

M.C.O.C. SPECIAL CASE NO. OF 21/06**DATE: 6TH JUNE, 2011****EXT. NO. 989****DEPOSITION OF WITNESS NO.100 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Deepak Madhukar Bhavsar

Age : 54 years

Occupation : Service (Addl. S. P. Maharashtra Police Academy,
Nasik)

Res. Address : Officers mess, MPA, Nasik

EXAMINATION-IN-CHIEF BY SPP RAJA THAKARE FOR THE STATE.

1. I was attached to Borivali Police Station as Police Inspector in October, 2006. One Tiwari was the Sr. PI and PI Mathadhikari was my colleague. I came on duty on 04/10/06 at 8.30 a.m. PI Mathadhikari also came on duty. DCP Ranade called PI Mathadhikari and asked him to take the accused Zamir Ahmed Latifur Rehman Shaikh, an accused in the Borivali Railway Bomb Blast Case, in his custody and to keep him in the Borivali general lockup. The DCP had given letter to the Sr. PI to keep the accused in a separate cell, not to allow him

to talk with anyone or to allow anyone to meet him, to keep a proper guard and to produce him in veil before him on 05/10/06 at 6.00 p.m. Accordingly PI Mathadhikari took the accused in his custody from DCP Ranade and after getting him medically examined he kept him in the lockup in separate cell. He kept a guard of one PSI, one hawaldar, one police naik and two constables at the cell. He then made station diary entry at the police station.

2. I will be able to identify the signatures of DCP Ranade and Sr. PI Tiwari as I was working under them at that time. The letter dated 04/10/06 O. No. 6020 now shown to me bears the signature of DCP Ranade and the signature of Sr. PI Tiwari of having received it and an endorsement about making compliance. (It is marked as **Ext.990** subject to objection by the learned advocates for the accused). Certified copy of the station diary entry no. 53 dated 04/10/06 now shown to me is the same, its contents are as per the original that I have brought to the court. (It is marked as **Ext. 991**).
3. The accused was to be produced before the DCP on 05/10/06. However, PI Mathadhikari was busy in some urgent office work, therefore he asked me to comply with the orders of the DCP.

Therefore I asked PSI Suryavanshi attached to our police station to bring the accused from the lockup under proper escort and in veil. Accordingly he brought the accused to me in veil and under proper escort at about 6.00 p.m. and I produced the accused before DCP Ranade. I produced him in the cabin of DCP Ranade and gave him in his custody. He told me to wait outside. Accordingly the duty officers made station diary entries no. 40 and 45. He called me inside at about 8.00 or 8.30 p.m. and asked me to take the accused in my custody and to keep him in the Borivali lockup as he was to be produced before the CMM at 11.00 a.m. on the next day. Accordingly I took the accused in my custody and directed PSI Suryavanshi to again take the accused and keep him in Borivali lockup. He returned back to the police station after doing so and the duty officer made station diary entry no. 54 about it. Certified copy of the station diary entries no. 40, 45 and 54 dated 05/10/06 now shown to me is the same, its contents are as per the original that I have brought to the court. (It is marked as **Ext. 992**). After I had sent the accused with PSI Suryavanshi, DCP Ranade called me and gave me a letter addressed to the Sr. PI to keep the accused in the lockup and to

produce him before the CMM on the next day. He also gave me two sealed letters along with forwarding letter addressed to the CMM. The letter of the DCP addressed to the Sr. PI is the same now shown to me, it bears the signature of DCP Ranade, which I know and identify. (It is marked as **Ext. 993** subject to objection by learned advocates for the accused).

