

M.C.O.C. SPECIAL CASE NO. 21 OF 2006**DATE:18TH NOVEMBER 2011****EXT. NO.1752****DEPOSITION OF WITNESS NO.163 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Rajaram Ramchandra Joshi

Age : 56 years

Occupation : Service (ACP, Kherwadi Division)

Res. Address : Flat No. 10, 4th floor, 301 Shivilal Motilal Mansion,
Mumbai Central Junction, Belasis Road, Mumbai-8.

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

1. I was attached to the ATS from July 2006 to May 2007 as PI.

There were seven bomb blasts in seven different local trains of Western Railways in Mumbai on 11/07/06. The case in respect of the bomb blast that took place outside Bandra Railway Station was registered as CR No. 86/06 by the Bandra Railway Police Station. PI Kadri, in-charge of that police station, had registered it on 11/07/06. Similarly, other cases were registered by the respective railway police stations. Further investigation of CR No. 86/06 of Bandra Railway Police Station was entrusted to me by the ATS on 20/07/06. I received the case papers from ACP Shengal of ATS on 20/07/06. I

perused them and came to know that the said bomb blast had occurred in the first class compartment for gents a few moments after the train had left Bandra Railway Station towards Khar. 22 persons had died and 107 were injured in that blast. Dead bodies were already taken charge of by the Bandra Railway Police Station. They were identified by their relatives and their belongings had been handed over to their relatives by the said police station and the statements of the relatives had been recorded. Statements of 69 injured had been recorded and included in the case papers. PSI Datir, PSI Yogesh Chavan, PSI Patare, API Pophale and four policemen were given to me for the purpose of investigation. I instructed all of them to contact the injured, to take them in confidence and to collect maximum information with a view to know about the identity of the accused persons. I also instructed them to travel in the same semi fast Borivali local train at the same time and to contact the commuters regularly traveling in that bogie with a view to get more information useful for the investigation. I was also trying to contact the motorman and the guard of the said train. I recorded statements of motorman Madhukar Arjun Survase, aged 46 years and guard Girish Hiranman

Jadhav of that train. Their statements were corroborated the contents of the FIR. Thereafter, I arrested one Kamal Ansari on 14/08/06, who had been initially arrested in CR No. 77/06 of Mumbai Central Railway Police Station concerning Matunga blast. I got him medically examined and produced him before the court of the MM, 2nd Court, Mazgaon for remand on the same day. The magistrate remanded him to police custody upto 28/08/06. I arrested two more accused by name Khalid Shaikh and Mumtaz Choudhary on 16/08/06, who had already been arrested by the ATS. I produced both before the remand court after getting them medically examined. They were remanded to police custody till 30/08/06. I arrested Dr. Tanveer Ansari on 17/08/06 in my case, who had already been arrested in other cases of the ATS. I got him medically examined and produced him for remand on the same day before the same court. He was remanded to police custody in my case till 31/08/06. I arrested two more accused by name Zameer Ahmed Shaikh and Suhail Shaikh on 21/08/06, who had been already arrested by the ATS in other cases. I produced both before the remand court after getting them medically examined. They were remanded to police custody till 03/09/06. I

arrested two more accused by name Mohd. Faisal and Muzzamil Ataur Rehman Shaikh on 22/08/06, who had already been arrested by the ATS in other cases. I produced both before the remand court after getting them medically examined. They were remanded to police custody till 04/09/06. I recorded the statement of constable Bharat Bawalekar of the ATS on 29/08/06 as he had brought two sealed packets from the FSL containing exhibits taken charge of by Bandra Railway Police Station from the place of blast and were sent to the FSL for examination and analysis. I arrested one accused Ehtesham Siddhiqui on 08/09/06, who had been arrested by the ATS in other cases. I produced him before the remand court after getting him medically examined. He was remanded to police custody till 14/09/06. He was further remanded on 14/09/06 to police custody upto 22/09/06. PI Khandekar who was the investigating officer of CR No. 156/06 of Borivali Railway Police Station submitted a proposal on 28/09/06 to the superiors for permission to invoke the provisions of the MCOC Act to the said case as there was a conspiracy. The permission was granted and the provisions of the MCOC Act were applied.

