



Name: Mohammad Majid

Age: 32 years

Occupation: Business

Res. Address: 17/2/H/6, Canal West Road, Kolkata-9

Examination-in-chief by adv Sharif Shaikh for A5

My wife, daughter, mother, seven brothers and four sisters are my family members. We stay in one house, which is three storeyed, having four rooms on the first floor. My mother lives in one room and my three brothers live with their families in three rooms on the first floor. The second floor has four rooms in which I and my three brothers live with our families. We have two shoe shops. One shop is run by four brothers and one is run by me and my three brothers. The timings of my shops are from 8.00 a.m. to 10.00 p.m. My shop New Star Footwear is at a distance of five minutes from my house. I used to maintain accounts of my shop in the yearly diary. We all three brothers used to write the sales made by us in the diary. I used to close the account everyday in the night and used to make payments to the labour, staff and brothers. We brothers used to daily share our profits in the night. The diary of 2006 is produced in court at Ext.2959. The handwriting therein is mostly mine and rest is of my two brothers, which I can identify. All the entries are correctly written. Whatever studies I did in madrassa and school were in Urdu medium, therefore, I do not know how to read and write Hindi. I can write English by looking at the words, but cannot understand or speak it. I took education in the Mohd. Jan Higher Secondary School upto the 9th class in 1999 after which I left education and then started going to the shop and in the free time I looked after my mother. I used to go to the shop in the morning, be in the shop upto 10.00 p.m. and look after my mother during whatever time I found in between. I have produced the result of the school.

The diary that is produced along with Ext. 2959 is the same diary that we used to maintain. The pages dated 1st , 3rd to 09/01/06 and 01/02/06 are completely in my handwriting and other pages also contain my handwriting mixed with my brothers handwriting upto 28/09/06. (Pages from 01/01/06 upto 28/09/06 containing the handwriting of the witness are marked as Exts.4144 (Colly.)). We used to write the amount of the sales and in front of that amount we used to write profit amount in front of every sale in Urdu. I have produced the progress reports

of 7th and 9th standard obtained from the school to show that I did not learn Hindi. On seeing the progress report I say that they are of 7th and 8th standard. (They are marked as Arts- 478 and 479).

I know PW-70 Mohd. Shakil Mohd. Mehboob since 2003 when I met him. He resides in our locality. He told me that he has the experience of optical glass business, but because of lack of funds he cannot do it. He told me that if I help him, we can earn good money. He thought that I am a moneyed person, but I did not have money. He advised me to take loan from my brothers and that we would do the business together. I took him to my brothers, he told them about the business of spectacles and asked for loan. My brothers gave loan without any profit for them, on the condition that I would repay the loan as soon as possible and within three years. Mohd. Shakil showed me a rosy picture in the beginning and I was also in need of money as I wanted to marry and have a house of my own. We agreed that I would provide the capital and he would look after the business, because I was running my own shop. I used to go to the factory in the afternoon recess. I suggested to him that we would open an account in Sahara India Bank and deposit Rs. 50/- everyday so that we would be able to collect Rs. 54,000/- in three years and repay the loan of my brothers. He agreed and an account was opened in his name, but he deposited only Rs. 15,000/- in that account.

4. My brothers started demanding repayment of the loan at the start of 2006. I told Mohd. Shakil to withdraw the money that he had deposited in the account and to give it to my brothers. When I asked him, he told me that Rs.15,000/- only had been deposited. I told this to my brothers and on their say I arranged a meeting between him and them. He promised my brothers to repay the amount as soon as possible, but he misused the time that was given to him for repayment. I arranged for about five meetings between him and my brothers. I told him to withdraw the amount of Rs. 15,000/- and give it to my brothers and that he should slowly repay the balance amount. He was not ready to sign the account, there was quarrel between us, finally he signed the application and I withdrew the amount and gave it to my brothers. The account was in his name only. He started telling bad things about me to my brothers after I demanded the loan amount of Rs. 60,000/- and obtained the amount of Rs. 15,000/- from him, by saying that I never paid attention to the business, inspite of our agreement that I would be only providing capital and he would be looking after the entire business. He did not give me any profits for the three years from 2003 to 2006. His father is addicted to liquor and charas, does not do any work and roams around in our locality. His grandfather used to do the work of matka. His brothers have criminal record and his 2-3 younger brothers are involved in robbery cases, because of which police used to visit their house. I knew this before my arrest in this case. He had illicit relations with my friend Mohd. Shahid's sister. Mohd. Shahid and his family members had once beaten him, because he had gone in their house late at night. When I came to know this, he told me to quarrel with Mohd. Shahid, but I did not help him. Therefore, he was not helping me and we had quarrels many times. The capital that I had invested in that business is totally lost.

