy of my application dated 06/09/10 to the Home Minister of India and to other authorities and sent it by post. Office copy of the said letter is the same now shown to me, it bears my signature and its contents are correct. The postal receipts and AD slips are pasted on the back side. (It is marked as **Ext.3876**).

I did not get any reply from any authority. Therefore, I sent an application on 31/12/12 to the PIO, Ministry of Home Affairs, New Delhi for obtaining the status of the letter sent by me. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3877**). I received information from the Under Secretary to the Government of India informing me that the letter dated 08/12/11 was sent to the Jt. Secretary (CS). It is the same now shown to me. (It is marked as **Ext.3878**).

I came to know during the evidence of PW-106 that the lockup diary of Matunga Police Station was destroyed. Therefore, I sent an application to the PIO, Central Control Room of Police, Byculla, Mumbai for obtaining the standing order regarding preservation of record. I do not have its office copy. I received information Ext. 2542 with letters Exts. 2540 and 2541, that the lockup diary is preserved for five years. It was in the evidence of PW-106 that the lockup diary was destroyed after three years.

I sent an application to the PIO, Motor Parivahan Vibhag, Nagpada, Mumbai for obtaining the log book entries of the vehicles of the DCPs PW-93, PW-102, PW-111, PW-117, PW-118 and Vinoykumar Chaubey. I do not have its office copy. I received the information that I produced with my application Ext. 1646 alongwith the covering letter. (Forwarding letter is marked as **Ext. 3879**). The certified true copies of log book were sent and they are the same now shown to me. (They are marked as **Exts. 3880 (1 to 10)**, subject to the objection of the learned SPP about its proof). One certified copy of logbook was already marked as Ext. 1627 during the evidence of PW-111. The entries in the logbooks show that the DCPs had gone for Prime Minister bandobast duty.

I sent an application to the PIO, Motor Parivahan Vibhag, Nagpada, Mumbai for obtaining the log book entries of vehicle used by PW-185 A.N. Roy. I do not have its office copy. I received the information Ext. 2592 with forwarding letter Ext.2591, that A. N. Roy had visited the ATS office 32 times between 11/07/06 to 30/11/06.

I sent an application to the PIO, Motor Parivahan Vibhag, Nagpada, Mumbai for obtaining the logbook entries of the vehicle used by PI Tajne. I do not have its office copy. I received the information Ext. 1738 alongwith the forwarding letter

Ext. 1737. During the evidence of PW-80, I came to know the names and addresses of the panch witnesses on the memorandum of the test identification parade. I sent an application dated 20/07/12 to the PIO, Dadar court, Mumbai for obtaining the final report of CC No. 24/PW/04. Its carbon copy is the same now shown to me, it bears my signature, its contents are correct and the postal receipt is pasted on it. (It is marked as **Ext.3881**). I received information alongwith forwarding letter, which is the same now shown to me. (It is marked as **Ext. 3882**). Certified true photocopy of the final report that was sent alongwith it is the same now shown to me. (It is marked as **Ext.3883**).

I sent an application to the PIO, Central Control Room of Police, Mumbai for getting certified as true copies, photocopies of six panchanamas that they had sent me earlier. I do not have carbon copy of that application. I received the photocopies duly certified and they are at Exts. 2599 to 2603 alongwith the forwarding letters Exts. 2596 to 2598. I sent an application to the Dadar Court under the RTI for obtaining copies of final report of two cases. I do not have its carbon copy. I received the certified copies of the final reports, one of which is of CC No. 39/PW/08 and filed at sr. no. 37 of the list of documents submitted with my written submission under S. 313. I had obtained certified copies of test identification parade in MCOC Spl. Case No. 16/06, which is marked as Ext. 2468. Siddharth Jadhav and Sachin Koltharkar were the panch witnesses in all the cases.

I came to know during the evidence of PW-74 Vishal Parmar that he was working with one Mukesh Walji Rabadia. I obtained a certified copy of a panchanama in CC No. 256/P/03, which is at Ext. 3295 and which shows that said Mukesh had acted as panch witness in that case.

I tried to obtain certified copies of remand applications pertaining to this case that were filed in Mazgaon Court. I filed five applications from 2007 to 2011, but I did not get the copies. Therefore, I sent an application to that court for obtaining the copies under the RTI. I do not have its carbon copy. I did not receive reply. Therefore, I filed first appeal, in which an order was passed that the copies cannot be given as the remand applications are not traceable. I sent an application to the Sessions Court under the RTI for obtaining the said copies, but I received reply that they are not available here. Therefore, I filed complaint under S. 200 of the Cr. P. C. before the CMM, alongwith the true copies of the replies received under the RTI, against judicial clerks and officers of the ATS. Its carbon copy now shown to me is the same, it bears my signature and its contents are correct. (It is marked as **Ext. 3884**). The said complaint is pending.

Khandwa police had come to the ATS office on 26/07/06 with an accused, whose name they told me as Imran Ansari and asked me whether I know him. I told them that I do not know him. They had brought many books with them and showed me the books one by one and asked me whether I had printed them. I told them that I had not printed them. They asked me whether I knew persons by name Ashia, Rafia, Akil and Naeem. I told them I did not know them. PI Dinesh Ahir took those books and asked a constable to get their photocopies. I gave an application dated 23/04/12 to the Khandwa Court under the RTI for obtaining copies of depositions of panch and IO and true copies of the cover pages of the magazines that were

recovered in that case, photocopy of the application is at Art-415. I received information Exts. 3225 to 3234.

I had filed application Ext. 1844 in this court to call for the remand applications from the Mazgaon court.

Officer Shailesh Gaikwad had come to me on 25/07/06 with the CDR of my mobile 9867139179 and had checked each and every call with me and I told him the names of the other party and where I was at that time. API Bagwe came with a printout of the CDR of my mobile in August, 2006 when I was arrested in this case and made similar inquiries as made by officer Gaikwad, to which I gave the answers. He had a big file with him containing the CDRs of the mobiles of the other accused and other persons and asked me whether I knew the names of the persons possessing certain mobile numbers. I had told them about two mobiles, one of accused Tanveer and one of accused Sajid and that I did not know about other numbers. One woman by name Anita was present there and she said that my mobile number is in her husband's name. API Bagwe asked her whether she knows me and she said no.

The investigating officers PWs-162, 163, 167, 173, 174, 176, 186 and PI Vijay Kadam never inquired with me and never interrogated me. I will be able to identify the photographs of the person whom I had seen in the detection room of the ATS at Kalachowki on 21/08/06. Arts-396 (1 to 3) are the same now shown to me. I came to know his name from the chargesheet as Abu Umed @ Mohd. Ali, as being killed in an encounter with the ATS on 22/08/06. It was a fake encounter.

I had given an application under the RTI in connection with ACP S. L. Patil to collect the information about his transfer. I do not have carbon copy of the application. The information was provided by the letter, which is the same now shown to me. (It is marked as **Ext.3885**). True copies of the documents in the file of the transfer were sent to me. (They are marked as **Exts. 3886 (1 to 6)**, subject to objection by the learned SPP about its proof).