2. ACP Patil asked me on 04/10/06 to produce accused Muzzammil before DCP, Zone-V Dnyaneshwar Phadtare for recording his confessional statement under the provisions of the MCOC Act. I produced the accused before him accordingly at 3.00 p.m. on that day with a letter addressed to him given by ACP Patil. The letter Ext. 919 now shown to me is the same, it bears the signature of ACP Patil and acknowledgment of DCP Phadtare. DCP Phadtare took the accused in his custody and gave me a letter to that effect and asked me to leave his office with immediate effect. The letter Ext. 920 now shown to me is the same, it bears my signature of having received it. After returning I instructed to make the station diary entry. The entry no. 14 in the original station diary is the same, its contents are correct. The contents of the true photocopy of that entry are as per the original. (It is marked as **Ext.1753**).
3. I received a letter from ACP Patil on 12/10/06 directing me to handover the case papers after indexing them as the provisions of the MCOC Act were to be applied to all the cases including my case and as he was the common investigating officer of all the cases. I indexed all the case papers on 13/10/06. before handing them over to

ACP Patil. I went to the MM, 2nd Court, Mazgaon and filed two separate applications. One was to discharge the accused Khalid Shaikh and Mumtaz Choudhary from my case CR No. 86/06. The second application was to terminate the proceedings of CR No. 86/06 that were in that court. The court granted both the applications. Thereafter, I handed over the case papers to ACP S. L. Patil. He recorded my detailed statement on the same day about the investigation conducted by me in CR No. 86/06. Thereafter, he registered a common CR No. 05/06 of the ATS for all the seven cases of the bomb blasts. I assisted him in the further investigation.

4. ACP Patil instructed me on 20/10/06 to record the statement of one eye-witness Devendra Lahu Patil, who had come to the ATS office and stated that he was traveling in the train in which the blast had occurred at Jogeshwari and had seen two persons. I recorded his statement and handed it over to ACP Patil. Thereafter, ACP Patil directed me on 07/11/06 to go to Arthur Road Prison along with SEO Kirti Purandare, two panch witnesses and eight eye-witnesses and to request the jail authority to arrange for test identification parade. Accordingly I along with these persons proceeded to the Arthur Road

Prison. On reaching there, I asked them to wait outside the jail. I went inside, contacted the concerned officers of the jail, showed them the necessary documents including the court order and requested them to make arrangements for the parade. Thereafter, I came out of the jail and waited outside. After some time, the jail officers called SEO Purandare, two panch witnesses and eight witnesses inside the jail. I kept waiting outside the jail. ACP Patil arrived there after some time with another SEO by name Barve and two panch witnesses. We were waiting outside. After the first parade was over, SEO Purandare came out and handed over the memorandum of the test identification parade to ACP Patil. Thereafter ACP Patil went inside the prison and requested the jail authorities to make arrangements for the test identification parade by SEO Barve. He came out and then after some time the jail authorities called SEO Barve and two panchas inside. I and ACP Patil waited outside the prison. After the second parade was over and other formalities were completed, SEO Barve came outside along with all witnesses and panchas. Then along with the witnesses and SEOs we returned to the Bhoiwada ATS office at about 1630 hours. The panchas went away from the prison. Station

diary entry was made after returning to the office. SEO Barve handed over the memorandum of identification parade to ACP Patil at the office. Further statements of the eight witnesses were recorded by other ATS officers in connection with the test identification parade.

5. I again proceeded to the Arthur Road Prison on 08/11/06 as per directions of ACP Patil in connection with the third identification parade that was to be conducted by SEO Deepak Bendje. I went to the jail with the SEO, two panchas and same eight witnesses. On reaching the jail I asked them to wait outside, I went inside, showed the necessary papers to the concerned jail officers and requested them to make arrangements for holding test identification parade. I then went out and waited outside. After some time the jail officers came out and took the SEO, panchas and witnesses inside. I waited outside. After the parade was over all of them came out. I took the SEO and the eight witnesses to the ATS office reaching there at about 1600 hours. Station diary entry was made to that effect. SEO Bendje handed over the memorandum of the identification parade to ACP Patil. Other ATS officers recorded the statements of the witnesses under the direction of ACP Patil.