4. On 06/10/06 I took the accused in my custody from Borivali lockup at 9.15 a.m. and took him to the G.T. Hospital for medical examination. Thereafter I produced him in veil before the CMM, Esplanade court, Mumbai at 11.00 a.m. and handed over the two sealed envelopes and the forwarding letter to the CMM. The CMM asked me to wait outside his office. After about one and a half hours the court peon came to call me. I went before the CMM. He gave the accused in my custody and asked me to take the accused to DCP Ranade. Accordingly I took the accused in my custody and took him to DCP Ranade. He gave a letter addressed to ACP S. L. Patil of ATS and asked me to handover custody of the accused to him. Accordingly I took the accused to the ATS office at Bhoiwada and gave the letter and handed over the accused to API Alaknure and

obtained his signature on the office copy of the letter now shown to me. It bears the signature of DCP Ranade, which I know and identify. (It is marked as **Ext. 994** subject to objection by learned advocates for the accused). I had made the station diary entry at sr. no. 19 about taking the accused from the lockup and taking him to the Esplanade court. After returning back to the police station I handed over all the office copies of the letters to the DCP office and at my instructions PI Mathadhikari made the station diary entry at sr. no. 54. Certified copy of the station diary entries no.19 and 54 dated 06/10/06 now shown to me is the same, its contents are as per the original that I have brought to the court. (It is marked as **Ext. 995**).

5. I will be able to identify the accused whom I had taken to the CMM court and then handed over in the custody of the ATS. (Witness looks around the court hall and points to the accused no.11, who is made to stand to stand up and tell his name, which he states as Zamir Ahmed Latifur Rehman Shaikh). He was the same accused. ACP Patil recorded my statement.

Cross-examination by adv P. L. Shetty for A3, 8, 9, 11 and 12

6. PI Mathadhikari made the station diary entry no.53 dated

04/10/06 in his own hand. It does not bear his signature. PSI Suryavanshi made station diary entries no. 40 and 54 as per my instructions on 05/10/06. Station officer PSI Bahiram made the station diary entry no. 45 on 05/10/06. It is true that my name is not mentioned in any station diary entry of 05/10/06. It is not true that I saw the accused for the first time on 05/10/06.

7. The DCP gave me the letters Exts. 993 and 994 on the night of 05/10/06 at about 11.30 or 12.00 p.m. I brought the accused at about 10.00 or 10.15 p.m. from the DCP on 05/10/06. Thereafter I kept him in the lockup and then made station diary entry. PSI Suryavanshi was my subordinate. He was deputed as supervisor for the guards at the cell of the accused on 04/10/06, 05/10/06 and upto the time I took him in my custody on 06/10/06. I did not take written report from him about compliance of the directions of the DCP on all these three days, but there are station diary entries about it. I did not take his statement. I did not file any written report to the DCP about the work that I did on the three days. I do not remember who was the SHO after 08.00 p.m. on 04/10/06. PSI Bahiram was on day duty on 05/10/06. I do not remember who was the SHO after 08.00 p.m. on

05/10/06. The CMM gave the accused in my custody at about 12.00 or 12.15 p.m. on 06/10/06. I gave the accused in the custody of API Alaknure at 4.00 p.m. at Bhoiwada. The accused was in the chamber of the CMM from 11.00 to 12.00 or 12.15 p.m. After getting custody of the accused I left for going to Borivali to take the accused to the DCP. I produced the accused before the DCP at about 2.30 p.m. Thereafter I took him to Bhoiwada. The CMM had asked me to take back the accused to the DCP. It was not a written direction. I knew that the DCP had given direction to take the accused directly to the ATS office after the work before the CMM was over. I required about two or two hours and fifteen minutes to take the accused from our police station to the CMM. I required about one and a half hours to take the accused back from the CMM to DCP Ranade. I required about 50 minutes to one hour to take the accused from DCP Ranade to ATS office, Bhoiwada.

(Adjourned for recess).

Date:-06/06/2011

Special Judge

Resumed on SA after recess

8. I took the accused for medical examination only once. I was at

the GT Hospital for 10-15 minutes from approximately 10.40 to 10.50 a.m. I collected the medical certificate. I do not remember the name of the doctor who examined him. I was not present in the examination room where the doctor examined him. I gave the medical certificate to the DCP office. I took the medical certificate at the same time. PI Mathadhikari got the accused examined at Bhagwati Hospital on 04/10/06, but I do not know the exact time. It was before he put the accused in lockup. I do not know the name of the doctor who examined him. PI Mathadhikari told me, therefore, I say that he was taken for medical examination. I have no document to show what I did on 05/10/06 in connection with the accused. My statement was recorded on 20/10/06. I do not remember whether PI Mathadhikari and PSI Suryavanshi were on duty on that day. During that period I was PI Crimes. DCP Ranade did not give any letter to me when I produced the accused before him on 06/10/06. Whatever letters he had given me were given on 05/10/06 in the night.

