

M.C.O.C. SPECIAL CASE NO. OF 21/06DATE: 28TH AUGUST, 2012Ext.3081DEPOSITION OF WITNESS NO.23 FOR THE DEFENCE

I do hereby on solemn affirmation state that:

My Name : Mohd. Sajid Mohd. Shafi
Age : 48 years
Occupation : Business (shop)
Res. Address : 17/2/8/6, Canal West Road, Kolkata-9

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

1. We are seven brothers. Mohd. Majid is my brother. He is sitting in the dock. We all seven brothers live in separate rooms in one building with our families at the same address. My mother also resides in the same building in a separate room. We all seven brothers run two chappal shops that are near each other. I, my brothers Mohd. Majid and Mohd. Wahid work in one shop and other four brothers work in the other shop. We open the shops at about 8.00 a.m. and close them at about 10.00 p.m. The shops are closed on every Monday. We used to maintain a diary in Urdu and English about the financial transactions and sales of the shop. I will be able to identify the diary of 2006. (Learned advocate asks the witness to go through the diary produced along with the application Ext. 2959).

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The diary is the same. The diary used to be maintained by Mohd. Majid and whenever he used to be on leave, Mohd. Wahid and sometimes I used to write it. Most of the entries of 07/07/06 are in the handwriting of Mohd. Majid. The entries of 08/07/06 are in the handwriting of Mohd. Majid and Mohd. Wahid. Most of the entries of 09/07/06 are in the handwriting of Mohd. Majid. 10/07/06 was a Monday. The entries of 11/07/06 are in the handwriting of Mohd. Majid and of Mohd. Wahid. The entries on the right side of 11/07/06 are about expenses and money taken by us. Right side entries on all dates are similar. The entries on the left side and in the middle on all dates show the sales.

2. Mohd. Majid was married in June 2005. Mohd. Ashpaq, Shamir, Tayyab, Shahid, Shamim, Noor, all residents of our mohalla, are friends of Mohd. Majid. Mohd. Majid knows Urdu and to some extent English. He had started a spectacle manufacturing unit in partnership with one person by name Shakil, who was the labourer who used to prepare the spectacles. He took money from me, which he invested as capital, saying that Shakil would look after the manufacturing unit and he would look after the marketing.

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3. In view of the entries in the diary in his handwriting, Mohd. Majid was at the shop on 09/07/06 and I remember that in that night he had gone to my sister's house for watching the world cup football final match. He had repaired the shutter of our shop on 10/07/06. In view of the entries in the diary in his handwriting, he was with me in the shop on 11th and 12/07/06. All our relatives reside in Kolkata.

Cross-examination by Adv Sharif Shaikh h/f Wahab Khan for A2,
6, 7, 10, 12 & 13

4. Declined.

Cross-examination by adv Sharif Shaikh h/f Shetty for A1, 3, 8,
9, 11 and 12

5. Declined.

Cross-examination by adv SPP Raja Thakare for the State

6. (PI Mohite informs that Id SPP is busy in CR No. 55 in connection with the arguments about sentence in an MCOC case and would not be able to come upto 5.30 p.m. and Id SPP has requested to keep the matter tomorrow. Hence, adjourned).

Date: 28/08/12

Y.D. Shinde
28/8/12
(Y.D. SHINDE)
SPECIAL JUDGE

Date : 29/08/12
Resumed on SA.

7. I have come to Mumbai many times before today. I had come to meet my brother Mohd. Majid on 2-4 occasions. I have no relatives in Mumbai. Some relatives of Mohd. Majid's wife are in Mira Road where I have halted now. His wife has also halted there. We have halted there for the first time. Before that I used to halt at the Sabu Siddhiqui Musafirkhana in Crawford Market, near Haj House. I used to pay Rs. 200/- or 300/- as rent per day. It is true that the Musafirkhana is of our community. I do not know whether people of our community only stay there.

