

**M.C.O.C. SPECIAL CASE NO. OF 21/06****DATE: 14TH JUNE, 2011****EXT. NO.1053****DEPOSITION OF WITNESS NO.104 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Dattatray Rajaram Karale

Age : 45 years

Occupation : Service (Supdt. of Police, Osmanabad)

Res. Address : SP Bungalow, Osmanabad.

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

1. I was working as DCP, Zone-IV at Matunga in October 2006. I was the competent officer to record confessional statement of accused under the MCOC Act. Jt. CP, ATS directed me by letter dated 03/10/06 to record the confessional statement of Ehtesham Siddhiqui, an accused in the railway serial bomb blasts case. I am producing the letter, it bears the inward number of my office, it is addressed to me. It was received on 04/10/06. (It is marked as **Ext. 1054**). On receiving the letter I informed the IO ACP Patil of ATS to produce the accused before me on 06/10/06 at 9.00 a.m. I am producing office copy of my letter, it bears my signature, its contents

are correct and it bears the acknowledgment of ACP Patil. (It is marked as **Ext.1055**). Accordingly on 06/10/06 PSI Deore of ATS produced the accused before me at 9.00 a.m. along with a letter from ACP Patil. I am producing that letter. It is addressed to me. (It is marked as **Ext.1056**). I inquired with PSI Deore as to in what case the accused is involved and after being satisfied that he was the accused in the said case, I directed the accused to remove his veil, as he was brought in veil. I then asked PSI Deore and his staff to go outside my chamber. I and the accused only were in my chamber. I ascertained that no one from outside could see the proceedings that were going on in the chamber and *vice versa*. I asked the accused to sit in the chair in front of me. I asked him in Hindi as to in what case he was involved and why he was brought before me. I then introduced myself as DCP of Zone-IV, Matunga and told him that I am competent to record his confessional statement under Section 18 of the MCOC Act. I told him that though I am a DCP, I am not connected with the investigation of that case. I then called my steno in my office. I then inquired with the accused and observed his body language to ascertain whether he was giving his confessional statement

voluntarily. I asked him questions as to whether he was beaten or threatened by police. He said no. I asked him whether he was given any inducement that he would be freed if he gives the confessional statement and whether any one had promised him to do so telling him that he would be made an approver or that he would be discharged. He told me that he was not promised in this manner. I told him that it is not binding on him to make the confessional statement and asked him whether even then he was ready to make it. He said yes. I told him that the confessional statement that he gives can be used against him and his co-accused in the court as evidence and asked him whether he is ready to make it even then. He said yes. I was satisfied that he was ready to make the confessional statement voluntarily on the answers given by him to the above questions and to the preliminary questions that I asked him about his name, address, education, etc., and on observing his body language. I was dictating the questions and answers to the stenographer who was typing them on the computer. Though I was satisfied that he was ready to make the confessional statement voluntarily, I told him that I would give him time of 24 hours till the next day to reflect upon whether to make the

confessional statement.

2. I then took out printout of the Part-I of the confessional statement, read it over to the accused, asked him whether it was correctly written and he said that it was correctly written as stated by him. I then signed on both the pages and asked the accused to put his signatures, which he did. Part-I of the confessional statement now shown to me is the same, it bears my signatures and the signatures of the accused and its contents are correct. (It is marked as **Ext. 1057**). I then took out a photocopy of Part-I for my personal record. In the meanwhile, I directed Sr. PI Matunga Police Station on phone to send some officer and two men to take the custody of the accused. Matunga Police Station is on the ground floor and my office is on the first floor in the same building. I put the original Part-I in an envelope, sealed it and kept it in my cupboard. The envelope along with Part-I is the same now shown to me. (It is marked as **Art-326**). The envelope does not bear the lac seal. API Randive and his staff of Police Station Matunga had come to my office. I called them inside, told them that he is an accused in that case and that he is in my custody. I instructed API Randive to keep the accused in a separate cell in the

lockup of Police Station Matunga and not to allow any person from the ATS or any other policeman or any other person to meet him. I told him to take proper care of his stay and food and also about his medical treatment. I had asked the accused whether he wanted any medical aid, but he said no. I instructed API Randive to give the necessary medical treatment to the accused, if necessary. I told him to take the accused in veil and to bring him back in veil. I dictated a letter containing all these instructions addressed to API Randive with a copy to Sr. PI of Matunga Police Station. I am producing the office copy of that letter, it bears my signature, it bears the acknowledgment of API Randive and its contents are correct. (It is marked as **Ext.1058**). I had also directed by a letter to the Sr. PI Police Station Matunga to send an officer and staff to take the custody of the accused, along with directing him on phone. I am producing the office copy of that letter, it bears my signature, it bears the acknowledgment of Sr. PI of Police Station Matunga and its contents are correct. (It is marked as **Ext.1059**). Accordingly API Randive and staff veiled the accused and took him out. I had directed him to produce the accused before me on the next day, i.e., on 07/10/06 at 11.00 a.m.

3. API Randive and his staff produced the accused before me in veil at 11.00 a.m. on 07/10/06. I then asked API Randive and his staff to go out of my chamber. I asked the accused to remove his veil. I asked him to sit in front of me. I ascertained that no one from outside could see the proceedings that were going on in the chamber and *vice versa*. I then told the accused that he is in my custody since yesterday, that he was not in the custody of the ATS or the IO. I asked him whether he was ready to make his confessional statement voluntarily. He said yes. I then called my stenographer Mrs. Gauri Jadhav inside my chamber. She was the same stenographer who was present on the earlier day. I asked the accused whether the time for reflection given to him was sufficient or he wanted some more time. He said that the time was sufficient and he did not want any more time. I again asked him whether he was beaten, threatened, given any inducement or promise to make the confessional statement as per the inquiry on the earlier day to satisfy myself whether he was making the confessional statement voluntarily. He said no. I also asked him whether he has any difficulty and whether he had any necessity of medical aid. He said no and stated that his medical

