

M.C.O.C. SPECIAL CASE NO. OF 21/06**DATE: 20TH JUNE, 2011****EXT. NO.1086****DEPOSITION OF WITNESS NO.106 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Vinod Mahadev Randive

Age : 43 years

Occupation :Service (PI, Sion Police Station)

Res. Address :109/3673, Nehru Nagar (E), Kurla, Mumbai-24.

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

1. I was attached to Police Station Matunga from August 2005 to February 2009. I came on day duty on 06/10/06. I received a phone call from the DCP, Zone-IV office that I should immediately report to the DCP. Accordingly I went to the DCP office. DCP Karale gave me a letter O. No. 155 and gave an accused by name Ehtesham Qutubuddin in my custody at about 10.45 a.m. The letter Ext. 1058 now shown to me is the same. It bears my acknowledgment and signature. He gave me instructions that I should keep the accused in a separate cell in the lockup of our police station, that the accused should be veiled while taking him to the police station and bringing

him back and to provide him medical aid as necessary. He directed me to produce the said accused before him at 11.00 a.m. on the next day, i.e., on 07/10/06. Accordingly I veiled the accused and took him to the police station. Before that I got him medically examined at the Lokmanya Tilak Rugnalaya, Sion. After taking him to the police station I kept him in a separate cell in the lockup and gave directions to the guard hawaldar not to allow any ATS or police officer or anyone to meet the accused. I then made entry in the lockup diary. I did not get the lockup diary as it was informed that it was destroyed as it was an old record. I am producing a certified copy of the letter given by Sr. PI Police Station Matunga to ACP Matunga Div for permission to destroy the old record along with a list of the record that was to be destroyed. It is the same now shown to me. (They are marked as **Exts. 1087 and 1088**, subject to objection by the learned advocates of the accused on the ground that these documents are not produced with the chargesheet and copies are not given to them). The certified copy of the lockup diary now shown to me is the same. (It is marked as **Ext.1089**). I had produced zerox copy of the letter of the DCP, zerox copy of the OPD case paper, zerox copy of requisition which I

gave to the MO, Sion Hospital and zerox copy of letter given to PSI Deore, ATS, and the certified true copies of the lockup diary and the station diary entry. The xerox true copy of the requisition now shown to me is the same. It is in my handwriting, it bears my signature and its contents are correct. (It is marked as **Art-328**). The zerox true copy of the OPD case paper is the same. (It is marked as **Art-329**).

2. The DCP, Zone-IV office is on the first floor above the Matunga Police Station and the lockup is adjacent to the DCP office. I did not make station diary entry when I was called by the DCP.
3. I took out the accused from the lockup at 10.30 a.m. on 07/10/06. I made an entry in the inward outward register of the lockup and in the lock up diary also. I then produced the accused before the DCP in veil at 11.00 a.m. The DCP asked me to wait outside. He called me inside at 1345 hours and gave me two sealed envelopes and a separate letter addressed to the CMM. He gave the accused in my custody and directed me to veil him and to take him in escort and produce him before the CMM. I then made station diary entry no. 20 at 1400 hours. The said entry in the original station diary is in my handwriting and its contents are correct. The contents of the certified

true copy of the entry now shown to me are as per the original except that the date 06/10/06 is mentioned in the copy instead of 07/10/06. (Learned SPP submits that he will produce a zerox true copy of the station diary entry from the original register). I started from the police station at 1400 hours in police jeep no. MH-01-BA-4277 along with the accused in veil and two head constables and one constable for going to the court of the CMM. I reached the court and produced the accused before the CMM at 1445 hours. I handed over the forwarding letter and the two sealed envelopes to the CMM. He asked me to wait outside the cabin. He called me inside after about half an hour, gave the accused in my custody and gave a letter in an envelope to me. I veiled the accused and went back to the office of the DCP in the jeep along with staff and the accused. I gave the letter to the DCP. The DCP told me that the ATS officers are coming and directed me to keep the accused in the lockup of our police station till they come. I then kept the accused in the lockup and made station diary entry no. 24. The said entry in the original station diary is in my handwriting and its contents are correct. The contents of the certified true copy of the entry now shown to me are as per the original. PSI

