

**M.C.O.C. SPECIAL CASE NO. OF 21/06****DATE: 16TH JUNE, 2011****EXT. NO.1079****DEPOSITION OF WITNESS NO.105 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Balu Sambhaji Gangurde  
Age : 52 years  
Occupation : Service (PSI, Control Room, Mumbai)  
Res. Address : A/1, officers quarters, Police Commissioner's  
compound, CST, Mumbai

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

1. I was attached to Police Station Azad Maidan from 2003 to 2007. I was on day duty on 04/10/06. PI (Admn) Diwadkar called me at about 1.30 p.m. and directed me to take two constables with me and report to the office of DCP (Preventive). Accordingly I went to the office of the DCP in the police van and reported there. I made station diary entry before going out of the police station. Station diary entry at sr. no. 29 in the original station diary now shown to me is the same, it was made by the duty officer. The contents of the certified true copy of that entry now shown to me are as per the original. After I reported to the DCP, he asked me to wait outside for some time. He called me

inside in his office at about 1645 hours and told me that the accused by name Dr. Tanveer is in his custody and he is giving him in my custody. He gave me a letter addressed to the Sr. PI of our police station and directed me to take him to the police station after getting him medically examined, to take care of him, to provide food to him, to keep him in a separate cell in our police station and not to allow anyone to meet him including his relatives, friends and police. I veiled the accused after taking him in my custody. I and my staff then took him to the GT hospital in a police van and got him medically examined there. I took him to the police station from there. I gave the instructions to the duty officer as were given by the DCP about taking care of the accused. I gave the letter given by the DCP to the Sr. PI. The DCP had taken my signature in acknowledgment on that letter. (Witness is shown Ext. 1021). It bears my endorsement in my handwriting of having received the accused in my custody and my signature below. He had directed me to produce the accused before him on the next day, i.e., on 05/10/06 at 1700 hours. I then put the accused in the lockup in a separate cell and gave strict instructions to the guard amaldar as given by the DCP. I also intimated the

instructions to the night PI Sonavane. Thereafter I made an entry in the station diary at sr. no. 39 in my handwriting at 1835 hours. Station diary entry at sr. no. 39 in the original station diary now shown to me is the same, it is in my handwriting and its contents are correct. The contents of the certified true copy of that entry now shown to me are as per the original. (The certified true copy of the station diary entries no. 29 & 39 is marked as **Ext. 1080**).

2. I took out the accused from the lockup at 1635 hours on the next day, i.e., on 05/10/06. I veiled the accused and along with the two constables that were with me, I took him to the office of the DCP (Preventive) in police van. I made station diary entry before going out of the police station. Station diary entry at sr. no. 25 in the original station diary now shown to me is the same, it was made by the duty officer PSI Pangam. The contents of the certified true copy of that entry now shown to me are as per the original. I reported to the DCP that I had brought the accused. (Witness is shown the letter Ext. 1022). I had given this letter to the DCP about producing the accused before him. It bears my signature and its contents are correct. The DCP asked me to wait outside and he and the accused were inside

his office. The DCP called me inside his office at about 10.00 p.m. and gave me a letter addressed to the Sr. PI Azad Maidan Police Station. He also gave me similar directions as given on the earlier day about taking care of the accused and the precautions that were to be taken. He then gave me two sealed envelopes and one letter in an envelope addressed to the CMM and directed me to produce the accused on the next day before the CMM. He also directed me to get the accused medically examined. I took the accused, the letter addressed to the Sr.PI, the letter addressed to the CMM in an envelope and two sealed envelopes in my custody, veiled the accused and took him to the GT hospital where I got him medically examined. I then took him to the police station. (Witness is shown the letter Ext. 1026). The endorsement below the letter is in my handwriting and contains my signature. I gave the letter to the Sr. PI. I kept the sealed envelopes addressed to the CMM in the locker of our police station safely. I then made station diary entry. I then put the accused in the lockup and gave the instructions to the guard amaldar as given on the earlier day. I also informed the duty officer PSI Lokhande and the night PI Diwadkar and gave them the instructions

as given by the DCP. Thereafter I made an entry in the station diary at sr. no. 39 in my handwriting at 2240 hours. Station diary entry at sr. no. 39 in the original station diary now shown to me is the same, it is in my handwriting and its contents are correct. The contents of the certified true copy of that entry now shown to me are as per the original. (Certified true copy of the station diary entries no. 25 and 39 is marked as **Ext. 1081**).

