

**M.C.O.C. SPECIAL CASE NO. OF 21/06****DATE: 26TH JULY, 2011****EXT. NO.1208****DEPOSITION OF WITNESS NO.117 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Brijesh Singh  
Age : 40 years  
Occupation : Addl. CP, Traffic, Mumbai  
Res. Address : European Quarters, Near Azad Maidan Police  
Station, Fort, Mumbai.

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

1. I was first posted in Mumbai as DCP, Zone-I in July 2006, which is a rank equivalent to Supdt. of Police. I had an occasion to record a confessional statement of an accused under MCOC Act in October 2006. I received a letter dated 02/10/06 from the Jt. CP, ATS on 03/10/06 directing me to record the confessional statement of the accused Mohd. Faisal Aatur Rehman Shaikh. I am producing the letter, it bears the signature of Jt. CP, K. P. Raghuvanshi and inward stamp of my office bearing the inward number and my endorsement in the margin bearing my initials. (It is marked as **Ext. 1209**). By that endorsement I had directed to produce the accused before me at 1700 hours on that day. I wrote a letter for that purpose to the IO of that case directing him to produce the accused before me at 1700

hours on that day. I am producing its office copy containing the acknowledgment of the ATS officer. It bears my signature and its contents are correct. (It is marked as **Ext.1210**). Pursuant to the letter a team of ATS officers produced the accused before me at 1700 hours on that day, i.e., on 03/10/06 along with a letter of the IO. I am producing that letter, it bears his signature and it is addressed to me. (It is marked as **Ext.1211**). I had given directions to the Azad Maidan Police Station before that, to send an escort party to take the custody of the accused.

2. I cursorily inquired with the team of the ATS officers when they produced the accused before me about the general facts of the case and about the well being of the accused. I then asked the ATS team to go outside my chamber and the accused was brought inside my chamber in veil. I ensured that there was no policeman within the sight and hearing of the communication between me and the accused. The accused removed his veil and I asked him to be seated. I orally inquired with him about his state of well being and put general questions to him about his name, education, etc., before recording Part-I of the statement, I also inquired with him about the

purpose of his production before me, to which he replied that he wants to make a voluntary confessional statement. I also introduced myself to him telling him that I am a police officer of the rank of DCP empowered to record his confessional statement. (Witness is reading the papers in the file with him). I warned him that it is not binding or compulsory on him to make the confessional statement and if he makes it, it can be used against the accused persons. I also inquired with him whether he was under any inducement, threat or promise. I also inquired with him whether he was given promise of being made an approver or being given a light sentence. I also inquired with him whether he was ill-treated in police custody prior to being produced before me for making the confessional statement. I also told him that he would be given time of 24 hours for reflection. I recorded Part-I of the confessional statement after having so ascertained his voluntariness. I ensured that it was recorded in a free atmosphere, which was evident from the body language of the accused. I also told him that his confessional statement will be recorded in his language. I also told him that during the period of 24 hours nobody from the investigating agency or anybody will be allowed to meet him as he

was in my personal custody and not in the custody of the investigating agency and that I was not concerned with the investigating agency. I was recording the questions and answers of the Part-I on a rough sheet and then I got them typed from my stenographer. The accused insisted that he wants to see the rough notes and that they should be included in the papers. After Part-I was typed, I gave it to the accused to read. He read it and admitted that it was correctly written. He then signed it and he also signed the rough notes. Part-I of the confessional statement now shown to me is the same, it bears the signatures of the accused and my signatures and its contents are correct. The rough notes are also attached to the Part-I and they also bear his and my signatures. (The typed Part-I of the confessional statement is marked as **Ext.1212** and the rough notes are marked as **Ext.1213**). (Witness seeks permission to refer to the papers in the file. Permission granted). After that I wrote a letter to PSI Dasurkar of Azad Maidan Police Station, who had come there in the police party from that police station. I gave him instructions in that letter to keep the accused in a separate cell at Azad Maidan Police Station and not to allow anyone from the investigation agency or any

other person to meet him. I also directed him to produce the accused before me after a period of 24 hours on 04/10/06. I am producing office copy of that letter. It bears my signature, its contents are correct and it bears the acknowledgment of PSI Dasurkar. (It is marked as **Ext.1214**). I kept Part-I and the rough notes in an envelope and sealed the envelope and kept it in my lock and key. The envelope now shown to me is the same. (It is marked as **Ext.1215**). I had also directed the police party to always escort the accused in veil.

(Adjourned for recess).

**Date : 26/07/11**

**Special Judge**

**Resumed on SA after recess.**

3. The accused was produced before me in veil at 1900 hours on 04/10/06. I inquired with the escort party about the compliance of my instructions given on the earlier day and whether the accused had been medically examined. The escort party informed me that the instructions have been complied with including the instruction about medical examination. The accused suggested at that time that his statement would take a long time. He remembered that he had given a confessional handwritten statement before the officer of

Enforcement Directorate. Hence, I told him that I would give him 14 hours more and that he would be produced before me at 10.00 a.m. on the next day, i.e., on 05/10/06. I repeated the instructions given to the escort party that I had given on the earlier day by a letter. I am producing office copy of that letter, it bears my signature, its contents are correct and it bears the acknowledgment of PSI Dasurkar. (It is marked as **Ext.1216**).

4. The accused was produced before me on 05/10/06 at 1000 hours in veil. I confirmed the compliance of my instructions and the escort party replied that the instructions have been complied, including medical examination. I then asked the escort party to go out of my chamber and I ensured that there was no one within sight and hearing of the proceedings going on in my chamber. I and the accused only were present in the chamber. I asked him to remove the veil and I made him comfortable. I ascertained his general state of well being by his demeanor and body language. I asked him whether the time given to him was sufficient or not and he said that it was sufficient. I asked him if he still wants to make the confessional statement. He said yes. I warned him that making of confessional

statement is not compulsory and if made, it can be used against accused persons as evidence in the court. I also inquired with him whether he was under any inducement, threat or promise. He replied in the negative. I asked him whether anyone had met him during the period of reflection. He said no. I again checked with him whether he had been promised to become an approver or has been promised a lesser sentence, to which he replied in the negative. I told him that if he still wants to make the confessional statement, it will be recorded in his language and it would be read over to him and if he approves it to have been recorded as per his version, then he will be required to sign it. I contemporaneously wrote down the questions and answers after ascertaining his voluntariness to make the confessional statement. My stenographer was in my chamber during the questions and answers part and he was typing it on the computer. On the questions that I asked and the answers that the accused gave, I came to the conclusion that the accused wanted to make the confessional statement voluntarily and was not under any threat, inducement or promise. The printout of the questions and answers part was shown to the accused, he read it, admitted it to be correct

and then signed it. The accused was comfortable in Hindi language. Therefore, I proceeded to write down his narration in my own handwriting. I asked the stenographer to go out during this writing. We started at 1000 hours and at 1430 hours I had to stop because of visit of Prime Minister Manmohan Singh in my jurisdiction and I had to attend it. I made a note of this fact in English in my own handwriting in the narration part itself. I kept the said portion under my lock and key in my chamber and sent back the accused to Azad Maidan Police Station. I again gave the instructions to the escort party to produce him on the next day, i.e., on 06/10/06 at 1000 hours and gave them a letter. I am producing office copy of that letter, it bears my signature, its contents are correct and its bears the acknowledgment of PSI Dasurkar. (It is marked as **Ext.1217**). PSI Dasurkar took the accused in his custody and took him back.

