

M.C.O.C. SPECIAL CASE NO. 21 OF 2006**DATE: 4TH JULY, 2011****EXT. NO. 1117****DEPOSITION OF WITNESS NO.111 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Makarand Madhusudan Ranade
Age : 50 years
Occupation : DCP, Special Branch, Pune.
Res. Address : A/101, Bhairavi Apt., ICS Colony, Bhosale Nagar,
Pune 7.

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

1. I was DCP, Zone XI, Mumbai in October, 06. I received a letter from Jt. CP, ATS on 3/10/06 to record the confessional statement of accused Jameer Ahmed Latifur Rehman Shaikh. I am producing that letter, it bears the signature of Jt. CP K. P. Raghuvanshi and inward stamp of my office and my initials. (It is marked as **Ext.1118**). I wrote a letter to the IO ACP Sadashiv Patil on 4/10/06 directing him to produce the accused before me at 5.00 p.m. on that day. I am producing office copy of that letter, it bears my signature and its

contents are correct. (It is marked as **Ext.1119**). API Alaknure of ATS produced the said accused before me at 6.00 p.m. on that day. He gave me a letter of the IO about producing the accused and a request to take the accused in my custody. I am producing that letter, it bears the inward stamp of my office and my initials. (It is marked as **Ext.1120**). I gave a letter to API Alaknure about taking the accused in my custody. I am producing the office copy of that letter, it bears my signature and its contents are correct. It also bears the acknowledgment of API Alaknure. (It is marked as **Ext.1121**). I told API Alaknure and his staff to go outside my office. I told the accused to remove the veil and asked him to sit in the chair in front of me. I introduced myself by telling my name and that I am a DCP. Then I asked him his name. He told his name and address. I asked him about his education. He told me that he is educated upto B.Com. I asked him what languages he knew and in which language he is comfortable. He told me that he knows Hindi, Urdu, English and to some extent Marathi, but he is comfortable in Hindi. I asked him whether he knows why he was brought before me. He told me that he wants to make a confessional statement and for that purpose he is

produced before me. I asked him whether he was beaten or tortured by the persons in whose custody he was. I asked whether he is making the statement under the pressure or influence of some person. I asked him whether anyone has induced him with a promise of removing him from the case or for reducing his sentence or for making him approver. He said no. I asked him whether he knows that any confessional statement made by him can be used against him and his co-accused as evidence. He said that he knows about it. I told him that I will not record his statement if he is doing so under pressure. He told me that he is not under any pressure and is making the confessional statement voluntarily. I told him that I would give him time of 24 hours to think over whether to make the confessional statement or not. I told him that he is in my custody and not in the custody of the ATS. I told him that the investigating machinery will not meet him during this period and no one will meet him and he should think over and decide whether to make the statement. I myself wrote the above conversation. I and the accused only were in my chamber during this period. I gave the writing to him. He read it completely and stated that it was written as stated by him. He signed on all the

pages of the statement. I countersigned on all pages. Part I of the confessional statement now shown to me is the same. It bears the signatures of the accused on all the pages and my countersignatures and its contents are correct. (It is marked as **Ext.1122**). I took out a photocopy of the same as office copy, put the original in an envelope, sealed it by putting the round stamps of my office at the back and signed on the stamps. The envelope now shown to me is the same. It bears my signatures on the round stamps and also above the stamp of my name. (It is marked as **Ext.1123**). This was over at 7.30 p.m.

2. I had directed the Sr.PI, Borivali Police Station by letter to send an escort party to take custody of the accused. I am producing the office copy of that letter, it bears my signature and its contents are correct. It also bears the acknowledgment of the receiving clerk of that police station. (It is marked as **Ext.1124**). The escort party headed by PSI Suryavanshi of Police Station Borivali were waiting outside. I called PSI Suryavanshi inside and gave the accused in his custody and told him to put the accused in a separate cell of Borivali general lock-up. I told him to make arrangements for appointing

separate guard at his cell and to see that no ATS officer, police officer, relative, family member or other accused in the lock-up meet him. I gave him a letter containing these instructions addressed to the Sr. PI. I am producing the office copy of that letter, it bears my signature and its contents are correct. It also bears the acknowledgment of the receiving clerk of the Borivali Division. (It is marked as **Ext.1125**). I also gave a letter addressed to the ACP, Borivali Division to supervise over the arrangements of the accused in the lock-up. I am producing the office copy of that letter, it bears my signature and its contents are correct. It also bears the acknowledgment of the receiving clerk of the Borivali Division. (It is marked as **Ext.1126**). I called the ACP, Borivali Division and Sr. PI of Borivali Police Station personally in my office and again gave them the above instructions. I asked them to report about compliance of my directions in the morning on the next day. I had directed the Sr. PI to produce the accused before me at 1800 hrs. on the next day. I had also directed him to get the accused medically examined from time to time.