3. I went to the CMM on the next day, i.e., on 06/10/06 at 11.00 a.m. and asked them whether I should bring the accused before him. I had gone alone at that time. He directed me to produce the accused before him at 3.00 p.m. Accordingly at 1505 hours I took out the accused from the lockup, veiled him and made an entry in the station diary. Station diary entry at sr. no. 40 in the original station diary now shown to me is the same, it is in my handwriting. The contents of the certified true copy of that entry now shown to me are as per the original. I took the accused along with my staff before the CMM, but I was asked to wait for some time. At about 1630 or 1645 hours the CMM asked me to bring the accused in his chamber. I gave the letter in an envelope addressed to him and the two sealed envelopes. He

asked me to wait outside. Thereafter at about 5.30 p.m. he gave the accused in my custody and asked me to take him back. I brought the accused outside, veiled him and brought him down to the police station. I then made a phone call to DCP Mohite and reported to him that the work of production of the accused before the CMM was over and asked for his further directions. He asked me to take the accused to the office of the ATS at Bhoiwada and give him in the custody of the ATS. I took the accused with my staff in the police vehicle and went to the ATS office at Bhoiwada and gave the accused in the possession of ACP Patil and PI Khandekar. I returned back to the police station and made station diary entry. Station diary entry at sr. no. 49 in the original station diary now shown to me is the same, it is in my handwriting and its contents are correct. The contents of the certified true copy of that entry now shown to me are as per the original. (The certified true copy of the station diary entries no. 40 and 49 is marked as **Ext. 1082**).

4. ACP Patil took my statement on 26/10/06. I had produced certified true copies of the station diary entries and the medical reports of the accused before him. The copy of the requisition to the

MO of GT hospital now shown to me is the same, it bears my signature and its contents are correct. (It is marked as **Ext.1083**). The OPD case paper now shown to me is the same. (It is marked as **Art-327**). The ODP case paper of the earlier day was handed over to the guard amaldar of the lockup.

5. I will be able to identify the accused who was given in my custody by the DCP. (Witness looks around the court room and points to the accused no.2 sitting in the dock. He is made to stand up and tell his name, which he states as Tanveer Ahmed Ansari). He was the same accused.

**Cross-examination by adv Salunkhe and Ms. Shaikh h/f Wahab**

**Khan for A2, 7 and 10**

(Deferred to tomorrow as per their request at 4.45 p.m. as adv Wahab Khan has gone to the Sewree court).

**Date : 16/06/11**

**(Y.D. SHINDE)  
SPECIAL JUDGE**

**Date : 17/06/11**

**Resumed on SA**

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

6. (Learned advocate submits that his objection about the production of copy of requisition Ext. 1083 and the OPD case paper Art. 327 by this witness, without these documents being produced with the chargesheet and without there being any application on behalf of the prosecution for producing them, be recorded).

It is true that Ext. 1083 was given to me by PI Mohite at the time of my evidence yesterday. It was with the station diary. I did not bring it to the court. It is true that the carbon impression of the date is 4, but it is made 5 by pen. It is true that the name of the father of the accused 'Mohd. Ibrahim' is added by pen. It is true that at both the places I had not put my initials and date. An outward register is maintained by our police station. It is true that outward numbers are given to letters that are sent to superior officers, hospitals and court. I do not remember whether I had taken the outward number for putting on Ext. 1083. Outward number is necessary to be mentioned when corresponding with the medical officers and chemical analyzer. It is



true that Ext. 1083 does not bear the outward number. I cannot assign any reason why I did not write the outward number on it. Signature of the medical officer was taken on Ext. 1083. I can point it out. It is true that except the word 'received' there is no signature on it. The medical officer did not put the inward number of his hospital.