examination was done. I told him that I will not record his confessional statement forcibly and I would record it only if he makes it voluntarily. He told me that he is making the confessional statement voluntarily. I told him that any confessional statement that he makes before me can be used against him and his co-accused in the court as evidence. He said that even then he was ready to make it. On this inquiry and on observing his body language and his confidence level, I was satisfied that he was ready to make the confessional statement voluntarily. I then started dictating his confessional statement to the stenographer in his language and as narrated by him. After he finished, I took out a printout of the Part-II of the confessional statement, gave it to him for reading. After reading it, he stated that it was correctly written as per his narration. I then signed on all the pages and asked him to sign. He also signed on all the pages. I then dictated the certificate as required by the MCOC Act to the stenographer, took out its printout and signed it. Part-II of the confessional statement now shown to me is the same, it bears my signatures and signatures of the accused on all the pages and its contents are correct. (It is marked as **Ext.1060**). The certificate now

shown to me is the same, it bears my signature and its contents are correct. (It is marked as **Ext.1061**). I had prepared a copy for my record, but it was also attached with the original. It is the same now shown to me. (It is marked as **Ext.1062**). I took out a photocopy of Part-II of the confessional statement containing our signatures for my record. I put the Part-II in an envelope and closed it. Thereafter I prepared a letter addressed to the CMM, forwarding the accused and the envelopes to him. I then called API Randive and his staff inside my chamber and gave him the forwarding letter and the two sealed envelopes and the accused in his custody and directed him to produce the accused with the letter and the sealed envelopes before the CMM. The recording of the confessional statement was over at about 2.30 p.m. I am producing office copy of the forwarding letter, it bears my signature, it bears the acknowledgment of the clerk of the CMM office and its contents are correct. (It is marked as **Ext.1063**). I instructed API Randive to handover the accused to the ATS after the procedure before the CMM was over.

4. I will be able to identify the accused whose confessional statement I recorded. (Witness looks around the court room and



points to the accused no.4 sitting in the dock. He is made to stand up and tell his name, which he states as Ehtesham Qutubuddin Siddhiquie). He is the same accused. (Ld SPP makes a request for exhibiting the letter received from the CMM by this court, forwarding the sealed envelope of the confessional statements. It is received in evidence and marked as **Ext.1064** as it is addressed to this court. The envelope is marked as **Ext.1064A**).

5. I received a letter dated 22/10/06 from Jt. CP, ATS in the same case on 22/10/06 directing me to record the confessional statement of an accused by name Mohd. Ali Alam Shaikh. I am producing the letter, it bears the inward number of my office. It bears my remark of acknowledgment under my signature (It is marked as **Ext. 1065**). On receiving the letter I directed the IO ACP Patil to produce the accused before me at 10.00 a.m. on 24/10/06. I am producing office copy of that letter, it bears my signature, it bears the acknowledgment of API Kolhatkar of ATS and its contents are correct. (It is marked as **Ext. 1066**). I received a letter from ACP Patil on 23/10/06 that he would produce the accused before me as directed along with API Kolhatkar. I am producing that letter, it bears the signature of ACP Patil and my

acknowledgment signature of having received it and its contents are correct. (It is marked as Ext. 1067).

6. API Kolhatkar brought the accused before me at about 9.00 a.m. on 24/10/06 in veil. He showed me a copy of the letter Ext. 1067. I asked him to unveil the accused. I took brief information from API Kolhatkar about the facts of the case and the jurisdiction where the incident had occurred. I then asked API Kolhatkar and his staff to go out. I asked the accused to sit in the chair in front of me. I ascertained that no one from outside could see the proceedings that were going on in the chamber and *vice versa*. I then introduced myself as DCP Karale of Zone-IV, Matunga that though I am DCP I am not connected with the investigation of that case. Then I asked him his name and address and as to in what language he is comfortable. He told me that he is comfortable in Hindi. I told him that I am a DCP and competent to record his confessional statement under Section 18 of the MCOC Act. I wrote all the questions that I asked him and the answers that he gave in my handwriting. I asked him whether he was beaten, threatened or forced to make the confessional statement. He said no. I told him than it is not binding on

him to make the confessional statement and asked him whether he was making it voluntarily. He said yes. I asked him whether any one had promised him to remove him from the case or that his punishment will be reduced or that he would be made an approver if he makes the confessional statement. He said no. I told him that it is not binding on him to make the confessional statement and if he makes it, it can be used against him and his co-accused in the court. He said that even then he was ready to make the confessional statement. I was satisfied on the above inquiry and on observing his body language and the fact that he was looking cool, that he was ready to make the confessional statement voluntarily. Even then I told him that I would give him time of 24 hours till the next day to reflect upon whether to make the confessional statement. I gave the Part-I of the confessional statement that I written to him for reading. He read it and said that it was correctly written as stated by him. I then put my signatures on all the pages and asked him also to sign, which he did. Part-I of the confessional statement now shown to me is the same, the first page was typed by me, it bears my signatures and the signatures of the accused on first three pages and my signature on

the fourth page and its contents are correct. (It is marked as **Ext.1068**). I took out a photocopy of the Part-I for my record and put the original in an envelope, sealed it and kept the envelope in my custody. The envelope now shown to me is the same. (It is marked as **Ext.1068A**). I then directed Sr. PI Police Station Matunga on phone to send an officer and staff to take the accused. I also informed him by letter. I am producing the office copy of that letter, it bears my signature, it bears the acknowledgment of PI Ghuge and its contents are correct. (It is marked as **Ext.1069**). The Sr. PI had informed me on phone that he is sending PSI Divekar and staff to my office. Accordingly they came and I told PSI Divekar that the accused is in my personal custody and that he should be taken and kept in a separate cell in the lockup of Police Station Matunga. I directed him not to allow any person from the ATS or any other policeman or any other person to meet him. I told him to take proper care of his stay and food and also about his medical treatment. I also directed him to take the accused and bring him in veil and produce him before me on 25/10/06 at 1200 hours. I also gave letter containing these directions. I am producing its office copy, it bears my signature and the

acknowledgment of PSI Divekar and PI Ghuge and its contents are correct. (It is marked as **Ext. 1070**). I then instructed PSI Divekar to veil the accused and to take him, which he did.

