

**M.C.O.C. SPECIAL CASE NO. OF 21/06****DATE: 12TH JULY, 2011****EXT. NO.1175****DEPOSITION OF WITNESS NO.113 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Vinoy Kumar Choubey  
Age : 41 years  
Occupation : Regional Passport Officer, Mumbai  
Res. Address : B-18, Hyderabad State Government Quarters,  
Napean Sea Road, Mumbai-26.

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

1. I became Addl. Commissioner of Police in 2009. I was working as DCP, Zone-IX in September- October 2006. I had an occasion to record the confessional statement of an accused in the railway bomb blasts case during my tenure as DCP.
2. I received a letter on 03/10/06 from K. P. Raghuvanshi, Jt. CP, ATS directing me to record the confessional statement of an accused in the railway bomb blasts case. I am producing that letter, it bears the inward number of my office and the signature of Jt. CP. (It is

marked as **Ext. 1176**). On receiving this letter, I wrote a letter to the IO ACP S. L. Patil to produce the accused before me on the same day at 1700 hours. I am producing the office copy of that letter, it bears my signature and its contents are correct. (It is marked as **Ext. 1177**). After that I wrote a letter to Sr. PI Bandra PS to send a team of escort to my office at 1700 hours on the same day 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 Bandra PS. (It is marked as **Ext.1178**). I had given certain instructions in that letter directing the Sr. PI to get the accused medically examined, to transport him in veil and not to allow any ATS officer or any other police officer or staff or any relative or friend to meet the accused.

3. Accordingly on the same day, i.e., on 03/10/06 PI Iqbal Shaikh of ATS and his team produced the accused before me at 1700 hours along with a letter from ACP Patil. I am producing that letter, it bears the inward number of my office. (It is marked as **Ext. 1179**). I obtained brief information about the case from the PI. I inquired about the police custody and he told me that it was upto 09/10/06. I got the

veil of the accused removed and told PI Shaikh and his staff to withdraw from my chamber. I then ensured that there was nobody else in the chamber or nearby who could see or hear the proceedings in my chamber. After taking the accused in my custody I asked him a few preliminary questions to make him comfortable. I also informed him that he was no longer in the custody of the ATS, who had arrested him and who were involved in the investigation. I also informed him that I am DCP of that area, but I had no relation with the investigation of the case in which he was arrested. In the preliminary questions I had asked him his name and he had stated it as Kamal Ahmed Ansari. I inquired from where he belongs and he stated that he is from Madhubani district from Bihar. I asked about his educational qualifications to which he replied that he had taken education upto 7<sup>th</sup> standard in Hindi medium. I asked him in which languages he was conversant. He said he was conversant in Hindi, Maithali and Urdu. After I found that he had settled down I told him that I wanted to ask certain questions to him to which he should reply frankly without any fear. I asked him whether he was willing to make the confessional statement to which he replied in the affirmative. I

then asked him whether some police officer or somebody else had pressurized him, threatened him, coerced him into making the confessional statement. He said no. I then asked him whether somebody else or some police officer had offered to make him approver or take him out of the case if he makes the confessional statement. He replied in the negative. I then told him that he is not bound to make the confessional statement and if he makes such statement it can be used against him as evidence. To this he replied that he was willing to make the confessional statement. After this I was convinced that he was willing to make the confessional statement. As per the provisions of the MCOC Act I told him that I would give him more than 24 hours to reflect upon whether to give the confessional statement or not. I told him that nobody from the ATS or any other branches will meet him or contact him or disturb him during this period. He should think it over and if thereafter he is willing to make the confessional statement, only then I would record it. I was writing down most of the questions that I was putting to him and the answers that he was giving in my own handwriting. After the questions and answers, I wrote about the proceedings in brief. I then

read over the questions and answers to the accused and asked him whether it was written as per the answers given by him to which he replied in the affirmative. I then gave the papers to him for signing. He went through the papers and signed on each page. I also signed and put my stamp on each page. Part-I of the confessional statement now shown to me is the same, it bears the signatures of the accused and my signatures on all pages and its contents are correct. (It is marked as **Ext.1180**). I kept the Part-I of the confessional statement in my personal custody. I then called PI Gaikwad and his staff from PS Bandra who had come there and handed over the custody of the accused to him. I gave instructions to him to get the accused medically examined, to transport the accused in veil, to keep the accused after medical examination in an independent cell in the lockup of PS Bandra. I told him to make arrangements for food and bedding. I also instructed him not to allow any police officer or staff from the ATS or other police to contact him. I also instructed him to produce the accused before me at 1900 hours on the next day, i.e., on 04/10/06. The recording of the Part-I was over at about 1830 hours.