7. GT hospital is government hospital. I have taken OPD case papers from that hospitals for myself, relatives or accused. OPD case papers are in printed format. It is necessary to pay some fees for taking an OPD case paper. OPD fees are not taken from government servants. The logo of the hospital is on the printed format of the OPD case paper. OPD number is given to the patient and it is mentioned on the OPD case paper. It is not true that I prepared Ext. 1083 with the help of PI Mohite yesterday.

8. I had stated to ACP Patil when I gave my statement that I had gone to the DCP office in police van, that after I reported to the DCP, he asked me to wait outside for some time, that he called me inside in his office at about 1645 hours and told me that the accused by name Dr. Tanveer is in his custody and that he is giving him in my custody, that the DCP directed me to take him to the police station after getting

him medically examined, to take care of him, to provide food to him and not to allow anyone to meet him including his relatives, friends and police, that I veiled the accused after taking him in my custody, that I and my staff then took him to the GT hospital in a police van and got him medically examined there, that I took him to the police station from there, that on the next day, i.e., on 05/10/06 I veiled the accused and along with the two constables that were with me, I took him to the office of the DCP (Preventive) in police van, that I reported to the DCP that I had brought the accused, that the DCP asked me to wait outside and he and the accused were inside his office, that he also directed me to get the accused medically examined, that I took the accused, the letter addressed to the Sr. PI, the letter addressed to the CMM in an envelope and two sealed envelopes in my custody, veiled the accused, that I kept the sealed envelopes addressed to the CMM in the locker of our police station safely, that then I made station diary entry, that I then put the accused in the lockup and gave the instructions to the guard amaldar as given on the earlier day, that I also informed the duty officer PSI Lokhande and the night PI Diwadkar and gave them the instructions as given by the DCP, that

when I went to the CMM on the next day, I had gone alone at that time, that then along with my staff, I took the accused before the CMM, but I was asked to wait for some time, that at about 1630 or 1645 hours the CMM asked me to bring the accused in his chamber, that I gave the letter in an envelope addressed to him and the two sealed envelopes, that he asked me to wait outside, that thereafter at about 5.30 p.m. he gave the accused in my custody and asked me to take him back, that I brought the accused outside, veiled him and brought him down to the police station, that I then made a phone call to DCP Mohite and reported to him that the work of production of the accused before the CMM was over. I cannot assign any reason why all these things are not written in my statement.

9. I have read correspondence received from the office of the DCP and the correspondence made to him. It is true that letters sent by our senior PI or the concerned officer bear their signatures and the office seal. Same is the case about the correspondence from the DCP. It is true that Exts. 1021, 1022 and 1026 do not bear the office seal of the office of the DCP or of our police station. One will require about 20-25 minutes on foot from the police station upto the DCP

office, which is about one or one and a half kms distance. We use the same road when we go on foot. There was bandobast on 04/10/06 as there was a big morcha of BJP at Churchgate. I cannot say now about the timings of the morcha. Bandobast duty is given about two hours before the start of the morcha and upto one or one and half hours after it ends. I cannot say how many people were in the morcha. I do not remember the timings of the morcha and how many officers and staff were sent for bandobast. The Sr. PI had gone there. ACPs and DCPs are there for supervising over the bandobast generally. The morcha was within the jurisdiction of our police station. I do not remember how many days before the information of the morcha was received.