5. My daily routine from 1999 to 2005 was of going to the shop at 8.00 a.m. and work upto 10.00 p.m. I never went out of Kolkata and Hindustan during this period. All my relatives are in Kolkata and none of them are outside Kolkata or Hindustan.

6. Mohd. Shahid, Mohd. Ashpaq, Mohd. Shamim, Tayyab, Noor Alam are my childhood friends. I do not have any other friends. I was in my shop continuously during July 2006 and never went outside Kolkata as per the diary. On seeing the diary I say that I was in my shop on 8th and 09/07/06 (Sunday) from 8.00 a.m. to 10.00 p.m. as the account is written by me. I went to the house of my brother-in-law Noor Mohd. after closing the shop at 10.00 a.m. on 09/10/06, to see the final of FIFA World Cup football, as I used to play and I am a fan of football. I remember that in that match a French player had been shown a red card as he had hit an Italian player by his head. I saw the match till late night and slept there. 10/07/06 was a Monday on which day our entire market used to be closed so as to facilitate cleaning the shop and repairing shutters. I returned from my sister's house at about 1200 noon on 10/07/06 and did the repairing work of the shutter of the shop in the afternoon upto 4.00 p.m. and returned home in the evening. There are no entries in the diary on Monday, but the date and the day is struck off. I attended the engagement of my brother's daughter in the evening on that day.

7. I went to the shop at about 8.00 a.m. on 11/07/06 as usual, was there upto 1.30 p.m., went to my house for lunch, was there upto 5.00 p.m. for rest, went to the shop at 5.00 p.m. and was there upto 10.00 p.m. I came to know in between 7.00-8.00 p.m from people in the market that there had been blasts in the trains in Bambai. I felt sad and when I returned to my house at 10.00 p.m., I took my mother with me to my room and saw about the blasts on the TV. We slept after having food. I was continuously in my shop as usual from 11/07/06 till my arrest and whenever I took leave from the shop, I took it for taking my wife to a doctor, because she was pregnant at that time and also for taking my mother to the doctor. She was 75 years of age, having many diseases and used to stay with me. The diary of 11/07/06 shows payments made to my brothers, Rs. 700/- to the worker Mahesh and Rs.500/- that were taken by me for my expenses.

8. I had gone to the market in the afternoon on 12/07/06 for making collection of my shop. I purchased goods worth Rs. 600/- about which I made entry in the diary. I took Rs. 520/- for myself. All these entries are in my handwriting. I had obtained a policy of ICICI on 11/07/06 from the son of the adjoining shop owner of the shop Golden Footwear, who does that work. I had given the amount of the policy to him on that day.

9. I was at my shop on 28/09/06. The ATS picked me from my shop with the help of local police and took me to the Narkildanga Police Station of that area. I asked them why they have picked me up, but they did not tell me anything and did not call any panch witness or prepare any panchanama before me. I was illegally detained on that day. My family members, friends and people of our locality gathered there after some time and asked the reason about picking me up illegally, but instead of telling them any reason they were lathicharged. I asked the officer why they are doing this and they should stop it. The ATS officers were Vijay Salaskar and Phadke and some constables, whose names I do not know. I was then

taken to a big officer on the Lord Sinha Street by the side of Sakhawat Memorial Girls High School. I asked the officer why I was picked up and told him that I have no hand in any criminal activity and I was told before being brought to him that they would inquire with me about some people and then release me. The officer inquired about my name, address and family members and started asking me whether I knew anything about jihad and whether I knew SIMI or any SIMI member. I said no and told him that I came to know these names for the first time. He asked me whether I knew about the bomb blasts that had taken place in Bambai on 11/07/06. I told him that I know it as I came to know of it from the TV. I repeated that I have no criminal record and have not done any crime and asked him to tell the officers to release me. He said ok and asked me to sit outside and I thought that I would really be released. An officer came outside after some time and told me that the two officers had come from Bombay and I have to go with them. I refused to go and told them to call my family there and to keep all these things before them and if they say then I would go.
(Adjourned as court time is over).

