

**M.C.O.C. SPECIAL CASE NO. OF 21/06****DATE: 20TH JULY, 2011****EXT. NO.1193****DEPOSITION OF WITNESS NO.116 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Subhash Janardan Gaikwad  
Age : 61 years  
Occupation : Retired  
Res. Address : At Bhatnimgaon, Post Bhandgaon, Tal-Indapur,  
Dts.-Pune, M.S.

-----

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

1. I was working as PI (Community) at Police Station Bandra on 03/10/06. I was on day duty from 8.00 a.m. to 8.00 p.m. on that day. Sr. PI called me at about 4.00 or 4.30 p.m. and showed me a letter of the DCP and told me to go to the office of the DCP with staff at 5.00 p.m. for taking custody of an accused of the ATS. Accordingly I along with PSI Parab and two constables started from the police station at 4.50 p.m. for going to the DCP office after making station diary entry. I have brought to court the original station diary. The station diary entry

at sr. no. 44 is in my handwriting and its contents are correct. Its certified true copy now shown to me is the same and its contents are as per the original. (It is marked as **Ext. 1194**). I reached the DCP office and reported to the reader about our arrival. The reader asked us to wait outside as the DCP was busy in work. The DCP called me inside his chamber at about 6.30 or 6.45 p.m. I and my staff went inside. The DCP asked me to take into custody the accused who was there and who had been arrested in the bomb blasts case. He gave instructions that we should keep the accused in a separate cell and to veil him while taking and bringing him. He also directed me to get the accused medically examined and not to allow any ATS officer to meet him. He directed me to produce the accused before him on the next day at 7.00 p.m. I took the accused to the police station at about 6.45 p.m. on foot and then took him for his medical examination. I brought him back to the police station at about 7.30 p.m. after getting him medically examined. I then reported to the Sr. PI. that I have brought the accused from the DCP and that I have got him medically examined and to keep him in a separate cell. I took the accused to the general lockup behind the police station and put him in room no.1

on the ground floor. I gave instructions to the guard amaldar and his staff not to allow any ATS officers or staff to meet the accused and not to allow any relative and friends to meet him. I then returned to the police station and made station diary entry. I had made station diary entry no. 48 when I returned from the DCP office and the station diary entry no. 49 when I returned from the hospital and entry no. 52 after I had put the accused in the lockup. The entries are made in my handwriting and their contents are correct. The contents of the certified true copies of those entries now shown to me are correct. (The sheet containing the entries no. 48 and 49 is marked as **Ext.1195** and the sheet containing the entry no. 52 is marked as **Ext.1196**).

2. I started from the police station at 6.50 p.m. with the accused and staff on 04/10/06 and made station diary entry no. 46. The station diary entry at sr. no. 46 is in my handwriting and its contents are correct. Its certified true copy now shown to me is the same, its contents are as per the original. (It is marked as **Ext. 1197**). I reached the DCP office at 7.00 p.m. and reported to the DCP, who called us inside. I produced the accused before the DCP. He asked me

whether all instructions given by him were followed. I told him that all the instructions were followed. He took the accused in his custody and told us to wait outside and not to allow anyone to come inside. Accordingly we waited outside. We were outside upto 2.30 a.m. of 05/10/06. Thereafter the DCP called us inside and asked me to take the custody of the accused. I took the accused in my custody and took him outside. The DCP again called me inside and gave me two letters. One was a letter in an envelope addressed to the CMM forwarding the confessional statement of the accused. One was a sealed envelope containing confessional statement of the accused. Ext. 1182 now shown to me is the sealed envelope. The DCP directed me to get the accused medically examined and then to keep him in the lockup of our police station and to follow the instructions as given on the earlier day and to produce the accused before the CMM at 11.00 a.m. on the next day. I took the accused to the police station, put him in the lockup and kept the envelopes in the safe. I made station diary entry no.7 to that effect. The station diary entry at sr. no. 7 is in the handwriting of the duty officer and its contents are correct. Its certified true copy now shown to me is the same, its contents are

as per the original. (It is marked as **Ext. 1198**).

