

**M.C.O.C. SPECIAL CASE NO. 21 OF 2006****DATE: 27TH SEPTEMBER, 2011****EXT. NO.1568****DEPOSITION OF WITNESS NO.141 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Jairam Mahabal Shetty

Age : 57 years

Occupation : Nil.

Res. Address : Ugrani Bette House, Village-Beloor. Tal- Kundapur,  
Dist-Udipi, Karnataka.

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

1. I am staying in my village since last six years. I was in Mumbai from 2001 to 2007 working at my brother's hotel in Bhendi Bazar by name Heena. I used to sit at the counter. The owner of the hotel was one Mohd. Shaikh. My brother was conducting the hotel on contract. It was only a residential hotel having 21 rooms. We used to rent out the rooms to customers, Indian and foreigners. We used to make entries in a register about the customers staying in the hotel. We entered the room number and the customer entered his name, address, the place from where he came, for how many days he stayed, etc. and he used to put his signature. In case of foreign

customer, we took entries in 'C' form in which we entered the passport number and other particulars. We used to send the 'C' forms to the CID office.

2. The ATS police had come to the hotel on 03/11/06 for making inquiries. They wanted to know whether person by name Mohd. Majid and four-five persons whose names they gave, had stayed in the hotel. I told them that I would see the register and tell them. I saw the register and saw entry in the name of Mohd. Majid. I have brought the original register to court. It is from 2004 to 2005. The entries in the register were made in the regular course of business as and when the customers stayed in the hotel. Mohd. Majid had stayed in room no. 401 in the hotel for three days from 04/01/04 upto 06/01/04. Shami, Asif, Pappu and Mohsin had stayed with him. They had come from Kolkata. I was present when the entry was made by Majid. He had signed it. The contents of the photocopy of the page containing the said entry no.6 now shown to me are the same as per the contents of the entry in the original register that is with me. (It is marked as **Ext.1569(2 pages)**). The original register is seen and returned to the witness). Said Mohd. Majid had again come on

10/01/04 and stayed in the hotel in room no. 401 along with the same persons. They had come from Kolkata and stayed upto 14/01/04. Person by name Shami had signed the entry. I was present when the entry was made by Majid. He had signed it. The contents of the photocopy of the page containing the said entry no.38 now shown to me are the same as per the contents of the entry in the original register that is with me. (It is marked as **Ext.1570[2 pages]**. The original register is seen and returned to the witness). The photocopies of the said pages of the register were taken by the ATS when I was called to the ATS office, Bhoiwada.

3. There was a talk between us when the persons left the hotel on 14/01/04. They said that the lodging charges were less in Bangladesh and Pakistan than in Mumbai. We had charged them for extra beds. The ATS police took my statement on 03/11/2006.

**Cross-examination by Adv P. L. Shetty for A3, 8, 9, 11 and 12**  
**and h/f Rasal for A1 & 4 to 6**

4. I was in Mumbai since 1972. I used to stay in Room No. 2034, Bldg. No. 78, Tilak Nagar, Chembur, Mumbai in 2004 with my family. I used to stay at the same address in November 2006. I stayed in that

room from 2002 to 2007. I was not staying in the hotel or at my native place in November 2006. My brother's name is Dinesh Mahabal Shetty. He stays in Kharghar. He is in Mumbai since last 10-12 years. He was in Mumbai in 2004 and 2006. The hotel owner Mohd. Shaikh was of Bhendi Bazar, but I do not know his address. My brother had taken the hotel from him on contract in 2001. The agreement was of five years. I do not know the exact dates of the commencement and end of the agreement. We conducted the hotel for six years. I do not know whether a new agreement was entered into or the original agreement was extended. The agreement was between my brother and the hotel owner. I had no concern with that agreement and had never seen it. It is necessary to make a deposit before taking the hotel for running it. My brother had given a deposit of Rs. 10/- lakhs. I do not know whether it was paid by cheque or cash. The monthly rent was Rs. 85,000/-. My brother used to pay it. I do not know whether it was by cheque or by cash. The hotel is in the Heena building, which is of six floors. There was one room on the ground floor, four rooms each in the first three floors, three rooms each in the fourth and fifth floors and two rooms on the sixth floor. I used to work at the cash