Date : 09/07/13 Special Judge

Date : 10/07/13
Resumed on SA

10. I was taken to the airport late in the night and kept handcuffed in an Indica car outside the airport. I was taken to Bombay on the next day by the flight of about 10.00 a.m. and taken to the Bhoiwada lockup. I and three veiled persons were produced before judge Thipsay in the Sewree court on that day. He called me in the dock and when he asked me whether I want to say anything, I told him that I am innocent, that police did not tell me why they caught me and that they informed my family about bringing me to Bombay. The judge told me that if I have not done anything I will be released. He has written all these things in the roznama of 29/09/06. I was taken back to Bhoiwada lockup. Two persons came to meet me on 30/09/06 and said that they are from the Human Rights Commission. I told them that I am innocent, that police have caught me and brought me there and requested them to do something, that I have no criminal record and I was not told why I was brought there. They started asking me the same questions that were asked by the senior officer at Kolkata and I gave the same answers. They asked me whether I am associated with any organization. I told them that I am a common man and they can know about me by inquiring in my locality and with my relatives. They told me that they would make as much efforts as possible and to have patience and seek the blessings from Allah. I was produced before ACP Tawde in the evening on that day. He made me sit at his feet and started beating me by feet. I asked him why he was beating me and he told me that I would soon come to know about it. When I started arguing with him, he called 2-3 constables, handcuffed my hands behind me and by making me lie down on the floor started beating me by belt on my back and legs. This continued for many hours. Officer Phadke came with some constables in the same night and took me to the office of Vijay Salaskar at Kurla.

11. PIs Phadke and Alaknure with their staff questioned me on 01/10/06 about matters in respect of which I had no knowledge. They asked me as to when I had gone to Pakistan for training and when I had gone to Bangladesh. I told them that I had not gone out of Kolkata and I do not know about all these things. They said that I would soon know what I have done. They removed all my clothes and made me lie on a bench, handcuffed my hands below the bench, two persons sat on my back and legs and the others started beating me by belt on my legs and continued beating for a long time, after which I fell unconscious. After I regained consciousness, they asked me to stand on a stool and jump on the floor. My legs had swollen because of the beating. The two officers then started telling me the story that they had prepared. They told me that I had crossed the border and gone to Bangladesh and had brought some Pakistanis with me and those persons are involved in the Mumbai train blasts. I told them that I had not done any such things and that they are making false allegations. They took my statement till late night.

12. I was handcuffed to a window and made to stand there for the whole day on 02/10/06 and not allowed to sit for even a minute. Sometimes they used to ask me to take the posture of a stool and then used to give weights in my hands. I felt giddiness and was not able to even sit in the bathroom. I was taken for medical examination, but no treatment was given and my thumb impression was only taken. An officer came to meet me on 03/10/06 in the Kurla office. He was talking in Bengali and told me that he had come from Kolkata. He told me that both my shops have been closed and some of my brothers have been arrested and they are calling my wife everyday to the police station and after talking with her for 3-4 hours they are allowing her to go and that she has my daughter with her. I told him that I am innocent, that since he stays in Kolkata he must be knowing about me and if he does not know, he should make inquiries in my locality, with my friends and relatives. I requested him not to trouble my family members and to take me from there.

13. I was observing roja on 04/10/06. Vijay Salaskar tortured me heavily on that day to the extent of giving electric shocks to my private parts after making me naked. This type of torture continued for many days, sometimes in the morning, sometimes in the afternoon and sometimes in the evening. PIs Phadke, Alaknure and Dalvi tortured me heavily on 07/10/06. My clothes were removed and I was handcuffed behind the back, blindfolded and veiled. I was heavily beaten by hands and legs and sticks. This went on for one or two days. I was taken to the Bhabha Hospital on 11/10/06, before which I was threatened not to say anything there or else they would beat me more after coming back. My thumb impression was obtained and my face was not shown to the doctor by removing the veil. The doctor did not examine me. The medical report that was produced by the prosecutor does not show that my veil was removed. They repeatedly took my statements till late night upto 12/10/06 after coming back from the Hospital. Vijay Salaskar called me in his office on 13/10/06 and told me that I will be produced in the court on that day and that I should not say anything to the judge and if I say anything they would bring me back there and torture me and if my family comes in the court, they would forcibly pick them up. I was produced before this court before madam Bhatkar. A constable was standing behind me and repeatedly saying that I should