(Adjourned as court time is over).

Date : 08/05/13

Special Judge

Date : 09/05/13

Resumed on SA

I had given an application under the RTI to the Home Department, Maharashtra State, Mumbai for obtaining the Government Resolution regarding the formation of the ATS and amendment in that resolution. I do not have carbon copy of the application. The information Exts. 1611 and 1612 alongwith forwarding letter Ext.1610 was received. I had given an application under the RTI to the Directorate of Archives, Maharashtra State, Mumbai for obtaining the true copies of notification dated 17/11/04 and 31/08/06. I do not have carbon copy of the application. The information Exts. 1608 and 1609 alongwith forwarding letter Exts. 1606 and 1607 was received. These notifications show that the ATS was not authorized to detain me in its custody for the offences for which they had arrested me before 31/08/06.

It is in the alleged confessional statement of the accused no. 3 Faisal recorded by PW-40, that I am a SIMI activist and he sent accused Tanveer and Zameer to Pakistan for training as I had referred them to him. This is false as I did not know Faisal and Zameer and used to talk with Tanveer very less in connection with the Kurla cases. I was not present in Mumbai in February, 2006, therefore, the evidence of PW-59 Alam Gulam Qureshi is false that he had seen me in an alleged meeting in the house of accused Faisal where the accused Asif Khan had given oath on Quran. I was on business tour in March, 2006 and returned to Mumbai on 26/03/06. Therefore, the evidence of PW-59 is false that in the second or third week of March, 2006, he met me, accused Faisal and Tanveer in Mira Road, where there was a talk of securing a room on rent. Said witness has falsely identified me in the court as the ATS officers had pointed me to him in the court premises.

I came to know from the information that I obtained under the RTI, that PW-74 Vishal Parmar had falsely stated that he had gone to the ENT Hospital, Churchgate to meet one compounder by name Baban Rankhambe, because the said person does not work there. He has falsely stated that he had gone to the Churchgate station after 5.15 p.m., that when he was on the platform, two persons came there, out of whom one had a bag with him and one of them asked him whether the Virar train will go from there, that a train came there and that all people boarded the train, because I came to know from the information that I obtained under the RTI, that the train that came on that platform had come there at 5.07 p.m. He has falsely stated about I getting down from the train without the bag at Dadar, because I was at Mira Road on that day. He falsely stated about going to the BMC bank on that day to meet Lalit Waghela, because I came to know from the information that I obtained under the RTI, that said person was absent on that day. He falsely stated about coming in the prison on 07/11/06 and identifying me in the test identification parade in between 1.15 to 1.30 p.m., because at that time I was in the Anda barrack in my cell. Officer Tajne had brought him to the court and had pointed out me to him on 03/11/06 and I was also pointed out to him by some other officers when he came to the court for giving evidence, therefore, he falsely identified me.

PW-75 Amar Khan falsely stated that I used to attend SIMI programs and give speeches, that I had talked about jihad in a rally, because I was never attached to SIMI and never attended any program or rally. He falsely stated that he had seen me 4-5 days before the blasts at the house of accused Mohd. Ali, because I was in M.P. from 03/07/06 to 07/07/06. He falsely stated that he identified me in the identification parade in the prison on 07/11/06, because I was taken out only for five minutes out of the Anda barrack and he was not present there. PI Mohite and some constables pointed me to him in the court premises before his evidence, therefore, he falsely identified me in the court.

PW-75 Rajaram Ambekar falsely stated that on 28/10/06 Ajmeri Shaikh and one more person came to him and told him that they had seen me at the house of accused Mohd. Ali 2-3 days before the blasts, because I never went to Govandi and I was at Mira Road on 8th and 10/07/06 and at Mumbra on 09/07/06.

I had read the chargesheet of the POTA case concerning the Gateway of India blast and had read the evidence given in that case by Ajmeri Shaikh. He had similarly stated that he told the police about two accused after he came to know on reading the news in the newspaper that they were arrested. He is acquainted with the police since beginning.

PW-80 Kirti Purandare falsely stated that he had conducted my test identification parade in the Arthur Road Prison on 07/11/06 from 12.55 to 1.30 p.m., because I was in my cell in the Anda barrack during that period.

PW-102 DCP Karale has falsely stated about I making a confessional statement before him, because I did not make any confessional statement. PW-106 Vinod Randive falsely stated that he took me from the office of the DCP at 10.45 a.m. on 06/10/06 to the Matunga Police Station, because he had taken me at 11.45 a.m. to the Matunga Police Station. He falsely stated that he had taken me out of the lockup on 07/10/06 and taken me to the DCP, because I was in the lockup upto 4.30 p.m. and was not taken before the DCP. The DCP did not do anything, but the ATS gave him an already prepared confessional statement.

PW-176 PI Rathod falsely stated that he arrested me on 12/08/06 as PI Dinesh Ahir had told him that I had confessed to him when I was in his custody that I had done the blasts, because I was repeatedly being asked about the blasts during that custody and I repeatedly denied my involvement. PWs 163, 167, 173, 174 and 186 falsely stated that they had come to know from the earlier IOs that I was involved in committing the blasts, because I never admitted my involvement as I was not involved.

PW-186 falsely stated that he had interrogated me on 29/09/06 and that he came to know that I was willing to make a confessional statement, because he never interrogated me in the entire police custody period. I am falsely involved in this case. I am innocent. My business is spoiled because of my arrest. I was married for one year only before my arrest and my wife, mother and all others are disturbed. My younger brother had to leave studies because of my arrest and was required to come to Mumbai for earning livelihood and maintaining the family. RTI Act was the only support during my custody in the prison to collect the evidence for proving my innocence in this case. I suspected when I was called at Mira Road Police Station and at DCB CID Unit, Dahisar after the blasts, that I would be involved in the case of the blasts, because of the nature of the inquiry. I thought that I should run away from Mumbai, but as I knew that I am not involved in this case, I stayed at home at Mira Road. Therefore, I also voluntarily went to the ATS office at Nagpada when they called me.

All the witnesses who have deposed against me are the informers of the police and have relations with the police since long or they have deposed falsely because of the fear of the police that they would be falsely implicated in other false cases and to save themselves from earlier cases.

Cross-examination by SPP Chimalkar for the State

(PI Mohite submits that the learned SPP is in CR No. 56 making an application and would be coming shortly and has requested for providing copies of the documents that have been referred to and exhibited during the evidence of the witness. Learned advocate Sharif Shaikh submits that he will provide the copies in the afternoon).

(Adjourned for recess).

Date : 09/05/13

Special Judge

After recess.

(Adv Khan Abdul Wahab h/f Adv Sharif Shaikh submits that copies of all documents are given except copy of a High Court judgment and copy of a judgment of a tribunal. Learned SPP submits that copies of four more documents that were referred to in the evidence of the witness have not been given. Defence is directed to give copies. Learned advocate Khan Abdul Wahab submits that he will give copies tomorrow. Hence, adjourned to tomorrow).