Deore of ATS came after some time, I gave the accused in his custody along with my letter that the work of the accused with the DCP is over and I am handing him the custody of the accused. The zerox copy of the letter now shown to me is in my handwriting, it bears my signature and its contents are correct. (It is marked as **Art-330**). The accused was sent in veil in the same police jeep with PSI Deore, in which I had taken him to the court of the CMM, along with the same staff of two head constables and one constable. I then made station diary entry no. 25. The said entry in the original station diary is in my handwriting and its contents are correct. The contents of the certified true copy of the entry now shown to me are as per the original. (The certified true copy of entries no. 20,24 and 25 that are on one page is marked as **Ext.1090**).

4. ACP Patil took my statement on 27/10/06 in this connection. At that time I produced the certified true copies of the lockup and station diary entries and the zerox copy of the other documents described above. I will be able to identify the accused who was given in my custody by the DCP, whom I had put in the lockup and produced before the CMM. (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 Siddiqui). He is the same accused.

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

5. I was on duty continuously in October 2006 after 07/10/06. I was not called by the ATS office before 27/10/06. I do not remember the exact time at which I went and whether it was morning, afternoon or evening. I was not informed in writing by the ATS office to attend the ATS office along with particular documents. I do not remember the exact date when I obtained the xerox copies and true copies of the documents that I handed over when I gave my statement and who gave them to me. I do not know who prepared the certified true copies of the lockup diary and station diary entries and when they were prepared. I came to know today about the mistake in the date of station diary entry no. 20. Lockup diary is referred as 'kothadi nondvahi' in Marathi. Another register by name 'awak jawak' is maintained at the lockup. These are the only two registers maintained at the lockup. The guard amaldar maintains these registers. I do not remember the name and number of the guard amaldar on the 6th and

7/10/06. The lockup is 2-3 minutes distance from the office of the DCP. I do not know whether the DCP called the guard amaldar on 6th 07/10/06 for inquiry. Entries are made in the lockup diary about giving any articles to the accused. It is not true that entry is made in the lockup diary about keeping a particular accused in a particular cell. It is true that on the basis of the entries in the lockup diary, it cannot be revealed as to whether an accused is kept in a separate cell. It is true that except my words there is no independent evidence to show that the accused was kept in a separate cell. It is not true that lockup diary of 2006 is not mentioned in Ext. 1088. It is at Sr. No. 30. It is not true that the register mentioned at Sr. no. 30 is not the lockup diary. It is not true the the register described therein has 'kothadi charge pustika', is some other register and it contains entries about the police personnel on guard at the lockup. It is not true that I am stating false that the 'kothadi charge pustika' is the lockup diary. It is not true that after the accused was kept in the lockup on 06/10/06, he was taken out from it at 1630 hours on 07/10/06 for being given in the custody of PSI Deore of ATS and at no time in between. It is not true that in order to prevent these facts from coming before the court, I am

stating falsely that the lockup diary is destroyed.

6. I have come to this court earlier for giving evidence. I had stated to the officer who recorded my statement that I will be able to identify the accused whenever I see him again. I cannot say whether it was written in my statement. It did not happen that he did not write most of the things that I told him. He wrote all the things that I told him. I cannot assign any reason as to why it is not written in my statement. I had come to this court on 17/06/11 and I was waiting outside. The doors of the court hall were open. I did not see the accused sitting inside the court hall. I came to court at about 1.30 p.m. I left the court premises at about 3.00 or 3.15 p.m. It is true that the court had adjourned for recess at 2.00 p.m. and all accused had gone outside. It is not true that I identified the accused no. 4 today as he was shown to me on that day.

