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M.C.O.C. SPECIAL CASE NO. OF 21/06

DATE: 27TH JULY, 2012

Ext. 2928

DEPOSITION OF WITNESS NO.4 FOR THE DEFENCE

I do hereby on solemn affirmation state that:

My Name : Shaikh Hazrat Ali
Age : 42 years
Occupation : Private Service
Res. Address : Room No.2, 9/T, Plot No. 33, Shivaji Nagar,
Govandi, Mumbai-43.

Examination-in-chief by Adv Wahab Khan for A2, 7, 10, 12 & 13

1. I am residing at the given address since last 30 years. I was staying at the same address in July 2006 with my wife Rashidabanu and four children, viz., Zubair Ahmed, aged 16 years, studying in 8th standard, Junaid Ahmed, aged 13 years, studying in

5 7th standard, Ubaid Ahmed, aged 11 years, studying in 6th standard and Sadiqua, aged 7 years, studying in 3rd standard at that time.

The school timings of Zubair and Junaid were from 7.00 am to 12.30 p.m. The school timings of Ubaid and Sadiqua were from

1.00 to 5.30 p.m. My younger brother Shaikh Mohd. Ali also used

YAS 10 to stay with his family, i.e., wife Saidunissa, children Rizwana,

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aged 16 years, studying in 8th standard, Sohail, aged 15 years, studying in 8th class, Ammara, aged 14 years, studying in 7th standard and Zaid, aged 6 years. The school timings of Rizwana and Sohail were from 7.00 am to 1.00 p.m. in Urdu medium. The school timing of Ammara was from 1.00 p.m to 5.30 p.m. One more younger brother Muktar Ahmed also used to stay with us with his wife Zarinabanu. He was in private service.

2. Our house was 10 x15 feet in a chawl, ground floor plus first floor. Shaikh Mohd. Ali used to stay on the ground floor with his family and I and Muktar Ahmed used to stay on the first floor with our families. Shaikh Mohd. Ali is present in the court.

(Witness points to the accused no. 6 sitting in the dock). He is in custody in the 11/07/06 bomb blasts case. I was called by the ATS on 28/10/06 to make inquiry about Shaikh Mohd. Ali. 8th, 9th and 10th July 2006 was Saturday, Sunday and Monday. I was at my house on 08/07/06 with my family. My children returned to the house after attending half day school. Shaikh Mohd. Ali's children had returned from school similarly and they and his wife were at the house. Muktar's wife was also at home. All our three families

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were at home on 09/07/06 and 10/07/06. The children of both families attended their schools as per their usual timings.

3. Police had taken my statement on 28/10/06 at the ATS office, Kalachowki. It was written correctly as per my narration.

Cross-examination by adv Ashwin h/f Rasal for A1, 5 and 6

4. Declined

Cross-examination by adv Shetty for A/3, 8, 9, 11 and 12

5. (Id adv Shetty and Sharif submit that they be permitted to cross-examine the witness after the cross-examination by the Id SPP, if the witness gives evidence that is against their accused. For this purpose they rely on the law in the case of Ennen Castings Pvt. Ltd., V/s M. M. Sundaresh and others, reported in AIR 2003 KANT 293 and Pradhan Murlidhar Potdar V/s State of Maharashtra reported in 2005 MhLJ (2) 226. Id SPP Chimalkar submits that the matter be kept back as Id SPP Thakare is busy in CR No. 19. Hence, K. B.).

Date: 27/07/2012

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27/7/12
Special Judge

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Resumed on SA.Cross-examination by SPP Raja Thakare for the State

6. (Deferred as per the order below Ext.2929 till the defence examines wife of A6). (Learned advocate Wahab Khan submits that he is not going to examine Saidunissa, wife of A6). \

7. My brother accused no. 6 got married in 1986. It is true that his wife is of Uttar Pradesh and she came to Mumbai in 1991.

I am staying with my brother since his marriage. He did not remain away from the house for more than a day after his marriage. He

5 used to go for work every day at 10.00 in the morning and return at 1.00 p.m. Thereafter he used to remain in the house and not go

outside. His friends never used to visit our house. He did not use to go out of the house after 1.00 p.m. even for meeting his friends.

I have not heard the names of Abdul Kadir, Jamir Ul Hasan,

10 Noorullah, Abdul Hamid Konkani, Israt, Abdul Hamid Chaugule, Faruk and Saeed. I do not know the names of any of his friends.

8. He was called by Shivaji Nagar Police Station once, other than by the ATS, but I do not remember the year. It was after 5-6 years his marriage, i.e., probably in 1991-92. He was called as

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someone was running eight video parlors illegally on road no. 4. They were showing blue films. Therefore, my brother with the help of other people had closed the video parlors. Other than this occasion he was not called by any police station including ATS till his arrest.

9. I do not have passport. My brother does not have passport. I do not know whether he had taken a passport. He used to go to the nearby masjid. He had not gone for Haj or ziarat. It is not true that he used to go to the masjid on the Kurla Pipe Road. He did not go to Malegaon at any time. He does not know how to operate computer. I remember that I had read in the newspapers about the bomb blasts in Mumbai on 25/08/03. I know that there were bomb blasts in the western railways in Mumbai on 11/07/06.