5. The accused was again produced before me at 1000 hours on 06/10/06. I again confirmed with the escorting party about compliance of my instructions and they said that they have been complied. I then asked them to go out of the chamber, asked the accused to remove his veil. I again asked the accused whether he



still continuous to want to make the confessional statement. He said yes. I also ensured that he is not under any kind of inducement, threat or promise during the intervening period, to which he replied in the negative. I continued to record his narration in my own handwriting after being satisfied about the voluntariness of his confessional statement. I gave the papers to the accused to read when it was completed. On reading it he expressed satisfaction that it was truthfully recorded as per his version. He also signed on each page and I also put my signatures along with his signatures. After this I appended a printed format of certificate recording my satisfaction about the voluntariness of the accused who had made the confessional statement. I also made two photocopies of these documents. Then I wrote a letter to the CMM for further legal action. I also wrote a letter to the escorting party to produce the accused before the CMM along with the envelopes and forwarding letter. I sealed the Part-II of the confessional statement in an envelope. Part-II of the confessional statement now shown to me is the same, is in my handwriting, it bears the signatures of the accused and my signatures and its contents are correct. (It is marked as **Ext.1218**).

The envelope now shown to me is the same. (It is marked as **Ext.1219**). I am producing office copy of the letter sent to the CMM. It contains the acknowledgment of the clerk of the CMM office. It bears my signature and its contents are correct. (It is marked as **Ext.1220**). I also prepared a letter addressed to the IO, ATS about handing over custody of the accused. I am producing office copy of that letter, it bears my signature and acknowledgment of ATS officer. (It is marked as **Ext.1221**).

6. (Witness requests permission for going through the papers in his file. Permission granted). The recording of the confessional statement was concluded at 1500 hours. The escort party was directed to produce the accused immediately before the CMM and then to hand him over to the ATS.
7. I will be able to identify the accused. (Witness looks around the court room and points to the accused no.3, who is sitting in the dock. He is asked to stand up and tell his name, which he states as Faisal Ataur Rehman Shaikh). He was the same accused. On going through Part-II I am not able to find the certificate that was annexed. (Ld. SPP makes a request to exhibit the letter received from the CMM. It is

received in evidence and marked as **Exts.1222** as it is received by this court from the CMM. The envelope is marked as **Ext.1222-A**).

8. I had an occasion to record another confessional statement pertaining to the same case of the railway bomb blasts. I received a letter dated 22/10/06 from the Jt. CP, ATS K.P. Raghuvanshi on the same day, directing me to record the confessional statement of an accused Naveed Hussain Khan s/o Rashid Khan, aged 26 years. I am producing the letter, it bears the signature of Jt. CP, K. P. Raghuvanshi and inward stamp of my office bearing the inward number. (It is marked as **Ext. 1223**). I then wrote a letter on 23/10/06 to the IO of that case directing him to produce the accused before me at 1400 hours on that day itself. I am producing its office copy containing the acknowledgment of the ATS officer. It bears my signature and its contents are correct. (It is marked as **Ext.1224**). Pursuant to that letter a team of ATS officers headed by API Shashank Shelke produced the accused before me at 1400 hours on that day, i.e., on 23/10/06 along with a letter of the IO. I am producing that letter, which bears his signature and it is addressed to me. (It is marked as **Ext.1225**). The accused was produced before me in veil. I

ascertained the general facts of the case from the escorting party of the ATS and also inquired about well being of the accused. I then asked the ATS team to go out of my chamber. I asked the accused to remove the veil. I ensured that there was no one within the sight and hearing of the proceedings in my chamber. My stenographer was in my chamber at that time. I then inquired with the accused as to why he was produced before me. The accused informed that he was produced before me to make the confessional statement as he wanted to make it. I also introduced myself to him telling him that I am a police officer of the rank of DCP empowered to record his confessional statement. I also put general questions to him about his name, education, languages known, etc. He informed me that he knows Hindi, Urdu, English and Arabic. He informed me that he was fluent in Hindi and English. I informed him that it is not binding or compulsory on him to make the confessional statement and if he makes it, it can be used against the accused persons as evidence in the court of law. He still expressed his desire to make the confessional statement. I also ascertained whether he was under any kind of inducement, threat or promise or whether he had been

promised to be made an approver or given light sentence. He replied in the negative to this. I told him that I will give him time for reflection and that he would be produced again before me. I was now confident that he voluntarily wishes to make a confessional statement before me. I was dictating the questions and answers and the stenographer was typing them on the computer. A printout was taken out after it was completed and given to the accused for reading. He read it, admitted it to be correctly written and put his signatures. I also signed. I took out two photocopies of the Part-I of the confessionals statement. Part-I of the confessional statement now shown to me is the same, it bears the signatures of the accused and my signatures and its contents are correct. (It is marked as **Ext.1226**). I sealed the Part-I of the confessional statement in an envelope. The envelope now shown to me is the same. (It is marked as **Ext.1227**). I kept it in my lock and key in the cupboard in my chamber. I had called the team of Azad Maidan Police Station on telephone. PSI D. P. Sonavane was present with the escorting party. I gave a letter to PSI Sonavane containing instructions about keeping the accused in a separate cell in the lockup of Police Station Azad Maidan, not to allow

any ATS officer or any other person to meet him and to keep a proper guard. The letter also contained the instruction that the accused should always be escorted in veil. I asked the escorting party to produce the accused before me on 24/10/06 at 1800 hours. I am producing office copy of that letter, it bears my signature, its contents are correct and it bears the signature of PSI Sonavane. (It is marked as **Ext.1228**).