3. I had instructed the staff that was with me and the relief officer PSI Mane to get the accused medically examined in the morning. I came on duty at 9.00 a.m. on 05/10/06 and met the Sr. PI. I inquired about the staff whether they had come on duty, took the envelopes in my possession and went to the lockup and took out the accused and took him in my custody. I then started for going to the court with the staff and the accused in two vehicles at 9.30 a.m. I had verified and confirmed whether the accused had been medically examined in the morning. I made station diary entry no. 17 in my handwriting to that effect. The station diary entry at sr. no. 17 is in my handwriting and its contents are correct. Its certified true copy now shown to me is the same, its contents are as per the original. (It is marked as **Ext. 1199**). I reached the court of the CMM at 11.00 a.m and gave the letter to the clerk of the CMM. He took me to the chamber of the CMM. I gave the letter to the CMM. He asked me to wait outside. We waited outside and at about 2.30 or 2.45 p.m. the CMM called me in his chamber. I produced the accused before him. The CMM asked me and my staff to wait outside and told me that we should come inside

when called. He called me inside at about 5.00 p.m., gave the accused in my custody. I then went back to the police station with the accused and the staff in the vehicles. I reached the police station at about 6.45 p.m. and made station diary entry no. 52 in my handwriting to that effect. The station diary entry at sr. no. 52 is in my handwriting and its contents are correct. Its certified true copy now shown to me is the same, its contents are as per the original. (It is marked as **Ext. 1200**). The DCP had given instructions earlier to take the accused to the ATS office after the court work is over. Accordingly a letter was prepared and with staff I took the accused to the ATS office at Bhoiwada. I made station diary entry no. 53 to that effect. The station diary entry at sr. no. 53 is in my handwriting and its contents are correct. Its certified true copy now shown to me is the same, its contents are as per the original. (It is marked as **Ext. 1201**). I gave the accused in the custody of the duty officer and API Mohite, who was there. ACP Patil took my statement in this connection on 20/10/06. I had produced certified true photocopies of the station diary entries and the photocopies of the medical examination papers of the accused at that time.

4. I had always veiled the accused whenever he was taken outside from the DCP office to the police station, to the hospital and to the court of the CMM and to the ATS office. The name of that accused was Kamal Ahmed Ansari. I will be able to identify him. (Witness looks around the court room and points to the accused no.1 who is sitting in the dock. He is made to stand up and tell his name, which he states as Kamal Ahmed Mohd. Vakil Ansari). He was the same accused.

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

(Adjourned to tomorrow, i.e., on 21/07/11 as Id Adv Rasal is not present and he had submitted yesterday that he would not be available today).

**Date : 20/07/11**

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

**Date: 21/07/11**

**Resumed on SA**

5. I retired in 2008. I came to Mumbai for giving evidence since last Wednesday, i.e., 13/07/11. I came to court on 14/07/11, but did not come on 15 and 16/07/11. I came at 1200 hours yesterday. I did not come upstairs to the court hall on 14/07/11. I came upstairs to the court hall at about 2.30 or 2.45 p.m. yesterday. Accused were not inside the court hall at that time. I saw them in the court hall. I came to the court hall at 3.00 p.m. I had read my statement yesterday. I have passed the old SSC. I cannot write English properly. I can read it and understand it somewhat. When my statement was recorded, it was explained to me in Marathi. It is true that it was mentioned below my statement that it was read over and explained to me and I found that it was correctly written as stated by me and I said that it was so written.

