

M.C.O.C. SPECIAL CASE NO. 21 OF 2006**DATE:3RD NOVEMBER 2011****EXT. NO.1694****DEPOSITION OF WITNESS NO.159 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Uttam Genbhau Marbhal

Age : 46 years

Occupation : Service (HC- 1793)

Res. Address : Room No. 24, Bldg. No 7, Railway Police Quarters,
Dharavi, Mumbai-17.

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

1. I am now attached as head constable to Vashi Railway Police Station. I was attached to Mumbai Central Railway Police Station before that. My nature of duty there was mostly to take the relatives of deceased persons on the instructions of the investigating officers to the morgue in the hospitals for identifying the dead persons in the case of accidental deaths. I was also required to handover the dead bodies to the claimants.
2. There were bomb blasts in the western local railways on 11/07/06. There was an unclaimed body in the blast at Matunga Railway Station. PI B. B. Rathod was the investigating officer of that

crime. He ordered me to bury the said body on behalf of the government. He gave me two letters. One was dated 15/10/06 to be given to the dean of the Sion Hospital. It was a Sunday on that day. He also gave me a letter dated 16/10/06 on 16/10/06 addressed to the medical officer, incharge of the Post-Mortem Center of the Sion Hospital for handing over the dead body to me. I went to the Sion Hospital on 16/10/06 along with HC- Jadhav 731 and handed over the letter to the dean's office and obtained an acknowledgment on the office copy. The office copy of the letter now shown to me is the same, it bears the signature of PI Rathod and the inward stamp of the Sion Hospital. (It is marked as **Ext.1695** subject to objection by the learned advocates for the accused). Then I went to the medical officer incharge of the Post-Mortem Center and gave him the letter addressed to him. The office copy of that letter is the same now shown to me, it bears the signature of PI Rathod. (It is marked as **Ext. 1696**). He told me that he cannot give the body in my custody as I am a head constable. I informed PI Rathod on phone to send some officer. He sent PSI Kshirsagar. PSI Kshirsagar signed on the register in the Post-Mortem Center about taking the body in possession. The

medical officer gave cause of death certificate. We put the body in the police hearth vehicle and took it to Chandanwadi Kabrastan. We showed the memo about the order of disposal of the body and cause of death certificate given by the doctor to the clerk in the death registration office. PI Rathod had also given a receipt to be obtained from the incharge of the burial ground (kabrastan). We obtained an acknowledgment of the clerk on the office copy of the receipt. It is the same now shown to me. (It is marked as **Ext.1697**). The office copy of the cause of death certificate Ext. 1166 is the same now shown to me. The clerk made the entries and the staff in the kabrastan dug a pit and buried the body there. We returned back to the police station, reported to PI Rathod, gave him the office copies of the letters and made station diary entry. I had made station diary entry while leaving the police station for that work. I have brought the original station diary entry with me today. The contents of the station diary entry no. 7 about leaving the police station are correct. The contents of the station diary entry no. 10 after returning back to the police station are correct. Contents of the true photocopies of the entries are as per the original station diary entries. (They are marked as **Ext. 1698** as both

entries are on one page). PI Rathod took my statement about this work on 17/10/06.

Cross-examination by Adv Wahab Khan for A2, 7, 10, 12 & 13

3. The body was involved in the crime registered at Mumbai Central Railway Police Station. I had not stated about the crime number when I gave my statement. It is not true that the dead body was in ADR No. 285/06. It did not happen that I gave only this ADR number when I gave my statement. It will be incorrect if it is so written in my statement. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'A'). It is so written as initially it was registered under an ADR and then it is converted into a crime. Therefore, the initial ADR number has to be given. When I gave my statement I gave only this number as I did not know the CR number. I had stated when I gave my statement that we had taken the body to the kabrastan, the staff there dug a pit and buried the body. I cannot assign any reason why it is not written in my statement. I had stated that the medical officer of the Post-Mortem Center had given the cause of death certificate. I cannot assign any reason why it is not written in my statement. I had not stated that I had made station diary

entries while leaving the police station and after coming back. I was not attached to the ATS during this period. The station diary extracts that I produced are not of Mumbai Central Railway Police Station. I can produce station diary entries about resuming duty on 16/10/06 at the Mumbai Central Railway Police Station and leaving duty. (Learned advocate calls upon the witness to produce the said station diary entries).