6. I will be able to identify the accused Muzzammil, whom I had taken to the DCP. (Witness looks around the court hall and points to the accused no. 9 sitting in the dock. He is asked to stand up and tell his name, which he states as Muzzammil Aatur Rehman Shaikh). He was the same accused.

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

7. My statement was recorded for the first time on 13/10/06. My statement was not recorded till the submission of the chargesheet thereafter. I did not volunteer to the investigating officer to record my statement. I do not know whether the witness Devendra Lahu Patil had visited the ATS office before 20/10/06. He had come to the office at about 10.00 or 10.30 a.m. on 20/10/06. I completed his statement at about 1200 noon. I had started recording his statement at about 10.30 a.m. I left the office after completing the statement. I do not know whether the witness also left after his statement was completed. ACP Patil had introduced him to me and had asked me to record his statement. There was no other officer with me when I recorded his statement. Only I questioned him and recorded his statement. I myself typed the statement and took out the printout. I

do not remember whether I sent him to the chamber of ACP Patil after his statement was over. Before that day no one from the ATS officers had given any clue about that witness. There is no reason why I did not put the timings of recording the statement. I did not mention in the station diary about recording the statement.

8. PI Vijay Salaskar was in the ATS, but not in my team. Sometimes he used to sit in the ATS office at Nagpada, Bhoiwada, Kalachowki and Chandan Cinema. He was junior to me. I reported to the ATS on deputation on 12/07/06 and since then we were helping in the investigation parallel to those that were being conducted by the railway police officers. I was deputed from Police Station Nagpada. I do not know whether PI Salaskar was taken on deputation by written order, but he used to come there and investigate the case regularly. I do not know whether he arrested any accused. API Alaknure was in the team of PI Salaskar. There were 2-3 more officers in his team, but I do not remember their names. I do not know who was the head of his team.

9. I had interrogated the accused Muzzammil on some occasions before 04/10/06. I will not be able to tell the precise dates of the

interrogation. He was in my custody for 14 days. I interrogated him probably every day during his custody period for various durations, sometimes for half an hour, one hour, two hours, etc. The interrogation was not upto my satisfaction, because he was disclosing only peripheral information and was evading to disclose crucial information that would reveal his complicity or complicity of any of his associates. During this period he did not volunteer to make any statement before me and did not show his willingness to give confessional statement. The provisions of the MCOC Act were first applied to one offence, i.e., CR No 156/06 of Borivali Railway Police Station on 28/09/06. It was not applied to the remaining cases on that day. I do not know how many accused were arrested in that case upto that day.

- 10.** I do not know the initial dates of arrest of the accused Zameer, Faisal and Muzzammil and Khalid and Mumtaz and in which crime. They were in police custody for approximately two remands before I arrested them. It is true that none of the accused whom I arrested in the crime that I was investigating, had volunteered to make any statement before me or expressed desire to make

confessional statement. Some 3-4 accused had been initially arrested in CR No. 77/06. I took the accused in my custody from their custody CR No. 41/06. Khalid and Mumtaz had been arrested and interrogated before I arrested them in my crime. Since I joined the ATS, ACP Patil was there as our superior ACP. I had discussions with the previous investigating officers from whom I took the custody of the accused. The accused had been arrested and investigated in two crimes before I took their custody. The involvement of the accused Khalid and Mumtaz had not been established *prima facie* in the previous two crimes. Khalid was arrested from Madhubani and Mumtaz was arrested from Navi Mumbai. The ATS officers had arrested Mumtaz, but I do not know their names. I do not remember whether 13/10/06 was their remand date. After they were remanded to JC on 30/08/06, they were taken in custody in other crimes and I used to remain present during their interrogation sometimes upto 13/10/06. I may have interrogated them two or three times during this period. I cannot say when I interrogated them last time and on what dates. I do not remember whether Mumtaz was from Maharashtra or Gujarat and whether he was related to any of the other accused. I do

not know whether both these accused were discharged from other cases also on that day.