counter. There were two persons working at the reception. One was Iqbal. I do not know his full name. The second one was me. My main duty was taking payment from the customers as per the bill prepared by Iqbal. Iqbal was working with us for three years from 2001. He left the job in 2005. I used to make inquiries with the customers and allot rooms to them. I cannot tell how many customers used to come to the hotel in a day. I cannot tell how many customers had come to the hotel on 03/01/04. Our reception counter was open 24 hours. I and Iqbal used to work in the day from 9.00 a.m. My brother used to work in the night. One person used to work with him, but I do not remember his name. We used to maintain muster roll and used to take the attendance of the workers. My and my brother's names were also entered in the muster roll. Our names were not registered in the licence issued by the BMC and the registration certificate issued by the ACP of our division. Heena hotel comes under Pydhonie Police Station. I cannot tell how many customers came to the hotel on 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 10<sup>th</sup> to 14<sup>th</sup> January 2004. I cannot tell the number of rooms that were vacant on 04/01/04 and 10/01/04. I cannot tell when the room no. 401 was vacated before those two days.

5. I have passed 9<sup>th</sup> standard in Kannada medium. Entries of 04/01/04 and 10/01/04 are made by the customers. Entries of all customers who stay in the hotel are made. I cannot tell when room no. 401 was allotted to any person before 4<sup>th</sup> and 10<sup>th</sup> January 2004. I cannot tell the names of the person to whom the room was allotted immediately before the above two days. I cannot tell the names and number of customers who were allotted that room and the dates of allotment immediately after 6<sup>th</sup> and 14<sup>th</sup> January 2004, unless I see the register. The hotel was doing good business. We used to apprise the customers about the vacant rooms and give them the rooms as per their choice. I do not remember whether the room was allotted to any customer on 03/01/04. I cannot tell about the number of customers to whom rooms were allotted on 02/01/04. I cannot tell about the number of days that I attended the hotel and did not attend it during January 2004, but I was regular. The handwriting in the entry no.6 of 04/01/04 upto 06/01/04 is of Mohd. Majid. Iqbal had written the room number. Serial number is written by us. Date of arrival is written by the customer. My handwriting does not appear in any of the entries at sr. no. 1 to 8 from 01/01/04 to 05/01/04. The entire register

does not contain my handwriting. The ATS people had come at about 3.00-4.00 p.m. on 03/11/06 and then had called me to the ATS office. I did not know before that day that I would be called at the ATS office. I was not given any written notice or letter to come to the ATS office and to produce any documents. I had taken only this register with me when I went to the ATS office. The ATS did not ask me to bring bill book or receipt book. I do not remember what rent those people paid me on 06 and 14/01/04. Bills were prepared and receipts were issued to the customers on these two days. The bill book was not computerized. The ATS did not ask me for the copies of the bills and the receipts of these persons and I did not think of giving them. We had separate bill book and receipt book. The bills and receipts were prepared in duplicate. The duplicates were retained in our office record. The ATS police did not call me or visit our hotel after they recorded my statement on 03/11/06. My brother was in Mumbai in November 2006. I do not know whether Mohd. Shaikh, the owner of the hotel, was called by the ATS. The ATS police did not ask me to produce the conducting agreement or the licence of the hotel and I also did not produce it. It is true that there is no proof in the register

that I brought to the court, to show that my brother and I used to run the hotel from 01/01/04 to 26/05/05. Police did not raid our hotel, but they used to check it sometimes. I do not know whether special squad police did surprise checks during the night. I took the register back after the police took out the photocopies. Police did not put their initials and date in token of having seen the entries. The ATS police took out the photocopies from their own zerox machine. They did not take my signatures on the photocopies as true copies.