3. PSI Suryavanshi and his staff produced the accused before me at 6.20 p.m. on 5/10/06 in veil. I asked PSI Suryavanshi and his staff

to go outside. I ascertained that only I and the accused are in my chamber and that no one could see or hear our conversation. I asked the accused to remove the veil and to sit on the chair in front of me. I asked some questions to the accused to make him comfortable. I asked him whether anyone met him in the night. He told me that he was kept alone on the ground floor where there was no other accused, therefore, there was no question of anyone meeting him. I asked him whether a medical check-up was done and whether he had been provided with meals. He said yes. I asked him whether the time of 24 hours given to him for reflection was sufficient or whether he wanted some more time. He said that it was sufficient. I asked him as to what he has thought and whether he wants to make the confessional statement. He told me that he wants to make it. I satisfied myself that he was not making the confessional statement because of the allurements or under the threat of any person. I was satisfied from his answers that he was making the confessional statement voluntarily and that he was mentally and physically prepared to make it. I then told him that I am not going to ask any more questions to him and I will write whatever he states. He started

making the confessional statement and I started writing it. Before that I had written all the questions that I asked and the answers that he gave me. After he finished making the confessional statement, I gave it to him for reading. He read it carefully and stated that it was correctly written as narrated by him. When he was satisfied that it was correctly written, he asked for a pen and signed on all the pages. I also countersigned on all pages. Part II of the confessional statement now shown to me is the same. It bears the signatures of the accused on all the pages and my countersignatures and its contents are correct. (It is marked as **Ext.1127**). I then dictated a certificate to my reader and got it typed on the computer. The certificate now shown to me is the same. It bears my signature and its contents are correct. (It is marked as **Ext.1128**). I then obtained a photocopy of the Part II as an office copy, put the original Part II in a separate envelope and sealed it by putting the office round stamps and signing on the stamps. The envelope now shown to me is the same. It bear my signatures on the round stamps and also above the stamp of my name. (It is marked as **Ext.1129**). The recording of the confessional statement was over at about 10.00 p.m.

4. I then drafted three letters. One addressed to the CMM, second to the Sr. PI Borivali to produce him before the CMM at 11.00 a.m. on 6/10/06 and the third addressed to the IO, ACP Patil of ATS to take custody of the accused after the work before the CMM would be over. I am producing the office copy of the forwarding letter to the CMM, it bears my signature and its contents are correct. It also bears the acknowledgment of the receiving clerk of the office of the CMM. (It is marked as **Ext.1130**). I am producing the office copy of the letter to the Sr. PI, Borivali Police Station, it bears my signature and its contents are correct. It also bears the acknowledgment of the receiving clerk of Borivali Police Station. (It is marked as **Ext.1131**). I am producing the office copy of the letter to the IO ACP Sadashiv Patil, it bears my signature and its contents are correct. It also bears the acknowledgment of the ATS officer. (It is marked as **Ext.1132**). I had sent PSI Suryavanshi with the accused and the letter addressed to the Sr. PI for keeping him in the lock-up. I gave the directions as per the earlier day about keeping the accused in a separate lock-up and to follow the other directions.
5. I gave the sealed envelopes, the forwarding letter addressed to

the CMM and the letter to the IO, to the Sr. PI of Police Station Borivali and directed him to hand over the envelopes and the forwarding letter to the CMM on the next day. I received the copy of my letter addressed to the IO, alongwith the acknowledgment, after the accused was produced before the CMM.

6. I will be able to identify the accused who was produced before me and who made the confessional statement before me. (Witness looks around the court room and points to the accused no.11 sitting in the dock. He is made to stand up and tell his name, which he states as Jameer Ahmed Latifur Rehman Shaikh). He was the same accused. (Ld. SPP makes a request to exhibit the letter received from the CMM. It is received in evidence and marked as **Ext.1133** as it is received by this court from the CMM. The envelope is marked as **Ext.1133-A**).

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

7. This was the first confessional statement that I recorded under MCOCA or under any law. I was in Mumbai till June, 2009. I have recorded one more confessional statement after this. It was an MCOC case of Crime Branch. It was recorded in the second or third

week of October, 2006 when I was DCP, Zone XI. I cannot tell the C.R. number, the name of the accused and the exact date of recording it. I cannot describe that accused and the offences. I gave evidence about it in that case, but I do not remember the date on which I did so.

8. I am aware of the provisions of sec. 18 of the MCOCA and sec. 164 of the Cr.P.C. I have not gone through the provisions of the High Court Manual in connection with the recording of confessional statement. I have observed the provisions of sec.18 of the MCOCA and the MCOCA rules and sec. 164 of the Cr.P.C. Proforma of the certificate is provided in the MCOC Rules. To the best of my knowledge, the certificate Ext.1128 is as per the proforma. The questions that I asked are as per the provisions of the Cr.P.C. and the MCOCA. My department had not provided the questionnaire and the proforma of the certificate before 4/10/06. Therefore, drafting of the questions and the certificate was by me on my own. (Witness is shown the certificate in Ext. 1037 and the certificate Ext.1128). It is not true that the contents of both the certificates, except the names of the accused, are the same. They are more or less the same. I

cannot tell the difference between two certificates.

(Adjd. at 4.40 p.m. at the request of Id. adv. to 5/7/11).