11. I may have interrogated the accused Muzzammil on two or three occasions between 04/09/06 and 04/10/06 for one hour or so. I do not remember the last date of interrogation. I may have interrogated him approximately 10 days before 04/10/06. During this interrogation before 04/10/06, the accused did not volunteer to make any disclosure to me or express his desire to make a confessional statement. I am not aware when and to whom he expressed his desire to make a confessional statement. I came to know about it for the first time on 04/10/06 when ACP Patil directed me to take him to the DCP.

12. I started from the ATS office at 2.15 or 2.20 p.m. and reached few minutes before 3.00 p.m. at the DCP office. I immediately left the office after handing over the accused and the letter to the DCP. I was not aware what developments took place thereafter and where the accused was sent. DCP Phadtare did not tell me directly as to in which police station he was keeping the accused and in the custody of which police officer. When I gave my

statement to ACP Patil on 13/10/06 I was remembering that I had taken the accused to DCP Phadtare on 04/10/06. I did not make any reference to this when I gave my statement. I did not write the station diary entry Ext. 1753. I do not know who made it. After returning I reported to ACP Patil and then he gave instructions to make the station diary entry. Even after looking at the handwriting, I cannot say who wrote it. Policemen from Mahim Police Station were not already at the office of DCP Phadtare when I reached there. After I came out from the DCP's cabin, I learnt that they were giving message to Mahim Police Station to call their officer and staff. I do not remember now whether I did not come to know the name of the officer from that police station who had come there. I did not see any staff from Mahim Police Station entering the cabin of the DCP and the DCP giving them any instructions in my presence. I only reported to ACP Patil that I handed over the letter and the custody of the accused to the DCP and nothing more than that. There was one more officer and some staff with me when I took the accused to the DCP, but I do not remember their names. I casually informed ACP Patil that the accused has been sent to Police Station Mahim. I informed this on

the basis of whatever I had learnt as I felt necessary. After I came out of the DCP office and before leaving it I learnt about it. After coming out of the DCP's cabin I never again entered it. I waited for about 5-10 minutes outside the cabin of DCP Phadtare after I came out. The administrative staff of the DCP's office was giving message to Mahim Police Station and I came to know there that he had been sent to that police station. I did not instruct anyone to make the station diary entry. The entire station diary entry was made on the instructions of ACP Patil.

- 13.** I gave the instructions to the subordinate staff on 12th or 13/07/06 about traveling in the local trains. They reported to me about having traveled in the local trains and about not getting any clues. I do not know whether they traveled single or together. Some of them traveled once and some twice or thrice. I did not record anyone's statement. It was a necessary step and if it would have given result, then it would have been important. I did not disclose this to ACP Patil when I gave my statement. I did not collect any identify proof from Devendra Lahu Patil. He had shown me his identity card, but I did not take it. It was an identity card of customs clearing agent. I do not

know who had issued it and its validity period. According to the information that he gave, he was an intermittent traveler of western, central and harbour lines as per his job requirements. For some period he used to hold pass and sometimes he used to purchase tickets. I think he had purchased a first class ticket on that day from Churchgate for going to Jogeshwari or Goregaon. I asked him whether he can produce the ticket or pass, but he was not able to produce it. He was resident of Mumbra in those days.

- 14.** I came to know on 06/11/06 about the parade to be held on 07/11/06 as ACP Patil told me to come early to take the SEO and the panchas to the prison. The panchas were called to the office between 9.00 -10.00 a.m. Someone other than me called the panchas under the directions of ACP Patil. I did not ask the panchas about their particulars. I did not ask them specifically whether they had acted as panch witness in the same case earlier. I did not know any of the three SEOs before that day. They were called at the instance of ACP Patil. The blast had taken place in 637 down Borivali semi fast local train.

(Adjourned for recess).