not say anything, therefore, I could not tell the judge anything because of the fear. The judge remanded me to police custody for 14 days. The ATS people did not allow me to meet my family members and I was taken back to the Kurla office. My health was bad because of the beating and lack of sleep when I got up from sleep on 14/10/06, therefore, I was taken to the hospital. Many checkups were done in the hospital on that day. I told the doctor about the reasons of my bad health, but the doctor did not write anything because of the presence of the ATS officers and on their say. I asked the ATS officer as to why I was medically checked and he told me that my narco test is to be done. I asked him what it is. He told me that a person speaks the truth during narco test. I told him that if this is the case they would come to know that I am not involved in the crime. Officer Alaknure and the constable with him started laughing on hearing me say this. I was then taken to the Kalachowki ATS office, kept in a small soundproof room. A Punjabi officer Jaijeet Singh came to meet me, made me sit near him and on his asking I told him about my entire life. When I finished, he told me to say something more that would sound good to his ears. I told him that I do not know anything more than what I said. Thereupon he said to Alaknure, who had come with me there, that he had not looked after me properly and therefore, I am not telling the truth. He sent a constable and called many hawaldars and constables and told them to open me up. They removed all my clothes, handcuffed me behind, made me to sit on the floor, tied ropes to my both legs, a constable sat behind me holding and pulling my hairs and two constables pulled the ropes tied to my legs. It was intolerable for me when they pulled more. They were beating me on my legs with sticks and belt. I cried and begged for mercy and then they left me. I told them that I am ready to do whatever they say and I should be released from there. I was tortured similarly by taking me there for two days.

14. Alaknure came in the morning on 17/10/06 and said to me that he was taking me to Kolkata for roaming. He took me to the airport and from there to Bangalore. I asked him why I was taken to Bangalore though he had said that he was taking me to Kolkata. He said that I would be released after the narco test. I was kept in a lockup there and not allowed to take food in the night. I was taken to a hospital on the next day, but it was not done on that day though I was kept sitting in the vehicle outside the hospital for the whole day. Same thing happened for three days. Alaknure took me inside the hospital on 20/10/06 for narco test before a lady doctor. He told me before going inside that I should do as per the instructions of the doctor. Saline was administered to me and some injection was put in it. I told the lady doctor that I had not committed any crime and that she should help me. She told me that they know everything and I should do all the things as she says. I felt like being intoxicated after some time and the doctor asked me to say some things. She told me to say that I had gone to Bongaon border and had brought some Pakistanis from there to Kolkata. I told her that I had not done this thing and would not say it. A cameraman was standing on my right side and recording everything in camera. He slapped me and my earlobes were pinched by pliers when I refused to say as she stated. I kept on refusing to say the things she told me. She then told me to say that I had not gone to the Bongaon border and that I had not brought Pakistanis from there. I repeated these things. I was taken outside and made to lie down on a bench. At that time the saline was going on. I wanted to go

to the bathroom after some time and they took me to a bathroom inside the room where my narco test had been done. I saw a bearded person lying there being tortured in the same manner as I was tortured. His condition was so bad that he had vomited on the entire floor. I realized during the judicial custody that the said person was the accused no. 13.

15. I was brought back to the office of Vijay Salaskar and was shown a CD of my narco test and Salaskar said to me that I had told the truth. I told him that I had not said any such things. The CD shows that the negative statements that I had made were converted to positive statements. I was beaten and tortured when I started arguing about it and I was asked to sign on some written and blank papers. When I refused to sign, Salaskar threatened that he would bring my wife and child there within two hours and molest her before me. I was not in a position to bear anything more because of the mental and physical torture till that time, therefore, I signed on all the papers.