4. PI Gaikwad and his staff from Police station Bandra produced the accused before me in my chamber at 1900 hours on 04/10/06. I inquired with PI Gaikwad whether all the instructions given to him were complied or not. He replied that they had complied with all the instructions. I then instructed PI Gaikwad and his staff to leave my chamber. I ensured that there was nobody else in my chamber and nearby, who could see or hear the proceedings in my chamber. After that I tried to take the accused in my confidence and inquired whether he had any complaint of ill-treatment against the officers and staff of PS Bandra or ATS. He replied that he did not have any complaint. I asked him whether anybody tried to meet him or contact him during the period of 24 hours. He replied in the negative. After this I explained to him that I am the DCP of that area, who can record his confessional statement. I then inquired from him whether there was any pressure or threat because of which he was making the confessional statement, to which he again replied in the negative. I asked him whether somebody has promised him to take him out of the case or making him government witness if he makes the statement, to which he again replied in the negative. I again told him

that he is not bound to make the confessional statement and if he makes it, it can be used against him as evidence. After this I was satisfied that he was ready to give the confessional statement voluntarily. I told him to state whatever he wanted to state and I started writing as per his narration in my own handwriting. After this was completed I wrote a brief account of the proceedings of the day. I read over the statement recorded from the beginning to the accused and asked him whether it was as per his narration. He said yes. I then gave the papers to him for signing. He went through the papers and then signed on every page. I also signed thereafter on every page and put my stamp. Thereafter I got two photocopies of the entire confessional statement, i.e., Part-I and Part-II. I kept the photocopies in my custody and sealed the original confessional statement Part-I and Part-II in one envelope. Part-II of the confessional statement now shown to me is the same, it bears the signatures of the accused and my signatures on all pages and its contents are correct. (It is marked as **Ext.1181**). I had started writing the Part-II of the confessional statement below the Part-I. The envelope in which I had put the confessional statement is the same

now shown to me. The description on the envelope is in the handwriting of my staff and the seals are of my office. (Envelope is marked as **Ext. 1182**).

5. In the meanwhile, I had drafted a forwarding letter to the CMM for confirmation and onward transmission of the confessional statement. Office copy of the forwarding letter now shown to me is the same, it bears my signature and its contents are correct. (It is marked as **Ext.1183**). I then called PI Gaikwad and his staff of PS Bandra and instructed him to get the accused medically examined and keep him in an independent cell of the lockup of PS Bandra. I handed over the letter and the sealed envelope to him and instructed him to produce the accused along with the letter and the sealed envelope before the CMM in the morning, i.e., on 05/10/06. The recording of the confessional statement was over at 2.30 a.m. on 05/10/06. I instructed him to hand over the custody of the accused to the IO S. L. Patil after the formalities in the court were over.

6. I will be able to identify the accused whose confessional statement I had recorded. (Witness looks around the court room and points to the accused no.1, who is asked to stand up and tell his



name, which he states as Kamal Ahmed Mohd. Vakil Ansari). He was the same accused.

7. The certificate as per the provisions of the Section 18 of the MCOC Act inadvertently remained to be written at the end of the confessional statement as the recording of the confessional statement was going on for quite a long time.