10. I reached the office of the DCP on 04/10/06 at about 2.00 p.m. The accused was present at 2.00 p.m. in the office of the DCP. I did not see whether the work of writing was going on in the office of the DCP in my presence. I went inside the office of the DCP alone to report. We went in police van, but I cannot tell its number and it is not mentioned in the station diary entry. It is true that if the police vehicle is taken, the name of the driver and the number of the

vehicle are mentioned in the station diary entry. I had taken light van, but I cannot describe its make. Log book is maintained in every police vehicle. Entry of purpose for which the vehicle is taken is made in the log book. I cannot produce the log book of that vehicle as it is not with me presently. No entry was made in my presence in the log book, but the driver makes it subsequently. There were two light vans attached to our police station in October 2006. I cannot tell the names of the driver. About 15-16 people can sit in it. I do not remember their numbers. It is not true that both the light vans were sent for bandobast duty on 04/10/06 before 1.30 p.m. It is not true that one can reach the DCP office within 10 minutes from our police station. I was outside the office of the DCP upto 1645 hours. No one went inside and came outside his office during that period. When the DCP gave me the instructions, the work of writing was not going on. It did not happen that I came back to the police station in police jeep and I had called for it. I do not know at what time the morcha was over. I do not remember that the morcha was upto 8.00 p.m. on that day. It did happen that because of bandobast vehicle was not available for some time to take back the accused to the police station. The light

vans were being used for carrying persons to and fro. I did not ask the driver of the light van to halt at the office of the DCP when I went there with the accused. He had dropped us and left. I had contacted PI Arun Sonavane in connection with sending the vehicle. It did not happen that he told me that all the vehicles are at the place of bandobast and would be available after the bandobast is over. It is not true that he sent a jeep after the bandobast was over. It is incorrect if it is written in the station diary entry no. 39 that PI Sonavane sent the jeep after the bandobast was over. I cannot assign any reason why it is so written there. I did not mention the name of the driver or the number of the vehicle in the station diary. No entry was made in my presence in the log book of the vehicle about taking back the accused.

11. It is not true that there was bandobast duty on 05/10/06 also. I cannot say whether senior officers and staff were sent somewhere for bandobast duty on that day. I have done bandobast duty of Prime Minister once or twice. I had done such duties upto 24 hours. It is true that Jt. CP, DCPs, ACPs, supervise over such duties. It is not true that I did such duties in 2006. I do not remember whether

there was Prime Minister bandobast duty on 05/10/06. I had not gone for such duty. I do not remember whether officers of our police stations had gone for such duty. I had attended Prime Minister bandobast duty in 2004 when the Prime Minister of France had come. I do not remember whether I had done bandobast duty at the time of visit by the Prime Minister of India.

12. I had not provided food to the accused at any time on 4<sup>th</sup>, 5<sup>th</sup> and 06/10/06. The DCP had not given specific directions about the timings and the type of food that was to be given. I used to talk with the accused. It was the Ramzan month. The accused was fasting at that time. The DCP told me about it on 4<sup>th</sup> and 5<sup>th</sup> also. I did not make any provision for providing food before the fast started and after it was over. I did not take dates, fruits and water to the accused. The DCP did not ask me or the staff with me to bring it. These items were not brought in the office in my presence. I do not know whether the accused had food for breaking the fast on all the three days. The time for breaking the fast is in between 6.15 to 7.00 p.m.

13. The guards at the lockup of our police station sit outside the entrance gate. I cannot say whether the general lockup of our

police station is small as compared to the general lockups of other police stations, but it is quite big. I do not know whether the lockups of Santacruz, Andheri, Borivali, Mahim, etc., are of two or three floors. The DCP talked with me for about ten minutes on 04/10/06 when I reported to him. He did not inquire about the details of our lockup and its capacity. He did not ask me whether it would be possible to arrange for a separate room. I did not inquire on phone about it. It is true that the number of accused in the lockup is fluctuating. There are six rooms in our lockup, out of which one is for women. The accused no. 2 was kept in the second room on the left side. It may be mentioned in the lockup register.

14. It is not true that PI Khandekar of ATS was waiting at the DCP office on 04/10/06 when I went there, that he met me there, that we had a discussion. I had not seen him there. His name was not even uttered in my presence. I did not meet any ATS officer there on that day.