Date : 09/05/13

Special Judge

Date : 10/06/13

Resumed on SA

Further examination-in-chief in view of order below Ext.3903

PW-166 stated that he did not receive draft copy of consent order from the ATS. Therefore, I filed an application under the RTIA on 17/04/13 to the Collector Office, Thane for obtaining the proposal and all documents in the consent order file. Carbon copy of the application is the same now shown to me, it is in my handwriting, its contents are correct and it bears my signature. The registered postal receipt is pasted on the application. (It is marked as **Ext.3906**). I received the information, i.e., proposal and consent order along with forwarding letter, which are the same now shown to me. (Forwarding letter is marked as **Ext.3907**. Copy of proposal is marked as **Ext. 3908** and copy of consent order along with schedule is marked as **Ext.3909**, subject to objection by the learned SPP about its proof). The copy of the proposal shows that draft of consent order was sent with the proposal. I had sent an application under the RTIA to the Collector Office, Bandra on 24/04/13 for obtaining copy of the first part of the alleged confessional statement recorded by DCP Karale on 06/10/06. Carbon copy of the application is the same now shown to me, it is in my handwriting, its contents are correct and it bears my signature. The registered postal receipt is pasted on the application. (It is marked as **Ext.3910**). I received copy of Part-I of the confessional statement along with a forwarding letter, which are the same now shown to me. (The forwarding letter is marked as **Ext.3911** and copy of the Part-I of the confessional statement is marked as **Ext.3912**, subject to objection by the learned SPP about its proof). The copy of the confessional statement does not bear my signature. I had sent an application under the RTIA to the PIO, Commissioner of Police, Mumbai on 20/05/13 for obtaining copy of the letter of the ATS sent to the Commissioner of Police. Carbon copy of the application is the same now shown to me, it is in my handwriting, its contents are correct and it bears my signature. The registered postal receipt is pasted on the application. (It is marked as **Ext.3913**). I received a true copy of the letter of the ATS along with two forwarding letters,

which are the same now shown to me. (The forwarding letters are marked as **Exts. 3914 and 3915** and the true copy of the letter of the ATS is marked as **Ext.3916**, subject to objection by the learned SPP about its proof). The letter of the ATS shows that all the PIOs of Mumbai Police were directed not to give the information that is pertaining to the ATS.

I had asked for the information from the Motor Parivahan Vibhag about the log book of the vehicle used by ACP S. L. Patil on 02/11/06, log book of the vehicle used by PW-173 PI Agrawal on 15/07/06 and log book of the vehicle used by PW-176 PI Rathod on 12/08/06. The PIO denied the information, but it was allowed in the second appeal by the SIC. Even then I did not get the information, because the Motor Parivahan Vibhag filed a petition in the High Court against the order of the SIC and sent me a copy of the petition with a forwarding letter, which are the same now shown to me. (The forwarding letter is marked as **Ext.3917** and the copy of the petition along with annexes is marked as **Ext.3918**, subject to objection by the learned SPP about its proof). The annexes show that the annexed documents are certified as true copy by the office of the ATS.

The ATS also filed a petition in the High Court challenging the order of the SIC and sent me a copy along with a forwarding letter, which are the same now shown to me. (The forwarding letter is marked as **Ext.3919** and the copy of the petition along with annexes is marked as **Ext.3920**, subject to objection by the learned SPP about its proof).

(Witness seeks permission to state about the alleged confessional statements, submitting that he forgot to tell about it earlier. Granted).

Whatever is stated in the confessional statements of the accused nos. 2, 3, 5, 6, 7, 9, 10,11 and 12 about me is false, because I do not know most of them and whatever is written in the confessional statements of the accused nos. 2 and 7, whom I know, is also false, as no such things had taken place. I had not gone to Mumbra in May 2006 as alleged by the ATS.

Cross-examination by SPP Raja Thakare for the State

My medium of education after the 10th standard was in English. It is true that except my complaint that is in Hindi, all my applications to the court are in my handwriting in English. I have read the entire evidence recorded in this case. I can read, write and understand English. I have been provided with advocates Mokashi and Rasal by an NGO to defend myself. Adv Sharif Shaikh is the advocate of my choice. I had no occasion to complain to the Bar Council against any advocate for not following my instructions. I cannot say whether my co-accused are defended by advocates of their choice.

Accused no. 2, 6, 10 and 13 are in my barrack. We have discussions about the case. I have no discussions with the other co-accused who are not in my barrack. It is true that on the dates of hearing we all accused are brought to the 3rd floor and kept together till we are called in the court hall. It is not true that we get opportunity to interact with each other till the time we are called in the court hall. It is true that we get opportunity to interact with our advocates during this period. It is true that we get opportunity to meet our relatives. It is not true that we get opportunity to meet our friends. It is not true that during this period we also

interact with press reporters. I have not given any interview to any press reporter. I have no grievance against any of my co-accused. I cannot say whether my co-accused do not have any grievance against me. It is true that I have been collecting certified copies of evidence and I have taken inspection of the record once. Two co-accused have once taken the inspection of the record along with me. I do not know about other co-accused.

I have not read the replies given by the co-accused to the questions u/s 313 of the Cr. P. C. and the written submissions given by them. I did not feel it necessary to do so before giving my written submission with the statement u/s 313 of the Cr. P. C. I did not know of my rights before my arrest, but I came to know them in the prison and I have been agitating them. I stand by all the applications that I have given to this court in my handwriting. I have retained the copies of all the applications filed by me. I have not made any grievance before the court about the contents of my applications and the factual statements made therein. I cannot say whether the record that is maintained in this court is true and correct. I have faith in this court. I have faith in Indian judiciary. I do not have faith in the doctors from the prosecution side, but I have faith in the doctors from the defence side. I do not have faith in those doctors from the prosecution side who had examined me during my custody period. I have not complained to the hospital administration against these doctors.

It is true that I denied the specific question put by this court during my statement u/s 313 of the Cr. P. C. as to whether I want to examine myself on oath. I felt that I should examine myself on oath since the trial started. I was confused after having consulted many advocates about giving evidence on oath, therefore, I denied the question put to me u/s 313 of the Cr. P. C. It is true that my deposition is similar to the written submission given by me with my statement u/s 313 of the Cr. P. C., except for some additions. I did not give any application for permission to file additional written submission. I thought of giving oral evidence to prove the complaints given by me, to prove the documents that I obtained under the RTIA and to disprove the charges leveled against me. It is true that I thought of giving oral evidence as I thought that it would be more powerful/weighty than giving the statement u/s 313 of the Cr. P. C. It is not true that I myself did not have faith in what I stated in my statement u/s 313 of the Cr. P. C.

It is true that while giving evidence I have referred to certain communications in writing made by me to this court, particularly Exts. 3798 and 3799. Ext. 3798 was written by me in my handwriting in Hindi and Ext. 3799 was written by my advocate on my instructions, when the incidents were fresh in my mind. It is true that overall I have made true and full disclosure of the facts within my knowledge and placed them before the court. I did not give any application to the court after filing Exts. 3798 and 3799 that I have forgotten to mention any facts.