Date : 18/11/11**Special Judge****Resumed on SA after recess****Cross-examination by Adv Wahab Khan for A2, 7, 10, 12 & 13**

15. It is not always that timing of recording of statements of witnesses is required to be written in the case diary. (Witness is asked to go through the case diary of CR No. 156/06 of Borivali Railway Police Station and CR No. 05/06 of the ATS). It is mentioned in the case diary dated 20/10/06 that I had recorded the statement of Devendra Lahu Patil. However, the time of recording of statement is not mentioned. It is true that I was not investigating this crime. It is not true that I was supposed to make a station diary entry after recording his statement. I recorded his statement at Bhoiwada ATS office. ACP Patil used to sit there for the whole day. The statement of the witness now shown to me is the same, it bears my signature and its contents are correct as stated by the witness. He had not stated before me that when he reached the platform, the Churchgate-Borivali 5.36 p.m. slow local was coming to the platform, that when the train stopped on the platform he boarded the first class bogie that was fourth from the motorman cabin, that the train was on platform

no.2, that he entered the bogie from the direction of Hutatma Chowk, that he stood near the last row of seats in between the gap of the two rows of seats. He had stated before me the portions marked A to E from his statement. (They are marked as **Exts. 1754 (1 to 5)**). He had not stated to me that after entering the train, they turned right and went towards the seats on the east side towards the Hutatma Chowk side (emphasis on 'towards the Hutatma Chowk side'). He had stated to me that that person kept his bag below the seat near the window that was facing towards Churchgate. He had not stated to me that the explosion took place after the train started from Jogeshwari, that for two-three minutes he did not know what had happened, that when he came to his senses, he somehow got up. He had not stated to me that for his work of custom clearing, he was required to go to Sewree or Mumbai Docks or Andheri Cargo, that he mostly used to travel by train for his work, but if he was late he used to travel by taxi or autorickshaw, that the work there was finished in one and a half hours. He had stated that his work was over in between 1500 to 1715 hours and he wanted to go to Goregaon-Malad. He had not stated to me that the train stopped on the platform. He had stated that he had

boarded the first class bogie, but had not stated that it was fourth from the motorman's cabin. He had not stated to me that the train was on platform no.2, that he entered the bogie from the direction of Hutatma Chowk, that he stood near the last row of seats in between the gap of the two rows of seats, that some people were sitting and there were some vacant seats. He had stated to me that he got down on the west side, but had not stated that he somehow got down on the west side and went to the service road. He had stated to me that he had caught an autorickshaw and went home. He had not stated that he told the rickshaw driver to take him to Dahisar Check Naka, that there was a heavy traffic ahead and he somehow reached Dahisar Check Naka, that he left the rickshaw there and caught another rickshaw for going to Mira Road and after reaching Mira road he went home. He had stated to me that because of the fall he had sustained dumb injuries to his back. He had not stated to me that as persons had fallen on him he had not sustained any injuries, that as he had not sustained any injuries and there was only whistling sound in his ears, he did not go to any doctor.

16. ACP Patil was not with me when I took the statement of

the witness. He was in the adjoining room. I cannot tell the timings between which my statement was recorded, but it was in the afternoon. I did not record the statement of PI Kadri. ACP Shengal handed over the original case diary of CR No. 86/06. I checked all the papers with reference to the case diary. I did not find that the case diary was tampered. I did not realize that there were some statements in the papers, but there was no reference about them in the case diary. It is not true that the case diary was tampered with, that I forwarded many statements of witnesses who were not referred to in the case diary. PI Kadri could not trace any eye-witness during his investigation. I did not trace any eye-witness in the crime that I investigated. I had gone through the portion of the final report filed by ACP Patil that was concerning my investigation. I could not ascertain the identity of the suspects, whether they were Indian or foreigners and how many they were, in the crime that I investigated. This conclusion continued upto the final report.

17. I had taken the custody of nine accused in the crime that I investigated. It was my decision as well as our collective discussion about the inputs received upon interrogation of the

accused. I did not prepare arrest panchanama in the crime that I investigated. Each of the accused were in my custody for 14 days. I interrogated them thoroughly during that period. I did not have sufficient evidence to file chargesheet till the investigation of that crime was with me. I did not make such a noting in the case diary, because we do not make negative note and there were hopes that some evidence would be gathered in the further investigation.

18. It is not true that the ATS did not have the powers to arrest the accused under Section 302, 307 of the IPC, under the Explosive Substances Act and the UA (P) Act on the dates when I arrested the accused.