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

8. The region under me was the western region from Bandra to Oshiwara. I joined the DCP, Zone-IX office on 19/07/06. Before that I was Supdt. of Police, Solapur, Rural. After I joined I tried to find out the sensational cases that had occurred in the near past within my jurisdiction. I was informed about the incidents. I came to know about the blasts in the local railways between Bandra and Khar. By the time I joined, most of the injured persons admitted in the Bhabha hospital had been shifted. Bhabha hospital is less than 5 minutes distance by vehicle from my office if there is less traffic. It is less than 10 minutes on foot. I did not make any efforts to meet the remaining injured persons who were still admitted in the hospital. I did not make any efforts to know about the stage of investigation though it was a

serious case, because it was not within my jurisdiction, but was in the jurisdiction of railway police and was being investigated by the ATS. I was aware that the investigation was being carried out by the ATS. I was more concerned with the security aspect in my jurisdiction as there were threat perceptions during that period received from agencies. It is not true that therefore it was necessary for me to keep track of the investigation. I was informed about the incident by my higher ups in connection with the security concern. I used to obtain the necessary information from the media about all important updates. It depends upon the position of the person whether he is directly involved in the investigation, as to whether the arrest of any person in such a case is important. It was an important information from the point of security in general.

(Adjourned at 1.35 p.m. at the request of learned advocate to tomorrow).

**Date : 12/07/11**

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

**Date : 13/07/11**

**Resumed on SA**

9. The office of the DCP, Zone-IX is in Bandra. The office of the ACP, Bandra Division is on the ground floor and the office of the DCP, Zone-IX is on the first floor. There is a lane in between the Bandra Police Station and the DCP office. The office of the DCB CID, Unit-IX is in the adjacent building of the DCP office. Lockup is on the ground and the first floor adjacent to the building of Bandra Police Station. I do not have an exact idea about the number of the rooms in the lockup, but they may be four or five on each floor. I do not know who was on guard at the lockup on 3<sup>rd</sup>, 4<sup>th</sup> and 05/10/06.
10. I did not personally contact any ATS officer after I received the letter Ext. 1176. It is true that I did not contact any ATS officer till the completion of the confessional statement, except PI Iqbal who had come to reach the accused to me. I realized on receiving the letter that it was ACP S. L. Patil who had interrogated the accused. I did not think it necessary to contact ACP Patil to know as to when the accused had expressed his desire to make the

confessional statement. Jt. CP Raghuvanshi had directed me by this letter to record the confessional statement of the accused. I received the letter Ext. 1176 in the morning on 03/10/06 around 9.30 a.m. when I reached the office, but I do not remember the exact time. I do not know who brought the letter. I prepared and dispatched the letter Ext. 1177 after receiving the letter Ext. 1176. I cannot tell the exact time when Ext.1177 reached ACP Patil and who had reached it. I prepared the letter Ext. 1178 after I had sent the letter Ext. 1177. My staff typed both the letters. My staff typed all the letters that I produced. The letter Ext.1178 was sent sometime before 1200 hours.

- 11.** PI Iqbal Shaikh met me around 5.00 p.m. at my office. I did not inquire with him whether he was a part of the investigation of that case. He gave me the brief information about the railway bomb blasts and the arrest of the accused in that case and I asked him about the police custody period of the accused. It was a general information about the persons who had been arrested. I do not remember about the number of the persons that had been arrested. I did not inquire with him as to how many other persons had made confessional statements and on what dates. This was the first

occasion when I recorded the confessional statement under the MCOB Act or under any other Act. I made efforts to collect information as to how the confessional statement is to be recorded by talking with one of my colleagues by name Santosh Rastogi, SP, Beed as I knew that he had recorded some confessional statements earlier when he was posted in Mumbai. I did not consult anyone else. He did not give me any questionnaire to be asked to the accused. I formulated the questions myself. I did not think it necessary to ask PI Shaikh as to since when the accused was in police custody. I did not try to find out the names of the officers who had questioned him from the date of his arrest. I did not try to find out the stage of the investigation. I did not think that it was necessary to know all these things in order to ascertain the voluntariness of the accused to make the confessional statement. It is true that the custody of the accused with me was for the limited period for the recording of his confessional statement and after the formalities before the CMM he was to be handed over to the ATS. There was no limitation on the period for which the accused would remain with me for that purpose. It is not true that I knew about the brief facts of the case already

before PI Shaikh told me about it. I was aware when I took charge on 19/07/06 that there had been a blast at Borivali railway station. I was aware that there had been blasts at various other places at around the same time.