There are many applications made by me under the RTIA to which replies are awaited.

1. During your chief-examination today you did not seek permission to produce documents, if obtained later on, and therefore, may I take it that you will not produce any more documents henceforth?
2. If I get relevant documents before the judgement, I may produce them. I am expecting copy of the dossier given to Pakistan, statement of David Hadley recorded by the NIA, entries in various log books of the vehicles of the ATS, some station diary entries and any other document that I feel is necessary. I have produced all the relevant documents that I received under the RTI without filtering them or removing any sheets.

My father used to send money to India when he was in Saudi Arabia, by transferring it to my account in the Abhyudaya Bank. I am not in a position to produce its passbook, because the ATS had taken it, but not shown its seizure. I have not mentioned this fact in Exts.3798 and 3799 and in any other application or communication to this court. I used to earn Rs. 5-6000/- per month in 2002. I do not know about the income of my father, who was in Saudi Arabia in that year. It is not true that my father used to send money by hawala, therefore, I am not telling his income. I used to earn Rs. 10000/- per month when I started my printing and publishing business. I had obtained PAN card but have not filed income-tax returns. I do not remember my PAN. I had accounts in HDFC Bank and Oriental Bank of Commerce, both having branches at Mira Road, but I do not remember the account numbers and whether they are still operative.

I have published 12 books in Urdu from the publishing company Shahadah Publishing House. They are Aaieye Jannat Ki Sair Kare, Jahannum aur Ahle Jahannum, Alamat Qiyamat, Islam Ki Rooh, Jihadi Azkaar, Dosti Dushmani. I do not remember the names of others. There were 32, 64 or 80 pages in the books. One thousand issues of each book were published. Some books were published three times. The first three books named by me were published three times. I have read all the books that I published. I cannot say that I stand by the contents of the books, because I was not their author and I do not remember their contents. It is true that I had knowledge that I am responsible as a publisher for the contents of the books that I published. I had no knowledge that I was governed by the Press Council of India. I had received material from many authors that I did not think fit to publish. I do not recollect the names of the authors who used to send me articles for publication. I cannot tell the names of the authors whose articles I did not publish. Before publishing any work given to me for publishing I used to read it. It is true that royalty is required to be given to the authors of the books. It is not true that the amount of royalty would depend on the turnover or the sales of the books. I cannot tell the names of the parties to whom I had given the royalty. I have not produced any sales registers, invoices, bills, vouchers of payment made for purchasing papers and account books or documents about my business. Witness volunteers- All the files that I had prepared had been seized by the ATS. No one complained to me that I am misusing the name of Shahadah Publishing House. I also did not complain to anyone about misusing the said name. It is not true that I have been indulging in publishing seditious material in the name of Shahadah Publishing House. It is not true that I used to publish the material written by me and I am falsely saying that I used to publish the articles written by others, and

therefore, I am not able to tell the names of any authors and to produce the documents about my publishing business. It is true that I have not alleged in Exts. 3798 and 3799 and in any other application to this court about the ATS seizing the documents of my business.

There are two cases against me in Kurla Court, one in Mazgaon Court and one in Killa Court. The case in Mazgaon court is arising out of LAC No. 04/06 of the ATS. I have received the chargesheet in that case and have read it. It is true that I am defending the case in person. The allegations in that case against me are that I am an activist of SIMI and have published inflammatory material and 10-12 gunny bags books are alleged to be seized from me from my house as per the panchanama. Islam ki Rooh, Jihadi Azkaar and Jihad fi-sabilillah kyu are the books that are alleged to be seized. It is true that it is written in the panchanama that 110 copies of Jihadi Azkaar, 400 copies of Jihad Fi-sabilillah and 250 copies of Jihad Fi-sabilillah kyu were seized. It is true that the panchanama shows seizure of my PAN card and that I was present when the seizure took place. It is not true that all the books that were seized were of Shahadah Publishing House. It is true that the case in the Mazgaon Court is part-heard and the seizure panchanama is marked as Ext. 9. It is true that the books are marked as articles. (Learned SPP shows certified copy of a panchanama dated 28/07/06 marked as Ext.9). I cannot say whether this is the certified copy of the seizure panchanama in that case. (Learned SPP asks the witness to read the document and to say whether it is the copy of the seizure panchanama in that case). It is true that it is the copy of the said seizure panchanama. (Learned SPP asks the witness to say whether the certified true photocopies of the articles along with seizure panchanama are the same). The photocopies of three cover pages of three books are incomplete. The name of the first book Exb-X1 Art-A is Islam ki Rooh and Jihad Fi-Sabilillah published by Shahadah Publishing House and the address of my house as given by me. The book Exb-X3 Art-A mentions the same name and address of the publisher. The name of the book is Jihadi Azkaar. The book Exb-X2 Art-A mentions the name of the publisher in Urdu as Al Huda Publisher, but there is no address. The name of the book is Jihad Fi-Sabilillah kyu.

(Adjourned as court time is over).

Date : 10/06/13

Special Judge

Date : 11/06/13

Resumed on SA

Jamiat-ul-Ulema is the NGO that provided advocates Mokashi and Rasal. My family members had approached the NGO for providing advocate for me. I had no objection for the same as I had told my family members to approach the NGO. I did not have any objection in accepting the said two advocates for representing me. I have faith in that NGO. The present advocate is of my choice and has been appointed by me. It is not true that I had not asked the NGO to give me another advocate. I had written a letter to it. I cannot say whether the earlier two advocates were totally independent and unbiased. It is not true that I changed my earlier two advocates as they were not ready to follow my fanciful and legally untenable instructions.

It is true that we all accused had protested against the previous judge Mrs. Mrudula Bhatkar. Witness volunteers- the reason for this was that when I was in the custody of the ATS, DCP Nawal Bajaj and officer Tajne had told me many times that they have managed the said judge and during the court proceedings we saw that the case was proceeding from one side. It is true that we all accused had discharged all our advocates at that time. Witness volunteers- the judge had told them to conduct the case, but we did not want to conduct the case before the said judge. It is not true that I have not made the above two allegations volunteered by me, in any of my applications in this court. (Learned SPP asks the witness to point out the applications from the record). I do not remember the exhibit numbers. After going through the record I say that the said applications are at Exts. 54 and 56 against the judge and Ext.75 is in respect of discharge of advocates. It is not true that the allegations in Exts. 54 and 56 are in respect of judicial orders passed by the judge. Witness volunteers- there are other allegations also. It is not true that I have made allegations and expressed lack of faith in the CMM and other magistrates concerned with this case.