9. The accused was produced before me on 24/10/06 at 1800 hours. However, there was a law and order problem in Bhendi Bazar on that day that required urgent attention. Hence, I directed the escort party to produce the accused before me on the next day, i.e., on 25/10/06 at 1200 hours. I also gave a letter to that effect, which also contained similar instructions as given on the earlier day. I am producing office copy of that letter, it bears my signature, its contents are correct and it bears the signature of PSI Sonavane. (It is marked as **Ext.1229**).

10. The accused was produced before me in veil on 25/10/06 at about 1200 hours. I inquired with the escorting party about compliance of my instructions in the letter that I had given.

They reported that the instructions were complied with. I asked the escort party to go out and asked the accused to remove the veil. I ensured that there was no one within sight and hearing of the proceedings going on in my chamber. This time I did not have the stenographer in my chamber. I inquired with the accused whether the time given to him for reflection was sufficient or he required more time. He replied that he does not want more time. I asked him if he still wants to make the confessional statement, to which he replied in the affirmative. I again warned him that it was not binding or compulsory for him to make the confessional statement. He told me that he was giving the confessional statement voluntarily and without any pressure. I also checked to see whether he was under any kind of inducement, threat or promise. I also checked with him whether he was given promise of being made an approver or being given a light sentence. By putting these questions I came to a personal satisfaction that the accused voluntarily wishes to make a confessional statement. I had been writing all these questions and answers in my own handwriting. I then gave them to the accused to read. He read it, admitted it to be correct and signed it. I also put my

signatures. I then proceeded to record the narrative of the accused. I wrote it in my own handwriting as he narrated. I gave it to him for reading after it was over. He read it, admitted it to be correct and signed it on all pages. I also put my signatures on all pages. Part-II of the confessional statement now shown to me is the same, is in my handwriting, it bears the signatures of the accused and my signatures on all pages and its contents are correct. (It is marked as **Ext.1230**). I also appended a certificate recording my satisfaction about the voluntariness of the confessional statement. The certificate now shown to me is the same. It bears my signature and its contents are correct. (It is marked as **Ext.1231**). I took out two photocopies of Part-II. I sealed the confessional statement along with the certificate in an envelope. The envelope now shown to me is the same. (It is marked as **Ext.1232**). I also wrote a letter to the CMM for further legal action. I am producing office copy of that letter. On the reverse of the letter there is an endorsement of acknowledgment of the CMM. It bears my signature and its contents are correct. (It is marked as **Ext.1233**). I also wrote a letter to the IO about taking the custody of the accused after being produced before the CMM. I am producing



the office copy of that letter. It bears the endorsement of ATS officers. It bears my signature and its contents are correct. (It is marked as **Ext.1234**). I asked the escort party to take the accused to the CMM along with the two sealed envelopes and the forwarding letter. Accordingly they took him and after the work in the court was over they handed over his custody to the ATS.

11. I will be able to identify the accused. (Witness looks around the court room and points to the accused no.12, who is sitting in the dock. He is asked to stand up and tell his name, which he states as Naveed Hussain Khan). 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 **Exts.1235** as it is received by this court from the CMM. The envelope is marked as **Ext.1235-A**).

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

12. I had not recorded any confessional statement under MCOC Act or under any other Act before 02/10/06.  
(Adjourned at 4.40 p.m. at the request of learned advocate).

**(Y.D. SHINDE)**

**Date: 26/07/11****SPECIAL JUDGE****Date : 27/07/11**  
**Resumed on SA**

13. I have recorded about 6-7 confessional statements after 06/10/06. One of them was on 22/10/06 in this case. I do not exactly remember the date and month, but the last confessional statement that I recorded was in 2008. I do not remember the name of the accused or the case details. I remember the name of accused one Khota Shakil, one accused in Arun Gawli Gang by name Sandy @ Sandeep Gangan out of the remaining cases. I also recorded confessional statement in first Malegaon blast case of accused by name Abrar, but I do not exactly remember the date, month and year. I have given evidence with respect to two confessions, one in Khota Shakil's case and one in Sandeep Gangan's case. I do not exactly remember the dates when I gave evidence.

14. I had gone through the provisions of the Cr. P. C., the Evidence Act and the MCOC Act and the rules, before 03/10/06. I did not have occasion to go through the provisions of the Criminal Manual concerning recording of confessional statement, before

03/10/06. I had been extensively cross-examined by the defence lawyers in the cases where I gave evidence. My knowledge about the procedure of recording confessions as on today is improved as compared to my knowledge about it on 03/10/06 and 06/10/06. I have not prepared rough notes at the time of recording of confessional statements after the first one that I recorded. As far as I remember it was only at the time of the first confessional statement that I prepared rough notes. It is true that rough notes were not prepared at the instance of the accused. I did not feel it necessary on 5<sup>th</sup> and 06/10/06 to prepare rough notes. I started preparing the rough notes when I started the Part-I on 03/10/06. I was making a contemporaneous recording while I was asking the questions. The fair was being done simultaneously. It did not happen that after I asked the questions and got the answers I wrote them in the rough notes and then I dictated them to the stenographer. The rough notes and the fair part were completed at the same time. I have noted the questions in the rough notes in the same words in which they were asked. There is some difference in the questions in the rough notes and the fair part. The fair part is a reduced version of the rough notes.

I cannot say whether the versions of the questions or the answers were reduced. It is not true that therefore the fair Part-I is not verbatim to the rough notes. I completed the rough notes almost at the same time when the fair part was completed. The rough notes and the fair part are truly and correctly recorded. I cannot say whether there is no mistake. Without checking I cannot say whether there is mistake.

- 15.** I had received the letter Ext.1209 from the Jt. CP in the morning on 03/10/06, but I do not remember the exact time. My stenographer prepared the letter Ext. 1210 on my dictation. The endorsement on Ext. 1209 is 'Put up the accused before me at 1700 hours'. The letter Ext. 1210 was prepared and dispatched to ACP Patil in the morning, but I cannot tell the exact time and who took it to him. I do not remember who brought the letter Ext.1209 from the Jt. CP. Ext.1211 is the first letter that I received from ACP Patil of ATS after Ext.1209. The office of the ATS is near Nagpada near the police hospital. I am not aware whether the lockup of the ATS is at Bhoiwada. I cannot say from how many places the ATS was operating at that time. I did not ask PSI Sunil Deshmukh of ATS as to

at what time he started from the ATS office for bringing the accused to me. I did not ask him from which office he had come. He introduced himself as from the ATS. I did not inquire with him as to whether he was from Bhoiwada, Kalachowki or Chandanchowki at Andheri. I do not remember whether I made inquiry as to at which place the accused had been detained before being brought to me.

