

M.C.O.C. SPECIAL CASE NO. OF 21/06DATE: 4TH JULY, 2012Ext. 2857**DEPOSITION OF WITNESS NO.189 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Balu Baban Daundkar
Age : 53 years
Occupation : Service (Dy. Director, Forensic Science Laboratory,
Kalina, Mumbai)
Res. Address : B-10, 2/10, Siddhivinayak Society, Sector-8,
Sanpada, Navi Mumbai.

Cross-examination by Adv. Wahab Khan for A2, 7, 10, 12 & 13 as per

order below Ext. 2817

1. There is a format of forwarding letter for the police or other investigating agencies to send the articles to the FSL. They do not send copies of seizure panchanama. Specimen copy of the seal affixed on the forwarding letter is verified with the seal on the packet that is sent.

Q. Copy of label signed by panchas is required to be sent with the forwarding letter for comparing with the label on the packet?

A. The details of the labels on the packet are already mentioned in the forwarding letter and we compare it with the label on the packet,

i.e., CR No., police station. It is not necessary to send copy of label signed by panchas though there is a column in the forwarding letter. It is not compulsory for the forwarding authority to fill all the columns in the forwarding letter, because there is an alternative as the details are mentioned in the forwarding letter. We only verify the seal that is on the forwarding letter with the seal on the packet, though the seal may be of a different authority than that which sent the parcel. We do not verify about the date and the place from where the police have collected the articles.

2. It is not necessary to mention in the CA report the procedure that is followed for the analysis. It is not true that it is necessary to mention in the CA report the quantity of the sample that is received, the quantity of the sample that was used during the analysis and the quantity of the sample that was returned back. (Learned advocate asks the witness to go through Ext. 469). It is true that on going through this report I cannot say what quantity ^{was} used for the purpose of the analysis, how much was received and how much quantity was returned or destroyed. It depends on the quality and quantity of the sample as to what would be the minimum quantity of the sample

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Ext. 2857

required for giving the opinion mentioned in Ext. 469. One gram is sufficient for giving the opinion in Ext. 469. The remaining powder was returned to the concerned police station.

3. (Learned advocate asks the witness to describe the procedure that was followed for giving the opinion in Ext. 469). The sample that was sent and which is described in this opinion was a blackish powder. First we did the physical examination, i.e., quantity, smell and appearance. Then we did the organic extract by taking some quantity from the original exhibit. After that I extracted the powder in Acetone solvent. The acetone solvent was evaporated and made dry on water bath. Whatever residue I got is tested for various tests such as TLC test, HPLC test and GCMS test. Whatever residue remains in the funnel after the acetone extracts, is taken for aqueous extract. It is reduced to minimum quantity and then I performed the test of inorganic and explosive radical tests. I did different inorganic tests like chlorate, nitrate, nitrite, ammonium, sodium, potassium, sulfate, sulphide, sulphur, etc. Then whatever residue remained in the water extract, that residue is treated with NaOH. Then the solution that is obtained was concentrated and made minimum and tested for

aluminum, strontium and arsenic, etc. And the remaining residue in the funnel that remains after the NaOH extracts was used for burning test. In that we detected that there was charcoal in the powder.

4. I cannot say whether the company manufacturing RDX puts some chemical component in the powder to show their identity. The RDX that comes from factory is white crystalline powder.

5. We do not maintain any record in our office about the quantity of the sample that was returned. We have no authority to destroy any criminal exhibit. It is not necessary to mention in the CA report the date of starting the analysis of a particular sample and the date of

5 completion of analysis. It is true that it is not mentioned in Ext. 469. I

cannot say when and where the sample is required to be sealed by the police. (Learned advocate asks the witness to go through the forwarding letter Ext. 596). The original of this forwarding letter was received by my office. The impression of the seal was of the