7.        Thereafter, on the next day, i.e., on 25/10/06 at 1200 hours, PSI Divekar produced the accused before me in veil. I asked PSI Divekar whether there was any difficulty during the last 24 hours. He said no. I then asked him and his staff to go outside. I ascertained that no one from outside could see the proceedings that were going on in the chamber and *vice versa*. I then told the accused to sit and I again asked him whether he was ready to make his confessional statement. He said yes. I asked him whether the time of 24 hours given to him for reflection was sufficient and whether he wanted more time. He said the time was sufficient and he did not want any more time. I then told him that it is not binding on him to make the confessional statement and asked him whether he is ready to make it voluntarily. He said yes. I asked him whether the police had beaten or threatened him or whether he was given any promise of discharge from the case or reduction in punishment or making an approver if he makes the statement. He said no. I asked him whether he knows that

the confessional statement that he makes before me can be used against him and his co-accused as evidence in court and even then whether he is ready to make it. He said that he knows about it and expressed his desire to make it. I asked him whether he has any difficulty or problem. He said no and that everything is all right. On all the answers that he gave and on his body language, I was satisfied that he was ready to make the confessional statement freely and voluntarily. I was writing down the questions and the answers that he gave in his language in my handwriting. I then started writing his confessional statement in his language as narrated by him. After he finished, I gave it to him for reading. He read it and said that it was correctly written as per his narration. I then put my signatures on all the pages and asked him to sign, which he did. Part-II of the confessional statement now shown to me is the same, it is in my handwriting, it bears my signatures and signatures of the accused and its contents are correct. (It is marked as **Ext.1071**). I also prepared my observations about the procedure and signed it. It bears my signatures and its contents are correct. (It is marked as **Ext. 1072**). I then prepared the certificate as required by Section 18 of the

MCOC Act. It is the same now shown to me, it bears my signature and its contents are correct. (It is marked as **Ext.1073**). I took out a photocopy of all the above for my record and put the originals in an envelope and sealed it. The envelope now shown to me is the same. (It is marked as **Ext. 1073A**).

8. I then prepared a forwarding letter to the CMM and also two letters to Sr. PI, Matunga Police Station. One directing him to produce the accused before the CMM and the other to hand over the accused to the ATS after the procedure before the CMM was over. The original forwarding letter to the CMM now shown to me is the same, it bears my signature and its contents are correct. (It is marked as **Ext. 1074**). I am producing the office copies of the letters to the Sr. PI, they bear my signatures and the acknowledgments of PI Ghuge and their contents are correct. (They are marked as **Exts. 1075 and 1076**). I gave the accused and the forwarding letter, the two letters to the Sr. PI and the sealed envelopes in the custody of PSI Divekar and PI Ghuge.

9. I will be able to identify the accused whose confessional statement I recorded. (Witness looks around the court room and

points to the accused no.6 sitting in the dock. He is made to stand up and tell his name, which he states as Shaikh Mohd. Ali Alam Shaikh). He is the same accused. (Ld SPP requests for exhibiting the letter received from the CMM by this court forwarding the sealed envelopes of the confessional statements. It is received in evidence and marked as **Ext.1077** as it is addressed to this court. The envelope is marked as **Ext.1077A**).

10. The officers who produced both the accused had reported to me about complying with my directions. I had also cross checked by asking both the accused.

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

11. (Learned adv requests that the cross-examination of the witness be deferred till tomorrow as it is the wish of the accused that advocate Ponda for A13 should begin the cross-examination. Learned SPP has no objection).

Date 14/06/11

(Y.D. SHINDE)  
SPECIAL JUDGE



**Date : 15/06/11**

**Resumed on SA**

**Cross-examination by adv H.H.Ponda for 13**

12. I cannot say at what time I received the letter Ext. 1054.

I did not know anything about the accused no.4 till I received this letter. It is not mentioned in this letter as to when the accused was arrested and when he first expressed his desire to make the confessional statement. I had not received any material in connection with this case till I drafted Ext. 1055. I had not seen the said accused till he was produced before me. It will not be correct to say that I had received the entire information and documents on 04/10/06 as to what confession the accused was going to make. It is true that the name of the accused mentioned in Ext. 1054 is Ehtesham Qutubuddin Ansari. I cannot say from where I got the information to write the name of the accused in Ext. 1055 as Ehtesham Qutubuddin Siddiqui. It is not true that I had the entire information about the accused on 04/10/06 and therefore I wrote his name in Ext. 1055 as above. It is true that when the accused was produced before me on 06/10/06, except the letters Exts. 1054 to 1056, I had no other

information about the accused. The IO did not record my statement. I do not remember whether the IO did not collect the copies of the letters Exts. 1054 and 1056 from me. It is not true that I did not receive them on the dates mentioned by me and I fabricated them and the letter Ext. 1055 later on.

13. I became a DCP in September 2003. I had studied the MCOC Act to some extent from that period upto the date of recording the confessional statement in this case in connection with my work. I had not read the TADA Act, but I know some of its provisions during the course of my work. I had studied the Cr. P. C. to some extent in connection with recording of the confessional statements, but not the Evidence Act. I may have recorded some confessions before this case, but I cannot tell their numbers and whether they were less or more than ten. I had not prepared any set of questions to be asked at the time of recording of the confessional statements. I asked the questions to both the accused while recording the Part-I of their confessional statements as per my experience and knowledge and as they occurred to me. It is true that except Exts. 1054 to 1056 I had no other material before me when I asked the questions to the accused.