Date:-04/07/2011

Special Judge

Date : 05/07/2011

Resumed on SA :

9. (Witness is shown the certificate Ext. 925 and the certificate Ext.1128). It is not true that the contents of both the certificates, except the names of the accused, are the same. There are some differences but I cannot highlight them. I have not recorded any other confessional statement apart from the two confessional statements that I recorded in October, 06. I cannot say whether my experience of recording confessional statements as on 4/10/06 and 5/10/06 was not as vast as it is today. It is true that I gave evidence last year about the second confessional statement that I recorded. I am well versed today about the procedure and the guidelines for recording the confessional statement. I have not attended any seminar or workshop arranged by the Commissioner of Police before or after 2006 in connection with recording of confessional statements. I cannot say whether such seminars or workshops are arranged or not, but during my tenure no such seminar or workshop was arranged. The guidelines about recording confessional statements were not provided by our department. According to me, the procedure that I

followed was on the basis of the provisions of the MCOCA and rules and sec. 164 of the Cr.P.C. and my experience. It is true that as per the provisions of the MCOCA it is necessary to attach the certificate about my satisfaction of the voluntariness of the person making the confessional statement. API Ramesh Mohite, my reader, typed the certificate. I cannot give any specific reason why I did not write the certificate in my handwriting as I had written the Part I and Part II of the confessional statement. It is not my practice not to write the timings about starting to write the confessional statement and when it is finished. I cannot say whether I am aware that such timings are necessary to be written. It is true that as per sub-sec. (3) of sec.18 it is provided that the date and time of recording the confessional statement is required to be written. It is true that I have not put the time in the certificate. It is true that the wording in my certificate is somewhat different from the wordings given in sub-rule (6) of Rule 3 of the MCOC Rules. It is true that it is not written in my certificate that 'it has been made before me and 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'. Proforma of certificate given in sub-sec.(4) of sec.164 of the Cr.P.C. is not applicable for confessional statement u/sec.18 of the MCOCA. It is true that the wordings 'It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him' in sub-sec.(4) of sec.164 of the Cr.P.C. are similar to the wordings in the certificate provided in the MCOC Rules.

10. It is true that Part I, Part II and the certificate is a true and authentic record as to what happened between me and the accused and the guidelines and procedure adopted by me. I agree that recording of confessional statement is a solemn duty on my part. It is true that I realized for the first time on 3/10/06 when I received the letter Ext.1118 that I have to record the confessional statement of an accused in the railway bomb blast case. I received the letter in the evening on 3/10/06. I did not receive any other documents or record from the Jt. CP alongwith the letter. I had knowledge about the railway serial bomb blasts when I received the letter. I was ACP,

Zone XI during the period of bomb blasts. I was on duty. My jurisdiction at that time was from Goregaon to Dahisar western side. It is not true that the public order in my area was disturbed because of the serial blasts in the railways. There was no law and order problem. My office is in the building where Police Station Borivali is situated. Office of the ACP, Borivali Division is also in that building. My office is about 100 ft. from the Borivali railway station. There was a blast there. I visited the site immediately after the blast. I did not visit the site after that day. I was at the site for about two hours. I was just helping the public and doing the rescue work. It is not true that I was guiding my subordinates about collecting the articles from the spot so far as the investigation of the matter is concerned. Railway police officers were there. I cannot say exactly whether railway police officer of my rank was present there. I cannot say about the ranks of the railway police officers and their names. High ranking police officers of Mumbai Police were also there during the two hours period that I was there. I did not direct my subordinates in the Mumbai Police to collect incriminating articles on the spot.

11. I read Maharashtra Times, Loksatta, Sakal, Times of

India, Mirror, etc., newspapers. My office gets one Marathi and one English newspaper. I used to read the news about the blasts that appeared in the newspapers thereafter nearly every day. Shri. A. N. Roy was the Commissioner of Police at that time. I do not know till what time K. P. Raghuvanshi continued as Jt. CP, ATS. News about the progress of investigation and arrest of the accused persons and their other details used to come in the newspapers. I cannot say whether interviews of A.N. Roy about the incident used to be published from time to time. I did not come across any such news about interviews. I had not read Mumbai Mirror on 5/10/06. I do not remember whether I had read it. It is a free circulation with the Times of India, which used to come in our office. I knew about the facts of the case and the direction of the investigation as far as it was published in the newspaper.

12. I wrote the letter Ext.1119 at about 10.00 a.m. on 4/10/06. Ext.1120 was in response to Ext.1119. It is true that I got this letter and the accused was produced alongwith it. API Alaknure had brought the letter. I do not know how many policemen were with him, because he came in my chamber alone with the accused.