It is true that I was arrested in LAC 1839/01 of Police Station Kurla, certified copy of the chargesheet of which is at Ext. 462. It is true that I was arrested in CR No. 275/01 of Kurla Police Station, certified copy of the chargesheet of which is at Ext. 463. It is not true that allegations in both these cases are different. It is correct that the dates of offences and dates of arrest as mentioned in the chargesheets in both the cases are different. I was ordered to be released on bail in LAC 1839/01. It is true that I was not arrested in CR No. 275/01 till I was ordered to be released in LAC 1839/01. It is not true that I falsely alleged that I have been arrested twice in the same case. Accused no. 2 Tanveer, Irshad Khan, Mohd. Ali, Mohsin, Altaf and some more were my co-accused in LAC 1839/01. They were also my co-accused in CR No. 275/01 and there were four more accused by name Sharjeel, Sartaj, Abdul Khalik and one more. It is true that both these cases are as yet pending against me.

I am aware that SIMI is banned as I read about it in the newspapers in between. I came to know after I was released on bail in the Kurla cases that SIMI is banned. I have no idea why it is banned and as to what are its aims and objects. I do not know where SIMI had offices and branches before it was banned. I used to go to the SIMI library at Kurla. It was situated on Kurla Pipe Road. It is true that I was arrested from the said library on 27/09/01. Witness volunteers – I saw that the library was open when I went there after I was released on bail.

I came to know accused no. 2 Tanveer in the lockup after my arrest in the Kurla case. I do not know the address where he used to reside, but he used to reside in city area. I do not know when, why and from where he was arrested in LAC 1839/01 of Kurla. I did not try to find it out during the night when we were in custody together. I know that he was arrested on the same day on which I was arrested, but I do not know from where and why. I received the chargesheet in the said case. Witness volunteers- I received it in October, 2010 after the order of the High Court. I have read the chargesheets of both cases. I have discussed with the accused no. 2 Tanveer about the two cases, still I do not know why he was

arrested. I and the accused no. 2 Tanveer were not on visiting terms with each other after the arrest in the Kurla case. We were in contact with each other, but very less. We were in contact by mobiles. I do not remember his exact mobile number. It is true that his mobile number was 9869320457. I did not become friendly with him after the Kurla case. We used to contact each other near about the dates of the Kurla case. It is true that our association and communication was restricted only in respect of the Kurla case. The last date of the Kurla case that I attended was 30/06/06. It is not true that I am not in a position to deny that the Kurla case was not posted on board on 30/06/06. I do not remember whether I contacted the accused no. 2 Tanveer or he contacted me before this date. I do not remember how many days or weeks before the court dates we used to contact each other. I used to contact him by talking on mobile as well as by sms. The next date of the case that was given on 30/06/06, was probably 17/10/06. I had no reason to contact him after 30/06/06 other than in respect of the said case. I had shared with the accused no. 2 Tanveer on the court dates that the police from Mira Road Police Station or Crime Branch or other police come to me for questioning if any incident like bomb blast happens. Kurla Police did not call accused no. 2 Tanveer whenever they called me. Tanveer told me after arrest in this case that he used to be called by the Kurla Police similarly. Sometimes after the dates of the Kurla case, Kurla Police used to take all the accused to the Kurla Police Station. It is not true that Kurla Police used to so take us not with respect to any particular incident. I cannot tell of any incident after which the Kurla police called me and the other accused including Tanveer after the date in the court. I cannot tell the date on which I lastly communicated with the accused Tanveer before my arrest in this case. I had no occasion to contact him after 11/07/06 upto the date of my arrest. I did not think it necessary to find out from the accused no. 2 Tanveer whether he had been called by any of the police stations after 11/07/06. It is true that Kurla police never came to me after 11/07/06. It is true that the Kurla Police, Mira Road Police, Crime Branch and ATS did not arrest me whenever they called me for inquiry. I did not make any complaint against the said police. Witness volunteers- they had threatened me.

1. As a law abiding citizen you know that it is the duty of the police to make inquiry?
2. I know it now, but they used to beat and torture me whenever I was called. It is not true that I did not go to any doctor for examination after the torture. I do not have any medical record about the alleged previous beatings and torture. It is true that I do not have any record except my bare words about the different police stations, crime branch and the ATS having called me. Witness volunteers – the record must be in the police stations. It is not true that I have not made applications to obtain the record from the said police stations, crime branch or ATS. I have not produced any such record upto now. Witness volunteers- I did not get the information, therefore, I have not produced it.

(Adjourned for recess).

Date : 11/06/13
Resumed on SA after recess.

Special Judge

I had landline phone no. 8105866 at my residence since 2003 or 2004. It will not be correct to say that I used to receive most of the calls on this number. I used to receive most of the calls on my mobile. I do not remember any occasion when the accused no.2 Tanveer had contacted me on my mobile for reasons other than the Kurla court case. I have also not contacted him for reasons other than the Kurla court case. I do not remember whether the accused no.2 Tanveer had sent me an sms on 15/05/06, whether I had made a call to him on 16/05/06, whether there have been two calls between us on 02/07/06, one incoming and one outgoing. (Learned SPP asks the witness to see the entries dated 15/05/06 and 16/05/06 in Ext. 3765 (2)). The sms and the calls were pertaining to the Kurla case. (Learned SPP asks the witness to see the entry dated 02/07/06 in Ext. 3765 (4)). These calls were pertaining to the Kurla case. It is not true that the dates of these sms and calls are not in proximity to the Kurla court case dates. It is not true that the sms and calls were my contact with the accused no. 2 Tanveer concerning the conspiracy of this case and I am falsely stating that they were concerning the Kurla case. One Imtiyaz Ahmed from Ghatkopar, who is my relative, is my surety in the Kurla case. I do not know whether he received any notice about I not attending the court case. My house at Mira Road was initially locked after my arrest and thereafter it is rented. Kurla court never issued any arrest warrant against me for not attending the court. I had no occasion to apply for exempting me from appearance in the Kurla court. Initially adv Rais Khan represented me in that case.

I know accused no. 7 Sajid since one and a half years before my arrest in this case. He resides at Mira Road. The accused no. 3,7, 9 and 12 reside at Mira Road as per my knowledge. He used to visit my house, but I did not visit his house. I contacted him and came in his contact for my computer maintenance work. I do not know his work place. I do not know the name of the institute under which he does his work. Witness volunteers- as per my knowledge he does the work privately. To my knowledge as on today, he used to do his work at Jogeshwari and also from his house. I had two computers in my house. I had a deskjet printer and a laser printer. It is not true that thousand copies cannot be printed on these two printers. However, it is not beneficial to print so many copies on them. I do not have any annual contract for maintenance of my computers. It is true that therefore, nobody used to come periodically for checking my computers.

I used to communicate with accused no. 7 Sajid on his mobile no. 9867244681. I became friendly with him after coming in his contact. It is not true that my association with him was beyond the maintenance of my computers. I know after my arrest in this case that there is a case against him on the allegation that he is associated with SIMI. I came to know about his arrest in this case after I was remanded to judicial custody. I was surprised to see him arrested in this case. I had asked him when he was arrested and why he was arrested. He had also asked me as to when I was arrested. It is not true that at that time I learnt that we both had cases against us concerning SIMI. As on today I know that the accused no. 8 Wahid Deen is brother-in-law of the accused no. 7 Sajid. I came to know when I was remanded to judicial custody that they are related. I did not know at that time as to when the accused no.8 Wahid Deen was arrested. I did not ask accused no. 7 or 8 as to when the accused no. 8 was arrested. I know today that he has one case

against him concerning SIMI, but not two cases. Today I know that the cases concerning SIMI against the accused no. 2, 8 and 13 are pending, but the accused no. 7 is acquitted in the case against him. It is not true that I am falsely stating that the accused no. 7 is acquitted in the case against him. I did not try to find out the allegations in the cases against the accused no. 7, 8 and 13.