16. PW-141 has given false evidence that I had come to Bombay for touring in 2004. I was forced to sign during police custody on the register produced by him. I do not know the persons whose names are written in the register as my friends. I was kept in the Kurla office for about two days and then taken to the Bhoiwada office on 23/10/06. PI Alaknure and a constable came in the morning on 24/10/06 and took me somewhere to a DCP. I was kept outside the office. Alaknure went inside and came out after having a talk for about one hour and told me to do as instructed by the big officer inside, otherwise I know what bad things they can do to me. The DCP made me sit in front of him when I was taken inside, asked me my name, address and family members and asked me to sit on a stool. He wrote for about one hour from a paper that was in front of him. He phoned and called an officer inside when he was finished and told me to go with him. The said officer took me to a police station and put me in the lockup. I was again produced before the DCP on the next day, i.e., on 25/10/06, on which day there was a Eid. The DCP similarly asked me to sit on a table at some distance from him and kept on writing from papers for about 2-3 hours. He called me near him when he finished and asked me to sign. When I refused saying that it is written in Hindi, that I do not know Hindi, that I do not know what is written in it and would not sign it, the DCP told me that there is nothing in it except about the two days that I was in his custody. I was not ready to sign even then. He started forcing me and shouting at me and came near me and beat me and threatened that if I do not sign, I do not know who he is and I would suffer more than what I had suffered upto then. He said that if my brothers come to meet me in the court, they would kill them in encounter. I was already frightened and could not bear any more trouble to my family, therefore, I signed on all the papers that he gave me. He then called the same officer inside and I was made to sit outside for some time. The officer came out after 10 minutes and took me to someone's house at Kurla, who I do not know. I was taken to the first floor, the person was in civil dress, he just looked at me and asked me to go. He did not say anything to me and nothing was read over to me and my signature was not taken anywhere. The officer took me back to Kurla office and gave something to Alaknure and left. I was taken to Bhoiwada office in the late night and locked there.

17. Alaknure and constables produced me before this court on 26/10/06. They had threatened me in the vehicle not to tell anything to the court. My mental and physical condition was so bad that I could not say anything in the court and also as a constable stood behind me repeatedly telling me not to tell anything to the court. I was then put in Byculla jail.

(Adjourned for recess).

Date : 10/07/13 Special Judge

Resumed on SA after recess

18. I was medically examined in the morning on the next day and I told the medical officer about my physical problems, that my thighs were swollen because my legs were stretched 180 degrees and I also showed the swellings on my legs because of the beating by stick. I had obtained a copy of the medical report under the RTIA and it is at Ext.2199. I was transferred to Arthur Road jail in the night on the same day and kept in the high security barrack. Many officers of the ATS came to meet me there after 1-2 days. They were Raghuvanshi, Sachin Kadam, Alaknure and Vijay Salaskar. They used to meet me in the room at the backside of the office of Swati Sathe and turn by turn used to persuade, threaten, allure and force me to become approver. They told me that if I do not do so I will languish in jail for many years and if I co-operate with them, they would soon remove me from the case. Swati Sathe used to be present during these meetings and used to say to me that if I do not listen to those officers, she is my parent in the prison and will do whatever happens to me in the prison. The officers also threatened that if I do not listen to them, they would involve my family members in false cases.

19. I was produced in this court on 09/11/06. I informed the judge about all that had happened during police custody and the judge told me to tell it to my advocate. I said to judge Bhatkar madam that I had not given any confessional statement during my police custody, that ACP Patil had not interrogated me during police custody and I had not stated to him that I want to make a voluntary confessional statement. I got an application written from my advocate about torture, etc., during police custody and gave it to the court and it was marked as Ext. E. It is the same now shown to me, it bears my signatures and its contents are correct. (It is marked as Ext. 4146). The medical certificate about my injuries is at Ext. 2200.

20. I had sent an application from the prison on 08/03/07 to this court, which was given MA No. 62/07. I sent a copy to the High Court. I complained to the court several times against Swati Sathe. Therefore, she was always upset with me and on the say of the ATS she made a false alarm case against us in 2008 and transferred us to different prisons. We were sent back to Arthur Road Prison after 15 months after the order of the High Court.

21. I never participated in any crime against the country and I am innocent. I had never seen any of the co-accused before judicial custody, did not know them and had no contact with them before my arrest. Mohd. Shakil, PW-70, has falsely involved me in this case to capture my business and he has done so during the last seven years. I never went with him to Bongaon border. He was my business partner and it is false that he was my friend. I know him since 2003 only. He is a police informer, his brothers are criminals and in collusion with the police he has

involved me in the false case. My confessional statement is taken by force and is false and whatever is stated in the confessional statements of co-accused against me is also false. I have no concern with this case. I was in Kolkata before the blasts and even after the blasts. I was married one year before my arrest. My family members are troubled because of my false arrest and my wife has started suffering from many diseases. Mohd. Shakil has falsely stated that I had brought Pakistanis from Bongaon and kept them in my house. The women in my house observe pardah and therefore no outside persons come in my house including friends of my brothers. The ATS has defamed me and my family members by falsely involving me in this case and till today my family members are being put to physical and mental trouble. I gave evidence as I am falsely involved in this case and I pray that justice should be done.

