

M.C.O.C. SPECIAL CASE NO. 21 OF 2006**DATE: 8TH AUGUST, 2011****EXT. NO.1468****DEPOSITION OF WITNESS NO.122 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

Name : Dhananjay Pandharinath Sonavane

Age : 40 years

Occupation : Service (PI, Nagpur)

Address : Room No.29, Bldg. No.3, 94, Officers Quarters, , Police
Head Quarters, Takali, Nagpur, MS.

Examination-in- chief by SPP Raja Thakare for the State

1. I was attached to PS Azad Maidan since August, 2006 as PSI. I came on duty at 8.15 a.m. on 23/10/06 after leave. Sr. PI called me in his cabin at 10.30 a.m. and directed me to go to the office of the DCP, Zone-I with guard and vehicle. I called the mobile-II vehicle of the police station at 1410 hours, took one constable and along with the staff in the vehicle I went to the office of the DCP, Zone-I. I made station diary entry to that effect. The station diary entry no. 29 in the original station diary that I have brought to court is the same, it is in my handwriting and its contents are correct. The contents of the

certified true photocopy now shown to me are as per the original. (It is marked as **Ext. 1465**). I reported to the reader in the office of the DCP Brijesh Singh of Zone-I at 1430 hours. He told me that the DCP had told us to wait. Therefore, we waited in the office. The DCP called me in his cabin at about 1635 hours. He introduced an accused sitting before him as Naveed Khan and gave me a letter and instructions. He told me to take the accused in my custody, to take him to our police station and keep him in a separate cell in the lockup of our police station and to see that no one from the police or his relatives meet him. He also directed me to get the accused medically examined and to always escort the accused in veil. I took the accused in my custody, veiled him and took him to the GT Hospital, where I got him medically examined. I then took him to the police station, told the havildar on guard duty to keep the accused in a separate cell and conveyed to him the instructions that were given by the DCP. I also personally checked the cell no.1 where the accused was to be kept. I then made station diary entry and informed my superiors. The station diary entry no. 31 in the original station diary that I have brought to court is the same, it is in my handwriting and its

contents are correct. The contents of the certified true photocopy now shown to me are as per the original. (It is marked as **Ext. 1466**). The letter Ext. 1228 given by the DCP to me now shown to me is the same, it bears my signature. The DCP had instructed me to produce the accused before him at 1800 hours on the next day. The copy of the OPD case paper at record page no. 787 now shown to me is the same. (It is marked as **Art- 344**).

2. I came on duty on the next day, i.e., on 24/10/06 at 9.15 p.m. as SHO. I called the mobile-I vehicle of our police station at 1745 hours. I handed over the charge of the SHO to the relief officer. I then went to the lockup, took out the accused, veiled him and along with escort I took him in the vehicle to the office of the DCP. I then made station diary entry. The station diary entry no. 25 in the original station diary that I have brought to court is the same, it is in my handwriting and its contents are correct. The contents of the certified true photocopy now shown to me are as per the original. (It is marked as **Ext. 1467**). I reached the office of the DCP at 1800 hours. The reader of the DCP informed the DCP about I having brought the accused. He came outside and told me that the DCP has asked us to wait. We sat in a

nearby cabin with the accused for about 3 ½ hours. The DCP came outside at about 7.45 or 8.00 p.m. and said that there was a law and order problem in Bhendi Bazar area and told us that he is going there and would come back. He returned at 9.30 p.m. and called me inside his cabin. He told me that he cannot record the confessional statement of the accused on that day and asked me to take him back to our police station and to follow the instructions as given on the earlier day. He gave me a letter to that effect. Ext. 1229 is the same now shown to me, it bears my signature. I took the accused back to the police station in veil and put him in the lockup giving instructions to the guard havildar as given on the earlier day. I then made station diary entry. The station diary entry no. 31 in the original station diary that I have brought to court is the same, it is in my handwriting and its contents are correct. The contents of the certified true photocopy now shown to me are as per the original. (It is marked as **Ext. 1468**). The DCP had directed me to produce the accused before him at 1200 hours on the next day, i.e., on 25/10/06.