The letter that the IO sent to me was itself a report about the facts of the case. It is true that except the mention of the offences for which the accused were arrested, no other facts are mentioned in Exts. 1056 and 1067. It is true that I wrote the English portions about the questions and answers in Hindi in Exts. 1057 and 1068 on the basis of the letters that were with me and the discussions that I had with the police officers and the questions that I asked to the accused. It is not true that the words 'Perused the report of the ACP, ATS, Mumbai Shri S. L. Patil' at the beginning of Exts. 1057 and 1068 mean that I had received separate reports from the IO as to what the accused were going to state.

14. I did not write the brief facts of the case that I ascertained from PSI Deore in Part-I, Ext. 1057. I do not remember whether I asked the accused to remove his veil in the presence of PSI Deore and his staff or after they had gone out of my chamber. It is true that it is not mentioned in it that the accused was produced in veil and that I asked him to remove his veil and that he did so, that I asked the accused to sit in the chair in front of me, that I asked him in Hindi as to in what case he was involved and why he was brought

before me. It is true that the intention behind telling the accused that I am DCP of Zone-IV, Matunga and telling him that I am competent to record his confessional statement under Section 18 of the MCOC Act and that though I am a DCP, I am not connected with the investigation of that case, was to bring to his notice that I am empowered to record his confessional statement and also to make him comfortable. This was an important aspect. It is true that all these things are not written in Ext. 1057. It is true that it is also not written that I called the stenographer in my office, that I observed the body language of the accused. The intention behind asking the accused as to whether he was beaten, threatened, induced or promised was to ascertain whether he was really intending to make the confessional statement voluntarily. I did not feel it necessary to examine the body of the accused to ascertain whether he had been physically tortured. I did not ask him when he was arrested and when he first expressed his desire to make the confessional statement. It is true that it is not mentioned that if he makes the confessional statement, it can be used as evidence against his co-accused also. It is true that it is also not written in Ext. 1057 that I was satisfied that he was ready to make

the confessional statement voluntarily on the answers given by him to the above questions and to the preliminary questions that I asked him about his name, address, education, etc., and on observing his body language, that I would give him time of 24 hours till the next day to reflect upon whether to make the confessional statement. It is not true that I had not asked all the above questions to the accused and he had not given answers to them, that I was given a prepared format of questions and answers and the English portion of Part-I and I just copied it. It is not true that the accused did not sign in my presence, but he signed before the ATS officers subsequently.

15. The photocopy of Part-I remained with me. It is not true that I got the photocopy prepared when the ready-made Part-I was brought before me on 07/10/06. There is no entry anywhere about I making the phone call to Police Station Matunga. The record of the oral instructions that I gave to API Randive are written in Ext. 1058. All the instructions are written in it except the instruction about giving food to him on time. The IO did not collect Ext. 1058 from me till I produced it in the court. It is not true that it was fabricated before I came to court. There was no question of producing the accused

before me again on 06/10/06 after API Randive had taken him, after Part-I was completed. It is not true that I felt that my orders on phone would not be obeyed, therefore, I prepared the letter Ext. 1058. I prepared the letter Ext. 1059 first and then I prepared Ext. 1058. I do not remember whether the IO did not collect the copy of Ext. 1059. It is not true that it is fabricated subsequently.

16. The accused was with me from the time he was produced before me at 11.00 a.m. on 07/10/06 upto the time he finished his confessional statement at 1430 hours. I had given the Part-II to the accused for reading. He required about 10-15 minutes to read it. I then took his signatures. I prepared the certificate thereafter for which I required about 5 minutes. It is true that Ext. 1062 also bears my original signature. I do not remember whether I prepared any other letter other than Ext.1063 after Part-II was completed. I do not remember whether I prepared a letter addressed to the Sr. PI Police Station Matunga for taking the accused to the CMM and another letter addressed to the IO ACP Patil of ATS that the work of recording confessional statement was over. I required about five minutes to prepare a letter to the CMM. It is not true that

the accused no. 4 was not produced before me on 07/10/06, that I prepared all the documents as per the documents provided to me and signed them and gave them to the IO and that I am deposing falsely that the accused made the statement before me and he signed before me.

17. I had no knowledge about the accused no.6 till I received the letter Ext. 1065. I did not have any other document before me except Ext. 1065 before I prepared Ext. 1066. I did not have any other document before starting Part-I of the accused no.6, except the letters Exts. 1065 to 1067. It is true that except the name of the accused as Mohd. Ali Alam Shaikh in all these three letters, I did not know anything more about his name. I had asked few questions to the accused before API Kolhatkar and his staff went outside. This is mentioned in paragraph 3 of Ext. 1068. It is not true that on the basis of the report given by the ACP, ATS I got the alias name of the accused as Ajij. It is true that it is not mentioned in Part-I, Ext.1068 that I asked the accused to sit in the chair in front of me, that I then introduced myself as DCP Karale of Zone-IV, Matunga and told him that though I am DCP I am not connected with the

investigation of that case, that I asked him whether anyone had 'forced him' to make the confessional statement, that whether he was giving his confessional statement voluntarily, that it can be used against his co-accused in the court, that I was satisfied on the above inquiry and on observing his body language and the fact that he was looking cool, that he was ready to make the confessional statement voluntarily. It is not true that the accused no. 6 was not produced before me, that he did not state Part-I of his confessional statement before me and did not sign on it before me. It is true that there is no record about I giving the directions to the Sr. PI Police Station Matunga on phone. I do not remember how many copies of Ext. 1069 I prepared. I do not remember whether the ATS officers did not take a copy of Ext.1069 from me. I had prepared three copies of Ext.1070. I do not remember whether the ATS officers took the copy of Ext. 1070 from me. It is not true that Exts. 1069 and 1070 are falsely prepared subsequently. It is true that in the answer to the question no. 3 in Ext. 1068, the accused told me that he took education in 'Ma Na Pa school, Shivaji Nagar' and I wrote it. It is not true that after I put Part-I of the confessional statement in the envelope and sealed it, I



prepared page 4 of Ext. 1068. It is not true that when page 4 was being typed, the Part-I was sealed in the envelope. I cannot say what exactly took place between 9.00 a.m. to 10.00 a. m., but I had asked some preliminary questions to the accused. I did not take the signature of the accused on page no.4 as they were my observations.