7. Duties for the day are assigned in the police station on the evening of the earlier day. Duties of the officers can change at any time. Such changes are informed immediately. I was assigned duty of bandobast on 06/10/06 on the 5th itself. As per my memory it was the bandobast at Tilak bridge. Some hawaldars and constables were to

be with me, but I do not remember their names and buckle numbers. I do not remember the exact time of the duty, but it was probably from 8.00 a.m. till further orders. Tilak bridge is a sensitive and crowded area. I came on duty at 8.00 a.m. on 06/10/06. I received Ext. 1058 at 1045 hours from the DCP. I do not know who was substituted in my place. Entry about it is not made. I had gone for bandobast duty on that day at about 8.00 a.m. I got a message from the DCP office on my mobile at 10.00 a.m. The Sr. PI of our police station was Deshpande, but I do not remember the name of the duty officer. I had informed about the phone call from the DCP office to my Sr. PI and he told me to go. The change in duty on that day was an important change. I did not make any station diary entry about the message that I received on my mobile and I informing the Sr. PI about it. I did not meet PSI Deore on 06/10/06. I do not know at what time the accused had come to the office of the DCP on that day. I kept the accused in the lockup at 1330 hours on that day. Thereafter I was in the police station. The DCP did not call me on that day again. I had a talk about this matter with my Sr. PI Deshpande on mobile as well as in person. I cannot tell the exact time, but it was in the evening. I

cannot tell the exact time about my talk on mobile.

(Adjourned for recess).

Date: 20/06/11

Special Judge

Resumed on SA after recess

8. The duty officer and relief officer were present in the police station on 06/10/06 and 07/10/06 when I came on duty, but I do not remember their names. The relief officer is kept as spare for urgent work and he works in the absence of the station house officer. Relief officer can be given any other duty. I was not present at the parade of 06/10/06 in the evening. It is of amaldars. At that time I knew the names of the amaldars who were assigned duties on 07/10/06. I was assigned duty of night PI on 06/10/06 after the bandobast. I was off duty in the day on 07/10/06 and on night duty on that day, but I was assigned the duty of this accused during the day. There is no entry in the station diary that though I am not on duty in the day, I am assigned the duty of this accused. I do not remember what duty was assigned to the relief officer during the day on 07/10/06.
9. It is true that I had taken other accused to the hospitals on earlier many occasions. Therefore, I knew some doctors somewhat. I

do not remember the name of the doctor who was on duty on 06/10/06 when I went there. Therefore, I do not remember whether I knew him from before. I had taken the accused to the hospitals at about 11.30 to 12.00 a.m. I cannot tell the exact time when he was examined. The doctors mention the time of the examination in the case papers. The OPD clerk puts the date on the case paper, but not the time. A requisition letter is always taken when the accused is taken for medical examination. Outward number and date is written on such letter. Entry is made in the station diary when an accused is taken for medical examination from the police station. I did not take the accused no.4 on 06/10/06 for medical examination from the police station, but I took him from the DCP office. The DCP office is just above the police station. The preparation of vehicle and staff was made before bringing the accused downstairs from the DCP office. It is not true that I informed the SHO about taking the vehicle and the staff and the accused for medical examination. The jeep in which I took the accused for medical examination and to the CMM is attached to the Matunga Police Station. I could have made a station diary entry about taking the accused for medical examination. There

was no emergency for taking the accused for medical examination. Even then I did not make an entry in the station diary about it. It is not true that the accused no. 4 was not taken to the hospital on 06/10/06 and Art-328 is prepared subsequently and Art-329 is prepared subsequently using my contacts with the medical officers.

10. I was in the office of the DCP from 11.00 a.m. to 1345 hours on 07/10/06. I was sitting outside the chamber of the DCP. I was with two hawaldars and one constable. I did not see any other person than the DCP and the accused there and afterwards when the accused was handed over to me. The DCP did not take my signature anywhere when he handed over the letter and the envelopes to me. I was before him for about 5-7 minutes at that time. There were three envelopes, out of which two were sealed and one was open and not even pasted. All three envelopes were to be given to the CMM. I do not exactly remember whether all the three envelopes had the name of the CMM, whether the name of the sender was written. I started from the DCP office at 1400 hours and reached at 1445 hours at the office of the CMM. It is not true that I did not make any entry in the station diary about that work. The station house officer was present. I