Therefore, I cannot say how many policemen had brought the accused. I did not know API Alaknure before that day. I did not know PI Vijay Salaskar personally but I had heard his name before 4/10/06. After that I had met him. It is true that it is written in Ext.1120 that PI Salaskar is going to produce the accused before me. It is true that after the accused was produced before me, I prepared a letter Ext.1121. I signed the letter five minutes after the accused was produced before me. I gave the letter about taking the accused in my custody and then I asked API Alaknure to go out of my office. He left immediately. Suryavanshi was a sub-inspector. I called PSI Suryavanshi for the first time after Part I was over around 7.45 p.m. on that day. I had met the duty PI Mathadhikari of the Police Station Borivali personally when accused was to be produced before me, in connection with the bandobast and escort party that was to be sent to take custody of the accused. He was on duty on that day. I cannot tell the exact time when the letters Exts.1124 to 1126 were prepared and handed over. Ext. 1124 was prepared before the accused was produced. The remaining two were prepared after the accused was produced. They were written one after the another. Ext.1126 was

prepared and sent to the ACP earlier than Ext.1125. All the guidelines about keeping the accused in the lock-up and the precautions that were to be taken are incorporated in Ext.1125. Exts.1124 and 1126 were prepared and sent before commencement of Part I. Ext.1125 was prepared after completion of Part I. I sent the letters Exts.1124 and 1126 through my dispatch writer. I cannot tell his name. Ext. 1125 is the only letter that I sent while sending the accused at about 8.00 p.m.

13. There is one inward and outward register in my office. For D.O. letters, separate outward number is given. Ext.1124 is a D.O. letter and Exts.1125 and 1126 are regular office letters. Outward numbers of Ext.1125 is 6020 and Ext. 1126 is 6021. It is true that the time is not mentioned below the signatures of the receiving clerk in both these letters. Considering the outward numbers the letter Ext.1126 is seen to be sent after the letter Ext.1125. It is because of the dispatch clerk giving those numbers as per that serial numbers in his dispatch register.

14. I started writing Part I of the confessional statement after about 15 minutes after the accused came to my office. I cannot

say how much time I required for writing paragraphs 1 to 4 in Part I. Paragraphs 1 and 2 are based on my knowledge. Paragraphs 3 and 4 contain the description of what I did and what steps I took. I know Hindi language. I introduced myself to the accused by telling him my name before the first question. I asked a few introductory questions to the accused before the first question. I cannot specify what they were. There is no record about them and today only on the basis of my memory I am saying that I asked them. It is true that both parts do not disclose that I told my name and designation to the accused. I meticulously recorded in both parts the questions that I asked to the accused and the answers that he gave. It is true that no question that I asked and no answer that the accused gave me remained to be written in both parts. I asked questions randomly. I did not have knowledge before that day about the number of the accused that had been caught. ACP Patil did not send record of the case when he sent accused to me with API Alaknure. The provisions of law mentioned in para 1 of Ext.1122 are on the basis of the letter Ext.1118. It is true that the date of arrest of the accused is not mentioned in any correspondence with the IO and Jt. CP. I did not know on 4th and 5th

as to when the accused was arrested and for how long he was in police custody. I did not ask any question in this connection to the accused. I did not ask the accused as to from where he was arrested, where he was detained and by whom he was arrested. I had asked the accused during the Part I whether he knows as to why he was produced before me.

(Adjourned for recess)

Date:-05/07/2011

Special Judge

Resumed on SA after recess :

15. The above question and the answer given by the accused is not written in the confessional statement. I did not write it and the answer as it was an introductory question. It was a relevant question. I will state about the other introductory questions as the cross-examination progresses further. I cannot tell them off hand. I did not examine the body of the accused by asking him to remove the clothes when he was produced before me on both occasions. I had given the directions on 4/10/06 for getting the accused medically examined from time to time. I did not give such direction on 5/10/06. This direction is not written in any letter given to the Borivali Police

Station. I had given oral instructions to the Sr. PI. It is mandatory to medically examine the accused once in every 24 hours when he is in the police custody. I do not know when and where he was medically examined before he was brought to me for the first time. I did not inquire about it from any one. I required about half an hour for the eight questions and answers in Part I. I did not ask the accused whether he wanted to take legal advice before making the confessional statement, because there is no legal provision for this. I had not asked such question in any case. Accused gave answers in Hindi. I cannot say whether he was giving the answers in pure Hindi. He did not use Marathi words. It is true that my question to him about what languages he knew and in which language he is comfortable and his answer that he knows Hindi, Urdu, English and to some extent Marathi, but he is comfortable in Hindi, are not written in Part I. I told him on both occasions that he is free not to give the confessional statement. It is mentioned in question no.7 in Part I and question no.3 in Part II. I did not tell him that even if he does not make the confessional statement, I will not send him back to the custody of the ATS, because I did not have authority to change his

custody. This means that even if he would have refused to make the confessional statement, I would have sent him back to the custody of the ATS as per the routine procedure. 'Confessional statement' can be translated in Hindi as 'kabuli bayan' or 'ikbaliya bayan'. It is true that it is not mentioned in Part I and Part II that I had warned the accused that if he gives the confessional statement, it will be used against his co-accused. The question no.7 in Part I can be translated as "It is not compulsory to give confessional statement. You are under no pressure to give confessional statement. But if you give it, it can be used against you as evidence in court of law. Do you know this ?"