3. I came on duty as usual on 25/10/06. I called the mobile-I vehicle of the police station at about 1200 hours. I then took out the

accused from the lockup at 12.15 p.m., veiled him and along with escort I took him to the office of the DCP. I then made station diary entry. The station diary entry no. 33 in the original station diary that I have brought to court is the same, it is in my handwriting and its contents are correct. The contents of the certified true photocopy now shown to me are as per the original. (It is marked as **Ext. 1469**). I produced the accused before the DCP. The DCP asked me to wait outside. I and the escort staff were outside the cabin of the DCP upto 9.30 p.m. The DCP called me inside his cabin at 9.30 p.m., gave me two sealed envelopes, a forwarding letter addressed to the CMM and one more letter addressed to the ATS about handing over custody of the accused. He directed me to produce the accused before the CMM and to give the envelopes along with the forwarding letter to the CMM. He told me to produce the accused before the CMM Shisode at his house.

4. Accordingly I took the accused in veil to the house of the CMM Shisode at Kurla and produce the accused before him. I gave the forwarding letter and two sealed envelopes. He gave an acknowledgment on the forwarding letter. Ext. 1233 now shown to

me bears the endorsement of the CMM Shisode. He told me to keep the accused before him and asked me to wait outside. He called me inside after about half an hour and gave the accused in my custody. I veiled the accused and took him to the office of the ATS at Bhoiwada and gave him in the custody of API Shelke. I obtained his acknowledgment of having received the accused in his custody on the letter given by the DCP. Ext. 1234 is the same letter. It contains the acknowledgment of API Shelke. I returned back the police station at about 0050 hours of 26/10/06 and made station diary entry. The station diary entry no. 1 in the original station diary that I have brought to court is the same, it is in my handwriting and its contents are correct. The contents of the certified true photocopy now shown to me are as per the original. (It is marked as **Ext. 1470**).

5. I will be able to identify the accused, who was given in my custody by the DCP, whom I had taken to the police station and put in the lockup and whom I had produced again before the DCP and then taken to the CMM. (Witness looks around the court hall and points to the accused no. 12 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. ACP Patil recorded my statement on 09/11/06.

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

6. (Ld Adv Shetty had informed on 05/08/11 that he would not be available today. LD SPP submits that as the witness has started from the Nagpur he is examined. Learned advocates for the other accused submit that they would cross-examine the witness after the cross-examination by Id. adv Shetty, as the witness is concerning his accused. Hence, adjourned to 09/08/11 for cross-examination by Id adv Shetty).

Date : 08/08/11

**(Y.D. Shinde)
Special Judge**

Date : 09/08/11
Resumed on SA

7. I was appointed as PSI in 1995. Accused of Marine Drive, Azad Maidan, MRA Marg and Colaba Police Stations and of CBI, Customs and DRI are kept in the lockup of Azad Maidan Police Station. There are six rooms in the lockup. 30-40 accused can be kept in one room. The rooms may be approximately 10 x 10 meters, i.e., approximately 100 sq. mtrs. I cannot say how many prisoners were in the lockup on 23, 24 and 25/10/06. There are toilets and bathrooms in every room. It is true that there is a passage in between the three rooms on either side. The passage may be about 2 ½ -3 meters wide and 30-35 meters long. After entering the main entrance from the canteen side, if one goes ahead, the passage grill door of the lockup is visible. The staircase to the court is on the left side. The entrance of the building is on the south-east side. It is true that if a person stands in between the staircase and the table of the inward outward clerk of our police station, one can see the passage in between the cells. One goes to the right side to the police station after entering the entrance of the