Cross-examination by SPP Raja Thakare for the State

22. I have full faith in this court. I have given many applications to this court, out of which most are in my handwriting and some are got written from the co-accused. The written submissions with my statement u/s 313 are in my handwriting. All applications are in English. It is not true that I talked in Hindi with judge Thipsay before whom I was produced for the first time. Witness volunteers- Hindi and Urdu are similar when talked. It is true that I have interacted with this court in Hindi. It is not true that I gave my evidence before this court in Hindi. Witness volunteers- It was in Hindi and Urdu. My advocate asked questions to me in Hindi. I again say that he asked in Hindi and Urdu. It is true that I did not say in respect of any question asked by him that I did not understand it. It is not true that you also asked questions only in Hindi. They were in Hindi and Urdu. It is not true that I know Hindi and English well. I can understand if anyone talks with me in Hindi. Witness volunteers- but not fully. I ask a person to explain what he is saying if I do not understand what he is saying. It is true that I did not tell you, my advocate or the court during my entire evidence that I do not understand what they are saying. Witness volunteers – I had stated before the judge in 2007 at the time of framing charge that I did not understand the words that were said by the judge and Bhatkar madam had said that the charge would be explained to me on the next day.

23. I will try to state whether any word in the sentence that you read out to me is in Urdu. (Learned SPP reads out the sentence 'Main police upa ayukta yane DCP hu, kya aap ye jante ho'). The words 'main' and 'jante ho' are also used in Urdu. I do not fully understand the meaning of this sentence. I understand the meaning of the words 'main', 'police'. I do not understand the meaning of the words 'upa ayukta', 'yane', 'DCP'. I do not know the full form of DCP. I understand the meaning of the words 'hu', 'kya', 'aap', 'jante', 'ho'. (Learned SPP reads out the sentence 'tumhara naam kya hai aur kya karate ho. Tumhari padhai kahatak aur kaunsi bhasha main hui hai'). I understand the first sentence, but I do not understand the word 'bhasha' in the second sentence. (Learned SPP reads out the sentence 'kya police ne tumhe maarpit ki hai'). I understand it. (Learned SPP reads out the sentence 'kya police ke kisi admi ne tumhe daraya dhamkaya tha, ya koi lalach di hai'). I understand it. (Learned SPP reads out the sentence 'kya police ke kisi admine tumhe bayan dene

ke liye, kes se bahar nikalne ka ya saja kam dilwane ka ya sarkari gawah banwane ka wada kiya hai'). I understand it. Witness volunteers- I did not know the meaning of 'sarkari gawah' at that time. (Learned SPP reads out the sentence 'tumhe bayan dene ki jaruri nahi hai'). I understand it. (Learned SPP reads out the sentence 'ya bayan dene ki jabardasti nahi hai'). I understand it. (Learned SPP reads out the sentence 'aur firbhi tumne bayan diya to wo bayan adalat main sabut ke taur par tumhare khilaf laya jayega. Kya tum ye jante ho'). I understand it. (Learned SPP reads out the sentence 'tumhe bayan dene se pehle sochne ke liye chobis ghante ka samay deta hu'). I understand the sentence, but except the word 'samay'. (Learned SPP reads out the sentence 'is dauran tumhare upar tumhe pakadanewalo ka ya jaach karne waloka koi dabaw nahi rahega'). I do not understand the word 'jaach'. I know that 'time' is 'waqt', but I do not know that 'samay' is 'waqt'. It is not true that I understand Hindi as it is spoken and can reply properly to what is said in Hindi.

24. It is true that other than this case there has been no police case against me in Kolkata. I was not acquainted with any police person before this case. I have not lodged any complaint against any person before this case in Kolkata. It is true that I have had no concern with any police anywhere before this case. I had not heard of ATS police before this case. I was not acquainted with any of the ATS officers before this case. I had no quarrel or confrontation with any police anywhere.

(Adjourned as court time is over).