16. I had asked the questions to the accused as to whether he was beaten, warned, threatened or allured to give the confessional statement. They are questions no. 4, 5 and 6. Question no.6 pertains to promise and inducement. It is not for beating, warning or threatening. The translation of question no.4 "Whether you have been beaten by the police?" is correct. The translation of question no. 5 "Whether police or any person has threatened you? Or whether you are given any allurement?" is correct. It is not true that these two questions are not the questions asking the accused

whether he has been beaten by the police, or threatened by the police or anyone or given any allurements for making the confessional statement. It is true that it is not mentioned in Part I that I told him that I will not record his statement if he is doing so under pressure and he told me that he is not under any pressure and is making the confessional statement voluntarily. It is true that it is not specifically mentioned in Part I that I told him that he is in my custody and not in the custody of the ATS, that I told him that the investigating machinery will not meet him during this period and no one will meet him and he should think over and decide whether to make the statement.

17. It is true that I did not describe the contents of the envelope on the envelopes Exts. 1123 and 1129. I gave the accused in the custody of PSI Suryavanshi at 7.40 p.m. after completion of Part I. I directed him to produce the accused before me at 1800 hrs. on the next day. According to me the time for reflection to be given is around 24 hours. It is my understanding. It is not true that 24 hours are not over from 1940 hrs. of 4/10/06 upto 1800 hrs. of 5/10/06, because it depends on what time the actual recording of the

confessional statement starts. I started recording Part II of the confessional statement at 2000 hrs. Accused was produced before me at 1820 hrs. After the accused was produced before me, I asked the escort party to go out and then asked him to sit. Thereafter he told me that he is observing fast(roja) and whether he can get something to eat. I offered him fruits, i.e., apples and bananas and energy milk that was in my refrigerator. He took a lot of time to eat the fruits and drink the milk. When he finished, I asked him whether he is ready to proceed ahead. At that time he told me that he wants to use the washroom. I allowed him to use the washroom that is attached to my chamber. He came out after using it and then I started recording confessional statement at 2000 hrs. The statement was finished at about 10.30 or 11.00 p.m. I do not know what day of ramzan it was on 5/10/06. I do not know at what time the moon rose on that day. Muslims break their fast after moonrise. I cannot say when Id was celebrated at that time. It is true that it is not mentioned in Part II that the accused asked for something to eat, that I offered him fruits and energy milk, etc., upto the time he used the wash room. There is no other record of this. It is not true that I stated falsely

about it and it had not happened, therefore, it is not noted anywhere.

I cannot say at what time the accused broke his fast on 4/10/06. On that day he did not ask for anything to eat.

(Adjd. to 6/7/11 as court time is over).

Date:-05/07/2011

Special Judge

Date : 06/07/2011

Resumed on SA :

18. I do not know whether the accused was observing fast (roja) on 4/10/06.
19. I did not ask the accused when he first expressed his desire to make the confessional statement and to whom he expressed it. I did not come to know from any source about it. As per sub-rule (4) of Rule 3 of the MCOC Rules, 24 hours time is required to be given to the accused for reconsideration. It is mandatory. It is also mandatory to give the certificate as per the proforma given in the rules. I cannot say whether it is not mandatory to mention in the certificate the particulars of crime number and the offences with which the accused is charged. It is true that it is not mentioned in the Part I and Part II of the confessional statement that I told the accused that I am not connected with the investigation of the case in which he was arrested and was making the confessional statement. Question no.2 in Part I is only asking the accused his name and his occupation. It is true that the answer to the question discloses his age, residential address and occupation address. I did

not ask the age and address to the accused. I cannot say whether it was necessary for the accused to state his age and address. I did not consult any of my colleague DCPs before recording the confessional statement. I did not make any inquiry with the accused about any complaint against the officer who had arrested him and who was making the investigation. I cannot say whether I had told the accused in some other case when I recorded his confessional statement that I will not send him back to the custody of the investigating officer if he does not make the confessional statement. It is true that as I do not have the authority to change the custody of an accused, the question of telling him as above is irrelevant and therefore there is no question of telling it. I cannot say whether I have recorded any confessional statements on 18/8/08 and 20/8/08 in C.R. No.152/08 DCB CID arising out of C.R. No.314/08 of Police Station Matunga. I cannot say whether at that time I was required to record the confessional statement of accused Asif Bashir Shaikh. (At this stage Id. Adv. for the accused has filed an application to call for confessional statement of an accused in MCOC 4/09 for the purpose of confronting the witness and proving contradiction and to defer the

cross-examination of the witness till that document is produced).

Hence cross-examination of witness is deferred.

Date:-06/07/2011

Special Judge

Date : 07/10/11
Resumed on SA

20. The first question that I asked the accused when he was produced before me on 04/10/06 was that whether he knows that I am a DCP. This was the first question that was recorded in Part-I. Paragraphs 1 to 4 were written before asking this question. The contents of paragraph 1 are based on the letter received from the Jt. CP and the IO. The contents of paragraph 2 are based on these two letters and on the interaction with API Alaknure. The contents of paragraph 3 are the precautions that I took before I asked the accused any question. The contents of paragraph 4 are the first step that I took for recording the confessional statement. Paragraph 4 is the first interaction with the accused before I started asking him questions. There was no interaction with the accused before writing paragraph 4. I started asking questions and recording them and the answers after completing writing paragraphs 1 to 4. The process was continuous. I asked a question, wrote it down, then I wrote down the answer that the accused gave. It did not happen that I asked all the questions one after the other and he gave the answers and then I

wrote down the questions and answers. There was no other document before me regarding the case on that day except the letters Exts. 1118 to 1120. The letter Ext. 1120 mentions the age of the accused as 31 years. It does not mention his occupation and residential address. These particulars and the age of the accused is not mentioned in Exts. 1118 and 1119. These particulars are mentioned in paragraph 1 of Part-I as API Alaknure had informed me about them before he produced the accused before me and I wrote it down. He did not submit this in writing. API Alaknure did not state anything else. It is not true that the figure 32 is overwritten over the figure 31. At that time the figure 2 came out faint initially, therefore I rewrote it. That was the only instance when the writing came out faint. I used the same pen for writing Part-I and Part-II.