I required the services of a computer repairer many times during a year. I cannot say how many times I required it approximately during a period of three months. I cannot tell the number of times that I required such services during the period of six months prior to my arrest. It is not true that my communication with the accused no.7 Sajid was beyond our association in connection with his computer services. I cannot tell the number of printing orders obtained through him. The orders were of him as well as of other parties. The amounts of the orders were from Rs. 1000/- to 2000/-. I cannot give the approximate number of orders that he used to give per month. During the period of 3-4 months before my arrest, I required his services many times for computer repair and printing, but I cannot tell how many times even approximately. It will be correct to say that I was in his contact for more than 100 times between the period from April to July, 2006, before my arrest. I am not aware that the accused no. 2 Tanveer and the accused no. 7 Sajid have denied knowing me or being associated with me in any manner, except the accused no. 2 Tanveer being co-accused in the case at Kurla. It is not true that only to support the entries of calls in Ext. 3765, I falsely stated that I had business relations with the accused no. 7 Sajid. It is not true that I was constantly in contact with him in connection with the conspiracy of the present case from 21/04/06 to 24/07/06. It is true that before giving evidence I have nowhere mentioned in any communication to this court about my business association with him. I do not know that in order to suppress our communication about conspiracy, the accused no. 2 and 7 have even not mentioned our acquaintance and business relation respectively. It is not true that I have fabricated this story on legal instructions.

(Adjourned as court time is over).

Date : 11/06/13

Special Judge

Date : 12/06/13

Resumed on SA

The landline phone at my residence was in my name. The telephone bills were received once in six months as the phone was taken under a scheme. I do not remember whether I had a ration card at that time. I had given the address of my residence for the bank accounts. Passbooks of my bank accounts showed my address. My name was registered in the voter's list. It is correct that I had sufficient documentary evidence to show that I had a fixed residential address. I am aware about the nature of documents required for obtaining a sim card. It is true that sim cards of every service provider are available in every nook and corner of the place where I resided.

1. : Is it correct that inspite of having sufficient documentary evidence about your residence, you did not obtain a sim card in your own name ?

Ans. : I had a mobile in 2004 and the sim card was in my name. As I got a cheap mobile with sim card, I purchased it.

I sold the mobile that I had in 2004 when I went to UP and I destroyed the sim card. I again say that the sim card was misplaced. It is correct that I could have obtained a sim card with the same number from the service provider. I do not remember the mobile number of that sim card. I had given that number to all my relatives, acquaintances, friends and business contacts. It is a fact that I did not apply for obtaining a new sim card with the same number. It is not true that I was using that sim card for all my nefarious activities, illegal activities and activities related to SIMI, therefore, I destroyed it and therefore I left Mumbai and did not apply for obtaining a new card.

Nathuram Tedgure is not related to me. I knew him since almost one year before purchasing his mobile phone. I came in his contact for the first time when he had come to me for preparing visiting cards. He was residing at Tardeo at that time. It is true that I examined DWs 29 and 36 in respect of mobile no.9867139179, but did not try to obtain the SDRs from them. It is true that I have neither produced any documents about purchase of the said mobile from Nathuram Tedgure nor have I cited him as a defence witness. It is not true that I am falsely stating that I had purchased the said mobile number from him. It is not true that I am suppressing the material information from the court, that there is no such person in existence and therefore I have deliberately avoided to mention his present whereabouts, that I purchased the said sim card in a fictitious name for the purpose of my nefarious, anti-social and anti-national activities.

I used to do namaz regularly, but not only in the masjid. I used to do namaz five times in a day. The first namaz was before sunrise, second was at about 1.00 p.m., third was in between 4.00 p.m. to 5.30 p.m. as per the changing times during the year, fourth was just after sunset and the fifth was two hours after sunset. The duration of the namaz used to be five minutes to fifteen minutes. It is true that I used to carry my mobile phone with me whenever I used to go for namaz. I never kept my mobile on switched off mode. I do not remember whether I was out of the prison on 25/03/12, 15/04/12, 29/04/12 and 30/05/12. I used to receive and make calls from my mobile during the period of six months before my arrest everyday except 13 and 14/07/06. There was no occasion for me to keep my mobile phone switched off during this period. It is not true that there was not a single incoming or outgoing call during the period from 03/07/06 at 2116 hours to 08/07/06 at 0835 hours. Witness volunteers – I was in roaming during this period as I had gone to Ujjain, Indore, Bhopal, Devas in MP. I went to Ujjain by train from Borivali station. I caught the train at about 8.00 p.m. I do not remember the name of the train and whether it was Avantika Express. I was interrogated about my whereabouts during this period. I faithfully provided the information. I had gone to Ujjain for business purpose. I can name the person whom I met at Ujjain. His name is Javed, who was running the shop by name 'New Book Seller'. I do not remember his contact number and his exact address, but it was about one kilometer from the station. It is not true that I had gone to Ujjain for taking jihadi training and had met Safdar Hussain Nagori there, that during this period we conspired with respect to activities

of SIMI. I do not remember whether the first phone call after coming back from Ujjain was to the accused no.7 Sajid.

I used to call paper suppliers, transporters, couriers, printers, etc., from my mobile phone. I do not remember a single number of any out of them. If the CDR produced by me is shown to me, I can tell the name of the person to whom a number belongs. I did not use the service of any courier. I can name the transporters. They are Transport Corporation of India, UP Transport, Andhra Transport and some more whose names I do not remember. The printers were Huma Offset and Rizwan Printers, located on the road that goes from Sat Rasta to Byculla and in front of V. T. Station respectively. I cannot tell the names of the owners of the printers and transporters. I used to contact them on their mobile as well as landline phones. (Ld. SPP asks the witness to go through the CDR Ext.3765 (1 to 5) and to point out the mobile or landline numbers of both printers). I do not remember their numbers therefore I cannot point them out. I do not remember whose landline number is 25092688 and 28192212. (Learned SPP asks the witness to go through the CDR Ext.3765 (1 to 5) and to say whether there are any calls from these two landline numbers to his mobile number). There is no incoming call from the above two landline numbers to my mobile. It is true that there are a number of calls to these two numbers from the mobile phone that I was using. Mira-Bhayender is considered as one municipal area. I do not recollect to whom I made calls on the above two landline numbers. The number 28192212 is probably in Mira-Bhayende area. I do not know whether the number 25092688 is in Ghatkopar area. (Ld. SPP asks the witness to go through the CDR Ext.3765 (1 to 5)). It is not true that except the above two numbers there are no landline numbers of Mumbai on which I have made calls. It is not true that there is not a single call from my mobile number to MTNL landline number. They are 02228105866 on 22/04/06, 02228108122 on 04/05/06, 02223731786 on 18/05/06, 02225342558 on 23/05/06 and 02224091167 on 03/07/06. It is not correct that there are single calls to these numbers. There were two calls to 02228108122 on 04/05/06. I do not remember to whom these numbers belong. It may be that there are eight numbers of TATA Teleservices (Maharashtra) appearing in the CDR. (Learned SPP asks the witness to say whether he has called the numbers 02269507719, 02269532797, 02269514955, 02269551248, 02269516664, 02269544097, 02269549164 and 02269537477 of TATA Teleservices and have received calls from them). I have not called any of these numbers from my mobile number, but I have only received calls from them. It may be that all these numbers of TATA Teleservices and also the numbers of the MTNL landline are of PCOs. I do not know whether it is the *modus operandi* of terrorist organizations and SIMI not to use mobile numbers but to use PCOs for communication, so that the caller or receiver cannot be traced. I do not know whether the Al-qaida manual also gives this *modus operandi*. It is not true that all the communications with the above landline numbers are in respect of the conspiracy related to the terrorist activities, that I know with whom I used to contact on these numbers, but I am refusing to disclose the names of the parties for screening my illegal activities, that to suppress these facts I have concocted the story about contacting printers, transporters and paper suppliers. It is true that now except my bare words I have no documentary evidence about my business of publishing. Witness volunteers – all the documents are with the ATS. It is not true