Q. Did you or your brother had knowledge about the bomb blasts of 25/08/03?

(Learned advocate for the accused objects to the question about this witness knowing about the knowledge of the accused no.6. The objection is sustained).

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Ans: I did not have knowledge about the said bomb blast.

10. It is true that I stay with my brother since many years and he shares all things with me. He had not gone to the police station for giving information about the blasts of 25/08/03. (Learned advocate objects to the question on the ground that it concerns giving secret information to the police. Objection is overruled as the witness is stating about his knowledge of the activities of the accused). Police did not come to our house in connection with those bomb blasts.

11. My brother is also in custody in the case of Malegaon blast 2006. I do not know anything about that case. I do not know when he was arrested in that case. He was taken by the ATS on 14/07/06 and was released after one day. Witness volunteers - He was called 5-6 days thereafter by the Kurla ATS. He was kept in illegal custody from 27/07/06 to 27/09/06. I used to go to the Kurla ATS office as officers used to call me to meet my brother. The officers used to tell me that my brother would return on the next day. He was mentally and physically tortured. I was also threatened that if my brother does not accept the responsibility I

would also be involved in the case. The ATS officers used to come to the house at any time for search. I had given in writing about it to officer Kamble at the Kalachowki ATS office. I was not allowed to meet him at the Kalachowki office and I was asked when I had gone to Malegaon. I had asked officer Kamble to write that my brother was illegally detained for 58 days. At that time he said to me whether I wanted to get him killed in encounter at the hands of PI Salaskar. (Witness volunteers ends).

12. I know about the allegations against my brother in this case. He is falsely involved in this case. I do not know what allegations the police have leveled against him in this case. I attended the court dates once in 3-4 months when he used to be produced. I had gone to the court on the 3rd day after his arrest. We had not engaged any advocate for his defence. He had not asked the court to engage advocate for him. He used to be taken to the hospital before he was produced in court.

13. Police had come to my house after my brother was arrested. I do not remember the date. It is true that they had come on 29/09/06 with my brother. They had come at about 9.00 p.m.

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They had taken something. They had taken a cooker. Witness volunteers- I had asked the officers why they are taking it and they told me that they would return it on the next day. At that time wife of the accused Saidunissa and his two sons Sohail and Zaid were in the house. His house is the same at 33, T/2. It is true that it is divided in two parts, one is the hall and one is kitchen. There is a bed and showcase in the house. It is a box type bed of iron. There is a door on the back side for going out. Unani medicines were kept in the showcase. There used to be clothes in the box bed. Police were in the house for about 2 hours. They did not find anything on the ground floor, but they took my cooker that was in use from the first floor. During the period of one and a half hours some police were standing outside, some were inside the house and they were writing something. No panchanama was prepared.

14. My brother has passed the S.S.C. He knows Urdu, Hindi and English. He signs in English. I will be able to identify his signature. (Learned SPP asks the witness to see the signature below Ext. 716). The signature at the end is of my brother. It is true that he had signed when the police had come.

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15. I have passed the H.S.C. I used to work as PRO in a private nursing home in 2006. The income of we all three brothers was sufficient to run our families. It is true that release of my brother is very important for me and our families. At that time we
 5 did not engage any advocate and did not take advice of any advocate. An advocate was engaged for the first time for my brother in October 2006. I was never called by the police in connection with his arrest. ATS had called me. At that time an advocate was engaged for my brother. I received the summons for
 10 coming to court yesterday. My brother's wife also got the summons. She got it at her house. I got the summons at my house where I stay now, which is at plot no. 33, line O, room no. 3. I am staying there since one year. It is not true that I did not used to stay at the address given by me initially. I came to know one
 15 month before that I have to give evidence in this case. My younger brother Munawar Ali told me that Shaikh Mohd. Ali had told him about it. I know what evidence was to be given. Witness volunteers- I was to give evidence about the truth and about the dates 8th, 9th and 10/07/06 and that he is falsely involved in this

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case. Nobody told me about these dates. It is not true that I do not know about the significance of these three dates. I do not know that I am called in the court to give evidence at the request of my brother. My brother has engaged advocate in this case. I gave evidence in the morning of whatever I wanted to tell in the court. I have no complaint against any court and this court. I was given full opportunity to state whatever I wanted to state.

16. My younger brother Munawar has failed in the SSC. He stays in plot no. 43 on rent. I do not know Sagir staying in Govandi.

17. It is not true that I deposed falsely to save my brother.

Cross-examination by Adv Sharif Shaikh for A4

18. Declined.

Cross-examination by adv Shetty for A/3, 8, 9, 11 and 12

19. Declined.

No re-examination

R.O.

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Spl. Judge
Date:- 27/07/12

Y.D. Shinde
27/7/12
(Y.D. SHINDE)
SPECIAL JUDGE
UNDER MCOCA ACT, 99,
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