**16.** I found Part-I to be correctly recorded after going through it. I drafted the letter Ext. 1214 after completing Part-I. I signed it thereafter and gave it to PSI Dasurkar. It is prepared by my staff as per my dictation. I do not remember the exact time at which PSI Dasurkar came to my office. He was in the office when I prepared the letter. I do not remember for how long PSI Dasurkar waited in my office after I handed over the letter Ext.1214. I cannot tell the exact time at which he left my office with the accused. I required maximum 10 minutes to write my personal notes below the signatures in Part-I. I obtained signatures of the accused and I put my signatures after taking out the print of the three pages of the Part-II. The personal notes below the signature of the accused at the end were not prepared before obtaining his signature. Dandawate was my

stenographer as far as I remember. Except him no one else helped me in this matter. I cannot say who were the other persons whose help I took in October 2006 for recording the confessional statements. It is true that I had not taken the initials of the persons who typed all the pages of both the confessions on every page. On going through the typed Part-I, I say that there is a typographical error about timing, which I realized just now. On that day I went through the entire Part-I minutely and carefully. It escaped my attention at that time. I did not notice it when I gave evidence in chief-examination.

17. It is not true that the accused was produced before me at 11.00 a.m. on that day, therefore, I did not correct it. It is true that the contents of paragraphs 2,3 and 4 in Ext.1212 are written on the basis of the letter Ext.1209 and on the basis of my inquiry with escorting ATS officers. They were prepared simultaneously along with the rough notes. It is true that I again gave paragraph-1 after paragraph-4 in part I. The contents of the said paragraph-1 are regarding what actually transpired between me and the accused before I asked the questions. I asked the questions to both the accused as per my understanding. My superiors had not provided

any questionnaire. I had no occasion to attend any lecture or seminar on recording confessional statements under MCOB Act before the end of October 2006. My superiors also have not guided me as to how to record confessional statements. I did not consult any of my colleagues about it. I knew the DCPs who were posted at the same time as me in Mumbai. I knew all the DCPs working in Mumbai at that time. My mother-tongue is Hindi and there is no problem for me to write in Hindi. I studied in English medium. I cannot say whether I have noted the timings of starting and completing Part-I and Part-II of both the confessions without going through them. It is true that paragraphs 2,3,4 in the typed Part-I Ext.1212 do not find place in the rough notes. Paragraph-1 in Ext.1212 finds place in the rough notes Ext.1213. Rough notes started from paragraph-1 of the typed Part-I. (Adjourned for recess).

**Date : 27/07/11**

**SPECIAL JUDGE**

**Resumed on SA after recess**

18. I cannot tell the exact time when I concluded the rough notes and put my signature. I cannot exactly say whether the rough notes as well as the typed Part-I were concluded at 1930 hours. It is

true that the space of timings of commencement and concluding at the end of the rough notes is kept blank. It is not true that two spaces are left blank at both places. I say that the space is left after a full stop and before commencement of the new sentence. It is true that there is no full stop after the word 'hours' at both the places. The sentence is not completed after the word 'hours' in the first place. It is true that the first line is the first sentence in the rough notes. I cannot say without seeing the original whether I used the same pen to write the first paragraph in English and the subsequent Hindi portion. On going through the original I say that I used the same pen. I cannot say whether the ink is different. It is not true that the English portion above the words 'Main pulis upayukta hu' appear to be interpolated subsequently. On seeing the fourth line of English portion and the first line of the Hindi portion, it does not appear to me that the English portion was interpolated. I cannot say why there is a gap at the beginning of the fourth line in English. All the questions in Part-I are framed by me and asked by me. It is true that there is difference in form in the first question in the rough notes and in the typed Part-I, but not in substance. It is true that there is difference in the answers



to those questions. The confessional statement is required to be recorded in the language of the accused. The version stated by the accused has to be written and it cannot be written in short. The words used by the accused and the statement given by the accused have to be faithfully recorded. As an officer recording the confessional statement I have no choice of using words other than those used by the accused. It is not true that the second question in the rough notes and the typed part are totally different. There is some difference in the answers. The words 'bolte hai' in the rough notes are not there in the typed part. The words in the typed Part-I 'meri umar 32 saal hai, main 24 lucky villa, kantwadi, Perry cross road, Bandra pashchim, Mumbai yaha rahta hu' are not there in the answer to the question no.2 in the rough notes. It is my say that the answers to the questions no. 2 and 3 in the rough notes are clubbed together in the answer to the question no.2 in the typed Part-I. It is true that the words in the answer to the question no.2 in the rough notes 'main DTP (marriage card, visiting card design) ka kaam karta' are not found in the answer to the question no. 2 in the typed Part-I. Question no. 3 in the rough notes is not there in the fair part. The words in the answers to the

question no.3 in the rough notes 'Bandra main rahta tha, kiraye ke makan main, wahise mujhe giraphtar kiya gaya hai' are not found in the answer to the question no. 2 in the fair part. There is no difference between the words 'rahata tha' in the answer to the question no.3 in the rough notes and the words 'rahata hu' in the answer to the question no.2 in the fair part. It is true that in the rough notes in the answer to the question no.3 the words 'Bandra west' are used, whereas in the answer to the question no. 2 in the fair part the words 'Bandra paschim Mumbai' are used. It is true that in the answer to the question no.3 in the rough notes the words 'main battis (32) saal ka hu' are used whereas in the answer to the question no.2 in the fair part the words 'meri umar 32 saal hain' are written. It is true that in the answer to the question no.3 in the rough notes the words '1974 ki paidaish hain' are not found in the answer to the question no.2 in the fair part. There is a difference in the answer to the question no.4 in the rough notes and the answer to the question no.3 in the Part-I. It is true that in that answer in the rough notes the accused appears to have stated that he understands and can write Urdu and Hindi, whereas in the typed part Urdu is not mentioned. If I have to ask the

question whether police have assaulted you, in Hindi, I would say 'kya pulis ne tumhe marpeet ki hai?'. This is the question that is written in the typed Part-I. It is not true that the 5<sup>th</sup> question in the rough notes is totally different. It is not true that there are vast differences in the subsequent questions and answers in the rough notes and the typed part. However, there are some differences. There are nine questions in the rough notes and eight in the typed part. It is true that there is difference in words in the answer to the question no. 8 in the rough notes and in the answer to the question no.7 in the typed part. It is true that there is a difference in the words in the question no. 9 in the rough notes and in the question no.8 in the typed part. The words 'aap mere custody me rahoge tumhe samaj me aa gaya hai' in that question in the rough notes are not found in the typed part. There is a difference in the wordings in the answers to these questions. The words in the answer to the question no. 9 in the rough notes are not found in the answer to the question no.8 in the typed part. It is true that the words 'were' and 'him' in the first sentence and the last sentence 'after examining the above the accused had signed it' at the end of the rough notes is not found in

the typed part.