- 12.** There is no other record except the letters and the confessional statements Part-I and Part-II relating to the recording of the confessional statement on 3<sup>rd</sup>, 4<sup>th</sup> and 05/10/06. I wrote the questions and answers as I was asking them and the accused was giving answers simultaneously. There is no record of the earlier questions that I asked to make the accused comfortable, but some of them I asked again and I wrote them. I am telling about the questions that I asked earlier out of my memory. The question that I asked him about any inducement to make the confessional statement was a general question and not specifically related to the investigating officer or any officer of the ATS. I was not assuming that somebody other than the ATS officers was allowed to meet him. I was trying to find out from the accused if anybody else had met him. There is nothing on record to show as to when and under what circumstances the accused first expressed his desire to make the confessional

statement.

- 13.** I did not write anything in Part-I after 03/10/06 after it was completed and the accused and I had signed it. I required about one and a half hours to complete the Part-I. I required about seven or seven and half hours in all for completing Part-II, which includes obtaining photocopies and the time spent for taking meals. I cannot tell now what portion of Part-II was completed before midnight. I do not remember exactly, but it was around 10.00 p.m. when we stopped for having meals. I cannot tell what portion of Part-II was completed upto 10.00 p.m. There was a small break in writing for the meals, but I cannot tell for how much time it was. I did not think about the further time that we would take for completing the statement and whether it would go on after midnight. My office staff had brought the food. It is not true that all the office staff was present till I completed writing the confessional statement. The stenographer was not present in the night, but the writer constable was there. The last letter was typed by the writer around 2.30 a.m. I would have required hardly any time to prepare the certificate. Since initially I had informed the accused that if he makes any statement before me it can be used as evidence

against him, I did not ask him subsequently as to from where he got the knowledge. It is true that it is not written in the Part-I that I had informed him that if he makes the confessional statement before me, it can be used against him as evidence. The Part-I was not kept in any sealed envelope, but it was kept under lock and key in the cupboard in my office. My staff assisted me to prepare the envelope after Part-II was completed. I myself put the rubber stamp on the pages of both parts. Thereafter I verified the document and then kept it in an envelope. I checked the page numbers and the stamps and then put it in an envelope. I cannot tell the name of the staff member who wrote the contents on the envelope Ext. 1182. (Witness is shown the envelope marked X-A that is with the papers of the confession). I cannot tell the name of the person who has written on the envelope. As per my directions PI Gaikwad was to produce the accused before the CMM and thereafter was to handover the custody of the accused to the ATS. I did not try to find out at what time the accused was taken out from the lockup on 05/10/06 for being taken to the CMM. PI Gaikwad did not show me any medical papers. He reported to me at about 4.00 or 5.00 p.m. that he had produced the accused before the



CMM. I then inquired with him whether he had handed over the custody of the accused to the ATS. He told me that he has just come to the police station and is in the process of writing the letter to the ATS. I then directed him to immediately hand over the custody of the accused to the ATS. I did not give a letter to that effect to him as I had already instructed him.

(Adjourned for recess).

**Date : 13/07/11**

**SPECIAL JUDGE**

**Resumed on SA after recess**

14. I put the dates below my signatures in Part-I and Part-II. After Part-I was finished I put the signatures and the dates. After Part-II was completed, I put the signatures and the dates. It is true that I have not put the dates below my signatures on Exts. 1177, 1178 and 1183. I have not put the rubber stamp below my signatures at the top of pages 6 and 7 of Part-I. It is true that I have not put the rubber stamp below my signatures on pages 29, 30 and 31 of Part-II.
15. I had given the time of 24 hours to the accused for reflection from the time I handed over his custody to PI Gaikwad. I had not expected the guards to take the accused to other places

except the hospital. I did not verify the time that the guards took for getting the accused medically examined. It is not true that I had not given sufficient time for reflection to the accused. It is true that it is not mentioned in the Part-I that I informed the accused that I am not concerned with the investigation of the case in which he was arrested. However, I have mentioned that I am not concerned with his arrest. It is true that it is not mentioned in the confessional statement that after I found that he had settled down I told him that I wanted to ask certain questions to him to which he should reply frankly without any fear, that I explained to him that I am the DCP of that area, who can record his confessional statement.