do not now remember his name. The CMM was in his chamber when I produced the accused before him. I took the accused in the chamber of the CMM. The CMM did not talk with the accused in my presence. I was waiting outside the chamber for about half an hour. The CMM did not ask the accused any questions in my presence. I did not hear what transpired between them in the chamber. It did not happen that the CMM asked some questions to the accused and the accused was again handed over to me. I had stated so to the ACP Patil when I gave my statement. I started from the court at about 3.15 p.m. The officers of the ATS came to the police station after half an hour after I reached there with the accused. I did not inform them that I had brought the accused back to the police station and they should take him back. I do not know why and how they came there. PSI Deore had come with only one constable. He had not come in any vehicle. I did not know that it was PSI Deore who had taken the accused to the DCP on the earlier day. The driver of a police vehicle makes entries in the log book. The driver did not make entries in my presence in the log book of the vehicle that I used on that day for the work of this accused. He may have made them later on. I do not

remember his name and buckle number. It is true that it is not mentioned in the station diary entries no. 20, 24 and 25 that the accused was veiled.

11. It is not true that the accused was not taken to the CMM, that he was not veiled at any time, that I was not given sealed envelopes by the DCP for being given to the CMM, that I did not produce him before the DCP, that I deposed falsely to help my superiors.

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

12. It is not true that I came on duty at 10.45 a.m. on 06/10/06 and at the same time I left for bandobast duty. I do not remember whether I came on duty from bandobast at 11.00 a.m. I came on duty at 8.00 a.m. on that day. (Witness is shown entry at sr. no. 24 dated 06/10/06 in the original station diary that is with the witness). It is true that it is mentioned in the entry that I came on duty at 10.45 a.m. and went for bandobast. It is true that there is no entry in the station diary on 07/10/06 before 1400 hours about taking out the accused from the lockup. I did not make such an entry as the DCP told me that it is confidential work and I had taken entry in the

lockup diary. Lockup diary and lockup register are the two registers maintained at the lockup. Lockup register is 'awak jawak' register. It is true that the lockup diary contains the entry about who visited the lockup and about the duties and taking charge of the lockup. Ext. 1089 is the certified copy of the lockup diary entry no.4. It is true that lockup register extract is not produced. I had not given the extracts of lockup register when I gave my statement. Certified true copies of office record are provided by the police station. (Witness is shown the documents along with Ext. 1092 produced by the accused). It is true that it is a certified true copy of the entries in the lockup register of 06/10/06 and 07/10/06. (It is marked as **Ext.1093**). I did not make entry in my handwriting in the lockup register. I will not be able to identify the handwriting of the lockup amaldar. As per the entry dated 06/10/06 in connection with this accused, he was put in the lockup at 1330 hours. He was taken out from the lockup at 1630 hours as per the entry dated 07/10/06.

Q. Whether there is any entry about taking out the accused from the lockup before 1630 hours on 07/10/06?

A. The extract is incomplete, because it is not possible that there is

no inward and outward entry of any other accused.

I will not be able to produce the lockup register as it is destroyed. It is true that there are six entries of 07/10/06 and the entry of the accused is at sr. no. 6. I cannot say whether the struck off entries sr. no. 4, 5 and 6 and the remark in column no. 11 'nahi' means that he was not removed from the lockup. It is true that there is an endorsement in the last column in front of Sr. No.6 that the accused was given in the custody of PSI Deore of ATS at 1630 hours. I cannot produce any office record to show that the extract is incomplete. It is not true that only one book pertaining to 2006 mentioned at sr. no. 30 of Ext. 1088 was destroyed. There is no specific entry about destruction of lockup diary of 2006 or lockup register. It is true that the extract Ext. 1089 is a typed copy. It is not a xerox. I cannot say under whose signature it is certified as a true copy. There is no date below the signature.

13. It is not true that I did not get the OPD case paper in the name of Ehtesham Qutubuddin Siddiqui. I do not know where the original OPD case paper is and I do not remember whether I had given it to ACP Patil. I had read the OPD case paper. I do not

remember whether the medical officer had given any advice or whether any compliance was made. I do not remember whether the doctor had prescribed for CBC, x-ray chest and urine test. It is true that there is no mention in the station diary that I took the accused for medical examination.