19. It is true that various teams were formed for making the investigation from various angles. All teams were sharing their information with each other. It is true that ATS officers were examining local and foreign calls just before and after the blasts. I do not know whether the first clue that the ATS got was from an SMS. I was not in the team examining the call details. I do not know who were the officers doing that work. I do not have knowledge today as to which officer was doing what work. I did not take any accused for

narco test to Bangalore. I did not get definite information during interrogation of the accused that I arrested, as to whether they were using mobiles. I am not aware whether call detail records were called from various mobile companies.

- 20.** I had made proper applications to the MM, 2nd Court, Mazgaon for remand on all occasions. I personally went for remands. I was partly aware that other officers had calls detail record. It is not true that I wanted to confront the accused with the calls detail record. The ATS is maintaining the copies of the remand applications. I had given remand applications under my signatures. I was strongly suspecting at the time of remand that these accused had committed the bomb blast at Bandra. I was not aware that there was seizure of mobile phone belonging to the accused Tanveer from his brother Ishtiyahq Ahmed Mohd. Ansari. I do not remember, but I might have requested the magistrate that I wanted further custody of the accused Tanveer as I wanted to confront him with the mobile seized from his brother and with the calls detail record. If the remand application is shown to me, I will try to remember whether I had examined the calls detail record. Remand applications were kept at the ATS office. It may

have been my contention in remand application dated 17/08/06 that I want the further custody of the accused Tanveer for further interrogation in view of seizure of mobile phone from his brother Ishtiyag on 16/06/06 and his physical presence is required to corroborate him with retrieved data in order to make further progress in the investigation (Learned advocate calls upon the prosecution to produce the remand applications in this case).

- 21.** I was knowing Swati Sathe, Supdt. of MCP. I do not know whether she visited the ATS office many times. Commissioner of Police A. N. Roy used to visit the ATS office. I cannot say whether he used to come 3-4 times in a week. I cannot say whether he used to visit the ATS before arrest of the accused or after. Sometimes he used to discuss about the progress of the investigation in this case with us. I never reported directly to him. He was not giving any directions about the investigation. I cannot disclose what used to happen in the meetings as it is confidential. I have no idea whether more than 20-30 such meetings had taken place. I do not remember whether I had met him on more than 20-30 occasions with other officers, therefore, there is no question of remembering whether I had

met him prior to application of provisions of the MCOC Act. I do not remember having met Swati Sathe at the ATS office. I met her in the prison when I went for test identification parade. I did not make inquiry with her about the accused arrested in this case. I think I have recorded her statement, but I do not remember exactly. I do not remember the exact date, but it was probably in Arthur Road Prison. She was one of the officers who was giving directions and arranging the identification parade. I went to the Arthur Road Prison from the ATS office. Sachin Koltharkar and Siddharth Jadhav were the panch witnesses, who were with me when we went to the jail. I do not know who called the panch witnesses. I do not remember whether PI Tajne was present in the ATS office at that time. I have no idea whether he provided the witness Sachin Koltharkar. I was aware that professional and repeated panchas should be avoided. I did not question these two panchas as to whether they had acted as panch witnesses earlier. The SEO did not question them in my presence. I went from the ATS office Bhoiwada to the jail. I left the office at about 10.00 a.m. We all went in two vehicles. I cannot tell the number of vehicles. I was sitting in a Bolero vehicle, but I cannot tell about the other vehicle.

SEO Purandare was with me. SEO Barve was present in the office when I left. ACP Patil was in the office at that time. I do not know whether API Alaknure was at the prison, but there was one police officer present outside. I was in the ATS office from 9.00 to 10.00 a.m. before going to the jail. I met SEO Purandare and Barve for a short time. I did not introduce the witnesses to the SEOs. They were not introduced in my presence in the office. It did not happen that SEO Barve came directly to the jail and was not at the ATS office. ACP Patil was not with me when I handed over the request letter and court order to Swati Sathe. I was with ACP Patil till the first parade was over. After SEO Purandare and panchas came out, ACP Patil went inside the jail alone. I do not think that ACP Patil was inside the jail when SEO Barve was also inside.

(Adjourned as court time is over).

