

M.C.O.C. SPECIAL CASE NO. OF 21/06**DATE: 13TH JUNE, 2011****EXT. NO.1046****DEPOSITION OF WITNESS NO.103 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Nana Dagdu Shinde
Age : 47 years
Occupation : Service (API, DCB, CID, Unit-VI, Chembur)
Res. Address : Bldg. No. 4/42, CGS Colony, behind Uday Cinema,
Ghatkopar, Mumbai-86.

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

1. I was attached to Azad Maidan Police Station from February 2003. Sr. PI called me on 24/10/06 and told me to report to DCP, Preventive, Mohite with staff. Therefore, I made an entry in the station diary and along with staff went to the office of the DCP in the Azad Maidan-II mobile van. Station diary entry No.17 of 11.10 a.m. in the original station diary brought to court, now shown to me is in my handwriting. The contents of the certified true copy now shown to me are as per the original. I reached the office of the DCP at about 11.20 hours and reported to the

DCP. He called me inside and gave me a letter addressed to the Sr. PI, Azad Maidan Police station and gave an accused in my custody. The name of the accused was Mohd. Sajid Margub Ansari. He directed me to take the accused to our police station, keep him in a separate cell in the lockup of our police station, to appoint staff to guard the cell and not to allow any ATS officer, police officer or the relatives of the accused to meet him. He obtained my signature on the letter of having received custody of the accused. The letter Ext. 1035 now shown to me is the same, it bears my acknowledgment under my signature of having received the accused in my custody. First I put a veil on the accused and then I took him to the GT hospital for his medical examination. After I got him examined there, I took him to the police station, showed the letter to the Sr. PI and gave him the necessary information. He asked me to do the needful. Then I went to the lockup and gave the instructions as given by the DCP to the lockup hawaldar. He put the accused in a separate cell and placed a guard on that cell. I told the lockup hawaldar that when the duty changes, he should give similar instructions to the person who comes on duty. Then I made an entry in the station diary at sr. no.20. Station diary entry No.20 of 12.55 p.m. in the original station diary brought to court, now shown to me is in my

handwriting. The contents of the certified true copy now shown to me are as per the original. (Certified true copy of entries no. 17 and 20 is marked as **Ext.1047**). The DCP had directed me to produce the accused before him at 9.00 am on 25/10/06.

2. I took the accused in my custody from the lockup on 25/10/06 at about 11.00 a.m., put a veil on him and took him to the office of the DCP, Preventive in the Azad Maidan-II mobile van. I made an entry in the station diary at sr. no. 28. Station diary entry No.28 of 11.00 a.m. in the original station diary brought to court, now shown to me is in my handwriting. The contents of the certified true copy now shown to me are as per the original. I reported to the office of the DCP, he called me inside. I handed over a letter about producing the accused before him. The letter Ext. 1036 now shown to me is the same, it bears my signature and its contents are correct. The DCP took the accused in his custody and asked me to wait outside for some time. He called me inside at about 2.30 or 2.45 p.m., gave me two sealed envelopes, a forwarding letter addressed to the CMM and a letter addressed to the Sr. PI. He gave the accused in my custody and directed me to produce the accused before the CMM. I put a veil on the accused. The letter addressed to the CMM Ext.1039 is the same now

shown to me, it bears my acknowledgment of having received it, two sealed letters and forwarding letter addressed to the CMM under my signature and his direction to get the accused medically examined before producing him before the CMM. The letter Ext. 1040 now shown to me is the letter addressed to the Sr. PI. On inquiry I came to know that as it was a holiday, Shri Shisode, ACMM, was incharge of the work of the CMM. I obtained his residential phone number and inquired with him whether I should produce the accused before him at his house. He said yes. Accordingly I took the accused to his house adjacent to Raju Jadhav Chowki in Kurla (W) and produced the accused before him. I handed over the sealed envelopes and the forwarding letter. He asked me to wait outside. After some time he called me inside and told me to take the accused. I took the accused in my custody, put a veil on him and called the DCP, Preventive on phone and informed him about the compliance of his orders. He told me that the accused was to be produced before the sessions court and therefore, I should give him in the custody of the ATS. I then went to the GT Hospital and got the accused medically examined. Then I took him to the sessions court and gave him in the custody of ACP Patil, who was present in the court, at about 4.30 or 4.45 p.m. Then I went

back to the police station and made an entry in the station diary at sr. no. 42 about the events that had taken place. Station diary entry No.42 of 1710 hours in the original station diary brought to court, now shown to me is in my handwriting. The contents of the certified true copy now shown to me are as per the original. (Certified true copy of entries no. 28 and 42 is marked as **Ext.1048**).