- 16.** It is not true that the accused did not make any confessional statement before me, that Exts. 1180 and 1181 were copied down from the material supplied by the ATS, that I signed the documents mechanically without going through the contents, that the accused was forced to sign the statement, that the accused was never produced before me, that I identified him in the court as he was shown to me, that I deposed falsely to please my superiors as they had directed me to record the confessional statement.

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

17. I have recorded three or four confessional statements after this case when I was DCP, Zone-IX after 04/10/06 under the MCOC Act. I cannot tell the date, time and year when I recorded those confessional statements. I was DCP, Zone-IX upto around June 2008. Thereafter I was posted as SP, Akola. I worked as DCP in Mumbai for the period at Zone-IX only. I can tell about the brief facts of the case of confessional statements of the other cases. One was concerning the case of murder of Jamsandekar. I do not remember the details of the other cases. I do not remember the name of the accused who made the confessional statement in the case of murder of Jamsandekar. I do not remember the names of the accused who made the confessional statements in the other three-four cases. I gave evidence before the court in the case of murder of Jamsandekar about 8-10 months back. I was cross-examined, but I cannot say whether it was extensive.

18. It is true that I came to know for the first time on 03/10/06 that I have to record the confessional statement of an accused arrested in the railway bomb blasts case. I was ADC to

Governor of Maharashtra from 1999 to 2001. Thereafter I was SP, Ratnagiri, Solapur (Rural) before I was posted as DCP, Zone-IX. I had gone through the provisions of the MCOC Act before 03/10/06. I also had knowledge about the provisions of the Cr. P. C. I did not have any occasion to go through the provisions of the TADA Act when I was SP. I had knowledge that a confessional statement of an accused can be recorded by a DCP under the MCOC Act. I had a broad idea about the procedure of recording the confessional statement under the MCOC Act before 03/10/06. I had an idea about the questions that were to be asked to the accused. I had the knowledge that I had to give more than 24 hours for reflection to the accused after he is first produced before me.

- 19.** I have not recorded all the questions that I asked and all the answers given by the accused in the confessional statement. I have not recorded the information that I gave the accused on 03/10/06 that I am empowered to record his statement and that question has not come in that form. I cannot tell offhand what other questions and answers I did not write. I did not write the basic preliminary questions to make the accused comfortable. I cannot say

whether I did not record the casual and irrelevant questions. I recorded whatever questions I felt relevant and important on that day. I myself framed the questions on both the occasions. DCP Santosh Rastogi is my colleague and friend. I knew a number of DCPs working in Mumbai during that period. DCP Makarand Ranade, Brijesh Singh, Karale, Mohite, Phadtare, Dumbre etc., were my colleagues and friends. We used to meet in meetings. We used to discuss cases in general after the meetings. I do not remember whether I did not contact any other DCP other than Rastogi on 03/10/06. In some meetings that I attended as DCP in Mumbai, there used to be discussions about recording of confessions under MCOC Act. I do not remember the exact date of any such meeting before 03/10/06. However, there were meetings in the DG's office where SPs, DCPs and other officers were called. There were no lectures on this topic, but there used to be general discussions about the general provisions of the MCOC Act. I do not remember the name of the officer who enlightened the others about the provisions of the MCOC Act. There were no structured lectures on this topic. I cannot say whether the format of the confessional statements, the questions to

be asked and the precautions that were to be taken were discussed.

**20.** I did not receive any other document or record along with the letter Ext. 1179. PI Iqbal Shaikh also did not produce any document. I did not ask him when the accused was last produced before the magistrate. I did not ask the accused as to the name of the officer who had arrested him, where and how he was detained and which officer interrogated him, when he was taken for medical examination lastly before being produced before me. I did not inform the accused that even if he does not make the confessional statement before me, I will not send him to the custody of the ATS as it was not within my powers. I cannot say whether I have not informed so to the other accused whose confessional statements I had recorded.