8. Mohd. Majid's wife is Farzana. I do not know whether theirs is a love marriage. Mohd. Majid is younger to me. His father-in-law is an advocate. He might have come to Mumbai many times after his arrest. I have good relations with the in-laws of Mohd. Majid. I did not have any discussion with his father-in-law about his arrest. I had told his father-in-law that he is innocent. However, I did not tell him to make efforts to get him released as early as possible. I did not engage any advocate for him. I did not ask his father-in-law whether

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he is defending him in the case. I did not ask Mohd. Majid whenever I came to meet him at Mumbai whether he had engaged any advocate. He did not tell me to engage advocate for him and to do something for him.

Q. Whether you know that your brother has engaged an advocate?

A. Mrs. Farzana told me that I am called by advocate.

I did not send money to Mohd. Majid for his defence. Witness volunteers- my elder sister is looking after this matter.

9. It is true that we seven brothers do our business jointly and my elder sister is married and stays separate. I cannot say whether my other brothers come to Mumbai. It is not that I do not know what my brothers do and where they go. It is true that I used to tell my brothers about going to meet Mohd. Majid at Mumbai and they used to tell me about they going to Mumbai for the same purpose. I cannot say whether though we all brothers do business together and stay together, we have not made any efforts to send any money for his defence. I do not know whether any of my brothers have made any efforts to get him released on bail. I myself have not made any efforts to do so.

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10. My elder sister came to Mumbai on 3-4 occasions to meet Mohd. Majid, but not with me. I had asked her what she had done for getting him released. It is true that I have not provided her with any help for getting him released. It is true that no acquaintance of Mohd.

§ Majid or any independent person staying nearby has come for giving evidence on his behalf. I do not know whether no public record, authentic record or government record has been produced on his behalf.

11. I have not gone to school. Mohd. Majid took education in the Mohd. Jaan Higher Secondary School, Kolutola, Kolkata. He took education at Kishanganj in Bihar for one year by staying in a hostel.

§ He may be going for viewing movies. Our shops are by name Raja Footwear and New Star Footwear.

12. The Shakil to which I referred yesterday is Mohd. Shakil Mohd. Mehboob, who is his partner in a spectacle business. I cannot say whether Mohd. Majid had good relations with him. I do not have any relation with him. I had given Rs. 30,000/- and my brother Mohd.

§ Wahid had given Rs. 20,000/- to Mohd. Majid for starting the spectacle business. I did not get any money in return for the money

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that I gave. I do not know whether Shakil's three brothers used to stay in Delhi and used to work in Archies company in Noida.

13. Mohd. Majid never went out of Kolkata. I do not have a step-aunt by name Soni, whose husband has a cycle parts shop. I do not know Mohd. Aslam, Asgar and Mohd. Asif. I do not know whether Mohd. Asif is Mohd. Majid's friend and Mohd. Majid used to roam about with him. I do not know Mohd. Shakil, friend of Mohd. Majid, Mohd. Noor Alam. There are many persons by such names in our mohalla. I do not know Mohd. Majid's friends Mohd. Khurshid, Mohd. Faisal Alam and Mohd. Firoz. I know those friends of Mohd. Majid, who used to come to the shop for meeting him, about whom I told yesterday.

14. I cannot tell the distance of Darjeeling from Kolkata and I have not gone there. Mohd. Majid has also never gone there. I cannot tell the distance of Bongaon from Kolkata and I do not know where it is and I have not gone there. Mohd. Majid has also never gone there.

15. It is not true that I am deposing falsely that in July 2006 Mohd. Majid was at the shop. It is not true that Mohd. Majid has gone wayward and does illegal things, therefore, I do not maintain relations

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MCOB SPL NO. 21/06

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with him, that therefore, I did not make any efforts for getting him released by engaging any advocate or by giving any money for his defence, that therefore, I expressed my ignorance in reply to the questions that you asked.

No re-examination.

R.O.

YDS
Spl. Judge
Date:- 29/08/12

YDS Shinde
25/8/12
(Y.D. SHINDE)
SPECIAL JUDGE
UNDER MCOB ACT,99,
MUMBAI.

JW