6. I reached the accused to the ATS office at Bhoiwada at 9.00 p.m. I went to the court of the CMM at 11.00 a.m. I had shown the letter to the staff first. The CMM took the accused before him at about



2.45 p.m. I was waiting outside the chamber of the CMM with the accused from 11.00 a.m. till that time. I had gone to the back side of the 2<sup>nd</sup> floor in Killa Court. The CMM had not given any staff member with us till the period I was waiting outside. I stood outside the chamber of the CMM upto 5.00 p.m. after leaving the accused in his chamber. No one went inside and no one came outside his chamber during this period. Except me, the accused, one of my constables and the CMM there was no one else when I first went inside the chamber of the CMM. I and my constable went outside. I did not immediately take the accused from the court to the ATS office as I did not have the letter of the police station with me. The accused was in the custody of the DCP from the time I took him from his custody till the time I produced him before the CMM. I did not realize that I did not have a letter about handing over the custody of the accused to the ATS when the DCP instructed me to do so. I did not produce the accused before the DCP after the court work because I had intimated the reader that I had brought back the accused from the court and he told me to take a letter of the police station and reach him to the ATS office. This was an important instruction. I did not make a station diary entry about it. I

had not put the accused in the lockup after I brought him back from the court and took him to the ATS office. I do not remember the name of the duty officer in whose custody I gave the accused. API Mohite is the same person who is present before the court. I met him whenever I came to the court. It is not true that I identified the accused as PI Mohite showed him to me before I gave evidence.

7. I cannot assign any reason why it is not mentioned in my statement that it was read over and explained to me and I found that it was correctly written as stated by me and I said that it was so written. I was called to the ATS office on 20/10/06 in the afternoon and I reached there at about 3.00 or 3.30 p.m. The ATS officers did not inquire with me and I did not give a report about the work that I had done from 03 to 05/10/06, when I went there to reach the accused on 05/10/06. I was at the ATS office upto 5.30 p.m. ACP Patil recorded my statement and his writer was typing it. It started at 3.30 p.m. and was over at 4.30 p.m. I did not make any station diary entry about going for giving statement, taking with me the certified photocopies of the station diary entries and returning back to the police station after giving the statement.

8. I was on duty in the police station on 03/10/06. I do not know whether information about bringing an accused in an important case was received in our police station, except the letter received from the DCP. I came to know about that work at about 4.00 or 4.30 p.m. At that time the accused was not brought to the police station. Bandra Police Station is on the ground floor. Office of the Sr.PI is on the first floor. SHO office is on the ground floor. It is a big room. There are 5-6 rooms on the ground floor. The lockup is on the back side of the police station. It is not true that whenever an accused is brought to the police station, he is first taken before the SHO. Out of the 5-6 rooms, two are for record, one is for the officer looking after the work of externment, one is where the detection staff sits and one is where the wireless set and district hawaldar and the safe is. I did the work of SHO supervision and verifying the passports on 03/10/06 upto 5.00 p.m. I did not make any station diary about this routine work. DCP office is in the building adjacent to the police station after a small lane. Bhabha hospital is 4-5 minutes distance from the police station. I had seen the ATS officer Shaikh and staff passing by in the verandah of the DCP office when I went to report there at 5.00 p.m. I

kept the accused in the lockup at 7.45 p.m. on 03/10/06. He was not taken out from the lockup thereafter on that day. I took him out of the lockup thereafter at 6.45 p.m. on 04/10/06. I was outside the DCP office thereafter upto the time the accused was given in my custody, except for about one or one and a half hours when I had gone to the police station for having meals. When I produced the accused at 7.00 p.m. before the DCP, except the DCP there was no one else. The work of the DCP was going on continuously during the period from the time I produced him before him till he was given in my custody. I cannot say about the period when I had gone to the police station for having meals. PSI Deshmukh, PSI Mane and staff were outside the office of the DCP when I went to the police station. They did not tell me whether the DCP had stopped working in between and had called them inside.

9. I took out the accused from the lockup at 9.25 a.m. on 05/10/06. I did not take the accused back to the DCP after I took the accused in my custody on 05/10/06. The CMM did not give me any letter after giving custody of the accused to me. It is not true that I did not take the accused in veil, that I made all station diary entries on

the say of my superiors in order to support.