- 19.** I was not in a hurry and I was not confused when I recorded the Part-I. It is true that I was aware that recording of confessional statement is a solemn duty and I have to perform it carefully. I agree that there cannot be a casual approach for doing this work. The words 'The accused was again informed that he will be produced before me after completion of 24 hours i.e. on 04/10/06 at 1700 hrs' are correctly written. It is true that in Ext.1214 I have mentioned that the accused should be produced at 1900 hours. It is true that in the rough notes at the end '1900 hrs' are written. Part-I was packed and sealed by me. I cannot say whether the writing on the envelope Ext.1215 was done on the same day. It is not my handwriting. It was written by my staff. The handwriting on the envelope Ext.1219 is of my staff. I did not write on both the envelopes except packing and sealing them. It is true that there is no description on the envelope about their contents. It is true that on the front side of the envelopes there is no rubber stamp of my office. I was aware about the provisions of sending the confessional statement to the CMM. I do not remember who was the CMM on 06 and 07/10/06 and

whether he was on leave and someone else was in-charge. Same is the case about 25/10/06. I was aware on those days about the name of the CMM, but I do not recollect it now. Envelopes Exts. 1227 and 1232 do not bear my handwriting, but it is of my staff. I cannot say whether both were written on the same day. The handwriting appears to be of the same person. It is true I did not direct the officer in-charge of the escort on both the occasions to take the accused before a particular magistrate by giving his name. I had directed them to take the accused before the CMM.

(Adjourned at 4.35 p.m. at the request of learned advocate. Witness submits that he is not in a position to come tomorrow as there is a major bandobast in view of morcha. Hence, cross-examination deferred to 29/07/11 ).

**Date: 27/07/11**

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

**Date : 29/07/2011**

**Resumed on SA**

20. I faithfully recorded all questions I asked and the answers given by both the accused in Part-I and Part-II. Some questions that I asked for clarification may not have been included. Times of India and other newspapers used to be taken at my office. I do not remember whether we used to get Hindustan Times. Mumbai Mirror must have been supplied along with the Times of India. I am not in the habit of reading newspapers. I did not find time to read the newspapers during that period. I do not remember whether I used to go through the newspapers cursorily. A.N.Roy was the Commissioner of Police during that period. News items must have appeared in the newspapers about the direction in which the investigation was going on and the progress of the investigation. A.N. Roy, K. P. Raghuvanshi and high ranking officers might have given interviews to the press. The interviews must have appeared in the electronic media. I do not remember whether I had occasion to go through reports of such interviews in the newspapers during September, October and November 2006.

**21.** I had not asked my superiors or the investigating officers in the case of both accused as to when the accused first expressed their desire to make the voluntary statement, when they were arrested and since when they were in the police custody. It is true that the date of arrest and the custody period is not mentioned in the correspondence by the Jt. CP and the ACP of the ATS in the case of both accused. It is true that except the name, the details of the accused and the name of the escorting officers in Exts. 1209 and 1211 and 1223 and 1225, all other contents of the letters are similar. I may have interacted for about five minutes with the officers producing both the accused before me. I do not remember whether I asked both the accused as to when they were arrested, by whom they were arrested and from where they were arrested, whether I asked them since what period they are in police custody before being produced before me. I did not get the information from both the accused as to where they had been detained and in which custody. The first accused told me that he had given a confessional statement before the Enforcement Directorate earlier. He did not tell me the date of that statement. He told me this during the Part-I. I did not ask him as to

when and to whom he had first expressed his desire to make the confessional statement as he had already told me about making such a statement before the E.D. The accused informing me about it does not find place in Part-I, i.e., Ext. 1212 and the rough notes Ext. 1213. It is also not found in the notings that I made at the end. I do not remember whether I had asked the accused Naveed Hussain as to when and to whom he had first expressed his desire to make the confessional statement. I do not remember whether I asked this to the accused Faisal. I have no information as to whether the accused Faisal was in the custody of the ATS from the last week of July 2006. On going through Section 21 (2) of the MCOC Act I say that the maximum period of police custody under that Act is 30 days. I did not specifically ask the accused whether they have any complaint against the officers who arrested him, against the investigating officer or against the persons who interrogated them. It is true that there is nothing in the confessional statements of both the accused to show that I had physically examined their bodies.

(Adjourned for recess)

**Date : 29/07/11**

**SPECIAL JUDGE**



**Resumed on SA after recess**

22. Confessional statement can be translated in Hindi as 'Iqbaliya bayan'. It is commonly used in Hindi and Urdu. I asked questions to the accused while recording different confessions as they occurred to me. It is not true that questions no. 4 and 5 in Part-I concerning accused Faisal are not specifically asking the accused whether he was threatened, assaulted or given 'lalach', which can also be translated as 'induced', for making the confessional statement, because it was asked in that context. Same is the case about questions no. 5 and 6 concerning accused Naveed. The purpose of making the note below the questions and answers in Ext. 1212 was to record the happenings as a part of the proceedings. Whatever transpired at that time is substantially mentioned. It is true that my directions about getting the accused medically examined is not written in any of the documents that I prepared concerning both the accused. It is true that it is not written in any of the confessional statements of both the accused that I had asked them as to why they had been produced before me. The note below the questions and answers in Ext.1212 is as important as the other part of the

confessional statement. I do not remember whether signatures of the accused on Exts. 1212 and 1213 was taken simultaneously or one after the other. It is difficult to say how much time the accused required to go through both the documents. I do not remember which document out of Exts. 1212 and 1213 was signed by the accused first. The record does not show that the rough notes Ext.1213 were put in the same envelope in which Ext.1212 was put. It is true that it is not mentioned in the forwarding letter to the CMM that the rough notes were put along with the fair in the same envelope.