10 Kalachowki Police Station and it was tallying with the seal on the packet. We returned the remaining sample to the concerned police

station in our laboratory seal. It is not necessary to maintain a record

10 of the quantity of the sample that is returned, therefore, we do not

maintain any record of it. We do not put any other ingredient or marker in the remaining quantity of the sample while returning it. If we receive the remaining quantity of sample again in the same packet in which we had sent it in a sealed condition, then we will be able to identify that it was the same sample that was sent earlier. If it is sent otherwise, we will not be in a position to identify. It is not true that we did not perform any test on the said samples, therefore, the commencement and completion timing are not mentioned in the report, that no sample was sent, that no forwarding letter was sent and the report was sent as per the dictates of the investigating machinery.

inferred over
signature

Cross-examination by Adv Sharif Shaikh for A4

6. (Learned advocates Shetty and Sharif Shaikh submit that the same witness has given many other reports in this case. Hence, they request for two days time to go through the reports and cross-examine the witness on 09/07/12. Learned SPP has no objection. Hence, deferred to 09/07/12).

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Date:- 04/07/10

Y.D. Shinde
4/7/12
(Y.D. SHINDE)
SPECIAL JUDGE

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MCOC SPL NO. 21/06

PV/ 189/6

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Ext.2857

Date : 09/07/2012

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

7. Declined.

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

8. (Adjourned to tomorrow as per adjournment application Ext.2860).

YD Shinde
a.m. 12

Date:- 09/07/10⁴⁰⁶

(Y.D. SHINDE)
SPECIAL JUDGE

Date : 10/07/12**Resumed on SA**

9. I had visited the blast sites at Matunga and Mahim Railway Stations at 11.00 p.m. on 11/07/06. I visited the site at Mahim Railway Station at about 11.00-11.30 p.m. and at about 1.00-2.00 a.m. on 12/07/06 at the Matunga Railway Station, after the visit at Mahim Railway Station. Four-five persons from my department were with me. I can tell the names of some. They were Martand Rakshe, Matkar, Arun Rakshe and one Surve. I was at Mahim from 11.00 p.m. to 1.00 a.m. During this period I observed the damaged portions of that particular bogie. I did not guide the police officers to prepare the panchanama of the sites. I have collected some cotton swabs of the blackening on the ceiling, handles and rods of the bogie. The side walls of the bogies, chairs, partitions had been heavily damaged. I cannot tell about the number of seats in both the bogies. I travel in local trains every day. I do not remember whether the bogies were normal bogies or were divided in first class and second class. I had met the investigating officers Godbole at the Mahim site and Rathod at the Matunga site. I do not remember whether the panchanamas of

spots at both places was completed or whether they started when I was there. I collected whatever things I felt necessary from the spots. It was not raining when I was at the spots. It was appearing from the wetness at the spots and surroundings that it had rained. I do not remember from what time to what time exactly there were rains. I realized on the inspection of the bogies that bomb explosions had taken place. I do not remember whether police prepared the panchanamas in my presence at both the places.

10. On a thorough inspection of the bogies, I realized that the probable seat of the bombs was the luggage racks as those portions were completely damaged and I found the impact of the explosions on the floors of the bogies below those portions. The luggage racks are above the seats on the side walls. I did not point out the probable seats of the bombs to the police officers. I did not direct the police officers to prepare the panchanama or sketch pinpointing the probable seat of the bombs as noticed by me. I had handed over the exhibits that I collected from both the blasts sites to the respective investigating officers. I collected five articles from Mahim site and four articles from the Matunga site. I did not take any of the collected

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articles with me. I did not submit any report to the police officers after the inspection on that day or even thereafter about my visit and findings. I did not submit any report about it to my department also, but I orally informed my section head. I did not find it necessary to submit it in writing, because we only helped the police officers to collect the proper scientific evidence. The purpose of my visit was not to guide the police officers about the investigation. I do not remember whether photographs of the bogies from different angles were taken in my presence. I do not remember whether I told the police to take photographs.