that therefore all the details about my business are not mentioned in Exts.3798 and 3799 and in my written submission filed with my statement under section 313 of the Cr.P.C. Witness volunteers – Exts.3798 and 3799 are my complaints against the ATS, therefore, there is no question of writing the details about my business in them.

(Adjourned for recess).

Date : 12/06/13

Special Judge

Resumed on SA after recess.

I was asked on 24/07/06 to attend the ATS office in the afternoon or evening. I did not express my inability to attend the ATS office. I was not asked to meet a particular officer. I had asked the officer who gave me the message as to why I am called and he told me that it was in connection with the inquiry of bomb blasts. I had apprehension that I would be illegally detained or arrested. I did not ask any of my relative, friend or acquaintance to accompany me. Witness volunteers – This was going on since the last five years, therefore I did not ask. I had the apprehension this time because every time they had threatened to arrest me, though in the past I had not been arrested after inquiry. The police did not call me on every occasion during the past five years, sometimes they took me. It is true that on 24/07/06 I was not taken by the police to the ATS office. I did not feel it necessary to contact any advocate or take any advocate with me on that day. Witness volunteers- because in the past five years whenever I was called, police had told me not to tell anyone about being called. It is true that I did not complain anywhere during the past five years or to any higher police authority about being called repeatedly for inquiry.

It is true that I did not make any call from my mobile on 24/07/06 after reaching the ATS office. First I went to the Nagpada office at about 2.00 p.m. I do not remember the exact time when I was taken to Bhoiwada and whether it was at 2.00 p.m. I did not make any call from my mobile from the time I went to the Nagpada office and then was taken to the Bhoiwada office. (Learned SPP asks the witness to go through Ext.3765). I cannot point out the call that had come on my mobile at the Bhoiwada office and which I had received. Witness volunteers- because I did not see the number. It is true that I made a call from my mobile number at 2.30 p.m. on 24/07/06. I cannot say whether the mobile was switched off after this call. It is not true that I made false allegation about being taken from Nagpada to Bhoiwada, that I received a call and the officer snatched the mobile from me and canceled the call. It is not true that I am concocting a false story as the location of the call is of Parel area. It is not true that I did not have Rs.25,000/- with me when I went to the Nagpada office as alleged by me and that it was taken from me. It is not true that I falsely alleged that police took my PAN card and debit card on 24/07/06. I do not remember whether there is no allegation in Ext.3798 and 3799 about it. Witness volunteers – I had made an application in the Mazgaon court in 2007 for return of the amount of Rs. 25,000/- and the PAN card and debit card. (Ld. SPP asks the witness to go through Exts.3798 and 3799). It is true that there is no mention in Exts.3798 and 3799 about police taking my PAN card and debit card on 24/07/06.

It is true that I lost the petitions that I had filed from the prison in the Bombay High Court and the Supreme Court challenging the powers of the ATS to arrest and investigate. (Learned SPP asks the witness to go through Exts.3298 to 3300 and to show where the evidence of ACP Patil was rejected). It is at page no.56 of Ext.3300, wherein it is said that 'In any case, I am not relying on the evidence of PW – 32, 33, 36 and 37'. PW 37 was ACP Patil. It is true that the word 'disbelieved' is not mentioned. It is true that I did not participate in the proceeding before the said tribunal. It is not true that the order of the tribunal has been set aside by the Supreme Court and the ban on SIMI is continuing. Witness volunteers – the matter is pending before the Supreme Court, which I came to know when I applied for copy. I do not know whether the order of the tribunal is stayed and the ban on SIMI is continuing.

I came to know from the chargesheet about the C. R. No.256 of 2006 registered at Police Station Khandwa. It is correct that I obtained information from this police station under the RTI and I have gone through it. I do not remember whether as per the allegations in that case, objectionable SIMI literature was recovered in that case. There are more than one accused in that case, but I do not know whether there was recovery of books from every accused. It is correct that I had obtained certified copies of the depositions from the Khandwa court. I have gone through the copies of panchanama and depositions that I have obtained, but not thoroughly. It is true that I had no occasion to see the original books that were seized in that case. It is not true that I will not be in a position to say whether those books were original or colour photocopies. Witness volunteers – Khandwa police had shown many books to me when I was in custody. It is not true that there was no occasion and no reason to show me any such book by the Khandwa police and in fact no books were shown to me. I did not go through contents of the copies of the books that I obtained, but I only saw the cover page. It is true that therefore I will not be in a position to say whether the contents of the books are seditious or not. Two books are titled 'Tehrik-E-Millat' and one book is titled 'SIMI'.

1. : Are such books the subject matter of the present case ?

Ans : Copies of such books are the subject matter.

Copies of the books that are seized in this case are supplied to me. I have not read them. It is not true that there is an allegation in this case that such type of books were recovered from several accused in this case including me. It is true that there is such an allegation in respect of some co-accused. Witness volunteers – ATS has planted the books. I have not discussed about the contents of the said books with the co-accused who are lodged with me.

1. : Will you be in a position to contradict me if I say that the contents of the books are seditious?

Ans. I cannot say whether the contents of the books are seditious.

It is correct that I have received certified copies of all the papers of C. R. No.195 of 2006 of Antop Hill Police Station regarding death of Mohd. Ali. I have gone through

them. There is a statement of one Riyaz Nawabuddin. I do not remember whether it is apparent from the papers that Mohd. Ali was traced at the instance of Riyaz Nawabuddin. It is true that I have not filed the papers of that C. R. that I received from Antop Hill Police Station. I had obtained the information under the RTI Act. I have gone through everything that I filed with the PIL in the High Court. I have filed the statement of Riyaz Nawabuddin with the papers. I do not remember whether he has stated in his statement that he had pointed out Mohd. Ali at Antop Hill. It is not true that Riyaz Nawabuddin was prosecuted and convicted in LAC No.04/06 of the ATS. I do not know whether Riyaz Nawabuddin was prosecuted and convicted in C. R. No.04/06 of the ATS.

