

M.C.O.C. SPECIAL CASE NO. 21 OF 2006**DATE: 4TH AUGUST, 2011****EXT. NO.1254****DEPOSITION OF WITNESS NO.119 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Farid Bakir Mallik

Age : 32 years

Occupation : Hawker

Res. Address : Room No. B-43, Indira Nagar, Agra Road, Kurla
(W),

Mumbai-70.

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

1. The ATS police had called me at about 12.45 p.m. on 25/09/06 at their office behind Police Station Bhoiwada. There were 4-5 police officers present. Officer by name Rathod and Singh were present there. There was one more person like me present there. Officer Rathod told us that they were inquiring into the bomb blasts and two months before they had arrested an accused by name Faisal and they had recovered 15,000 Saudi Riyals from him and 11,000 Saudi Riyals from another person like him, who was also arrested. He told

us that they want to hand over the Saudi Riyals to the officer by name Singh. There were two packed packets in front of him on the table. He opened one packet in which there were Saudi Riyals which were counted and found to be 15,000. There was also a black pouch, a railway ticket, credit card and something else in it. The other packet was also opened and there were Saudi Riyals in it, which were counted and found to be 11,200. They were of the denomination of 500 notes and one of 200 note. The 15,000 Riyals comprised of 500 denomination notes. All the Saudi Riyals were handed over to the officer Singh. All the articles and the two packets were put in a packet, packed and our signatures were taken. All the events were typed and the contents of the typed document were explained to us and I and the other panch were asked to sign. Officer Rathod also signed. The panchanama now shown to me is the same, it bears my signature at sr. no. 2, signature of the other panch at sr. no.1, the signature of officer Rathod by the side and the signature of officer Singh. Its contents now explained to me are correct. (It is marked as **Ext. 1255**).

2. I will be able to identify the outer envelope in which the

remaining articles were put and the articles also. The envelope Art-160C now shown to me is the same and the label thereon bears my signature. The black pouch Art-160, the learning licence Art-155, the licence Art-156, two railway tickets Art-158 (1 &2), the railway reservation forms Art-159 (1 &2), the two envelopes Art-160A and 160B and the ATM card Art-157 now shown to me are the same.

3. After the Saudi Riyals were handed over to officer Singh, he took our signatures on a paper that he was writing. He took my signature, signature of the other panch, officer Rathod and he also signed. I will be able to identify my signature on the said panchanama. Panchanama now shown to me is the same, it bears my signature at sr. no.2, signature of the other panch at sr. no.1, the signature of officer Rathod and the signature of officer Singh. Its contents now explained to me are correct. (It is marked as **Ext. 1256**).

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

4. I do hawking in front of Kailash Mandir Hotel, Dadar (E). It is within the jurisdiction of Police Station Bhoiwada. I sell files on road since last 17-18 years. The road turning right from in front of that

hotel goes towards Mehboob Studio and the left road goes towards Matunga railway station via Dadar railway station. I sit on the road in front of the said hotel, which is of Lassi, on the road going towards Matunga railway station. The shop opposite the hotel is Nagpurwala and there is a barber shop in the Kasambhai building. I cannot tell the distance between that building and the building of Kailash Mandir hotel. I do not understand the measurements in feet. The road may be of the distance between the spot where I am standing now and upto the cupboard in front of me (about 12 feet). I cannot tell about the width of the footpath of the Kasambhai building. It is true that the hawkers sit on that road as it is the station area and people use it. It is true that other hawkers sit on both sides of the road at some distance from me. Dadar station entrance is about 1 minute distance from the hotel. There may be more than 100 hawkers in that area. It is like a Chor Bazar.

(Adjourned for recess).

Date : 04/08/11

SPECIAL JUDGE

Resumed on SA after recess

5. I have passed 3rd standard in Hindi medium. I cannot read and

write English. I do not have hawker's licence. It is true that it is not legal to do the hawking business there. It is true that municipal officers and police catch people like me. Police may have caught me on about ten times. However, I cannot tell the exact number of times when I was caught. It is true that in our area police go around regularly through out the day with a box. I was required to pay fine of Rs. 400/- or 500/- everytime. I do not remember how many times I have been fined after the date of the panchanama, but I have been fined. I am not required to pay any regular money to anyone for doing business there. There is no local gunda there. Municipal officers have confiscated my goods many times. I am not doing the business in the day during the last 15 days, but I start the business after 8.00 p.m. and do it upto around midnight. I do it in the night for meeting expenses. I do not do the business during the day as the municipal authorities do not return the goods that they confiscate. I have no licence or authority from the police to do the business. Whenever I was fined by the police, they returned the goods. It is not true that it is necessary to maintain good relations with the police and the municipal officers.