building. Except the lockup guard persons near the lockup, no other police officer of our police station sits near that lockup. Lockup havildar maintains the lockup register. I do not remember the names of the lockup havildars who were on duty on 23, 24 and 25/10/06 during the day and night. I did not make any entry in the lockup register. Three registers are maintained in the lockup. One is inward outward register of the accused, one is lockup 'dainandini' and one is lockup register. The guard havildar maintains all the three registers. The guard havildar is on duty for 12 hours. The entries about providing bhatta to the accused, about any accused being sick, about information about the accused being sick being given to the concerned police station are made in the 'dainandini'. Names of the accused who are in the lockup are written in the lockup register. Entries about keeping the accused in the lockup and taking them out are taken in the inward outward register. These entries are required to be made compulsorily whenever the accused are kept inside the lockup and taken out. I did not take copies of lockup registers of the three days. I did not give any written report to the DCP. I did not take a written report from the lockup guards. I do not remember the names

of the DCP and ACP who were on night round duty in the nights of 23, 24 and 25/10/06. I went home at about 10.30 or 11.00 p.m. on 23/10/06 and 24/10/06. I did not make station diary entries about going home. It is true that I have no documentary evidence to show this and I am deposing from my memory. It is not true that I did not make entries about coming on duty.

8. I did not go towards Wadala on 24/10/06. I was not called for giving statement by any ATS officer before 09/11/06 and I also did not feel like going there to give my statement. I do not remember whether the Sr. PI showed me letter of DCP on 23/10/06, when he called me to his cabin. The DCP gave me a letter for the first time at about 1635 hours on 23/10/06. I do not know whether there had been any correspondence between him and our police station before that. I do not remember the name of the doctor who examined the accused at the GT Hospital for about 4-5 minutes. I was able to see the doctor examining the accused. I do not remember whether the doctor asked the accused to remove his clothes and then examine the body of the accused. I told the doctor that he is an accused and he should examine him. The doctor told me to take the OPD case paper, which

I did. I did not tell the doctor that the accused is arrested or that he was to be arrested. I did not take the accused for medical checkup after 23/10/06. I got the accused medically examined on 23/10/06 in compliance with the directions given by the DCP. I did not think about examining the body of the accused after I took him in my custody. I did not examine his body till I handed over his custody to the ATS on 26/10/06. It is true that Ext. 1228 is only letter that I received from the DCP on 23/10/06. It is true that it is not mentioned in it that he had directed me to keep the accused in a separate cell and that he should be medically examined. It is true that it is not mentioned in any other letter of the DCP. I had stated while giving my statement that the DCP had directed me to get the accused medically examined. It was written in my statement. I cannot assign any reason why it is not mentioned in my statement. I had read my statement after it was completed. It was correctly written. I did not realize at that time that the above portion was not written in it. I had stated while giving my statement that the DCP had directed me to escort the accused in veil. I do not remember whether it was written in my statement. I cannot assign any reason why it is not written in my statement. I had stated

while giving my statement that I had veiled the accused when I took his custody on 23/10/06. I cannot assign any reason why it is not written in my statement.

9. I had stated when I gave my statement that I told the havildar on guard duty to keep the accused in a separate cell and that I also personally checked the cell no.1 where the accused was to be kept.

(Adjourned for recess)

Date : 09/08/11

Special Judge

Resumed on SA after recess

10. I cannot assign any reason why this is not written in my statement. I was at the office of the DCP for about two hours on 23/10/06. The accused was given in my custody two hours after I had reached there. I had no occasion to see the accused before that time. I know that the accused was brought there by the ATS. There was no ATS officer there when I reached. I do not know who brought the accused in the DCP office and when he was brought there. I do not know at what time the Sr. PI received the instructions from the DCP. I was in front of the DCP for about ten minutes. He gave me instructions during that period and gave me the letter. He told me to

take the accused outside after that and I came out. I required about 5-7 minutes to reach the GT Hospital from the DCP office. One requires about five minutes on foot to reach the police station from the backside of the GT Hospital. One requires ten minutes by the main road on foot and five minutes by vehicle.