3. ACP Patil took my statement on 26/10/06. At that time I produced the certified true copies of the station diary entries. I will be able to identify the accused. (Witness look around the court room and points to the accused no.7 sitting in a dock. He is made to stand up and tell his name, which he states as Sajid Margub Ansari). He was the same accused.

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

4. Declined.

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

5. The accused was given in my custody in between 11.30 to 11.40 a.m. on 24/10/06 by the DCP. It is not true that I reached the DCP office at 11.00 a.m. I started from the police station at 11.10 a.m. and reached the DCP office at about 11.20 a.m. It is true that the Sr. PI had told

me at about 10.00 a.m. to reach the office of the DCP at 11.00 a.m. I put the time of 11.35 a.m. on the letter addressed to the Sr. PI of having received the accused in my custody. Ext. 1035 is the same letter. It is true that there is no mention in it about I taking the accused in my custody at 11.35 am. There is no other document other than this letter. I got the accused medically examined at about 12.30 or 12.40 a.m. on 24/10/06 and in between 1615 to 1630 hours on 25/10/06 at the GT Hospital. I started from the house of the ACMM at about 1530 to 1540 hours. One requires about 30 to 35 minutes from Kurla (w) to the GT hospital. It is true that on 24/10/06 I did not know that I would be required to take the accused to the CMM on 25/10/06. The court of the CMM is on the second floor of the building of our police station. I do not remember whether the court was working on 24/10/06. I do not remember who was the CMM on 24/10/06 and 25/10/06 and did not make inquiry on those days about his address. I do not remember which court was presided over by the ACMM Shisode. It is true that it is only on 25/10/06 when the DCP gave me the forwarding letter addressed to the CMM and the two sealed envelopes, that I came to know that I was to produce the accused before the CMM. I do not remember the days of the week on 24th and 25/10/06 and why it was a

holiday on 25/10/06. It did not happen that on 24/10/06 I made inquiry with the control room and came to know that the ACMM Shisode is the incharge CMM. I had read my statement and it was correctly written, but instead of the date 24/10/06 it should have been 25/10/06. I cannot say when I realized this mistake. An amaldar was typing my statement on the computer as dictated by ACP Patil after making inquiry with me. I do not remember whether I read it on the computer itself. It was given to me for reading after printout was taken out. As I read it in speed, I did not realize the above mistake. I do not remember whether ACP Patil read it before me or after me. He signed on the statement. I am stating about the mistake in the date in connection with producing the accused before the CMM. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'A'). The date 24/10/06 in this portion should be 25/10/06. After producing the accused before the ACMM in his house, I did not go inside till the ACMM called me inside. The accused was inside for about 5-10 minutes. I do not know what happened between the ACMM and the accused during that period. I did not inform the DCP that after producing the accused before the ACMM, he had asked me to wait outside. It did not happen that the ACMM inquired with the accused and asked some

questions to him and directed me to take back the accused. I had stated so to ACP Patil.

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

(Adjourned to 14/06/11 as per the order on application Ext.1049).

Date : 13/06/11

**(Y.D.Shinde)
Special Judge**

Date : 14/06/11

Resumed on SA

6. I went from the police station to the ATS office on 26/10/06 for giving my statement. I was called there. I do not remember at what time I started. It was in the afternoon. I cannot say for how much time I was at the ATS office and from what time to what time. About 30-45 minutes were required to record my statement. I do