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

10. I knew all the officers and the staff of my police station at that time. It is true that if there is a big morcha or VIP bandobast, staff and officers of other police stations in the zone are called. I do not know which officers from our police station had been deputed at that time to the ATS for investigation. I did not ask the staff that was with me as to whether they had been deputed for the investigation to the ATS. I do not know how many policemen from Bandra division were deputed to the ATS. I do not know whether PC-31504 of Bandra Division was deputed to the ATS. If I would have come to know that any one out of the staff with me had been deputed to the ATS, I would have informed my seniors about it. I did not know whether anyone from the staff had been deputed to the ATS, therefore I did not inform this to the senior. I had given the certified true photocopies of the station diary entries, lockup register and letters to the ATS. I had read the station diary entries. I had brought the lockup diary yesterday. I had seen the extracts of the lockup diary when I gave them to the ATS.

11. I and my constable had gone to the lockup to put the accused inside. I had put the accused in the lockup at 1950 hours on 03/10/06. (Witness is shown lockup diary entry no. 15 in the original register). It is true that PN- 23005 and PC-31504 were with me when I put the accused in the lockup. (As the witness is confronted with the contents of that entry, its certified photocopy is marked as **Ext.1202**). I do not remember whether PC-31504 was with me when I took the accused to the office of the DCP on 04/10/06 and when I took him to the CMM. I do not know whether he was deputed to the ATS during that period. It is true that it is written in Ext.1202 that he is of ATS. This entry was not made on my instruction. It is true that my name is not mentioned in this entry. I do not know whether this entry was made on the instruction of PC-31504. He was with me on 03/10/06 only and not on 04 and 05/10/06. He was with me when I went to the DCP and when I returned back.

12. The DCP was not writing anything when I was called inside the chamber. He did not take the signature of the accused or put his signature on any paper in my presence. I do not remember whether there was any written paper in front of the DCP. The DCP

was not writing anything when I was called inside the chamber on 05/10/06. He did not take the signature of the accused, he did not sign and did not seal any envelope in my presence. I did not see any written papers in front of him. No typing work was going on in my presence.

**13.** I do not remember whether I was on night duty on 02/10/06. I was on day PI duty on that day. I had gone to the ATS office from my house on 20/10/06. I went to the police station after my work there was over. The accused was not taken out of the lockup on 04/10/06. it is not true that I had not gone to the office of the DCP on 03/10/06 and had not brought the accused, that PI Shaikh and PC-31504 had brought him to the police station, that I did not produce the accused on 04/10/06 before the DCP and on 05/10/06 before the CMM, that I prepared false entries on the say of PI Shaikh, that I deposed falsely.

(Adjourned for recess)

**Date : 21/07/11**

**Special Judge**

**Resumed on SA after recess.**

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

**14.** I did not submit a written report to the DCP about the work that I did from 03 to 05/10/06 and he also did not give me any direction to do so. The accused was taken for medical examination twice, on 3<sup>rd</sup> and 05/10/06 at Bhabha Hospital. I took him to the Bhabha hospital on 03/10/06, but not on 05/10/06. I reached the hospital in between 7.05 to 7.30 p.m. and started back at about 7.25 to 7.30 p.m. I cannot tell the name of the doctor who examined the accused and the exact time when he was examined. I had taken the accused for medical examination as the DCP had given such a direction in the letter. Other than that letter he had not given any other letter containing the precautions that were to be taken when the accused was put in the lockup. I did not give a written report as the DCP had not asked for it and as he had made oral inquiries when I produced the accused on the next day. I was present when the doctor examined him on 03/10/06. The accused was examined in the examination room, therefore I do not know whether the doctor examined his body by asking him to remove his clothes. I had produced photocopy of that case paper at the time of my statement. The doctor had given the original case paper to me. It was given to



the lockup guard.

**15.** I cannot say who had taken the accused for medical examination on 05/10/06. I had not seen the case paper. The accused was taken for that purpose at about 7.00 a.m. I cannot say at what time he was brought back. I do not know whether entries about this are made in the lockup register. I was told at 9.00 a.m. that the medical examination of the accused was done. I took him out of the lockup at 9.25 a.m. and started at 9.30 p.m. from the police station. The DCP had given instructions while handing over the custody of the accused on 05/10/06 to get him medically examined. I had directed PSI Mane and his staff to get the accused medically examined. PSI Mane told me at 9.00 a.m. that he had got the accused medically examined. He did not show me the case papers and I did not ask for it. I did not feel it necessary to see the lockup register when I took him out. I had not seen whether there were entries in the lockup register about taking out the accused from the lockup at 7.00 a.m. on 05/10/06 and putting him back after his medical examination.