6. Bhendi Bazar is a Muslim dominated area. I know many Muslim persons in that area by name and I am acquainted with them. Mohd. Majid is a common name in Muslims. The entry of 10/01/04 was made by person by name Shami and he had signed it. The first name in the entry at sr. no. 38 is Shami. I cannot tell the second and third names. Next are Pappu, Majid and Asif. It is true that handwriting of the person Majid who had come on 04/01/04 is not in the entry of 10/01/04. The name of the person who came on 04/01/04 is written as Mohd. Majid, whereas on 10/01/04 it is only Majid. The spelling of the first name is 'Shami'. It is not true that the spelling of the first name is not Shami. (Learned advocate makes a request for retaining



the original register. Learned SPP has no objection. The original register be retained). It is true that the names Tan, Shameer and Moshin in the entry of 04/01/04 are not in the entry of 10/01/04.

(Adjourned for recess)

**Date : 27/09/11**

**Special Judge**

**Resumed on SA after recess.**

7. Room No. 401 was a single joint double bed room. It was of 100 sq. ft. The bed was 6'x 5'. The room was non A/c and with attached toilet bathroom. The bed was on one side of the room. The rent per day was Rs. 450/- in January 2004. We used to charge Rs.100/- for extra bed. We used to allow 4-5 people to stay in such a room by providing extra bed. Customers have to take extra beds as per the number of persons more than two. We had given three extra beds on 4<sup>th</sup> and 10/01/04 in that room. Six persons had stayed in that room on 04/01/04. We had given three extra beds on that day. The extra beds were of 6' x 2 ½' or 3'. Six persons had stayed in that room on 10/01/04 also. It is true that other than this room, six persons had not stayed in any other room.
8. The tariff had not changed from 04/01/04 upto 10/01/04. Extra

bed charges were taken on 06/01/04 as were taken on 14/01/04. I do not understand the meaning of the word 'bacha bachi'. There was no quarrel between me and those people on 14/01/04, but there was an exchange of words 'mach mach'. When those persons said that the lodging charges are less in Bangladesh and Pakistan, I told them that our rate is this. I did not say anything more. Those people left at 8.00 p.m. on 14/01/04. It did not happen that on 10/01/04 those people had a 'bacha bachi' with me while leaving the room. I did not state so to the police when I gave my statement. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'A'). I cannot assign any reason why it is so written in my statement. My statement was recorded in the office of the ATS at Bhoiwada. Officer Phadake recorded my statement. My statement was not recorded in the Anti-Dacoity Cell of DCB CID. The officer was of ATS. Another officer was typing the statement on the computer in Marathi. I do not know his name. I do not know how many officers were there. My statement was explained to me in Hindi. I do not know why the designation of officer Phadake is written as API, Anti-Dacoity Cell of DCB CID. I was taken to the second floor in the office of the ATS. I

was not taken to the crime branch office at Kurla.

9. I used to meet my brother everyday during that period. The exchange of words between me and those persons was a simple thing. Therefore, I did not mention this to any person upto 03/11/06. It will be incorrect to say that I stayed with my family at my native place in 2006. I did not state so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'B'). I cannot assign any reason why it is so written in my statement. I did not state to the police that I had taken the contract of running the hotel and that I used to stay there more and run the hotel. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'C'). I cannot assign any reason why it is so written in my statement.

10. I had stated to the police that I was in Mumbai from 2001 to 2007 working at the hotel by name Heena of my brother at Bhendi Bazar, that I used to sit at the counter, that my brother was conducting the hotel on contract. I cannot assign any reason why it is not written in my statement. I do not remember whether I had stated to the police that in case of foreign customer, we took entries in 'C'

form in which we entered the passport number and other particulars and that we used to send the 'C' forms to the CID office. I cannot assign any reason why it is not written in my statement.

11. It is not true that I never conducted the Heena hotel and I deposed falsely on the say of the ATS. I have brought the register from my native place where I had taken it as the police had asked me to keep it.

**Cross examination by adv Ms. Asma h/f Wahab Khan for A2, 7,**

**10 & 13**

12. Declined.

No re-examination

R.O.

Special Judge

Date:-27/09/2011

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