

M.C.O.C. SPECIAL CASE NO. 21 OF 2006**DATE: 5TH AUGUST, 2011****EXT. NO.1257****DEPOSITION OF WITNESS NO.120 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Simon Louis Devinadan
Age : 36 years
Occupation : Private Service (BPO)
Res. Address : B/103, Regal Palace, Vijay Vihar complex,
Evershine City, Vasai(E)-401201., Dist. Thane-

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

1. I was called by the ATS police in October 2006. I was at Juhu at that time. In between 2.00 and 2.30 p.m. a constable came and he requested whether I would act as a panch witness. It was regarding some bomb blasts. He told me that we have to go to the police station and speak with his superior. He told me that it would not require much time. I then went with him to the police station, which was behind Chandan cinema. A police officer by name Tonpe was there and he showed me some letter from a forensic lab and said that we

would be required to do some comparison. (Witness is shown letter dated 13/10/06 from FSL, Kalina to ACP, ATS). This was the same letter. (It is marked as **Ext. 1258** subject to objection by the learned advocates for the accused). Then I, two constables and one more person like me and officer Tonpe went by car to Raju Industrial Estate, Dahisar. We went to a small unit by name Kanchan. Officer Tonpe spoke with the executives of the factory and asked them for samples of gasket and whistle. The factory executives brought one piece of gasket and one piece of whistle and gave it to officer Tonpe. It was wrapped and sealed. They also gave a challan to officer Tonpe. The police officer had given a letter asking for the samples. They took an acknowledgment of the factory officer on that letter. I can identify the challan. (Witness is shown delivery challan dated 14/10/06 at record page 297 of the record and letter O. No. 1326 at record page 229). These are the same documents. (They are marked as **Art-340 and 341**). Then officer Tonpe prepared a panchanama of the events, explained it to us and we signed it. The panchanama now shown to me is the same, it bears my signature at sr. no.1, the signature of other panch at sr. no. 2 and signature of officer Tonpe by

the side. Its contents now explained to me are correct. (It is marked as **Ext.1259**).

2. I will be able to identify the gasket and the whistle. (Ld SPP makes a request for opening an envelope at sr. no. 14 of list Ext. 16F. The envelope is given to the learned advocates for inspection and they point out that the envelope is found open. The envelope is of the FSL, State of Maharashtra, Mumbai bearing the description: Name of Division:Physics, case No. K-384/06, Ext No. 1 and 2, Police station-ATS, Mumbai, CR No. 156/06. On taking out the contents it found to contain a brown envelop having seals, marked K-384/06 Ext.1, in which there is a cooker gasket in a polythene bag of Kanchan company and another brown envelope having seals, marked as K-384/06 Ext.2, in which there is a cooker whistle. Both the envelops have labels on them. Witness is shown both the envelops and the articles). The labels on the envelops bear my signatures at sr. no.1, the signatures of other panch at sr. no. 2 and signatures of officer Tonpe by the side. The gasket in the first envelope and whistle in the second envelope are the same. (Gasket is marked as **Art-342**, the polythene bag of Kanchan company is marked as **Art-342A**, the

envelope with the label in which it was, is marked as **Art-342B**. The whistle is marked as **Art-343**, the envelope with label is marked as **Art-343A** and the outer envelop of the FSL is marked as **Art-343B**). The whole procedure was over within 2-3 hours.

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

3. I was into real estate and catering in 2006. I had an office at Vasai. I used to do that business in Vasai area. I came to Mumbai on that day at about 8.00 a.m. I went to my in-laws house at Juhu. The address is 57/7, Ruia Park, Moragaon, Juhu (N). I used to go to my in-laws house regularly. It is about 10 minutes walking distance from Chandan cinema. I was at the bus depot near Chandan cinema when the police constable approached me. I was alone at that time and waiting for the bus no. 253 going to Andheri. The office was about 2 minutes from that depot on the same road. There were 6-7 other persons, male and female, at the bus depot waiting for the bus. The policeman approached me first. He did not approach anyone else after I showed my willingness to go with him. He was a constable. There were 4-5 policemen and one more person like me in the office. I did not know that person and I do not know when he was taken to

that office. I did not ask him his name and address. I do not know the name of the person who wrote the panchanama. He was introduced to me, but I do not remember his name. I have no idea whether he was a constable or sub-inspector. The officer Tonpe did not write the panchanama. Everyone was addressing him as 'Sir'. I do not remember whether he did not write anything in my presence. I started from Dahisar at about 5.30 p.m. and went home. I can understand Marathi, but I cannot read it and I am not fluent in talking. One of the police officers explained the panchanama to me in Hindi. I do not remember his name. The other panch was standing with me at that time. All the policemen were in civil dress. I have no idea whether the police officer who explained the panchanama was a constable, sub-inspector or officer.