Date : 10/07/13 Special Judge

Date : 11/07/13

Resumed on SA

25. I can speak and understand Bengali language. The word for 'language' in Bengali is 'Kautha'. I do not know whether it is also 'bhasha'. I watch TV. I do not watch Hindi serials. I have seen Hindi cinemas sometimes. It is true that I did not get good marks in Bengali language subject.

26. I, my mother and brothers do not have a joint family. It is true that the shoe shops are from the time of my father. I am the youngest amongst brothers. The three elder brothers used to look after the business with my father. We purchase shoes from the market and also get them prepared from some shoemakers. We do not have factory of preparing shoes. The business of both shops is sufficient to maintain the families of all brothers, but it is not a very good business. It is true that the business of both the shops is of all brothers. There is no partnership agreement between us, but the brother who is present on a particular day at the shop, gets his share of profit of the day and it is not that all brothers share equally in the profits. It is true that the profit remaining after giving Rs. 100/- to my mother and deducting the expenses of the shop, including salary of employees, is shared equally between the brothers who had worked on a particular day in the shop. My two brothers also have additional income from their autorickshaws. One brother also has additional income as he supplies shoes and chappals to other shops during his free time. I used to get additional income by driving the autorickshaw of my brother on Mondays, if I got the time. It is true that business of both the shops is being done continuously since 2006.

27. I got acquainted with Mohd. Shakil, PW-70, in 2003 in my mohalla. He did not have a shop or workshop at that time. I do not know whether he knew about our two shops before he met me. I do not know whether he is older than me. He approached me first in the mohalla. He made an offer to me to start a business as he thought that I am a moneyed person. It is not true that I was not properly doing the work in the shop, therefore, I was not earning properly and was in need of money. I had no knowledge and experience about the spectacles business. He had taken me to the market and showed me the places from where the glass is to be purchased and had told me how to manufacture optical glasses. I had inquired before investing my capital at the place of his work in a factory and had come to know that he did the work properly. I came to know when we started the business as to where he stays and where he works. I came to know that he had illicit relations with my friend Mohd. Shahid's sister and used to go to Shahid's house in the night, because of which Shahid's father had beaten him many times. It was my view that this was a personal thing and not concerned with business. It is not true that I had no complaint against him about the business upto two years after we started the business. Witness volunteers- Whenever I asked him about profit he told me that there is loss in the business, but he is collecting the money and I will get it soon. I knew him only by face before he approached me, as he was residing in the same mohalla. We did not prepare any document of agreement about the business. He was not doing any business before doing business with me, but was working in a factory. Therefore, I did not see any document about his previous business or income. It is not necessary that my elder brothers had more experience and knowledge about our business. I had taken loan from my brothers for the business with Mohd. Shakil. It is true that he had no direct concern with my brothers in respect of the repayment of the loan. My brothers did not obtain any document from him as they had given the loan to me. My relations with him were strained after 4-6 months after we started the business.

Q. Did you not feel it necessary to stop business with him after your relations were strained after 4-6 months?

A. He had purchased a machine and had taken a room on rent for doing the business out of the capital that I gave him, therefore, I could not do anything. He shifted the machine to his house after a year and started operating it there. It is not true that I was at his house when police came to take me. It is true that after one year I did not take any legal action against him and did not send him any notice after he had shifted the machine to his house. It is not true that thereafter also he was giving me some money from time to time. He was going to return the capital money to me. I came to know in 2006 when I saw his account, that he had collected some amount. It is not true that I had not seen the accounts of the business from 2003 to 2006. I got knowledge upto 2006 about the said business in respect of purchase of goods from the market. He told me that the factory where he had been operating the machine was closed, therefore, he had taken it to his house. Therefore, I did not feel that the machine should go back to the earlier place or that I should take it and do the business. Witness volunteers- when I told him to operate the machine in some other factory, he said that it will require more money and he is saving money by operating it from his house, which will facilitate early repayment of the money. He used to inform me whenever asked, that there is a

profit in the business, but not much. It is not true that my brothers did not complain against him. It is not true that he has stated the truth about me, therefore, I have made false allegations against him.