Date : 18/11/11

(Y. D. Shinde)
Special Judge

Date : 21/11/11
Resumed on SA

- 22.** (Learned advocate requests for permission to inspect the list of witnesses that is filed with the chargesheet. Permission granted). I do not know whether the panch witnesses Sachin Koltharkar and Siddharth Jadhav were provided by PI Tajane. It is not true that they were taken for the identification parade for pointing the accused to the witnesses. I did not instruct the SEOs to bring panchas that were known to them. I did not take statements of the SEOs or the panchas.
- 23.** I maintained the case diary of investigation of CR No. 86/06 as per the investigation that I did. Statements of witnesses recorded by investigating officer are placed before the superior officers. It is not necessary that they put their signatures with dates of having seen the statements. There are no initials of other superior officers on the statement of Devendra Lahu Patil other than of ACP Patil. On seeing the case diary I can say whether there are any instructions of the superior officers about further investigation on the basis of the statement of this witness. (Learned advocate asks the

witness to go through the case diary). It is not true that it is necessary to write the case diary daily and even on holidays. (Witness is shown The Bombay Police Manual, 1959, Vol-III, Sub-rule-9 of Chapter-VI of Rule-225). I agree that case diary should be written upto the evening including on holidays, if there is any investigation. It is not true that the superior officers are required to initial the panchanamas, statements of witnesses and case diaries when they inspect them. (Witness is shown The Bombay Police Manual, 1959, Vol-III, Sub-rule-5 of Chapter-IV of Rule-135). I say on reading the sub-rule that it is not a hard and fast rule. They are generally required to do so to show their presence during the investigation, but it is not a hard and fast rule. It is not mandatory that recording of statement of witness should be mentioned in the corresponding station diary.

24. Officers and staff of L. T. Marg, Borivali, Matunga, Mahim, Azad Maidan and Bandra Police Stations may have been attached to the ATS during that period.

25. All the investigating officers of different crimes may be conveying the progress in their investigation to other officers most of the times. It is not true that it was decided amongst ourselves as to in

which crime the custody of the accused should be taken. I have no idea whether apart from custody application, another application for taking custody of the accused in another crime was kept pending with the magistrate. It did not happen in my presence that all the investigation officers in the seven crimes went to the court at the same time asking for custody of the accused. I do not know whether there was no evidence against the accused no. 1 Kamal Ansari when he was arrested. No one suggested me to arrest him in the crime that I was investigating. I do not know what was the material against him in the other crimes. I arrested him on strong suspicion about his involvement in the crime that I was investigating as well as on inputs. I cannot disclose the inputs. I do not remember in what other crimes Khalid and Mumtaz were arrested. It did not happen that after their arrest in my crime, the ATS left the hope of getting some evidence against them. I did not suggest to any other investigating officers to arrest them in their crimes. I do not know whether they were arrested in all seven crimes. I did not immediately apply for the discharge after their police custody period was over. I do not know when I arrested them, as to what was the evidence in the other crimes

against them. It is not true that I had prepared a false story, that these two accused did not fit in that story and therefore, they were discharged. I did not investigate CR No. 156/06 of Borivali Railway Police Station. I was not knowing what was the investigation, recovery and eye-witnesses in that crime. I did not appraise PI Khandekar about the progress made in my crime. I had discussions with him on some occasions about my investigation. I did not suggest to him about submitting a proposal for invoking the provisions of the MCOC Act. I did not suggest to him that there was a common conspiracy. I do not know what was the material available for submitting the proposal.

- 26.** There is no station diary entry about my leaving the ATS office taking the accused no. 9 Muzzammil to the DCP office. It was not mandatory for me to make an entry as the case was being investigated by ACP Patil. It is necessary for the IO to make station diary entry if he leaves the police station or the ATS office for important work. I cannot say why the station diary entry is not made in this case. The accused did not express their desire to make a confessional statement when they were in my custody.

Q. Whether the contents of the station diary entry Ext. 1753 are as per your instructions ?

A. The station diary entry was made as per the report made by me to ACP Patil.

I had obviously conveyed all the details in the entry to ACP Patil. I did not go through the entry before entering the witness box.