11. It is necessary to seal the articles that are collected from the spot or recovered at the instance of the accused, if they are to be sent for chemical analysis. This is the precaution to be taken to prevent any tampering with the articles. Whenever any articles are received which are not properly sealed or labeled, we return it. If the articles are sent again properly sealed then we receive ^{them} _{as} them. I will have to see the report to state about the total number of articles that I examined in this case. Initially the central receiving clerk in our office verified ^{the} _{the} the seals on the packets and the forwarding letters. Ultimately

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the packets reach the Assistant Chemical Analyzer through the department head. The Assistant Chemical Analyzer examines the crime exhibits with the help of his scientific assistants. The Astt. CA receives the sealed parcels with the forwarding letters. He again compares the seals on the packets and the forwarding letters. I had inspected the seals on the sealed packets and the forwarding letters that were sent to me. The investigating officers ask certain queries in the letters and as per their queries we analyze and give our opinion.

12. Acetone is a single chemical and it is a solvent. Evaporated acetone cannot be identified by common persons. Acetone is a single chemical. RDX is a single chemical. It is white crystalline powder.

13. (Learned advocate asks the witness to go through Ext. 596). I saw the articles along with the forwarding letter for the first time on 31/07/06. I started the analysis on the next day. I required about 3-5 days for completing the tests. I have the file of examination with me, from which I can say as to when I started the examination and concluded it. I do not have any idea that the articles that were sent with the forwarding letter Ext. 596 had come to our officer earlier

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Ext.2857

without seal and they were returned back for want of seal. Nobody from my office told me about it. The remaining powder was returned with the report. I do not remember the exact date when it was returned. Before 31/07/06 I had submitted the reports of analysis of the articles that were collected from the spots, which had been analyzed by me. Remaining samples of those articles were also returned with the reports. I did not physically compare the different articles *inter se*.

14. (Learned advocate asks the witness to go through Ext. 598). The analysis of the articles sent with this letter was started on the same day of its ^{was received} ~~received~~ and it was completed in 4-5 days. I am saying this from my memory. (Learned advocate asks the witness to go through Ext. 599). The chemical name of RDX is cyclonite. RDX and charcoal was detected on the cotton swab. It was not possible to give the percentage of the RDX and charcoal of this sample, because it was collected by cotton swab.

15. The probable site of the seat of the bomb blasts was on the west side, but I do not remember whether it was on the north, south or center side of the bogie at the spot and at Matunga or

Mahim site. It is not true that my reports are not correct.

Cross-examination by adv Sharif Shaikh for A4.

16. It is true that our laboratory is directly under the Home Ministry of Government of Maharashtra. Home Minister and the officers of Mantralaya do not visit our laboratory to see whether the chemical analyzers are working properly or not. Police officers visit our laboratory for training purpose. It is not true that ATS officers, Commissioner of Police, Addl. CPs, Jt. CPs and Crime Branch officers visit our officers to meet me and my colleagues and the head of the laboratory. I am M. Sc. in organic chemistry. I have not undergone any diploma or specialized course for the purpose of analysis of explosives, because my degree is very much sufficient to analyze all types of explosives and I was given on job training by my senior officers and section heads. Whoever has done M. Sc. in organic chemistry can analyze all types of explosives.

17. I do not remember the velocity of detonation of RDX and its density. There are many authentic books from which one can get the assistance about chemical analysis. One is the book of T. V. Narayanan, then there are encyclopedias, I do not remember the

names of the authors. There are books by Modi and Parekh. Modi's book is titled 'Medical Jurisprudence'. I do not remember the title of Parekh's book. I only remember that RDX is manufactured by doing chemical reaction on Hexamethylin Nitrate. I do not know the procedure about manufacturing RDX by using Hexamethylin with Nitric acid. I cannot tell the exact temperature at which RDX decomposes, but its melting point is 222 degree Celsius. I cannot say whether RDX starts decomposing at 170 degree Celsius and starts melting at 204 degree Celsius. I can draw the structural formula of RDX. (Learned advocate requests the witness to do so. The witness is given a blank page. He has drawn structural formula and has signed below it. Hence, it is marked as Ext. 2873). It is not true that $(CH_2)_6N_4$ (Hexamine) + 10 HNO_3 - $(CH_2-N-NO_2)_3 + 3 CH_2(ONO_2)_2 + NH_4NO_3 + 3 H_2O$ is the structural formula of the RDX.