11. I reached the DCP office at 1800 hours on 24/10/06. The DCP gave me the letter at 9.30 p.m. It is true that I did not immediately get the message on reaching the DCP office that the statement of the accused could not be recorded. It did not happen that on reaching the office of the DCP at 1800 hours, I produced the accused before him. I did not produce the accused before him on that day. It is true that I did not know about the law and order problem in Bhendi Bazar area till the DCP told me about it at 7.45 or 8.00 p.m. I came to know after some time that there was a fighting between two groups, probably within the jurisdiction of J. J. Marg Police Station. The DCP left the office immediately after informing me about the law and order problem. I do not remember the name of the reader of the DCP to whom I met on 24/10/06.

12. I do not remember whether I had stated when I gave my

statement that the reader of the DCP informed the DCP about I having brought the accused, that he came outside and told me that the DCP has asked us to wait, that we sat in a nearby cabin with the accused for about 3 ½ hours, that the DCP came outside at about 7.45 or 8.00 p.m. and said that there was a law and order problem in Bhendi Bazar area and told us that he is going there and would come back, that he returned at 9.30 p.m. and called me inside his cabin and that he told me that he cannot record the confessional statement of the accused on that day and asked me to take him back to our police station and to follow the instructions as given on the earlier day. I do not remember whether I mentioned it in the station diary. I cannot assign any reason why these things are not written in my statement or in the station diary. We sat with the accused in a cabin that was by the side of the hall in the office of the DCP. I did not go in the cabin of the DCP during that period. As soon as I reached the office of the DCP at 1800 hours, the reader informed the DCP about our arrival along with the accused and then came out and told me that the DCP had asked us to wait. I do not remember whether I stated during my statement that I took the accused back to the police

station in veil. I cannot assign any reason why it is not written in my statement.

13. The accused was given in my custody at about 9.30 or 9.35 p.m. on 25/10/06. I produced the accused before the CMM at 10.30 p.m. We started back from his house after half an hour at about 11.00 p.m. I did not know who the CMM was on that day when the DCP gave the accused in my custody. I contacted the police station and came to know about who the CMM is and the address of his house. I came to know the name of Shri Shisode as CMM and that he resides in Kurla (w). I did not know till the time I got the information from the police station that Shri Shisode is the incharge CMM and he stays at Kurla (w). The station house officer informed me about it. I do not remember his name. He gave me the directions that I should go by the side of police chowki in Kurla (w) and then ask anyone. I cannot tell the name of the building and the road today. But his house was on the ground floor. It is at the distance of five minutes from the police chowki. I cannot say now whether Shri Shisode was the regular CMM or the in-charge CMM. I cannot say whether 25 and 26/10/06 were holidays or working days. I knew on 25/10/06 that the

court of the CMM is on the first floor or in the second floor in the building of our police station and the official working time is of the court is from 11.00 a.m. till 5.30. p.m. I cannot say who was the CMM presiding over the CMM court in the building of the police station. I started from the office of the DCP at 9.30 p.m. I required one hour to reach the house of Shri Shisode. I do not remember whether there was not much traffic at that time. It did not happen that the DCP told me to take the accused to the house of Shri Shisode as he was holding the charge of the CMM. It is true that the DCP did not give the forwarding letter addressed to Shri Shisode.