6. I was standing outside the Bhoiwada court on 25/09/06 when I was called by the ATS police. I had gone there for some work of my friend in the court. I do not know the number of the court. It is in front of the police station. The friend's name is Anil Munnaram Jaiswal. He may have gone to the court for presenting himself before the court in connection with the fine of Rs.1250/-. Shaitan Chowki had fined him. He is also a hawker doing business on the bridge above the railway track. He sells combs and other ladies items. He was inside the court when the police called me. He went back prior to me.
7. I stay at the same address now. I am staying there since 2004. It is a slum area. I do not know whether the premises on which the hut is, is a government or private property. I do not give rent of that hut. BMC has not given me a pitch card containing my photograph for that hut. I did not approach the BMC for obtaining it.
8. I did not know the policeman who came to call me from outside the court. I do not know his name or buckle number. I do not know the name of any other officer, who was present in the office other than Rathod and Singh. Officer Rathod talked with me. He told me that he would be handing over the money to officer Singh and for that

purpose I would have to sign. My business was closed on that day. One havildar was typing on the computer on the dictation of officer Rathod. The havildar was not in uniform. It is true that except introducing officers Rathod and Singh, I was not introduced to any other person as there were no other person there except the havildar typing on the computer and one more policeman at the door. There were railway tickets as well as railway forms. I did not take the articles in my hand. I do not know what was written on the tickets. I do not know what was written in any of the articles that were there. I do not know reading and writing Marathi. The first packet that was opened contained 30 notes of 500 denomination each and second packet contained 22 notes of 500 denomination and 1 note of 200 denomination. The second packet was opened after about 1 or 2 minutes after the first packet. Police did not take my signatures on the articles that were taken out from the packet. I know what a credit card is. It is used for paying money. I do not know of which bank the credit card was. It is true that I do not know about the contents of any document that was taken out from the packet. I cannot read and write Urdu. I had never seen notes as those I saw on that day. I have not

seen such type of notes thereafter also. I did not take any note in my hand. Except the digit 500 I do not know about the contents of the notes. I did not know the other panch, his name, occupation and address. I had not met him before that day and did not meet him even after that day. He had reached the office before me. I do not know when and from where he was called. I went out of that office at about 2.30 p.m. The panchanama that officer Rathod prepared was over after about one hour. The panchanama that officer Singh prepared was over after about 5-10 minutes after the panchanama prepared by officer Rathod was over. It is true that officer Rathod was preparing the panchanama and at the same time officer Singh was also preparing the panchanama. I first signed on the panchanama prepared by officer Rathod. I signed on the panchanama prepared by officer Singh 10 minutes thereafter. Officer Singh did not talk with me other than asking me to sign on the panchanama prepared by him. I do not know from where officer Singh was and where was his office. It did not happen that Singh called me in that office at 1.30 p.m.

9. It is not true that nothing happened in my presence on that day, that I have signed on panchanamas to help the police as I am doing

the illegal business.

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

10. It is true that whenever I was challaned, I went to court, paid the fine and again started the business. I did not receive any notice.

11. I was not called to that office for preparing two panchanamas. I was told there that two different panchanamas are to be prepared. I saw that here were two different havildars for help. The officers were dictating to them. There was distance of 10 feet between both officers. One of the officers was near one wall and the other officer was at the other wall. It did not happen that the officers were shouting loudly while dictating. Both panchanamas started at the same time. Officer Rathod did not tell me that both panchanamas have been started at the same time. It did not happen that I was at such distance that I was hearing the dictation of both panchanamas at the same time. I was near officer Rathod initially. It did not happen that in between he told me to go near officer Singh. It did not happen that he asked me to go and sign the panchanama of officer Singh and

then come back to him and sign his panchanama. Both the officers were in the same room and at the same table. It did not happen that after signing of the panchanama prepared by officer Rathod I went to officer Singh to sign on the panchanama. They were at the same table. I signed on both the panchanamas on the same table. However, the panchanamas were prepared at different tables. There was only one table, but there were two computers. I do not know whether it was a table of officer Rathod or officer Singh. It did not happen I was standing near officer Rathod, but my attention was towards officer Singh. Officer Singh was not telling me anything while I was near officer Rathod. I was sitting in the middle. I was not understanding what the two officers were dictating. I did not move from my place till officer Rathod explained the contents of the panchanama to me.

- 12.** Both officers were sitting separate when I entered the room and were not sitting near each other. The packets were on the table when I went there. Officer Rathod had kept those packets on the only table that was there. Officer Rathod was sitting on a chair at the backside of the havildar who was typing on the computer. Officer

Singh was doing likewise near the opposite wall. There was a table in between where I was sitting on a stool. I do not remember whether officer Rathod or Singh called me near them when they were dictating. I do not remember whether the typist of officer Rathod went in between to the typist of officer Singh. The typist of officer Singh did not go to the typist of officer Rathod. Officer Rathod did not go to officer Singh after the typing was over and *vice versa* during the entire proceedings. I do not know what both the officers were typing. They were not doing any other work than the work of dictation. They were having tea.

13. I board the train at Sion for going to Dadar. Police do not come to our area for searches. I go towards Kurla station for going to my native place. It is not true that officer Vijay Salaskar called me in the Kurla Crime Branch and took my signatures on ready-made panchanamas, that I have identified the articles at the instance of the police, that I deposed falsely as tutored by them, that I never went to the ATS office Bhoiwada and did not sign on any panchanama.

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

14. Declined.

No re-examination

R.O.

Special Judge

Date:-03/08/2011

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