**21.** I wrote the proceedings from para- 1 to 5 in Part-I as per the events and as per my observations. It was not taken from any other document or source. I cannot tell the exact time, but it was around 1830 hours that I completed the fourteen questions and answers. I cannot say how much time I required to ask each question and to get the answer and to write it down. I sent the

accused with PI Gaikwad around the same time. I wrote down the questions and answers as they were asked. It is true that it was 1830 when the question no. 14 and its answer was written. I may have required maximum five minutes to write the note on the next page. The portion above the portion dated 04/10/06 was written on 03/10/06 itself. The rubber stamp were put on the same dates. I did not think that it was necessary to pack and seal Part-I on 03/10/06. It is true that below the notes on page 6 at the end of Part-I, I put the date 05/10/06. I have not put the rubber stamp wherever I have written DCP, Zone-IX in my hand. It is not true that the rubber stamp is put on every page on 05/10/06. It is not true that the endorsement below the questions and answers in Part-I is made on 05/10/06 and not on 03/10/06.

(Adjourned at 4.45 p.m. at the request of Id adv)

**Date:13/07/11**

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

**Date : 22/07/11**  
**Resumed on SA**

22. I retained two photocopies of the confessional statement with me. One photocopy was given to the ATS officers on their request. It was given on 07/10/06 to some ATS officer, whose name I do not recollect. The accused was not produced before me after he was produced before the CMM. When I gave the accused in the custody of PI Gaikwad on 05/10/06 in the early hours, I had directed him to handover the custody of the accused to the ATS after the court work was over. I did not give any letter addressed to the IO that the process of recording of the confessional statement was over and I am handing over his custody. I did not intimate Jt. CP Raguvanshi about completing the procedure. I had strictly directed PI Gaikwad when I gave him the custody of the accused on 3<sup>rd</sup> and 5<sup>th</sup>



that no ATS officer or any other police officer should be allowed to meet the accused. I handed over custody of the accused on both occasions to PI Gaikwad of Bandra Police Station.

- 23.** It was my duty as a DCP to supervise over all the police stations within my jurisdiction and to guide them in the matter of investigations. One police station does not have the authority to call the police officers of other police stations. That right is with the ACP and DCP of that division concerning the police stations within their jurisdictions. I do not recollect how many policemen were accompanying PI Gaikwad and how many came in my chamber and who they were on 03/10/06, on 04/10/06 and when I handed over custody on 05/10/06. Neither PI Gaikwad nor any officer of Bandra Police Station gave a written report to me on 04/10/06 when they produced the accused before me and when they handed over the custody of the accused to the ATS. I did not ask them to submit a written report either on 4<sup>th</sup> or 5<sup>th</sup>. I do not remember whether they submitted any document to me on all these three days. I do not remember whether Bandra Police Station had made any grievance or had shown any requirement during these three days. The

documents in the office file that I have brought to court do not show any such grievance or requirement.

**24.** I did not ask the accused at the time of recording Part-I as to when, from where and who had arrested him and since how many days he is in custody. I did not question any person as to when and to whom the accused had expressed his desire to make the confessional statement. I did not ask the accused when he was produced before me on 03/10/06, as to why he was produced before me. It is true that it is not written in question no.11 as to frightened, threatened and induced for the purpose of making the confessional statement. Inquiry in Hindi is 'puchtach' or 'chokshi'. Recording of confessional statement can be translated in Hindi as 'kabuli jabab dena' or 'kabuli bayan dena'. It is not true that I did not make inquiry with the accused on 3<sup>rd</sup> and 4<sup>th</sup>.

**25.** I cannot say how much time I required for recording the nine questions in Part-II. I cannot tell the exact time when the recording of the statement as narrated by the accused started after the questions and answers and recording my satisfaction about his voluntariness. Statement can be translated in Hindi as 'jawab', 'jabab',

'vaktayva' and 'bayan'.