18. It is true that I took the signatures of the accused only on one side of the pages. It is true that I did not ask the accused to put his initials at the place of corrections in Part-II of both the accused. It is true that it is not mentioned in Ext. 1071 that I asked PSI Divekar whether there was any difficulty during the last 24 hours, that I then told the accused to sit, that I asked him whether the time of 24 hours given to him for reflection was sufficient and whether he wanted more time, that I asked him whether he knows that the confessional statement that he makes before me can be used against him and his co-accused as evidence in court, that on all the answers that he gave and on his body language, I was satisfied that he was ready to make the confessional statement freely and voluntarily. It is not true that the accused was not produced before me, that he did not make any confessional statement before me, that he did not sign

in my presence, that I prepared Part-II as per the documents provided to me and signed it and gave it to the ATS officers. It is not true that the letters Exts. 1075 and 1076 are prepared falsely by me. I do not remember whether the IO did not ask for their copies from me.

19. After the accused no.4 started narrating, I was asking questions to him sometimes in between to clarify certain words or sentence. I did not write these questions. Same thing took place about accused no.6. It is true that I did not insert any words of my own in Part-II of both the accused. The words on page 4 'pitaji', 'kutumba', 'shrimati', 'gruhini', 'patni', 'pitaji', 'kaksha', 'atak', 'karan', 'sanghatan', the words on page 5 'karyalay', 'dharmik', 'sadasyose', 'karyakram', 'adhyaksha', 'karyakartaose', 'mukhyalaya', 'karyalaya', 'atak', 'adhyaksha', the words on page 6 'jamin', 'niyukti', 'sanghatana', 'kuran', 'abhyas', 'pramukh', 'charcha', 'sangh', the words on page 7 'mashid', 'uthada' shirshak' prakashit' 'prati' 'prashikshan' 'suvidha', the words on page 8 'sampark' 'adhyaksha' 'nirdeshpar' 'ayojet' 'sahakari' 'sanghatan' 'sthapan' 'suraksha', the words on page 9 'karyapranali', 'rajya', 'sahayak' 'prashikshit' 'samparka' 'prashikshan' pravah' 'chulha' and the words on page 10

'suraksha' 'samay' and 'karyavahipad of Ext. 1060 were spoken by the accused no.4 and I had recorded them. It is not true that the accused does not use such words and has not used them before me.

20. The words in Part-II Ext. 1071 on the back side of page 3 'bhashan' 'sanghatan' on page 4 'pramukh' atithi' 'karyakarti ' and mashid, on page 5 'jankari', on back side of page 5 'viman', 'tips', on the back side of page 6 'samparka', on page 7 'karyakarta' and vishwas', on the back side of page 7 'karyakarta and mashid, on page 8 ' karyakarta and samparka and on the back side of page 9 'adhyaksha' were stated by the accused. It is not true that the accused does not use such words and has not used them before me.

(Adjourned for recess).

**Date 15/06/11**

**SPECIAL**

**JUDGE**

**Resumed on SA after recess**

21. I do not remember whether I told the accused that I would not send him back to the custody of the ATS, if they do not give their confessional statements. I did not ask the accused as I did not feel it necessary whether they wanted to take the advice of any advocate or their relatives. I could not give the certificate below the

portion on the last page of Ext. 1060 as I had taken out the printout and given it to the accused to read and after he signed it, it was difficult to again put it in the computer and print the certificate below it. With respect to Ext. 1071, there was no sufficient space below the handwritten portion on the last page. As I had a stenographer, it was not necessary to write the certificate by hand. It is true that the certificate should be handwritten as per Rule 3(6) of the MCOC Act now shown to me. I did not know that it was to be written in the certificate that it was made in my hearing and has been recorded by me in the language in which it is made and as narrated by, the confessor, I have read it over to the confessor and he has admitted it to be verbatim and correct and containing also full and true account of the confession/statement made by him. It is true that I did not write the time in the certificates Exts. 1061, 1062 and 1073. I did not know at that time that the certificate is to be given just below the confessional statement putting the time and date. I do not know whether the accused who make confessional statements retract them in the court. I did not feel it necessary to ask the accused to write their confessional statements in their own handwriting. I did not feel it

necessary to record their confessional statement on any mechanical device like tape, cassettes, sound track, etc. It is not true that the above lacunae pointed out to me are there as I wrote whatever was given to me prepared. It is not true that the accused no.4 was in the lockup of Matunga Police Station from 06/10/06 till he was taken out at 2.00 p.m. on 07/10/06, that he was taken out from the lockup at that time and taken to the court. It is not true that I deposed falsely that he was produced before me.

**Cross-examination by adv Rasal for A1 and 4 to 6**

22. I was DCP, Zone-IV, Matunga in July 2006. Sion and KEM Hospitals were in my jurisdiction. I had no occasion to go to the hospitals to visit the injured. I had knowledge that the injured in the railway blasts were admitted in the hospitals. I knew that crimes had been registered in connection with the blasts. It is true that the blasts in the railways in Mumbai were a terrifying incident in connection with the law and order in Mumbai. It is true that after such type of incidents there are consultations of senior police officers like me with the Commissioner of Police. There is a television in my office. There are electric connections in my office. I can make necessary arrangements

after following the procedure for making available tape recorders and other equipments. The procedure that is required to be followed is to get a permission from the Commissioner of Police as it involved financial implications, then quotations are required to be called for. It could have taken a few days to complete the procedure. It is true that news about the blasts were being given on the television and in the newspapers continuously. I was keeping track of the developments to see that there was no panic and no rumors were spread within my jurisdiction. I do not understand what do you mean by from what time in July I was keeping track of the incident. I had attended 3-4 meetings with the Commissioner of Police after this incident. The meetings were in connection with the measures and strategies to be taken in connection with the incident. It is not true that I was aware about the people who were arrested in connection with the incident. I did not come to know about the names of the persons who were arrested at that time, but I came to know from the newspapers that some persons were arrested. I do not know whether the places from where the persons were arrested were shown on television. I used to read the Times of India, Maharashtra Times and Sakal newspapers at

that time. I do not know whether the names and the photographs of the persons had appeared in the newspapers.