**23.** The purpose behind writing the note below the confessional statement Ext. 1218 was to make a record of the proceedings that had taken place. It is as important as the other part of the confessional statement. It is true that affixing a certificate about subjective satisfaction of the voluntariness of the accused to make the confessional statement after the Part-II is an important aspect and is mandatory. I am aware that it should be in my own handwriting. I remember having appended a typed certificate to Faisal's confessional statement. I had made a format of the certificate on my computer. I do not remember when I made it. There is no specific

reason why the certificate was not written in hand just below the completion of Part-II and why a typed certificate was affixed. The handwritten Part-II consists of 22 pages front and back. I required maximum five minutes to write the note below the Part-II. It was written before sealing. Signatures of the accused were taken on all pages as and when every page was completed. That is not the reason why I took his signatures in the margin. There is no specific reason why I took the signatures in the margin. My signature and the signature of the accused were put at the end of Part-II. As his signatures were obtained in the margin on the other pages, I also obtained his signatures in the margin on the last page. There was sufficient space to take the signature of the accused below the writing on every page. Signature of the accused was not taken on the first page of Part-II Ext.1218 and I also did not put my signature. I do not think that signatures of the accused in the margin are almost at the same place on all the pages. It will not be correct to say that the signatures of the accused were taken on blank pages and that is the reason why they are in the margin. It is not true that it is not comfortable to write such a long statement. There is no specific

reason why the questions and answers in Part-II are typewritten and the remaining part is handwritten. In the typed questions and answers in both parts I have used the word 'bayan'. It is true that in the rough notes at some places I have used the word 'iqbaliya bayan' also. I did not come to know during the recording of confessional statements of those accused as to how many persons had been arrested in that case. I was not aware how many accused had made confessional statements and how many were going to make them. My statement in chief-examination about the warning that I gave the accused that any confessional statement made by him can be used against the accused persons in that case, is found in the question in which I had warned him that it can be used against him, because the intention was the same. It is true that the question in Part-I concerning both the accused is a warning that if he makes the confessional statement, it can be used against him. It is true that this warning is not found in Part-II of the confessional statements of both the accused. It is true that the questions in Part-I and Part-II concerning both the accused are similar. I do not remember whether the questions asked to the accused Faisal during Part-I and Part-II are retained in the computer.

It is true that in the answer to question no.2 in Ext.1212 the accused gave his age though it was not asked by the question. Same is the case in respect of Ext. 1226.

(Adjourned at 4.00 p.m. at the request of the witness as he wants to attend an important meeting in connection with CC TVs in Mumbai).

**Date: 29/07/11**

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

**Date 01/08/11**  
**Resumed on SA**

24. I did not ask both accused whether they wanted any advocate or relative to be present while recording their confessional statement. It is not mandatory under the MCOC Act. I do not specifically remember whether I asked this question to any other accused whose confessions I had recorded. It is true that I do not ask irrelevant questions while recording the confessional statement. I asked mandatory questions and other questions also. I do not remember having given opportunity to the accused to consult their lawyers before making the confessional statement. It is true that I did not ask both the accused as to why they wanted to make the confessional statements. It is mandatory to tell the accused that it is not necessary for them to make the confessional statements and I would not record it forcibly and if they make the confessional statements voluntarily without any pressure then only I would record it. It is true that this is the reason why I asked the question no. 11 in Ext.1219, Part-II of the confessional statement. It is true that this question is not there in Part-II of the confessional statement of the

accused Naveed. I did not tell both the accused whenever they were produced before me, that if they do not volunteer to make the confessional statement, I would not send them back to the custody of the ATS. It is true that during the recording of the confessional statements of both the accused, except me, the accused and the stenographer there was no other person in my chamber. There was only one staff member, i.e., the stenographer, who helped me in preparing the letters, envelopes, etc., and if he was not present, then someone who knew that work used to help me. The stenographer Dandawate must have been present on 25/10/06. He helped me to prepare the certificate Ext.1231. The proforma of the certificate was not provided to me by my superiors. I prepared it on my own as per the requirements of law. I have gone through the proforma of the certificate provided in the MCOC Rules. I do not remember whether the proforma was stored in my computer. Nawal Bajaj was my predecessor as DCP, Zone-I. I do not know whether it was the same computer that was provided to the DCP, Zone-I and it was there when Nawal Bajaj was posted there. I do not remember whether it was purchased after I assumed that office. I think that the certificate

should be in the handwriting of the officer recording the confessional statement. It is true that the portion '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' required to be included in the certificate as per Rule 6 of the MCOB Rules, is not included in my certificate. I cannot say whether I have given same type of certificate in all the other confessional statements that I recorded.

**25.** It is not true that I did not annex any such certificate to the confessional statement of the accused no. 3 Faisal, therefore it is not found with it. It is true that there was space after the end of the Part-II of the confessional statement of accused no. 12 Naveed to start the certificate. (Witness is shown certificates Exts. 1023, 1062 and 1128). It is true that except minor differences of comma, full stop and spellings and the names of the accused, their contents are substantially similar.

**26.** No one entered my cabin and no one went out of my



cabin on 05/10/06 during the period of four and a half hours when I recorded the confessional statement of the accused no.3 Faisal. The entire portion from the words 'recording of the confessional statement' on the first page of the Part-II, Ext. 1218, upto the words '1430 hours' was written on the very day. I asked eleven questions initially, which are numbered. It is true that the question no. 4 is the answer given to the question no.3. There is an error in mentioning the word 'today' in the words in the first paragraph of Part-II 'was produced before me by PSI S. D. Dasurkar of Azad Maidan Police Station, Mumbai, today, i.e., on 04/10/06 at 19.00 hours'. It should have been 'yesterday' as it pertained to the proceedings of 04/10/06. I do not exactly remember for how long the accused was with me on 04/10/06. It is true that no record is made on 04/10/06 about the accused being produced before me on that day and he making the request of more time for thinking over. There is no other contemporaneous record other than Part-II to show as to what transpired between us. I again say that the Ext.1216 is the letter which mentions it. It is true that it does not mention that time was given at the request of the accused.

**27.** The question no. 5 in Part-II, Ext.1218, can be

translated in English as 'whether police or somebody else has again frightened you or threatened you'. This question was asked by me on my own. The use of word 'again' was pertaining to the period given for reflection.

**28.** It is true that I did not use tape recorder or video camera to record the confessional statements of both the accused. I did not photograph the accused, when they gave the confessional statement. I was posted as DCP, Zone-I in July 2007. I do not remember whether I had gone through the Mumbai Mirror or Times of India dated 11/07/07. I do not remember having given any reply or filed any affidavit in connection with any application given in this court by the accused, whose confessional statements I had recorded. The IO had written a letter dated 26/10/06 to handover copy of the confessional statement of the accused Naveed. I cannot say when I handed over the copy and to whom. There is no endorsement in my file about receipt of the copy. I cannot say when I handed over the copy of the confessional statement of accused Faisal and to whom it was handed over. (Witness is shown page 4 of Mumbai Mirror dated 11/07/07, which is with the learned advocate). The news item does

not pertain to the confessional statement recorded by me. I do not remember having gone through this paper at that time. (Witness is shown MA 500/07). I do not remember whether the IO ACP S.L. Patil or any other officer approached me for giving reply to this application.