**26.** My staff came inside my chamber during the period of recording of the confessional statement for giving water, serving food, etc. I cannot tell the exact number of times my staff so came in my chamber. I told the accused to say whatever he wanted to say after recording my satisfaction after the questions and answers in Part-II. I had asked questions for clarification during the recording of the actual confession starting from the accused telling his name upto the end where he stated that the statement was read over to him and he is signing it as it is correctly recorded. I cannot tell how many questions I asked and at what point. I went on writing as the accused went on narrating. The accused used to stop narrating whenever I was writing. The accused used to utter one sentence or more than one sentence at a time. I myself decided to put the paragraphs after certain point was over. 'Shadi' is a Hindi word. 'Vivah' is also used for marriage in Hindi. 'Nikah' is a Urdu word. It is also used in Hindi writing. The over-writings and corrections were made by me on my own and not suggested by the accused. The corrections on page 15 were made by me on my own and not suggested by the accused. The additions

of some words was made by me during the writing and not after completing the entire confession. The word 'Hyder' on page 17 was substituted by 'Aslam' at the same time. The accused himself stated the English words in the last paragraph on page 21. I did not obtain the signatures or initials of the accused at the places of corrections, additions or alterations.

**27.** It was mandatory to give a certificate at the end of the confessional statement as per Section 18(3) of the MCOC Act, but at that time I was not aware of the rules and the format. I was aware of the provisions of Section 18(3) when I recorded the confessional statement about expressing my satisfaction of the voluntary character of the confession putting the date and time of the same. It is true that I did not record it though I had intended to do so. There is such a provision in Section 164 of the Cr. P.C. also.

**28.** It is not true that the accused had not made any confessional statement before me voluntarily. I do not know till today whether the accused retracted the confessional statement before the magistrate when he was produced after it was recorded.

(Ld. SPP makes a request to exhibit the letter received from the

CMM. It is received in evidence and marked as **Exts.1203 and 1204** as it is received by this court from the CMM. The envelope is marked as **Ext.1204-A**).

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

29. It is true that Part-I and Part-II are two different stages of recording confessional statement. If the accused refuses to make the confessional statement when he is produced for the first time, then it is not necessary to call him again. It does not happen that on receiving the direction of the superior I decide that I have to record both parts of the confessional statement. It is not true that in this case I had so decided. (In view of the request by the learned advocate the true photocopy of the letter at page 397 of the record, is marked as **Ext. 1205**). This letter was issued to Sr. PI for providing escort to produce the accused before me on 03/10/06. It is true that in the same letter I directed him to again produce the accused before me at 1900 hours on 04/10/06. On going through the letter Ext.1205 it seems that Sr.PI has given directions to PI Gaikwad on 04/10/06.

30. It is true that staff of other police stations and units are called to assist in the case of bandobast or morcha. I did not make

inquiry about the officers from the other police stations who were deputed to the ATS for the investigation of this case. I did not make any inquiry with PI Gaikwad as to whether he or any of the escort staff was so deputed.

**31.** I did not seal the Part-I as there is no specific provision for this and as I kept it in my lock and key. I did not write any portion of Part-I and Part-II before PI Gaikwad. I and the accused did not put our signatures in the presence of PI Gaikwad. It did not happen that the procedure of packing the confessional statement was made before him and the correspondence was prepared before him. It is so written at the end of both parts as I was intending to take those steps. I did not ask the accused when he first expressed his desire to make the confessional statement and in what case he wanted to make it.

**32.** Details of passports are centralized in the country. Normally there is no record about foreign travels of passport holders in the passport office. It is with the immigration department. If the data is updated, one can get the details of a passport holder of Bareilly from the Mumbai office. Basic information of the passport is maintained for long in respective passport office. I cannot say whether an application

was received from the prison under RTI in connection with the name Alam Gulam Qureshi or Mohd. Alam Gulam Sabir Qureshi. Immigration department is a department itself. The information about passports is not uniformly updated in every centers. It is not true that I copied the contents of the confessional statements supplied by the ATS.

No re-examination

R.O.

**Special Judge**

**Date:-22/07/2011**

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