14. My statement was recorded at about 2.00 or 2.30 p.m. on 09/11/06. I had reached the office of the ATS about one or one and a half hours before that. My statement was completed prior to 2.00 or 2.30 p.m. It was ACP Patil who made inquiries with me. He was asking questions to me and dictating to the computer operator. I started back from that office at about 3.00 p.m. There was one more officer with ACP Patil who also asked questions to me, but I do not remember his name. It will be incorrect to say that ACP Patil was not in the office before 2.00 or 2.30 p.m. on that day. I do not remember

whether I stated while giving my statement that I was given direction to take the accused to Shri Shisode as he was the in-charge CMM. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'A'). I may have stated so, therefore it is written in it. It is true that the DCP had given me the letter Ext. 1234 at 9.30 p.m. when I took the accused from his office. I gave this letter to the DCP on the next day morning during office hours. I cannot tell the day of the week of 25/10/06. The accused was with the magistrate for about half an hour in the hall of his house. There were 5-6 policemen with me. Shri Shisode did not say anything about the accused being produced in the night hours. I have never produced any accused before any magistrate in the night hours except on this occasion. We can take the accused to the house of the magistrate after the court hours. I do not know till what time we can take the accused in the night.

15. I produced the accused before the DCP on 25/10/06 around 1215 hours. It is true that I saw the DCP thereafter for the first time at 9.30 p.m. I was sitting in the reader's room during this period and did not move from there. I do not know at what time the

DCP started recording the statement and at what time he finished it. I did not see anyone entering the cabin of the DCP or coming out of it. The DCP was alone when I went inside his cabin with the accused. It is true that from 12.15 p.m to 9.30 p.m. only the DCP and the accused were in his cabin. It is true that the DCP did not read over or explain anything to the accused or take his signature in my presence after he called me inside. The reader was sitting in his room where I was sitting. I do not remember whether the DCP did not call him inside at any time.

16. It is true that Khan and Shaikh are surnames in Muslims and one person does not have two surnames. The name of the accused is written as Naveed Hussain Rasheed Hussain Khan in the station diary entry no. 31, Ext. 1466. I had written the name after asking the accused. The name of the accused is written as Naveed Hussain Khan in the letter Ext. 1228 given to me by the DCP. I did not have any other document except this letter before making the station diary entry no. 31, Ext. 1466. I have no other documentary evidence to show that the name of the accused was Rasheed Hussain Khan. The name of the accused in the entry no. 31, Ext.

1468, of 24/10/06 is written as Naveed Hussain Rasheed Shaikh. The accused told me the name surname Shaikh. I did not realize at that time that he had stated his surname as Khan on the earlier day. It is true that in the letter of the DCP his surname was mentioned as Khan. It was not correct to write the surname Shaikh though the DCP had written it as Khan in the letter. I realized that mistake today. The surname Shaikh is repeated in the entry no. 33, Ext. 1469 of 25/10/06. It was also stated by the accused. I did not ask him why he stated his surname as Khan on the first day and is stating it as Shaikh on the subsequent days. I did not bring this to the notice of the DCP. Same mistake is repeated in the entry no.1, Ext. 1470 of 26/10/06.

17. It is not true that I deposed falsely about keeping the accused in the lockup and taking all the precautions as described by me and that I deposed falsely on the instructions of my superiors.

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

18. The entry no. 31, Ext. 1466 is of 2150 hours. It is not true that false station diary entries are prepared and filed. Two entries are not made at the same time on one day. Every entry is required to be

made by putting the time. Entry no. 32 of 24/10/06 is made at 2150 hours. The entry no. 23 of 24/10/06 is made at 1700 hours. The time in words is not put for the entry no. 24, but the '--"--' mark is made.

19. I served in Mumbai for 15 years. I never had occasion to work with an ACP, DCP or Addl. CP. I am now reader of Commissioner of Police, Nagpur. The Commissioner of Police gets staff from the Crime Branch, if he wants to lay a trap. The staff of the Social Services branch is available for ACP, DCP or Addl. CP to lay a trap. They also call staff from the local police station in case of shortage from other police stations. Help from police stations of the zone is requested if the staff of a police station falls short. This practice is common in Mumbai. I do not remember which police officers were deputed to the ATS for the purpose of the investigation of this case. It is true that one or two officers from a police stations remain attached to the police station but are sent on deputation to the region or the zone. I do not remember whether the officers of the Azad Maidan Police Station were passing on information and co-operating and co-ordinating with the ATS in the investigation of this crime. I have not taken any accused other than this accused for the

purpose of recording of confessional statement.