**29.** I did not ask the accused any questions, except some minor questions for clarification and the question to the accused Faisal on 06/10/06, after the questions and answers part in the case of both the accused in Part-II. I cannot point out the exact places where I asked questions for clarification to both the accused except the question for clarification of the word 'tarbiyati' on page 3 of Part-II of the confessional statement of the accused no.3 Faisal. I remember that the accused explained its meaning as 'training', but I did not write its meaning. The Part-II of the confessional statement of the accused Naveed started at 1220 hours and it was completed at about 2100 hours. It is mentioned in my notes. Those notes are not found in Ext.1230.

(Adjourned for recess).

**Date : 01/08/11**

**Special Judge**

**Resumed on SA after recess.**

30. I prepared the letter to the CMM immediately after completion of the Part-II in the case of accused Naveed. I cannot tell the exact time at which PSI Sonavane left my office with the accused. I directed him to produce the accused immediately before the CMM. I directed the escorting officer to produce the accused Faisal before the CMM immediately after completing Part-II of his confessional statement. PSI Dasurkar and PSI Sonavane reported to me orally about complying with my directions, but not in writing. PSI Dasurkar reported to me twice, once on 06/10/06 and secondly on 07/10/06, but I cannot tell the timings. PSI Sonavane reported to me on the same day late in the night, but I cannot tell the time. He reported to me that the regular CMM is not there and the charge is with Shri Shisode. I do not exactly remember whether he reported to me about this before producing the accused or afterwards. I was not aware about the name of the CMM when I prepared the forwarding letter on both occasions. DCP, Zone-I office is near the Malhotra House, opposite CST railway station. The court of the CMM is just five minutes walking distance from my office. I was aware that the official

court time is over at about 5.30 p.m.

**31.** I do not have any record to show whether the accused Naveed was got medically examined. I cannot say on what dates and at what times both the accused were medically examined. I do not have any record about it with me now. As a superior officer I give oral directions also. I had given written directions about taking precautions in respect of both these accused. I did not insist on written report of compliance of my directions.

**32.** It is true that it is not written in the Part-I, Ext.1212, that I also inquired with the accused Faisal about the purpose of his production before me, to which he replied that he wants to make a voluntary confessional statement. 'Lalach' is one of the words in Hindi that can be used for 'inducement'. I cannot tell the translation of the word 'greedy' in Hindi. No one entered my chamber and no one went out during 1220 hours to 2100 hours on 25/10/06 during the recording of the confessional statement of the accused Naveed. I must have asked some sundry questions to the accused Naveed after completing Part-II, which I do not remember. As per the information given by the accused Naveed, he had studied in English

medium and was well conversant with Hindi and English. I recorded his confessional statement in Hindi as he was conversant with it and was willing to narrate it in Hindi. It is not written in Part-I and Part-II that he expressed his desire to narrate in Hindi and to give answers in Hindi. The accused must have used my office pen to sign. I have studied in English medium. I am comfortable in both English and Hindi languages. It is not true that I used English words in the narration at some places, because I found it difficult to write them in Devnagari script. There is no specific reason for writing the English words in the 5<sup>th</sup> line on page 3 of Ext.1230. There is no specific reason for striking out the word 'badminton' in Devnagari script and writing it in English. There is no specific reason for writing English words at many places in Part-II, Ext.1230.

- 33.** It is true that it is not mentioned in Exts.1212 and 1213 that the accused Faisal insisted that the rough notes should be included in the papers. The IO had taken the copy of the confessional statement of accused Faisal. My file does not contain any correspondence from the IO about it. There is no endorsement anywhere about it. I do not remember whether I had any occasion to

go through the newspaper Hindustan Times dated 09/10/06. I do not remember whether any of the confessional statements recorded by me in October 2006 were reported in the newspapers. I am not aware that in October and November 2006 the print media had published the confessional statements that I had recorded. I do not know whether they were leaked to the media and by whom. I do not remember whether I had gone through the newspapers Mid Day and Mumbai Mirror dated 01/10/06 in which the press conference of Commissioner A. N. Roy was published. I do not know whether in that press conference dated 30/09/06 A. N. Roy had given all the details of the arrested accused persons including their alleged roles.

- 34.** It is not true that none of the accused have made any voluntary statement before me, that both the confessional statements are not the voluntary statements made by the accused before me, that these statements are prepared by me as provided by the ATS officers and I had not verified whether the guidelines and the directions given by me were followed or not.

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

- 35.** The word 'ankhi' in Marathi can be translated in English

as 'and' or 'additionally'. It did not happen that the accused Naveed was produced before me prior to 23/10/06. It did happen that on 23/10/06 I gave him further time to think over after Part-I.

**36.** In case of emergency in Mumbai, if the staff of a particular police station is not sufficient, staff from other police stations is requisitioned for help. It is true that after the 1993 blasts, the blasts on 11/07/06 were the first such big blasts. I do not remember whether all the police stations were directed to co-ordinate and co-operate with the ATS in the investigation of the blasts. I am not aware whether superior officers of Crime Branch and police stations were deputed to the ATS for the investigation. I do not remember having asked PSI Dasurkar and Sonavane as to whether any officers from their police stations had been deputed to the ATS for the investigation.

**37.** I sealed Part-I on 03/10/06 after its completion. It did not happen that I sealed it twice. The procedure that I follow is that after completing the Part-I, I obtain the signature of the accused and then I put my counter signature. I am not following the procedure of sealing the Part-I after calling the escort party inside the chamber. It



did not happen at any time that I did so. There is no necessity of calling the escort party inside the chamber and then sealing Part-I in their presence. On going through the notes below the signature part of Part-I, Ext.1212, I say that it is not true that I sealed Part-I in the presence of the escort party. It was in anticipation of the further events. It is not true that I did not follow this procedure for the accused Naveed and there was no anticipation. This is in the form of notes in my file. The notes are not found in the papers of Part-I in the court. I do not know why they are not there. The notes must have been sealed with the Part-I. It was a part and parcel of the proceedings. I did not give copy of the notes to the IO.