1. : Since you have taken inspection of the record, have you gone through Ext.2569 ?

Ans. : I only went through the BAs and MAs.

I am not aware whether Riyaz Nawabuddin was a Pakistani national. I am not aware about the nationality of Mohd. Ali. (Ld. SPP asks the witness to go through Ext.2606). If I am shown a true copy of my petition I will be in a position to identify it. (Learned SPP asks the witness to go through a compilation, submitting that he is going to produce it). It is true that the compilation contains copy of my petition and annexes. There is a statement of Riyaz Nawabuddin at page 87 of the annexes.

1. : You have annexed the statement to the petition as you are relying on it ?

Ans: I produced before the court whatever I had received.

1. : Therefore you are not in a position to deny that Riyaz Nawabuddin had pointed out Mohd. Ali ?

Ans.: I cannot say whether he pointed out Mohd. Ali or not.

I did not take the help of any advocate for preparing the petition. I had appointed advocate Naeema Shaikh to appear on my behalf for prosecuting the petition. I do not know whether adv. Khan Abdul Wahab was representing Riyaz Nawabuddin in the case arising of C. R. No. 04/06 of ATS. I did not try to find out what happened to that case.

1. : Is it correct that you had received the information from Antop Hill Police Station in May, 2008 itself?

Ans. : I had not received the complete papers.

I am not aware that Riyaz Nawabuddin was deported to Pakistan after his sentence was over.

1. : Since you had collected information and were agitating about the death of Mohd. Ali, did you not think that Riyaz Nawabuddin would be an important witness to the incident of his death?

Ans. : I cannot say whether he was important witness or not.

I have gone through all the documents annexed with my petition.

1. : In view of this answer, did you not consider that Riyaz Nawabuddin is a relevant witness concerning the death of Mohd. Ali?

Ans. : I cannot say whether he is relevant or not.

1. : Your Writ Petition in the High Court is dismissed as withdrawn?

Ans. : It was withdrawn.

I have not cited Riyaz Nawabuddin as my witness in the complaint that I filed in the court. It is not true that filing of the PIL and the complaint in the court was only with the intention of creating a cloud of suspicion and maligning the ATS. It is not true that I was afraid that Riyaz Nawabuddin would be examined as a witness against me, therefore I did not file the PIL till he was deported.

(Adjourned as court time is over).

Date : 12/06/13

Special Judge

Date : 13/06/13

Resumed on SA

I had applied under the RTI Act for obtaining the copies of the log books of the vehicles used by various ATS officers doing the investigation, the DCPs who had allegedly recorded the confessional statements and the police officers who had allegedly transported the accused to the DCPs. I received some of the information before PI Mohite sent letter to the PIOs. It is true that it was in the letter that the ATS was exempted from the application of the RTI Act. It is true that by the forwarding letter Ext. 3277 the information was provided in 91 pages. It is true that I have not produced all the pages that I had obtained. Witness volunteers- I did not produce the documents that were not relevant. It is true that by the forwarding letter Ext. 1737 the information was provided in 10 pages. It is true that I have not produced all the pages that I had obtained. Witness volunteers- It was informed to the court during the evidence of PW-161 that I am producing only one page.

1. When you were produced on the two occasions before DCP Karale, your signatures were taken on two different papers?
2. It is not true.

I can identify my signature, if shown to me. (Learned SPP requests that Exts. 1057 and 1060 be shown to the witness). It is true that both these documents contain my signatures. It is not true that DCP Karale had faithfully and correctly recorded my confessional statement by following the due procedure and I had voluntarily given the statement and signed after understanding the contents and the correctness thereof. I do not know whether Ext. 3912 is the office copy of the Part-I of the confessional statement and therefore it does not contain my signature.

The case against me pending in the Esplanade Court is in connection with CR No. 57/08 of Police Station Colaba for the offence u/s 353 and 506 Part-II of the IPC

and the allegations are that I had used criminal force against a member of the escort squad in the corridor of this court. Witness volunteers- false case is filed against me as I had complained of beating by the escort party and I have filed cross complaint in the Esplanade Court bearing CC No. 189/SW/2009, in which I had made the escort party as well as the learned SPP Raja Thakare as accused.

It is not true that I am a staunch member of the banned terrorist organization SIMI, that I am having association with the allied banned terrorist organization L-e-T, that I have been deeply involved in publishing, circulating and propagating seditious material and indulging in anti-national activities, that I have been publishing and circulating such material under the name Shahadah Publishing House, that by my activities I am deliberately spreading the misunderstanding about the preaching of Islam by misinterpreting the original quotes, that I was in clandestine contact with members of SIMI all over India, that I was deeply involved in the conspiracy of the present case by actively participating in the conspiratorial meetings, assembling of bombs as well as planting of bombs, that I have been following the guidelines or preachings in the Al-Qaida manual, that I have been leveling false allegations against all the police personnel right from the highest level to the constable and making frivolous applications against them, which is the *modus operandi* of the terrorist organization like L-e-T. It is not true that none of the police personnel ill-treated me or tortured me. It is not true that the evidence given by me is all false and afterthought and the story given by me is a concocted story just to match some of the entries in the CDRs of the mobile that I was purportedly using and which I have produced as well as the information that I collected under the RTI Act, that all the information that I received under the RTI Act and produced by me is not free from flaws. It is not true that I deposed falsely to escape from the punishment of the serious crimes committed by me.

(Learned advocate Sharif Shaikh requests for re-examination of the witness in view of the ambiguity in his answer in paragraph 123 'It is true that I made a call from my mobile number at 2.30 p.m. on 24/07/06', if read in context with the earlier answers in the same paragraph. Learned SPP submits that for the same reasons it cannot be said that there is any ambiguity. Heard both sides. Permitted).

Re-examination by Adv Sharif Shaikh for A4 & A5

With reference to the said answer I say that I had not made any call from my mobile at 2.30 p.m., but the CDR Ext. 3765 shows that there was a call from my mobile at that time.

Re-cross-examination by SPP Raja Thakare for the State

It is true that I did not state in my chief-examination that any call was made from my mobile when I was in the office of the ATS at Nagpada or Bhoiwada. I stand by what I stated in my evidence that the ATS officers took my mobile and kept it on the table. It is true that neither in my chief-examination nor in the cross-examination nor in re-examination I stated or volunteered that anyone had made a call from my mobile. It is not true that that call was made by me and therefore, I had given the answer in the cross-examination that I had made a call at 2.30 p.m.

No re-examination.

R.O. (Y.D. SHINDE)

SPECIAL JUDGE

Spl. Judge UNDER MCOC ACT,99,

Date:- 13/06/13 MUMBAI.