21. I recorded my satisfaction after completing the writing of the questions and the answers in Part-II. Thereafter I told him to state whatever he wants to state. However, I did not ask him any question. The actual recording of his confessional statement took about 2 to 2 ½ hours. I asked him questions for clarification during his narration as his speed of talking was more than my speed of writing. I did not ask

him any other question. I did not ask him to clarify any point. I paragraphed the statement as per the points that he narrated. He did not ask me to put fullstops, comas or to end the paragraphs. All the letters that were before me show the name of the accused as Jameer Ahmed Latifur Rehman Shaikh. The same name was disclosed while recording the Part-I of the statement on 4th. I did not ask the name and address of the accused on the 5th as I had already asked it on 4th and the same accused was produced. His name is mentioned as Jameer Ahmed @ Ahmed Latifur Rehman Shaikh on page 5 of Part-II. I do not agree that this name is inconsistent with his names written in the letters and in answer to my questions on the 4th. It is true that this name does not appear in any other document on the 4th. It is true that the name of the accused was Jameer Ahmed, his father's name was Latifur Rehman and his last name was Shaikh. The name Jameer Ahmed @ Ahmed Latifur Rehman Shaikh does not appear in the subsequent documents. There is no specific reason why I did not write the certificate in my own handwriting. It is true that the entire Part-II does not mention the time of starting the statement and the time of completing it.

22. (Witness is shown certified true photocopy of confessional statement of accused Asif Bashir Shaikh in MCOB 04/09). It is true that this confessional statement was recorded by me. It is true that I had asked 19 questions in Part-I and 15 questions in Part-II.

Q. You asked only relevant questions? (Question is not allowed as contents of that document are not to be proved in this case and is therefore not relevant). It is true that by the question no. 13 in Part- I I told the accused that I will not send him back to the custody of the IO if he does not make the confessional statement. It is true that I asked the question no. 18 in Part-I and question no. 13 in Part-II as to whether the accused wants to keep his friend, relative and advocate present.

23. It is true that it is not written in the Part-I and Part-II in this case that I introduced myself by giving my name to the accused, that I asked him what languages he knew and in which language he is comfortable, that I asked him whether he knows why he was brought before me, that he told me that he wants to make a confessional statement and for that purpose he is produced before

me, that I asked him whether he knows that any confessional statement made by him can be used against him and his co-accused (emphasis supplied) as evidence, that he said that he knows about it, that I told him that I will not record his statement if he is doing so under pressure, that he told me that he is not under any pressure and is making the confessional statement voluntarily, that I told him that he is in my custody and not in the custody of the ATS, that I told him that the investigating machinery will not meet him during this period and no one will meet him and he should think over and decide whether to make the statement. It is true that I have not mentioned in any of my letters addressed to Borivali Police Station that I told them to make arrangements for appointing separate guard at his cell.

24. It is not true that the statement of the accused that I recorded is not his voluntary statement, that the accused had not given any voluntary statement and that I wrote down the statement that was provided by the ATS.

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

25. I came to know about the blasts on the same day. I did not do anything else except what I stated about what I did after the

blasts at Borivali Railway Station. It is not true that I had formed an SIT. It is not true that SIT was formed in Zone-XI. It is not true that PSIs V. M. Patil, L. P. Patil and S. J. Ghadge had recorded the statements of ten witnesses as members of SIT of Zone-XI. It is not true that the statements of witnesses were placed before me. I do not know whether such statements are filed in the court. (Witness is shown the statements at page 215 of Vol. B-IV, page no. 203 in Vol. C-IV and page no.181, 183, 185, 197, 201, 207 and 215 in Vol. D-IV and page 357 of Vol. E-IV and asked to see the designations of the officers at the end of the statements). It is true that the designations of the officers is mentioned as the officers of Special Investigating Team, Zone-XI, Mumbai and at some places Borivali, Mumbai. It is not true that this SIT was of my zone.