28. I was not able to write all the details in my application that I gave on 09/11/06. It is true that therefore I filed MA 62/07 in respect of whatever had happened to me during police custody. It is true that I have not mentioned in the application dated 09/11/06 and in MA 62/07 about the two shoe shops and maintaining a diary. It is not true that I was only doing optical glasses business and I had no concern with the shoe shops. It is true that the diary is important for me in respect of the allegations that are leveled against me. It is true that I have not produced any diary of any period prior to 2006. It is true that I said no when this court asked me the question during my statement u/s 313 of the Cr. P. C. as to whether I want to give evidence on oath. I examined my brother DW-23 to prove the diary. I do not know whether he has not given evidence about every individual entry. It is not true that I did not give evidence about every individual entry. The market in which our shops are, remains closed on Monday. It is not true that no diary is written on any Monday. Witness volunteers – the shop is open during ramzan and Durga puja. It was a Sunday on 09/07/06 and Monday on 10/07/06. The month in which Durga puja is performed varies. I cannot say whether it is in September or October. It was in September in the year when I was arrested. It is true that ramzan and Durgapuja did not come in February in 2006. (Learned SPP asks the witness to see the page dated 20/02/06 in Ext. 4144). It is true that it was Monday on 20/02/06. It is not true that the accounts of business of that day are written in it. Witness volunteers- the account is of 19/02/06, we forgot to cut the date 20/02/06 and write 19/02/06, the date 19/02/06 is written in Urdu. It is true that it was Monday on 24/07/06. Witness volunteers- the account is of 23/07/06, we forgot to cut the date 24/07/06 and write 23/07/06, the date 23/07/06 is written in Urdu. It is true that the words '24th July' are written by pen on the top of that page. It is true that the word 'Monday' on 10/07/06 is struck off and written 'Sunday'. It is true that the date 18/09/06 is struck off and 17/09/06 is written and the word 'Monday' is struck off and written 'Sunday'. It is true that in the page of 18/09/06 the account of Monday 18th and Tuesday 19/09/06 is written. It is not true that the entries in the diary do not show that they were made contemporaneously. It is true that I have not produced any documents of account that are required to be submitted to the Government. It is not true that the diary is false and prepared later on. It is true that there is no account after October 2006 in the dairy.

29. It is true that I have not cited or examined the person from whom I took the policy of ICICI. I have not produced any document in connection with the policy. Witness volunteers – They were in my purse and I do not know where the ATS people have thrown them. The engagement of daughter of my elder brother Mohd. Shakir had taken place on 10/07/06. I have not examined him as my witness to show my presence on 10/07/06. I have not cited or examined Noor Mohd. to prove that I was in his house on 09/07/06. It is true that I have not produced any evidence to show that I had repaired the shutter of my shop on 10/07/06.

(Adjourned for recess).

Date : 11/07/13 Special Judge

Resumed on SA after recess

30. I did not pay income-tax. Our shops were not registered for sales tax upto 2006. I do not know about the present position. I cannot say what was the monthly turnover of our shops. It is not true that I did not work in the two shops and did not maintain accounts, therefore, I do not know about the turnover. Our shops have licence under the Shops and Establishments Act. My name is shown as owner with my brothers in the said licence. I have not produced it.

31. It is true that I was taken to the hospitals many times during police custody. It is true that police have produced the medical papers about my examination, but I do not know whether they are complete. I do not know whether all those doctors have given evidence. I heard the evidence of DCP Phadtare who had recorded my confessional statement. I have engaged an advocate. He is provided by the sanstha, i.e., tanzeem by name 'Jammiat-e-ulma'. It is true that all my co-accused are provided advocates by the same organization. I have no complaint against them. I have full faith in the advocate who is defending me. My father-in-law is an advocate. It is not true that he is a renowned advocate. He is a civil lawyer. He has come to Mumbai many times in connection with this case.

32. It is not true that I am a participant in the conspiracy of this crime, that I have done the role assigned to me of crossing Bangladesh border and bringing wanted and absconding Pakistani accused in India, that I have given my confessional statement voluntarily before the DCP and he has recorded it as per the law by following due procedure, that I have made false allegations of torture against the police officers as per the Al-Qaida manual used by terrorists, that I said no to the question u/s 313 of the Cr. P. C. asked by this court as to whether I want to give oral evidence, because I knew that I would be falsified if I gave oral evidence and that I gave evidence on the instigation of my co-accused especially accused no. 2 and 4.

No re-examination.

R.O. (Y.D. SHINDE)

SPECIAL JUDGE

Spl. Judge UNDER MCOC ACT,99,

Date:- 11/07/13 MUMBAI.