15 RDX is not soluble in water. I had also taken the distilled water cotton swabs from the spots. The distilled water was in my kit. The water was distilled at 100 degrees. It is not true that water is to be distilled at 700 degree centigrade. I had given oral instructions to the police officers about the precautions to be taken to avoid contamination of

the samples. I did not conduct any test to see whether the samples are contaminated, as it was not necessary. Temperature of more than 1000 degrees is generated at the time of explosion. It is not true that there can be no traces of RDX at the sites of bomb explosion because of the high temperature that is generated.

18. The dictionary meaning of Nitrite is NO_2 . NO_2 is not used in fertilizers. Nitrogen is a colourless gas having no specific smell. Nitrogen is present in the earth's atmosphere to the extent of 78%. It is also found in all the living things. It is not true that the opinions in my reports that Nitrites is the residue of RDX detected in the exhibits that I examined is not correct. I told the police officers to take the precautions to avoid contamination of the samples by keeping them in polythene bags and staple the bags. I did not think it necessary to give instructions to keep the samples immediately in cooler box for maintaining the integrity of the samples. I did not instruct the police officers to keep the samples in plastic caps to avoid the samples from being contaminated. I did not think it necessary to give specific instructions about transporting the samples and storing them at particular temperature and that it should not be stored with other

articles, as the samples were separately collected in separate polythene bag.

19. I am working as appellate officer of RTI in the Forensic Science Laboratory, Mumbai. I do not remember whether an accused had filed an appeal challenging the order of the information officer about Data sheets of the chemical analysis conducted by the chemical analyzer on the exhibits sent by the ATS in this case. I do not remember for what reasons I rejected the appeal. (Learned advocate requests permission to show the order passed by him in an appeal under the RTI and undertakes to produce it. Permission granted. As it is public document, it is received in evidence and marked as Ext.2875). I knew that the case was pending in the court. No one informed me about it. It is not true that the ATS instructed me not to provide any information to the accused as the case is pending in the court. It is not true that I did not conduct any chemical test on the samples in this case and on the instructions of the ATS officers I gave false report. It is not true that I am not expert in the chemical analysis of explosives and I am deposing falsely at the instance of the ATS officers.

20. (Learned advocate asks the witness to go through Ext.

660). The letter was received in my office on 13/07/06 as per the acknowledgment given by the receiving clerk. It is not true that this letter was received on 23/07/06. I do not know what chemical solution is used by the doctors to clean wounds in bomb blasts case.

It is not necessary that chemical used as medicine will be found in a foreign body that is taken out from an injured in a bomb blast.

(Learned SPP requests that he be permitted to put two questions in re-examination on the aspect of his opinion as an expert. He wants to

10 put the question to the witness as to whether traces of RDX will remain on the objects near the site of the bomb explosion because of the high temperature and pressure created by the explosion and whether traces of RDX can be detected in samples of nano and PPT (Part Per Trillion) quantity. Learned advocates for the accused

15 submitted that there is no scope for re-examination as the witness was not examined by the prosecution and secondly the witness has denied the suggestion about traces of RDX remaining on objects at the time of explosion. In my humble opinion, the witness has already denied the suggestion that traces of RDX will not remain on the

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objects surrounding the site of the explosion because of the temperature and pressure. Hence, that question is not necessary to be asked. Insofar as the quantity of any sample that can be analyzed, it is a technical aspect which can be shown by referring to any authority in book. Hence, the re-examination is not allowed).

No re-examination.

R.O.

Y.D.

Spl. Judge
Date:- 10/07/12

Y.D. Shinde
10/7/12

(Y.D. SHINDE)
SPECIAL JUDGE
UNDER MCOC ACT,99,
MUMBAI.