**38.** The Part-II of the confessional statement of accused Faisal was completed after it was written and signed. I did not call the escort party inside before sealing it. I did not make false endorsement. The endorsement at the end was made in anticipation. The notes/endorsement at the end of the Part-II in respect of accused Naveed was a part and parcel of proceedings. I did not give copy of the notes/endorsement containing the anticipation part to the IO. I sealed the envelope. The notes/endorsement must have been put in

the envelope. I put it as it was the part of the proceedings. It is not found in the court record with the Part-II. I cannot say why it is not there. The certificate is an integral part of the confessional statement. It is true that the copies of the notes below Part-I and Part-II of accused Naveed are in my file, but they are not before the court. The original certificate and its copy of the accused Faisal is not in my file. I cannot say where they are. It is not true that the contents of the last page of Part-I of accused Faisal show that it was sealed twice, first before arrival of escort party and secondly after its arrival. The endorsement of sealing on page 2 of the Part-I is not wrong. The endorsement of sealing of page 3 of the Part-I is also not wrong. It was made before sealing.

- 39.** If a CD containing a draft format of confessional statement and another CD containing the copy of the same draft format is provided, the copy may contain the same mistake that was in the original, if not corrected. The word 'phir' in Hindi can be translated in English also as 'then'.

(Adjourned at the request of Id advocate at 4.50 p.m.)

**(Y. D. Shinde)**

**Date : 01/08/11****SPECIAL JUDGE****Date : 02/08/11****Resumed on SA**

40. It is true that I did not note in Part-I and Part-II of the confessional statements of both the accused that I had made oral inquiries with them. It is true that it is not specifically noted that I ensured that the confessional statements were recorded in a free atmosphere that was reflected from the body language of the accused, that I told them that their confessional statements will be recorded in their language, that first I prepared rough notes of Part-I of the accused Faisal and then they were got typed, that the accused Faisal suggested that his statement will take a long time and he remembered that he had given a confessional statement before the officer of Enforcement Directorate, that I would give him 14 hours more and he would be produced before me on 10.00 a.m. on the next day, i.e., on 05/10/06, that on 05/10/06 I ascertained his general state of well being by his demeanor and body language, that my stenographer was in my chamber during the questions and answers part and he was typing it on the computer, that I asked the

stenographer to go out during this writing, that we started at 1000 hours and at 1430 hours I had to stop.

**41.** It did not happen that after completing the Part-II of accused Faisal, alongwith the name of the officer I wanted to incorporate the names and buckle numbers of the accompanying escort party staff and therefore I left space blank for that purpose. It is not true that I kept the blank space after the words 'PSI Dasurkar and staff' for that purpose. There is a blank space after those words. There is no specific reason for keeping the space blank. Once the procedure of recording of the confessional statement starts, I have to maintain record of each and every event. Entire record of proceedings is required to be produced before the court. It is not true that in respect of both the accused entire record has not been produced.

**Q.** Whether it is necessary to take the statement of the accused if he wants further time and take his signature and put your signature also?

**A.** It is necessary to prepare a record of this.

It is true that on 04/10/06 no statement under signature of the

accused was prepared. It is not true that Part-I of the accused Faisal nowhere reflects that he expressed his desire to make a confessional statement. It is evident from the answer to the question no. 7. It is not true that the answer reflects his awareness only. It reflects his willingness. I do not follow any specific practice of putting the date below my signature. There is no specific reason why I did not put the date below the signature in Part-II of the accused Faisal, but it is there in Part-I. I have put the date below my signature on the last page of the Part-II. It is not true that the timings of the commencement and conclusion are not written in Part-I and Part-II of the accused Faisal.

**42.** It is not true that all signatures of the accused Naveed were obtained on 25/10/06. It is not true that in the first part the date below my signature is 25/10/06. It is true that the date below the signature of the accused is corrected as the accused corrected it himself and initialed it. I do not know whether initially the date written above was 25/10/06 and it was overwritten as 23/10/06. I cannot say whether my as well as the signatures of the accused in Part-I and Part-II are by the same pen. My signatures in Part-I and Part-II must

have been by one pen. I cannot say about the signatures of the accused. The accused must have used a pen from the set of pens in my office. I cannot say whether there were ten pens. I do not remember whether I gave a pen to the accused for signing or whether he selected one. I did not ask specific question to the accused about his salary.

**43.** It is true that it is not mentioned anywhere that I specifically asked both the accused as to in which case they want to make the confessional statement. I had asked them about it. They replied to this question. The questions and the answers are not on record. It is true that I did not ask them as to why they wanted to make the confessional statement and what prompted them to do so. It is not true that commencement and conclusion times of Part-I and Part-II of accused Naveed are not mentioned. Paragraph-1 in Part -I of the shows that he was produced at 1400 hours and paragraph-1 of the Part-II also shows that he was produced at 1220 hours. The conclusion timings are not there in any paper before the court. I cannot say why the papers containing the conclusion timings are not in the court papers.

**44.** I am aware that confessional statement can also be recorded by a magistrate. I did not refer both the accused to a magistrate for recording their confessional statement, as it was a solemn duty under the MCOC Act. I cannot say whether the mother-tongue of both the accused was Urdu. I cannot say how many DCPs at that time knew Urdu. My office had an official rubber stamp. It is true that it is not put on any document of the confessional statements of both the accused.

**45.** I was assigned bandobast duty on 05/10/06 because of visit of Prime Minister, but I do not remember the exact particulars. I cannot say from what time to what time the duty was. As a DCP the jurisdiction of such duty is the entire area under the DCP. It depends upon the requirement as to whether the DCP is required to be stationed at one place or is required to go around or be at a particular place. The commencement and end of the bandobast duty depends upon the nature of the program. VIP bandobast requires services of various officers. At that time other DCPs were given other duties. I do not remember the names of the DCPs whom I met during that duty. It depends on the nature of the program as to how many hours or days

before bandobast duties of VIPs are assigned to DCPs. One cannot avoid such bandobast duty by giving excuses like being busy or for personal reasons. It is a solemn duty. Prime Minister's bandobast duty is of national importance.

**46.** The word 'allurement' can also be translated in Hindi as 'lalach'. It is true that in Part-I of accused Naveed, it is not specifically mentioned that I am giving him 24 hours time for reflection. I did not express my desire to both the accused to examine their body. The case number and other particulars in the opening paragraph in Part-I of accused Faisal had been taken from the letter of the Jt. CP, ATS. It is not true that the Exts. 1224 and 1225 are prepared on one computer and in one format. (Witness is shown Ext.1060). It is true that the answer to question no. 3 in Ext.1060 is numbered as question no.4. It is true that all the questions and answers in Ext.1060 are similar to the questions and answers of Part-II of accused Faisal.

**47.** It is not true that I signed on ready-made confessional statements, that PI Mohite of ATS suggested the answer to me regarding the anticipation in the notes and he pointed out the accused to me. It is not true that I deposed falsely.



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

**48.** Cross-examination by advs Shetty and Wahab Khan-  
adopted

No re-examination.

R.O.

**Special Judge**

**Date:-02/08/2011**

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