not remember whether I went back home or to the police station from there. I do not remember at what time I reached there. The doctors did not tell me about their opinion after they examined the accused on 24th and 25/10/06. The accused did not make any complaint to the doctors in my presence. The medical reports of both dates were given to me. (Witness is shown documents including letter from the information officer of the GT Hospital addressed to the accused along with the certified true copies of medical reports. They are marked as **Arts.323 to 325**). I cannot say whether they are the certified true copies of the original medical reports that were given to me. I had given the originals to the lockup hawaldar. I cannot produce them. I gave the reports on the days I received them. I gave the medical certificate of 25/10/06 to ACP Patil. (Learned advocate calls upon the prosecution to produce the original medical reports. Learned SPP submits that he has no objection to receive the reports pertaining to the accused OPD case numbers 7012 and 7088. Hence, they are marked as **Exts. 1051 and 1052**). I do not remember whether 24/10/06 was the last day of the ramzan fast and whether it was ramzan Eid on 25/10/06, whether the accused was observing fast on

24th and 25/10/06. It is true that the Muslims who observe fast cannot take anything after sunrise and before sunset. I had given bhatta to the accused before taking him to the lockup. I had taken it from the canteen by the side of the GT Hospital. It is not true that I have not written it in any document. It is mentioned in the station diary entry no. 20 of 24/10/06. This entry is of 12.55 p.m. I do not know whether it was the time of finishing the fast. I do not know at what time Muslims finish their fast. Bhatta is given to the persons in the lockup at 10.00 a.m. The accused was not given bhatta in the lockup. I do not remember how much amount I spent for the bhatta. I did not tell the DCP or the Sr. PI about it. It is true that it is not mentioned in the station diary that I personally spent for the bhatta. I do not remember whether the DCP and the Sr. PI had asked me as to from where I had given the meals to the accused.

7. The ACMM had asked some questions to the accused. I was before him for 3-4 minutes initially. The questions that were asked before me were during this period. He did not open the sealed envelopes in my presence. The accused had given answers to the questions. I cannot say how many questions were asked to the

accused and how many answers he had given. I cannot say whether the ACMM wrote down the questions and answers in my presence. It did not happen that after the questions and answers were asked, I took the accused outside. It did not happen that the ACMM inquired with the accused in my presence and then directed me to take back the accused. It is not true that I stated so to the ACP Patil without such thing happening in my presence. I now again say that after the ACMM asked some questions to the accused, he asked me to take him outside.

8. I had contacted the DCP on phone and personally talked to him. I took the accused to the sessions court as it was directed by the DCP. It is true that PSIs and other subordinate staff are assigned different duties in the police station. Record is maintained about such assignments in the police stations and some times there are oral orders. The oral directions are for miscellaneous small duties and not for major duties. Whenever an officer comes on duty and whenever he leaves the police station, entries are made in the station diary, but sometimes they are not made. I cannot say on what occasions and for what reasons the station diary entries are not made.

Q. If no entry is made about an officer coming on duty, whether no entry is made when he leaves duty?

A. If an officer is on mobile wireless duty, then entry is not made, because those officers go directly on mobile wireless duty. The entry about their duty is made in the mobile van. There were two mobile vans in October 2006 attached to our police station. The duty of the officers in the mobile vans is to patrol and keep watch in the jurisdiction of the police station. I do not remember what duty I had on 23/10/06 and 26/10/06. I do not remember whether I was on duty on mobile van-I from 23/10/06 to 26/10/06. I do not remember whether I made the station diary entries during that period about reporting on duty and going back from duty.

9. I do not remember the beat number of Raju Jadhav Chowki in Kurla (W). It is adjacent to the Kurla (W) Railway Station. I had gone to the house of the ACMM in the Azad Maidan-II mobile van. I do not remember whether I went by Agra Road, whether I had passed in front of the office of the Crime Branch and of PI Vijay Salaskar, whether the vehicle was halted in between for tea and snakes. It is not true that the vehicle was halted in the premises of

the Crime Branch for the said purpose. Police officer Prasad Khandekar of ATS had not come to the DCP office on 24th and 25/10/06 and was not pressurizing the accused no.7 on both days. It is not true that on 25/10/06 he had pressurized the accused no.7 not to make any complaint before the court. It is not true that I deposed falsely and my statement was not recorded on 26/10/06.

No re-examination.

R.O.

Special Judge

Date:-14/06/2011

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