23. The letter Ext. 1054 was the first communication received from the Jt. CP in connection with this case. I received it on 04/10/06 and I went through it. It is true that there was a direction in the letter to record the confessional statement as per Section 18 of the MCOC Act. I did not try to ascertain certain things from the IO about the case after that. It was not necessary for me to ascertain from the IO about the voluntariness of the accused to make the confessional statements. I did not feel that knowledge about the dates of the arrest of the accused and the stage of the investigation were important for me. I did not try to ascertain the date of remand of the accused and when they were to be produced before the court. I had ascertained and I had come to know that they were in custody for next 2-3 days. I did not know for how many days both the accused would be in police custody. I knew that they were in police custody when produced before me. I knew that they were to be handed over to the ATS again after my work was over. I did not know for how many days they would remain in police custody after my work. It is not true

that when the accused were sent to me, they had been threatened and they were under fear of the police and therefore I did not make any inquiries to ascertain whether they are ready to give their statements voluntarily.

24. I do not know whether API Randive and PSI Divekar were on constant guard outside the cell of the accused in the lockup. They were supervising over the team of the constables who were on guard, but I cannot tell the names of the constables. I did not record the statements of API Randive and PSI Divekar in connection with the guard duties. I came to know that the accused are conversant in Hindi, therefore, I did not ask them and I did not come to know that they knew Urdu. I did not realize from their talk also that they knew Urdu well. I realized that they were capable of writing what they were talking.

25. My stenographer was probably not on duty on 24<sup>th</sup> and 25/10/06, but I cannot say for sure. I recorded my observations in English at the end of Ext. 1068 as I thought it fit to do. I did not do so on 06/10/06 at the end of Ext. 1057. I typed the English observations. It was in my mind on 24/10/06 as to when the accused was to be



called again after I completed Part-I. It is true that the date and hours in the English portion are written by pen. It is not true that I did not prepare the English observations at that time.

26. I do not know whether Muslims refer to their father as Abbu, whether 'parivar' is referred to as 'khandan' in Urdu. It is not true that for 'mashid' they say 'masjid', for 'karyakram' they use the word 'jalsa', for 'sanghatan' they use the word 'jamat'. It is true that for the word 'viman' the word 'hawai jahaj' is also used, for the word 'police', the word 'pulice' is used, for 'Mumbai' the word 'Bambai' is also used. 'Training' is an English word. 'Prashikshan' is its Hindi translation. For 'taluka' the word 'tehsil' is also used. For 'vel' the word 'waqt' is used. 'Supervision' is an English word. I do not know its Hindi translation. 'Dekhrek' is Marathi word. It is not true that 'Virodh' is only a Marathi word. For the word 'khilaf', Marathi word will be 'viruddha'. It is not true that Marathi as well as English words of the same meaning are used in the confession of the accused no.4, that therefore it is not a statement given by him and that I just copied it from the statement that was provided to me.

27. There were about 25 DCPs in Mumbai in October 2006.

I had sent copies of Exts. 1057 and 1060 to ACP Patil. The letter Ext. 1065 was concerning another CR, but I realized that it was in connection with the Bombay railway serial bomb blasts in which I had already recorded a confessional statement. The Jt. CP K. P. Raghuvanshi had directed me to record both the confessions. I did not contact ACP Patil when the second accused was referred to me by the Jt. CP.

28. I had written the word 'mujrim' in Ext. 1068 below the name of the accused. The words 'Mohd. Ali Shaikh' were not written by me. They were written by the accused below his signature. The word 'mujrim' means 'accused'. I do not know whether it is used for a person who is convicted. I do not know whether the person against whom an accusation is made is called 'mulzim'. It is true that I did not use the word 'mujrim' anywhere else except in Ext. 1068. It is not true that I used that word to be able to point out the place where the signature of the accused was to be taken.

29. It is not true that both the accused were not produced before me and they did not make any confessional statements before me, that I prepared the confessional statements to fulfill the

requirements of the law on the say of the ATS.

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

(Deferred to tomorrow as per the request of the Id adv at 04.45 p.m.).

Date 15/06/11

Date : 16/06/11

(Y.D. SHINDE)  
SPECIAL JUDGE

**Resumed on SA**

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

30. It is true that recording of confession is a solemn act. I do not remember whether I had recorded any confessional statements upto 04/10/06 in 2006 under MCOC Act and their number and the cases. The main record of the confessional statement is the Part-I and Part-II including the certificate and the correspondence with the concerned officers. Since Part-I and Part-II is the basic record as to what transpired between me and the person making the confessional statement, the questions asked by me and the answers given by the accused are recorded in them. I did not omit to record all the questions and the answers, except some preliminary questions which I might have missed. It is not true that there are some insignificant questions that I did not record. It is true that I did not ask

any insignificant or unimportant question.