9. I had read my statement. It was correctly written. I had stated to ACP Patil when I gave my statement that after I had sent the accused with PSI Suryavanshi, DCP Ranade called me and gave me a letter

addressed to the Sr. PI to keep the accused in the lockup and to produce him before the CMM on the next day and that he also gave me two sealed letters along with forwarding letter addressed to the CMM. I cannot assign any reason why it is not written in my statement. The DCP did not give the letter Ext.994, but the Sr. PI gave it to me on 06/10/06. I cannot tell the exact time when he gave it to me, but it was after I returned from the CMM court with the accused. At that time I saw it for the first time. The letter Ext. 993 is the letter that the DCP gave me in the night of 05/10/06. He had also given me a forwarding letter and two sealed envelopes addressed to the CMM. I do not exactly remember whether the DCP gave me the letter Ext. 994 when I produced the accused before him on 06/10/06. I did not state so to ACP Patil when I gave my statement. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'A'). I cannot assign any reason why it is so written in my statement. I had given the medical certificate about the examination of the accused on 06/10/06 to ACP Patil. It is not true that I state falsely about it. It is not true that I did not obtain the medical certificate as the accused complained to the doctor that he was

tortured and assaulted in the police lockup and I did not hand over the medical certificate to any officer. It is not true that on 05/10/06 I did not do any duty in connection with this accused and this is the reason why I cannot produce any document to show that I did any such duty. It is not true that I deposed falsely to help the ATS. I do not know where PSI Suryavanshi is at present. PI Mathadhikari is Add. S. P. at MPA, Nasik at present.

Cross-examination by Adv Rasal for A/1 and 4 to 6

10. Declined.

Cross-examination by adv Wahab Khan for A2, 7, 10 & 13

11. I do not know whether PSI Suryavanshi is still in service. He and PI Mathadhikari had not accompanied me to the ATS office for giving statement. I started at 10.00 or 10.15 a.m. from Borivali Police Station on 20/10/06 for going to the ATS office. I reached at about 11.00 or 11.15 a.m. and met ACP Patil. I do not remember how much time was required to record my statement. I do not remember till what time I was at the ATS office. I was with ACP Patil upto lunch break, i.e., 2.30 p.m. My statement was recorded during this period. I do not remember whether I was required to wait

upto 2.00 or 2.30 p.m. and whether ACP Patil was not present when I reached the ATS office at about 11.00 or 11.15 a.m. I was not required to wait for 3-4 hours. I was not told that ACP Patil had gone for remand and would come after 2.00 or 3.00 p.m. I do not know whether ACP Patil was present in this court from 11.00 a.m. to 1.30 p.m. It is not true that I did not meet ACP Patil at 11.00 or 11.15 a.m. It did not happen that I did not produce the accused before DCP Ranade on 05/10/06.

12. The magistrate court at Borivali is adjacent to the police station. One requires 50 minutes by train to reach Esplanade Court from our police station. I do not remember whether the month of October was of Ramzan and whether the accused was fasting on 04, 05 and 06/10/06. Muslims observe fast during Ramzan after sunset upto sunrise. We give meals to the accused as per his custom when he is in our custody. I do not remember the manner in which the accused was given meals. The DCP did not give me any specific directions in connection with this issue and I also did not give any specific directions in connection with this issue. I do not remember whether the accused was given meals on 4th and 05/10/06. Accused

was not given permission to take food from outside. I do not know whether he finished his fast in the evening on 04/10/06 and whether he had meals thereafter. It is true that the time of finishing fast is at about 6.00 or 6.15 p.m. I do not know whether the accused was given meals before sunrise on 05/10/06. I and my staff had not given anything to the accused to finish his fast in the evening on 05/10/06. I did not ask the accused whether he was fasting.

13. Other than this case I have not done such type of work in any other case. It is not true that I deposed falsely.

No re-examination

R.O.

Special Judge

Date:-06/06/2011

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