4. The factory was big with two gates. There were other units in that industrial area. The Kanchan industry was a factory with two gates. There were only two galas in Kanchan industry. I cannot tell the area of each gala. We visited only one gala at the administrative office. The production was not going on there. It was an office and there was godown also. There were 3-4 persons there. An

administrative executive prepared the challan. The police officer did not ask me and the other panch to put our initials and date on the challan. The letter that was shown to me in the police station was in Marathi. I had gone through it at that time. I can read Marathi to some extent. The letter was probably dated 13/10/06. I do not remember its number. I do not know whether the date of the said letter is mentioned in the panchanama. On going through the panchanama I say that the date of the letter that was shown to me is written as 14/10/06. (Learned advocate asks the witness to read out the panchanama and to point out the portion where the date 14/10/06 is written). It is true that I am not able to read it properly. I am not in a position to point out the place in the panchanama where the letter dated 14/10/06 is mentioned. I took the gasket and the whistle in my hand and inspected them. It was in the same condition when it was handed over to the police. I cannot say how many gaskets were there in the factory. The factory person brought the gasket from the office. He brought it from inside. It was inside the closed polythene bag as it is seen today. Police took it in the same condition. Police did not take any cooker. I have no idea whether there were any cookers in the

factory. The factory person brought only one packet containing one gasket and brought only one whistle. Police did not ask him to produce several gaskets and several whistles.

5. It is not true that police did not take the gasket and the whistle in their custody in my presence, that I signed on the ready-made panchanama at the Chandan Chowki.

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

6. There are shops around the Chandan Chowki Police Station. Cars and people are moving on the street in between the police station and the bus depot. There are various bus stops in the bus depot. There is a traffic of vehicles at the entrance of the bus depot. We started from Chandan Chowki at about 3.00 p.m. and reached Dahisar within one hour. We were at the Kanchan factory for about 45 minutes to one hour. I and the officers were at one place continuously till we left the factory. I do not know from what place inside, the factory person brought out the articles. The factory was a manufacturing unit. I do not know how many persons were working there. I do not know whether the police inquired about it. Police did not pay any money to the factory person. I went by auto-rickshaw

from that place to Bhayendar. It took me about 20 minutes. The factory is about 5-10 minutes from Dahisar Check naka towards left hand side in Dahisar (E). I am not able to tell the distance between the factory and Dahisar railway station. Police did not carry any article with them like the gasket and the whistle Arts- 342 and 343 when we went to the factory.

(Adjourned for recess).

Date : 05/08/11

SPECIAL JUDGE

Resumed on SA after recess

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

7. It is true that when I went in the police station, the officer told me that we were to go in Dahisar. The police did not inform me how they got the address of the factory. My name, address and that of the other panch were written in the Chandan Chowki Police Station. It is not true that the work of writing the panchanama started in the police station. No portion of the panchanama was written till we left the Chandan Chowki Police Station. The events that took place at Dahisar were written in the panchanama and not events that took

place at Chandan Chowki. (Witness is read over the first page of the panchanama Ext.1259). It is true that the events described in this page are concerning the events in the Chandan Chowki Police Station. It is not true that this page was written in the Chandan Chowki Police Station.

8. We had gone in a private Bolero jeep. I do not remember its number and do not know whose vehicle it was. The vehicle did not halt at any shop, house, office, etc., after it started from Chandan Chowki upto the factory. The letter that the police officer gave in the factory was already prepared. I have not acted as a panch witness in any case after 2006. I have not acted as a panch witness on 23/08/10 for seizure panchanama in a diamond theft case of the Crime Branch. I do not remember having being called by the Crime Branch. It is not true that I deposed falsely.

No re-examination.

R.O.

Special Judge

Date:-05/08/2011

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