4. I did not meet PI Rathod when I returned back to the ATS office on 16/10/06. PSI Kshirsagar gave me the cause of death certificate. I did not read it as I do not know much English. However, I can read somewhat. Ext. 1166 is not the copy of the cause of death certificate. The name of the deceased is mentioned as 'unknown', the age as 40 years and the religion is mentioned as 'Hindu'. The certificate that PSI Kshirsagar gave me mentioned the religion as Muslim after canceling the word 'Hindu'. It was not canceled in my presence. I do not know whether it was done before it was given to me. It was not done after it was given to me.
5. I have gone to the crematorium (smashan bhumi) for about 20-25 times and to the kabrastan for 4-5 times. Hindus are cremated in

the smashan bhumi and Muslims are buried in the kabrastan. Bodies are not buried in the smashan bhumi. It did not happen that we buried the body in the smashan bhumi. I had not so reported to the ATS office. It did happen that the body was buried in Chandanwadi smashan bhumi.

6. I do not have experience about the procedure of burying Muslim bodies. I do not know whether the body of a Muslim is bathed before being buried or something else is done. I do not know whether any specific prayer is said and the manner of praying before buried. I do not know what is the procedure after the pit is dug and the body is placed in it and what more articles are required to be put in the pit. I do not know how the burial of Muslims is done. It is true that even then I reported that the body was buried in Chandanwadi smashan bhumi as per Muslims rites and customs. I do not remember whether I had stated when I gave my statement that I took the body to Chandanwadi kabrastan. I cannot assign any reason why it is not written in my statement. I do not know whether the kabrastan in-charge issues a receipt after the burial. I did not get any receipt in this case. I do not know whether an entry was made at the place

where I took the body. I did not purchase any article before going for the burial. I did not spend any money till the work was over. I do not know whether fees are required to be deposited in kabrastan before the burial. I cannot say how much money I had with me when I started for the kabrastan. I do not remember whether the ATS officers had given me some money before I started for the kabrastan. I did not spend any money for the burial. I do not remember whether government money was spent for the burial. I had stated so in my report to the ATS. The ATS did not give me any receipt of purchase of articles for the burial.

7. I have gone to Chandanwadi smashan bhumi on 4-5 occasions. The office bearers do not issue receipt about cremation or burying of bodies. The body was not bathed in my presence before burying. A body can be identified as a Hindu or Muslim on seeing whether the private part is circumcised or not, if it is intact. Inquest panchanama of that body was not prepared in my presence. Copy of inquest panchanama was not given to me. I was not read over the contents of inquest panchanama. I did not see the inquest panchanama with anyone. I did not personally examine the private

part of that body to ascertain whether it is circumcised or not and I did not ask the doctor to do so in my presence.

8. I do not know whether the body was of a Hindu. The ATS officer had told me to take the body to the Chandanwadi smashan bhumi and I took it there. It is by the side of Marine Lines Railway Station. It is true that there are two places there, one Chandanwadi smashan bhumi for Hindus and the other Chandanwadi kabrastan for Muslims. They have separate entrance. The death registration clerk is one, but the staff in both are different. I do not know whether Chandanwadi kabrastan is also known as 'Bada kabrastan'. It is not true that Ext. 1166 is the same cause of death certificate that was given to me. I do not know whether dead bodies in some communities in Hindu are buried.

9. It is not true that I deposed falsely that I brought the original station diary. I brought it from the ATS office. I did not apply for getting the station diary. I did not collect it personally. The ATS staff brought it. I cannot say whether the ATS prepared it falsely during the last 2-3 days. I did not read my statement before giving evidence. It is not true that I gave false evidence on being tutored.

Cross-examination by Adv P. L. Shetty for A3, 8, 9, 11

10. Bevaras mayat means one who does not have any heir. Bevaras can also mean the body that could not be identified. The date of the death of that body was reported prior to 3 months before I took it in my custody. I did not see the body. It was wrapped in cloth and I took it in my custody in the same condition. No part of the body was visible. I did not make any effort to remove the cloth and see the body.

Cross-examination by Adv Rasal for A1 & 4 to 6

11. Declined.

No re-examination.

R.O.

Special Judge

Date:-03/11/2011

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