**16.** I was at Bandra Police Station from August 2004. The

staff of Police Stations Juhu, Khar, D. N. Nagar, Kherwadi, Vakola, Santacruz, Nirmal Nagar and Bandra are appointed for guard duty at the lockup of the Bandra Police Station. I do not remember the names of the officers and their police stations who were on lockup duty on 03/10/06. One ASI Sonavane was on night guard duty on 04/10/06. Night duty starts after 8.00 p.m. The accused who are in police custody of all the said police stations are kept in that lockup. I cannot tell the number of accused in the lockup on 03/10/06 and 04/10/06. I do not remember whether accused in police custody of Crime Branch Unit-IX, which is by the side of the police station, are kept in that lockup. I gave the accused in the custody of the lockup staff on 03/10/06. It might be ASI Nimbalkar in whose custody I gave the accused. ASI does not have buckle number. I had given lockup memo to him. ASI Nimbalkar signed the memo and gave it back to me as receipt. I do not remember whether I had signed that memo and as to who had signed it. That memo might not contain my name. The names of the hawaldar and staff are mentioned in the memo. I had given the accused in the custody of ASI Sonavane on 05/10/06. I do not remember whether he had signed the memo. The memo does

not bear my name. PSI Deshmukh and two constables were with me when I put the accused in the lockup on 05/10/06. They were with me when I took custody of the accused from the DCP. PSI Deshmukh was not from Bandra Police Station. He was not with me when the accused was given in my possession on 03/10/06 and on 04/10/06 when I took the accused to the DCP. I do not know from which police station PSI Deshmukh had come. I saw him for the first time at the DCP office where he had come at 9.00 or 9.30 p.m. before I went for meals. I do not know who had called him. PSI Deshmukh remained at the police station on duty after I kept the accused in the lockup on 05/10/06. I left the police station at about 3.00 or 3.15 a.m. PSI Deshmukh was at the police station when I left. I cannot say whether our police station had not called him. A PSI of one police station can be assigned duty to another police station after the Sr. PI takes the permission of the DCP or ACP. The Sr. PI of one police station does not have the authority to call PSI of another police station. At that time the DCP was Choubey and one Deshmukh was the ACP, but I cannot tell his name. I joined duty at about 9.00 or 9.15 a.m. on 05/10/06. I did not see whether PSI Deshmukh was present at that time. It will be

correct to say that I did not meet him thereafter.

**17.** My duty as PI (community) was to keep a watch on the work of SHO and verify passports. I was required to check the station diary entries. I had seen the station diary entries of 03, 04 and 05/10/06. Station diary entry is required to be made about PSI from other police station being given duty in the police station. I will have to see whether there is any station diary entry on the three days to show that PSI Deshmukh had come for duty. On going through the original station diary I say that there is no such entry.

**18.** It depends upon the traffic as to how much time it would require from Bandra to the Esplanade Court. It may be one and a half hours or 15 minutes more. PSI Parab of our police station, two officers of other police station and staff was with me when I took the accused to the CMM on 05/10/06. There were 15-16 policemen including officers and staff. All these persons were present when the accused was taken to the CMM, brought back to the police station and then taken to the ATS office. We were four officers. One was PSI Parab, one was Machvekar. I do not remember the name of the fourth. The Sr. PI had requisitioned them with the permission of the

DCP. I had not seen the letter of the Sr. PI or the order of the DCP. I do not know when the DCP gave the permission. The DCP did not tell me to take the help of the officers of other police stations. It is true that the DCP had given clear directions on 03/10/06 not to allow the officers of the ATS or any other police officers or staff to meet the accused.

19. It is not true that I had not taken the precautions as stated by me and that I deposed falsely on the say of the superior officers of the ATS.

No re-examination

R.O.

**Special Judge**

**Date:-21/07/2011**

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