15. I started from the police station with the accused at 1635 hours on 05/10/06. I do not remember the name of the driver, his buckle number and the number of the vehicle in which I went and



returned back on that day. These details are not written in the station diary entry. ACP Patil had asked me about these details when he took my statement, but I could not tell him as I did not remember. I reached the office of the DCP at 1700 hours. There is no visitor's register there. The accused are kept and taken out from the general lockup on the basis of warrant of the court. I have kept accused and taken them out from the lockup number of times. It is true that a written requisition is required to be given for taking out the accused for the purpose of police station work. The accused are not taken out from the lockup only because the guard is known. The accused no. 2 was not kept in the lockup on the basis of warrant. It is true that requisition sent by the police station bears the outward number and the office seal of the police station. I had given copy of the letter of the DCP to the guard amaldar. I did not take his acknowledgment as it was by hand. I was at the DCP office from 1700 hours to 2200 hours on that day. There was no one with me during this period except my staff. I did not see anyone entering or coming outside the office of the DCP and no tea or coffee was ordered during this period nor any food for breaking fast was called for. I did not ask the

accused about breaking his fast when he was given in my possession at 10.00 p.m..

16. The court of the CMM is upstairs on the second floor in the building of our police station. It is not on the third floor. Court working hours are from 11.00 a.m. I came on duty at 9.00 a.m. on that day. I do not remember whether I made a station diary entry about it and also on 4<sup>th</sup> and 5<sup>th</sup> . It is true that station diary entry is required to be made while going off duty. I do not remember whether I made such entries on 4<sup>th</sup>, 5<sup>th</sup> and 06/10/06. Regular duties are assigned 24 hours before by PI (Adm) and are entered in the order book. I was assigned day duty on 04/10/06 in the police station. I can produce the order book to show this duty.

17. I knew on 05/10/06 at what time the accused was to be taken out from the lockup for being produced before the CMM on 06/10/06. PI Khandekar of ATS had not come to our police station at 10.00 a.m. on that day and I do not remember he having come there and having met the accused and that he was with him upto 3.00 p.m. it is true that I took out the accused from the lockup after 3.00 p.m. I produced the accused before the CMM at 1505 hours. At that time

the court was working and I had produced the accused in the court hall. There were 10-15 advocates and litigants in the court hall. The CMM did not ask me any questions at that time. I did not handover the letters to him at that time. I met the judicial clerk, but I did not handover the letters to him. I was called in the chamber at about 1645 hours. I was waiting outside the court hall in the passage with the accused from 1505 hours to 1645 hours. It is not true that PI Khandekar was present at that time.

18. It is not true that I did not personally take the accused to the ATS office at Bhoiwada and handed over his custody. It is not true that the ATS officers took his custody from outside the office of the CMM. It is not true that I had not taken the accused in the police vehicle to the office of the DCP on 04/10/06, that the ATS officers had brought the accused to the Azad Maidan Police Station on that day, that the DCP had not given any letters or directions to me and I had not given the directions to the guard, that I produced false station diary entries, that I was on bandobast duty on morcha on 04/10/06 and VIP bandobast on 05/10/06. I went to the ATS office at about 11.30 or 12.00 a.m. My statement was recorded within 30-45 minutes

by ACP Patil. It is not true that he did not record my statement and that I am giving false evidence

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

19. Declined.

(Adjourned for recess)