26. I have done VIP bandobast duty on a number of occasions. The bandobast duty of a VIP like prime minister starts three hours before his arrival. It ends after about half an hour to one hour after his departure. It depends upon the nature of the duty assigned to a DCP as to what would be his duty. I do not remember whether there was prime minister visit on 5th and 06/10/06. I do not

know whether his visit was from 1515 hours of 05/10/06 upto 2120 hours of 06/10/06. I was not given any duty in this respect. There was no movement of the prime minister in my zone. It is not true that I was given prime minister rehearsal bandobast duty on 04/10/06. I was residing in a private flat in Mulji Nagar in Kandivali in October 2006. My office hours were from 9.30 a.m. to 10.30 p.m. I did not maintain any official record about my attending my office as I am not supposed to maintain it. I was not keeping any record of going to any office for any official work. My subordinate officer also did not maintain any such record. I cannot tell the exact time at which I started from my house on 04/10/06, but I must have started at the usual time. I cannot tell the exact time when I reached the office, because as a DCP I am supposed to visit police stations and scene of serious crimes. Powai Police Station was not in my jurisdiction. I do not remember whether I had gone to the main gate of the IIT at Powai from my office on that day, whether from there I went to the Powai Police Station, from there again to the main gate of IIT, Powai, from there to Zone-XI office and then to my house. I can tell this by referring to the log book of the vehicle. I do not remember whether

the number of my vehicle at that time was MH-01-SA-214. It was an Indigo vehicle. I do not remember whether the buckle number of the driver was 33902. I may have made my initials about the above visits in the log book. It is not correct to say that I have not mentioned the commencement and completing times in Part-I. (Witness has given this answer after referring to page 6 of copy of Part-I). The page 6 is not part of the Part-I in the court record. It is true that the timing of starting and concluding Part-I is not mentioned in the document that is in the court. (Witness is directed to produce the office copy that is with him. He has produced it. It is a photocopy and consists of 8 pages. It is marked as **Ext. 1625**). I cannot say where the original pages no. 6 to 8 are. The office copy of the Part-II that is with me consists of 19 pages. The certificate is on a separate page, i.e., the 20th page. I now again say that the confessional statement consists of 20 pages and the certificate is on a separate page. I do not have the copy of the certificate. (Learned advocate requests that the court may examine the file that is with the witness to ascertain whether there is any confessional statement consisting of 19 pages or the defence be permitted to examine the file. He also submits that first the witness

said that he does not have the office copy and would have to ask the ATS officer, but after learned advocate insisted he went through the file and found the office copy. Learned SPP submits that there is no provision under which the defence can ask the court to examine the file or can examine the file itself. He submits that the witness has shown the office copy of Part-I of the confessional statement as per the request of the learned advocate).

(Adjourned for recess)

Date:-07/10/2011

Special Judge

Resumed on SA after recess

27. (In my humble opinion, as the learned advocate is suspecting that the office copy of Part-II of the confessional statement may be of 19 pages, the file is inspected and found to contain only one office copy of the confessional statement in 20 pages). I had sealed Part-I of the confessional statement Ext. 1122 after taking out a photocopy. I do not remember whether I had put all the eight pages in the envelope and whether I put only five pages. Whatever I recorded on 04/10/06 is before the court. It is true that it is not mentioned in Ext.1122 that it was sealed. (Witness is shown

Ext.1623). It is true that it is mentioned at the end of page 8 that it is sealed. I cannot say where the original of this part is. I do not remember whether I kept that part in my office and whether I had forwarded it to the CMM and whether I had forwarded it to the ATS. It did not happen that I directed to keep the accused in the Borivali Police Station. It is true that there is no endorsement in Part-I that the accused should be kept in the general lockup. It is true that on pages 6 and 7 of Ext. 1623, the words 'Borivali Police Station' are struck off and the words 'general lockup' are written, but they are not initialed. First the words 'Police station' were written, then they were struck off and the words 'general lockup' were written. I committed the same mistake on page 7 also and corrected it. The pages no. 6, 7 & 8 of Ext. 1623 are important. I do not retain such last pages whenever I record confessions.

28. I had never visited the Commissioner's office or the ATS office at Nagpada and Bhoiwada in connection with this case. I cannot say whether I had gone to the ATS offices in connection with any other case. I never visited the ATS office at Nagpada and Bhoiwada after I visited the Commissioner office. I never visited ATS

offices at Bhoiwada and Nagpada. I am not aware about the offices being there. I do not know whether the ATS office at Bhoiwada is by the side of Hindmata. I do not know whether the ATS office at Nagpada is by the side of Nagpada M. T. section. Witness volunteers - there is an MT section at Nagpada and vehicles are taken there for servicing, repairing or refueling. Chitrakoot Bungalow is at Malbar Hill. It is the residence of the Home Minister. I do not remember whether I had visited it in October 2006. It is not true that I had gone there after I had gone to the Commissioner office and then to the ATS office, Nagpada. I do not remember for what case I had gone to the Chitrakoot Bungalow. I do not remember whether on 10/10/06 I had gone from zone office to Mulji Nagar, from there to head office, from there to Nagpada MT, from there to Hindmata, from there to Bhoiwada, from there to Hindmata, from there to Zone-XI office, from there to My Home Bar at Malad, from there to Kancha Bar, Goregaon, from there to Charkop Police Station, from there to Mulji Nagar, from there to zone office, from there to Mulji Nagar and from there to Chitrakoot in my official vehicle. I used to put my initials on the entries in the log book. I will be able to identify my initials on the