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न्यायसहायक वैज्ञानिक प्रयोगशाला संचालनालय
DIRECTORATE OF FORENSIC SCIENCE LABORATORIES
गृह विभाग, महाराष्ट्र राज्य,
HOME DEPARTMENT, MAHARASHTRA STATE
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सांताक्रुझ (पूर्व)
SANTACRUZ (EAST)
मुंबई - ४०० ०९८
MUMBAI - 400 098

क्रमांक/No. : ६१/८१/२६१७
दिनांक/Date : ९/१२/११

Before the appellate officer Directorate of Forensic Science Laboratories, Home Department, Government of Maharashtra, Hans Bhugra Marg, Vidaynagari, Santacruz (E), Mumbai -98, Appeal under section 19(1) of Right to Information Act, 2005.

Appeal no. AP - 16/11

Ethesham Qutubuddin Sidhiqui
UT -202, Anda cell, Mumbai,
Central Prison, Arthur Road,
Mumbai - 400011.

----- Appellant

V/s

Public Information Officer,
Directorate of Forensic Science Laboratories,
Home Department, Government of Maharashtra,
Hans Bhugra Marg, Vidaynagari, Santacruz (E),
Mumbai -98

----- Respondent

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Special Judge
For MCOCA and NIA Cases
Gr. Bombay

Grounds

The first appeal submitted by Shri. Ethesham Qutubuddin Sidhiqui on 1st November, 2011 was heard on 28th November, 2011. The Public Information Officer and Head of the General Analytical and Instrument Division were present for hearing. From the appellants application it appears that he is in jail custody and hence not called at the time of hearing of the appeal.

By appellant's application dated 24th October, 2011 he asked for the true copy of data sheet of chemical analysis of all samples sent by ATS Mumbai from the period dated 11/07/06 to 30/11/06 and raised the point a, b, c, d, e, f, g, h and i for not issuing the same.

During hearing all documents pertaining to appeal were checked. The information officer has already given the pointwise information sought by applicant with his letter no. मा/अ/१००/११; dated 15/10/11.

Discussed the pointwise information sought by the appellant with Public Information Officer and Head of the General Analytical and Instrument Division.

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Asked to the Public Information Officer and General Analytical and Instrument Division head for not issuing the true copy of data sheets of chemical analysis of the samples sent by ATS Mumbai for the period 11/07/06 to 30/11/06 to the appellant.

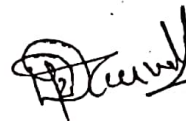
Both officers' replied that the 7/11 Serial Local Train blast case is under trial in court of law hence under section 8 (1), (b), (d), (g) and (h) of Right to Information Act, 2005, the data sheet of all the samples sent by ATS could not be furnished.

From the above facts it seems that the information officer has given the correct information.

On the basis of above facts, hence I am giving the following order.

Order

Appeal is finalized

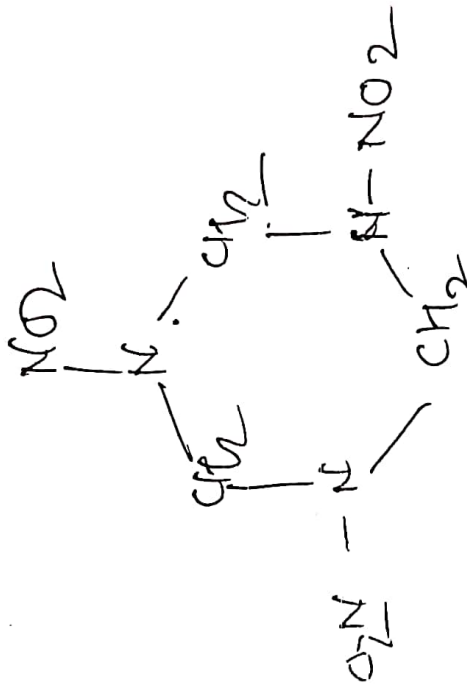


(B.B. Daundkar)

Appealeate Officer

Directorate of Forensic Science Laboratories,
Home Dept, State of Maharashtra, Mumbai.

NO₂-RDX



cyclonite.

structural formula

B. D. Dandekar

P. Dandekar

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YDS

Special Judge
For MCOCA and NIA Cases
Gr. Bombay

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