**Date 17/06/11**

**Special Judge**

**Resumed on SA after recess**

**Cross-examination by adv Shetty for A3, 8, 9, 11 & 12**

20. About 50-60 accused can be kept in the lockup of Azad Maidan Police Station. Upto 10 accused can be kept in one room. I cannot tell the names of the guard amaldars on duty on 4<sup>th</sup>, 5<sup>th</sup> and 06/10/06 and whether the same amaldar was on duty or there were different persons on duty. It is true that I did not take any report from the guard amaldars and did not take the extracts of the lockup registers. I took the accused for medical examination at the GT hospital at about 5.15 p.m. on 04/10/06. I took the accused directly to the GT hospital after taking him in my custody from the DCP. I took the accused to the GT hospital at 22.30 hours on 05/10/06. I cannot tell the names of the doctors who examined the accused on both the

days. I had taken the case papers from the doctors. I had given the case paper of 04/10/06 to the guard amaldar. I kept the case papers of 05/10/06 with me. I had given zerox copy to the guard amaldar. I produced the original of 05/10/06 only at the time of statement. The case paper of 04/10/06 may be with the guard amaldar. I knew when I went to ACP Patil on 26/10/06 that I am going there for the purpose of giving statement in connection with production of the accused no.2 before the DCP for the confessional statement. Therefore, I took the case paper of 05/10/06 with me. As I gave the case paper of 04/10/06 to the guard amaldar, it did not come to my mind to take it from him. I cannot tell the name of the guard amaldar. There is no record of giving him the case paper. I do not remember whether the said guard amaldar was on duty on 24<sup>th</sup> , 25<sup>th</sup> and 26/10/06. I had taken the accused for the medical examination on both days as the DCP had instructed me to do so. Those instructions are in the letter Ext. 1021 now shown to me. It is mentioned in that he be given medical aid if and when necessary. I took him for medical examination to ensure that he keeps good health and does not have any trouble. I do not know whether he was given any medicines on both days. I was

present when the doctor examined the accused. The doctor did not examine the body of the accused by asking him to remove his clothes on both days. It is true that at present there is no record except my words to show that I had taken the accused for medical examination on 04/10/06. I can produce it if I find it. It will not be possible to find it. It is true that it is not mentioned in the station diary entry no. 39 that I had taken the accused for medical examination. It is not true that I did not take the accused to the GT hospital for medical examination on 04/10/06. Witness volunteers- unless an accused is medically examined he is not taken in the lockup. I cannot say whether there is a direction that the accused in the lockup are to be medically examined everyday. I got the accused again medically examined on 05/10/06 as he was to be produced before the court on the next day. I do not know when the accused was medically examined before 04/10/06. I did not make any inquiry about it. I did not feel it necessary to get the accused medically examined on 05/10/06 before taking him to the DCP.

21. I produced the accused before the CMM in his chamber. There was no other person in the chamber except the

CMM. I was in the chamber for 5-7 minutes. The accused was in the chamber for about 20-25 minutes. I went and waited outside the chamber of the CMM after producing the accused and handing over the covering letter and sealed envelopes. The CMM did not ask me anything, he took the letter and envelopes and said ok and asked me to wait outside. He did not ask the accused anything in my presence. I do not know what happened between the CMM and the accused in the chamber. I had read my statement. It was correctly recorded. I had stated to ACP Patil when I gave my statement that then along with my staff, I took the accused before the CMM, but I was asked to wait for some time, that at about 1630 or 1645 hours the CMM asked me to bring the accused in his chamber, that he asked me to wait outside, that thereafter at about 5.30 p.m. he gave the accused in my custody and asked me to take him back. I cannot assign any reason as to why all these things are not written in my statement. I did not give any written report or application to the CMM about producing the accused before him.

22. I had given a requisition letter on 04/10/06 to the medical officer of the GT hospital for examining the accused. I do not

have its copy with me. I will not be able to produce it. I cannot say in whose handwriting the date 5<sup>th</sup> is written and when it was written in Ext.1083. It bears the signature of PSI Lokhande. The letter is not in my handwriting. I cannot say whose handwriting it is. It is true that it is a carbon copy. I cannot say in whose handwriting the name of the father of the accused is written and when it was written. I did not give a written report to the DCP or ACP Patil about the work that I did on 4<sup>th</sup>, 5<sup>th</sup> and 06/10/06. It is not true that I deposed falsely to help my superiors.

No re-examination

R.O.

**Special Judge**

**Date:-17/06/2011**

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