20. We had received instructions to take precautionary measures after this blasts. I was attached to and on duty in the same police station from 26/10/06 to 09/11/06. A phone message was received on 09/11/06 from the ATS office calling me for the statement. There is no station diary entry about it. I had only produced the OPD case paper before ACP Patil. I do not remember what other papers I had produced. I was not asked to bring the papers. I do not remember whether there is station diary entry about taking the documents. I do not remember about producing station diary extracts. I now say that I had produced them. I had not read the entries before taking their copies. I got the copies on 08/11/06. I took the station diary and got the photocopies done personally and produced them in the ATS office. I had obtained the photocopies of the entries in the original station diary that I have brought to court. I do not remember whether I certified them as true copies or whether the Sr. PI did it. I do not know why photocopies of the station diary entries are not produced with the chargesheet. (Witness is shown record pages no. 789 to 793). It is true that these are not the

photocopies that were produced by me. (Witness is shown entry no. 33 of 25/10/06 at record page no. 793. As the contents are referred, marked as **Ext. 1471**). It is true that the name of the accused is mentioned as 'Javed Hussain Rasheed Shaikh'. (Witness is shown entry no. 31 of 24/10/06 at record page no. 791. As the contents are referred, marked as **Ext. 1472**). It is not true that the name of the accused is mentioned as 'Javed Hussain Rasheed Shaikh' in entry no. 12 in Ext. 1472. I do not know who prepared these copies and who gave them to the ATS. The signature on these documents is of PSI Desai. The date below the signature is 26/10/06. On going through the contents of the station diary entries of 26/10/06, I say that one PSI Uttam Jadhav was the day SHO on 26/10/06 and PSI Desai was the relief officer. I cannot say whether the signatures in Exts. 1471 and 1472 are of PSI Desai. It is not true that at that time PSI Desai was deputed to the ATS.

21. I was directed to bring with me concerned relevant documents. I do not remember whether I did not produce all of them. There may be some documents that remained to be produced. I did not produce the extracts of the lockup register or diary or the log

books of the vehicles. I do not remember the number of the vehicles that I used for this purpose. It is not necessary to write the number of the vehicle in the station diary entry, if it is used for official purpose. I did not write the numbers of the vehicles in the station diary entry and did not tell them when I gave my statement.

22. I started from the police station at 1745 hours on 24/10/06 and reached the DCP office at 1800 hours. One requires 5-10 minutes to reach the DCP office from the police station. I met the DCP for the first time at 7.45 or 8.00 p.m. I returned to the police station at about 9.50 p.m. The DCP did not give a letter addressed to me to handover the custody of the accused to the ATS.

23. I knew the purpose of taking the accused before the DCP as the DCP had told me about it on all three days. It is not true that I did not produce the accused no. 12 before the DCP on 24 and 25/10/06 and that I deposed falsely that I went to the office of the DCP on 23/10/06. It is true that the photocopies of the station diary entries that I produced before ACP Patil on 09/11/06 are not before the court. It is not true that I produced false station diary entries. The DCP did not tell me on 25/10/06 when he gave the accused in my

custody that he had recorded the confessional statement of the accused and that he had put them in two envelopes and sealed them and to take the statements and produce them and the accused before the CMM. I did not mention this in the entry no. 1 of 26/10/06. It is incorrect if it is so written in the entry. It is true that contents of the entry shows that it is so written. I cannot assign any reason why it is so written. It is not true that I deposed falsely and I identified the accused on the say of PI Mohite. I was on leave on 22/10/06.

Cross-examination by adv Wahab Khan h/f Rasal for A1 & 4 to 6

24. Declined.

No re-examination.

R.O.

**Special Judge
Date: 09/08/11**

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