certified copy of the log book. (Witness is shown Ext.1627). On seeing the entries dated 10/10/06 I say that the entries do not bear my initials. However, it can be inferred that I had gone to the zone-xi office, from there to my house at Mulji Nagar then to the head office, then to Nagpada MT and via Hindmata, Bhoiwada to my office and then to visit the bars at Malad and Goregaon, then to Charkop Police stations, then to my house and then to my office. Hindmata and Bhoiwada were not my halting points. The driver maintains the log book and the DCP initials it. I cannot say whether the signature column contains the signature or initials of the driver. I have said that the signature column should contain my signatures. There are two drivers on the vehicle and one of them maintains the logbook and signs also. My driver does not initial my correspondence. The initial below my designation on Ext. 1119 is of the person who has typed the letter. That person does not sign on the logbook. (Witness is asked to compare the initials on Ext. 1119 and in the signature column in Ext. 1627). They are of different persons. I cannot check my office record and tell the names of the persons who have put the initials on the logbook and Ext. 1119. There is no reason for it. I can

try to find it out. (Witness is shown pages no. 4, 6 and 7 in Ext. 1627).

It is true that on 04/10/06 I had gone for prime minister bandobast rehearsal duty, which was in the morning. The timing is not written in it. I recollect that it was in the morning and the prime minister visited on 5th or 06/10/06 at IIT, Powai. The rehearsal is one or two days earlier. I do not remember whether the prime minister came on 5th or 06/10/06. I was on road bandobast duty at the time of visit of the prime minister. I cannot tell for how many hours I was on duty, but it may be one or two hours. I do not remember the commencement and concluding timings of duty. The Jt. CP, Law and Order gave me the duty. On going through Ext. 1627 I say that the prime minister visit was on 06/10/06. I do not remember what bandobast duty I inspected on 07/10/06. The word 'visit' on 07/10/06 does not mean prime minister visit. It may be my visit to the police station, police chowki or scene of crime. The word 'visit' is not mentioned in front of any entry in Ext. 1627.

29. On going through the bandobast order I can say what duties were assigned to the other DCPs. (Witness is shown Ext. 1630). I cannot say on going through Ext. 1630 about the nature of

duties that were assigned to the DCPs, because it is not bandobast order. The Jt. CP, Law and Order maintains the official record about assigning bandobast duties. Copy of the said order is sent to the concerned DCP. We have to perform the duty. It is not necessary that we have to send report about compliance. It is not true that the bandobast duty order contains the details of the duty timings of the concerned officers.

30. It is not true that the certificate should be in handwriting.

I agree that date and time should be mentioned. As per sub-section (3) of section 18 that I now read, I say that the certificate should be handwritten. I did not ask the accused as to what is his mother tongue and in what language he has taken education. I am not aware about the difference between Hindi and Urdu languages apart from their scripts. It is true that Hindi and Marathi scripts are same. I do not know whether Urdu, Persian and Arabic scripts are the same. I do not know whether the primary and secondary education of the accused was in Urdu and his mother tongue is also Urdu. I have taken education in Marathi medium upto 10th and in English medium from 11th. Hindi was one of my subjects. Bhasha, pitaji, samay, parivar,

janam, pradesh, sanghatan, prabhavit, parichay, jankari, ichha, karyakram, dwara, visphotak padarth, savdhan, adhikari, sandesh, sampark, charcha, suraksha, paschim and samachar are Hindi words, I do not know whether they are pure Hindi words. They are not Urdu words. I cannot tell the exact Urdu words for all the above words. It is not true that the above words are not used by Urdu speaking persons.

31. I had around 20 staff members in my office. Most of them knew typing on computer. (Learned advocate requests for keeping back the cross-examination for 5-10 minutes. Hence, kept back).

Later on Resumed on SA

32. It may be that I may have used different alphabets for 18 words in Part-I and Part-II whenever they were repeated. I cannot assign any specific reason for it. The word in line no. 10 from below on page 8 of Part-II is Egypt and not Hagyp. I do not know the meaning of the word ' mistra'. Witness volunteers – Egypt is called as Mistra.
33. It is not true that on the say of my superiors I copied the

contents of the documents that were sent by the ATS, that I handed over the confessional statements to the ATS without sealing them, that I did not forward them to the CMM, that the logbook and the letters contain my initials, that I was not in my office on 4th and 05/10/06 throughout as I was assigned bandobast duty, that the signatures of the accused were obtained on various documents without reading them over to him, that I gave false evidence to help the ATS officers. I did not ask the ATS officers who brought the accused as to whether anyone from Borivali Police Station was deputed to the ATS for the investigation of this case and I did not ask the Borivali Police Station officers whether anyone from that police station was deputed to the ATS for the same purpose. It is not true that the logbook contains the halting points and not the route and that I did not attend the office on 4th, 5th and 06/10/06.

Cross-examination by Adv Wahab Khan h/f Rasal for A/1 & 4 to 6

34. (Adopted cross-examination by adv Wahab Khan).

No re-examination.

R.O.

Special Judge

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

MCOC SPL.21/06

PW 111/45

Ext.1117

Date:-07/10/2011

**UNDER MCOC ACT,99,
MUMBAI.**