31. I did not find that the accused were sick and suffering from any ailment whenever they were produced before me. Medical examination is different from providing medical treatment. It is true that except the name of the accused and the date of his production, other particulars in the letters Exts. 1058 and 1070 are the same. It is true that it is not mentioned in both the letters that the concerned police officer should get the accused medically examined. The officers did not submit any written report about giving any medical treatment to the accused, but someone informed me on phone that they were medically examined. I cannot tell who informed me at what time and on what date. I do not remember whether any medical certificate was produced before me. I did not write the question in Ext. 1068 concerning the accused no.6 as to whether he needs any medical treatment, as I wrote in Ext. 1057 concerning the accused no.4. I had asked the accused no.6 about it, but I did not write it inadvertently. I asked those questions to both the accused in order to relax them and satisfy myself that they are alright. I asked similar type of questions to both the accused during Part-I and Part-II. I

cannot assign any reason why I did not give serial numbers to the questions on the second page of Part-I of the accused no.6 as I had given to the questions on the first page. I thought from the qualifications of the accused no.4 that he knew English, but was more comfortable in Hindi. I did not think that the accused no.6 knew English. Confessional statement is translated in Hindi as 'kabuli jawab', 'kabuli bayan' or 'bayan'. I do not know how it is translated in Urdu. In Marathi it is 'kabuli jabab'. If I want to ask the question to the accused that any confessional statement that he gives before me can be used against him and his co-accused as evidence in the court, in Hindi I would say that 'agar tum kabuli jawab doge, to wo kabuli jawab tumhare aur tum sabke khilaf sabut ke taur par istemal kiya jayega'. It is a translation to my knowledge.

32. Our superior officers have not given any written guidelines about recording confessional statements. I generally ask similar type of questions to the accused whenever I record the confessional statements. I have recorded one confessional statement under TADA Act. I do not remember how many times I gave evidence pertaining to recording of confessional statements. I may have given

evidence in about 3-4 cases pertaining to recording of confessional statements. As per my study, the question about asking the accused whether he wants to keep his advocate or relative and consult with them during the recording of the confessional statement, is not a necessary question as it is not provided in the Act and Rules. I do not remember whether I had asked such type of question to other accused before this case. There is no direction from any court or any superior officer whether to ask this question or not to ask it. It is important to tell the accused that it is not binding on him to make the confessional statement. It is not necessary to ask the accused as to why he wants to make the confessional statement. I did not feel it necessary to know from the accused for how long they were in police custody. I did not ask both the accused as to when and from where they were arrested. It is not true that I did not ask them why they are produced before me. This question is not written in their statements.

33. I do not remember whether I had recorded the confessional statement of the accused Sayyad Akif Sayyad Zafaruddin in Aurangabad Arms Haul case, when I was DCP, Zone-XI on 13/06/06. (Learned advocate for the accused makes a request for

calling for the confessional statement of the said accused in the record of MCOC 16/06, which is pending before this court. Sheristedar is directed to bring it from the department). The format of certificate was not provided by my superiors, but I prepared it as per the provisions of the MCOC Act and the Cr. P. C. There is nothing on record to show that the accused no. 4 was produced before me in veil on 06/10/06. The information to the accused that it is not binding on him to make the confessional statement, can be translated in Hindi as 'tumhe kabuli jawab dene jaruri/bandhan nahi'. I do not agree that 'jaruri' and 'bandhan' are different words with different meanings. It is not mentioned in the confessional statement of the accused no. 4 that he informed me that his medical examination was done. It is true that it is not mentioned in the confessional statements of both the accused that they said on being informed that any confessional statement that they make before me, can be used against them and their co-accused in the court as evidence, that even then they are ready to make it. It is true that the time of completing Part-I of the accused no.4 is not written in Ext. 1057. It is not true that I have not mentioned the time of commencement of Part-II of the accused no.4. It is true

that the time of finishing Part-II is not mentioned. The time of production is the time of commencement of the statement. There is no reason why the observations as made at the end of Part-I and Part-II of the accused no.6 are not made in Part-I and Part-II of the accused no. 4. It is true that I have not mentioned the time of completion of Part-II below the statement made by the accused no.6.

34.                   Sealing means pasting. Every time lac seal is not used for sealing. It is true that I had affixed lac seals to the envelopes Exts. 1068A and 1073A. I cannot say for sure, but my office staff might have written the name of the addressee, the words Part-I and Part-II, confidential and outward number of my office. It is true that the name of the accused, CR number and the date of recording the confessions is not mentioned on the envelopes. It is true that the words of the impression on the lac seal are not readable. I do not remember whether I put lac seal on the envelopes in which I put Part-I and Part-II of the confessional statement of the accused no. 4. I do not remember off hand whether the particulars of the name of the addressee, the words Part-I and Part-II, confidential and outward number of my office were written on the envelopes and whether the



rubber stamp of my office was affixed. (Witness is shown Art. 326 and the envelope along with Ext. 1060). It is true that both the envelopes are blank and my office has not written anything on them and there is no lac seal and marking of lac seal. It is true that the round rubber stamp of my office is not affixed on any document of the confessional statements. I came to know the name of the accused no.4 during interaction with him as Ehtesham Qutubuddin Siddiqui. It is true that in none of the correspondence from the ATS or in the confessional statement, I came across the name of the accused no.4 as Ehtesham Qutubuddin Shaikh. I cannot say how it is so mentioned in the subject of the letter Ext. 1064. The letter Ext. 1076 is correctly prepared by me and it along with the sealed envelopes and forwarding letter to the CMM were personally received by PI Ghuge. It is true that the letter does not mention two sealed envelopes.

**Cross-examination by adv Wahab Khan for A2, 7 and 10**

35. I do not have knowledge as to how a statement can be recorded on a sound track. I know how a tape recorder can be operated to record voices. It is not true that I have seen a number of cases where conversations are tape recorded. As far as I remember

none of my sub-ordinates have reported to me about recording conversations on tape recorder. I was attached to Anti-corruption bureau in Aurangabad for six months. I had supervised trap cases. There was no occasion to record conversations on tape recorder.