14. I do not remember whether it was the month of ramzan, whether the accused was observing fast, whether any provision was made in the lockup for the accused to break their fast, whether any articles were kept in the lockup or brought from outside for that purpose. I had collected the copies of the station diary entries. I did not give any application for that, but I collected them directly. I do not know whether any special provision is made for providing food to Muslims in ramzan. However, bhatta is provided. It may be that the time of starting the fast and breaking it are totally different from the time when the bhatta is provided.

15. It is not true that the accused in the lockup are taken out on the basis of requisition. The accused of seven police stations in that zone are kept in our lockup. There are four rooms in the lockup. There are 15-20 accused on an average in the entire lockup. I

cannot say whether the lockup is filled up during the period of VIP bandobast, festivals or if some sensational event occurs. A general round up is done in the area of the police station when there is a visit of VIP. It is true that the criminals who are registered in the police station and outside people are rounded up and brought to the police station for inquiry. It does happen that they are arrested u/s 151 of the Cr. P.C. and detained for 24 hours or more. There is no fixed cell in the lockup for a particular police station. It has not happened at any time that if the lockup is over crowded the accused are kept in the lockup of another police station. The cells/rooms in the lockup are not numbered. Four separate registers are not maintained for the four rooms and separate guards are not provided for the four rooms. The four cells can be entered from the common main gate. It is true that toilet and bathroom are not provided in every room. It is not true that there are no separate locks and keys for all rooms. There is a common earthen pot kept near the guard for the accused to drink water. The person bringing the bhatta is asked to wait downstairs and a constable takes the bhatta to the lockup. I do not know whether he waits at the main gate and calls individual accused who come with

their plates and to whom he serves the bhatta. There is no schedule or timing for going to the toilet or for drinking water. I do not remember the number of the accused in the lockup on 6th and 07/10/06. I do not remember whether there was Prime Minister visit on 05/10/06, but there was bandobast for that purpose on 06/10/06. I do not know whether therefore there was a roundup before 06/10/06. I do not remember the number of the cell in which the accused was kept. I do not know whether there is no entry in any register about separate locks and keys for every room in the lockup. It is not true that I deposed falsely that the accused no. 4 was kept in a separate cell.

16. I had seen the sealed envelopes. I do not remember whether it was red or green, whether it was having lac seal or rubber stamp. As per me sealed envelopes means lac on which the seal is put. The envelopes that the DCP gave were in sealed condition. (Witness is shown Exts. 1054 to 1064). I do not see any envelope with seal.

17. I had read my statement after it was prepared. I do not know whether DCP Karale was attached to Zone-99. I had not stated

so to ACP Patil. It is true that Zone-IC is written in the 3rd and 5th paragraph. I did not realize it when I read it. I came to know the mistake today. I may be with ACP Patil for about one hour on 27/10/06 for my statement. I do not know at what time I started from the police station on that day. I did not take the accused to the ATS office on 07/10/06. Qualis light van no. MH-01-BA-4277 was attached to Matunga Police Station. I do not remember whether officer Tambe was with me at that time. I do not remember whether I made entry in the log book of that vehicle on 07/10/06. This vehicle was used for taking the accused to the ATS office with PSI Deore. I did not go in that vehicle to the ATS office.

18. It is not true that I am falsely saying that Ext.1093 is an incomplete extract. It is not true that the lockup register of 2006 is available, but it is not produced deliberately, that I came on duty at 1045 hours and went on bandobast duty and then returned at 1100 hours. Station diary entries no. 24 and 26 of 06/10/06 are correct. It is not true that I did not go to the office of the DCP on 06/10/06 and did not bring the accused to the police station, that I did not produce the accused before the DCP and the CMM on 07/10/06 and did not take

him for the medical examination. The reader of the DCP had given my mobile number to him. It is not true that I deposed falsely on the say of the DCP.

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

19. Declined.

No re-examination

R.O.

Special Judge

Date:-20/06/2011

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