36. I had to supervise the progress of the investigations of the offences that had taken place in my jurisdiction as DCP. The investigating officers report the progress of the investigations. The DCP has to supervise the investigation of serious and sensational cases. It depends upon the case whether detailed reports of investigations are given. I can call for a detailed report, if I have any doubt. I have to call for the antecedents of the person, the *modus operandi* and the cases in which he is involved, if he is an accused in a serious and sensational case. I do not know whether the ATS files its own complaints as it is a deemed police station. Antop Hill Police Station was within my jurisdiction. If any police encounter takes place in my jurisdiction, it is a sensational case.

**Q.-** In case of police encounter in your jurisdiction, as a DCP you have to keep a track of the investigation, collect all information about the antecedents of the deceased and his *modus operandi* ?

**A.** There are different agencies like Crime Branch, Special Branch, ATS and regular police working in Mumbai and if we are directed by the Commissioner of Police to specially keep track of the investigation in such cases, then we do it. If such a direction is given to a particular agency, then we do not interfere. If there is no direction to any agency, then we take up the investigation. It is not true that if the FIR is lodged in any police station within my jurisdiction, then we have to investigate even if it is being investigated by other agency. There was an encounter within the jurisdiction of Police Station Antop Hill, but I do not remember the exact date or the name of person who was killed. It was during my tenure at Zone-IV, but I do not know whether it was in 2006. I do not remember whether some ATS officer was the complainant and the name of the deceased was declared as Mohd. Ali. I was the DCP, Zone-IV from June 2006 to June 2007. I cannot say whether there was only one encounter during this period. I do not remember whether any report was forwarded to me in connection with that encounter, whether the details of the deceased and his antecedents were sent to me, whether I had given any directions, whether the ATS had claimed that the deceased was a

Pakistani national, whether he was an accused in the train blasts case.

(Adjd. for recess)

**Date 16/06/11**

**SPECIAL JUDGE**

**Resumed on SA after recess**

37. No record about I coming to the office and leaving it is maintained in my office. If an accused refuses to make his confessional statement, it is required to be so written. I do not remember what work I did before and after the dates of recording of the confessions and the correspondence in this case. I do not remember whether I was in my office on 05/10/06, whether an accused was brought before me for recording of his confessional statement, whether PI Tajane of ATS had brought him in connection with CR No.156/06 of Borivali Railway Police Station. The accused Ehtesham Qutubuddin Siddiqui was not brought before me on 05/10/06. I had received the letter dated 07/10/06 from ACP Patil asking for furnishing copy of confessional statement of the accused, as per the copy now shown to me. I am producing that letter. It was

received on 09/10/06 by me, it bears my signature of acknowledgment. (It is marked as **Ext.1078**).

**Q.** Have you made any correspondence with the IO in connection with the contents of the letter?

**A.** I had talk a with him and I had also sent him a letter on 09/10/06 in connection with the contents particularly with respect to the date of production of the accused.

It is not true that PI Tajane had produced the accused Ehtesham Qutubuddin Siddiqui on 05/10/06 and he had refused to make any confessional statement. It is not correct to say that the rubber stamp of my office is the official seal to be used for every official correspondence.

38. Log book is maintained in every police vehicle and the entries of date and time are made therein. It is not true that there is an entry of every important travel. I do not remember whether Qualis vehicle MH-01-BA-4277 was attached to Police Station Matunga at that time. I do not know in what vehicle the accused was sent to the CMM. PSI Randive had taken him. I cannot say exactly whether he was taken at 2.00 p.m. It is not necessary that the station diary entry

is made every time when an accused is taken out from the lockup. However entry is made in the lockup register. It did not come to my notice that no entries were made in the lockup register as well as in the station diary. I do not know whether the accused was taken out from the lockup at 2.00 p.m. on 07/10/06 for being taken to the CMM. The forwarding letter to the CMM is required to be prepared immediately after the certificate is prepared. As it is not the procedure, the letter is not prepared before preparing the certificate. I follow similar procedure for all accused. It is my understanding that the letter is to be prepared after preparing the certificate. I do not prepare letter before preparing the certificate. I do not call the police officer inside before I prepare the certificate. It did not happen that before preparing certificate, I called the police officer inside, sealed the confessional statement and prepared the letter to the CMM. (Witness is shown the observations Ext. 1072). These observations were prepared after I prepared the certificate Ext. 1073. It is attached before the certificate. The observations are correct. It did not happen that when the observations were written, the Part-II of the confessional statement was sealed. It is not true that it is incorrectly

written in the observations, because it was going to be sealed.

39. I do not understand the question, therefore, I cannot say whether if two persons are given a CD containing a document, the mistakes in the document may be repeated if not corrected by them. There is no software or format of confessional statement. I cannot specifically say whether I have attended a common meeting or conference with DCP Brijesh Singh regarding the manner and the procedure of recording confessional statements. I did not give the serial numbers to the answers. It is not true that the ATS had given me a CD containing the confessional statement of the accused no.4 wherein an answer was also given a serial number. It is true that the answer to the question no.3 in Ext. 1060 is given serial no. 4. It is a mistake. I do not know whether DCP Brijesh Singh has carried forward the same mistake.

40. It is not true that the accused no. 4 was not given 24 hours for reflection. The confessional statement was typed on a computer. I had not given any specific timings for providing food to the accused. I do not remember whether it was the month of ramzan and whether any special arrangements were made for finishing the

fast. At that time the outward numbers of correspondence of my office were running in three digits. The outward numbers of the letters of the ATS were in four digits in between 1000 and 2000.

**Q.** Where is the letter of my office refer to in Ext. 1056?

**A.** The outward number is probably wrongly written, but it refers to my letter outward no. 154, Ext. 1055. I cannot say whether the outward no. 1810 referred to in Ext. 1058 is wrongly written. I can clarify only on going through the office record. I cannot say right now whether outward no. 1804 and 1810 are of my office.

41. It is not true that I prepared the documents on the instructions of Jt. CP Raghuvanshi. It is not true that I gave false evidence.

No re-examination

R.O.

**Special Judge**

**Date:-16/06/2011**

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