27. It is not true that it was just a formality to take the accused in custody in my crime. I personally did not fill up their arrest forms. I did not prepare their arrest panchanamas as they were already in police custody in other crimes and I got their custody at the time of their remand. My custody was not in continuation of the earlier custody. I complied with the Supreme Court guidelines after their arrest. I do not know whether I have to prepare independent arrest panchanama as per D. K. Basu's case.

28. I have no idea whether Pakistani national Riyaz Nawabuddin was arrested by the ATS in this case under the Arms Act. I do not remember about it now. Other officers did not suggest that he should be arrested in my crime.

29. I do not read newspapers and see the news channels

on television. I do not know whether Jt CP Rakesh Maria had made a statement to the media that all the blasts in Mumbai after 2005 were committed by Indian Mujaheedin persons who had been arrested. I had not drawn any inference till the time the investigation of the crime was with me, that there was a single conspiracy. The ATS had appointed seven different officers for investigating the seven crimes registered with the railways. I do not know about the other investigating officers of the railway police. I did not know all the facts of all the other crimes during the investigation of my crime. I am not aware whether all the police stations within the state were alerted for tracing the suspects by spreading the information network and whether all the police stations were instructed to call people with previous record of being involved in unlawful activities and were under observation. It is not true that I wanted the accused to be clinically examined by lie detector test, narco analysis and brain mapping in the FSL. I have not heard about Dr. Malini Subramaniam of FSL, Bangalore. I do not know whether she was a bogus doctor having forged educational documents. I do not remember whether the accused were sent for narco analysis three times to Bangalore. I do

not remember how the accused were picked up by the local police stations, crime branch or the ATS. I do not remember how the accused no. 2 Tanveer was picked up. I have no idea whether he was called on 20/07/06 at 2045 hours to the DCB CID, Unit-II, whether he was allowed to go and again called on 21/07/06 and allowed to go at 1600 hours and again called on 22/07/06 and allowed to go at 1545 hours, whether he visited on 23/07/06 at 1800 hours as called and from there he was transferred to the ATS office at 2200 hours and later on shown as arrested, whether his house was searched on 26/07/06. I do not remember whether on 01/08/06 the house of his brother was searched and some seizure was made. I have no idea whether officers from Khandwa were visiting the ATS office during this period. I never visited Khandwa. I do not know whether any ATS officers visited Khandwa. I was not sure upto 11/09/06 that the offenders of all the seven crimes are of one group or of different groups. I am not aware whether the accused no. 2 Tanveer was called to the Kurla Police Station in respect of earlier registered LAC case. I am not sure, but I had heard that he was a well educated BUMS doctor working as registrar in Sabu Siddiqui

Hospital, Dongri. I do not know the details of the recoveries that were made at his instance. It did not happen that I relied on the investigation carried out by the Metropolitan Police, London in respect of recovery that is shown at his instance. Earlier I was knowing many of the above things, but now I have forgotten. It is true that the accused no. 2 Tanveer had filed Criminal Writ Petition no. 1850/06 in the High Court and I had filed an affidavit as an inspector of police of ATS. I do not remember whether the above contentions were made by me in my affidavit. It is not true that I filed the false affidavit and I deposed falsely about not remembering the contentions made in the affidavit.

30. I had heard that vital information was gathered during the narco tests of the accused at Bangalore. I had stated to ACP Patil that the accused no. 1 to 4 had been taken for narco analysis, brain mapping and lie detector tests to Bangalore and vital information had been obtained from the tests. I was investigating the crime upto 13/10/06.

31. It is not true that the ATS, local police stations and crime branches are getting daily police news bulletin in the form of

police newspapers, etc. In the case of emergency we call sketch artists, if required. I did not call the sketch drawer when the witness Devendra Lahu Patil was before me, as I was not the investigating officer. He did not prepare a sketch of the spot in my presence. I did not ask him to accompany me and show where he was exactly sitting in the train.

32. I did not get the accused no. 9 Muzzammil medically examined when I took him to the DCP. I do not know whether there was swelling on his hand at that time. It is not true that he was not in a condition to walk properly. It is not true that I and my superiors had tortured him, therefore I did not take him for medical examination.

33. I did not receive any written intimation about my deputation to the ATS, but a wireless message was received in the Nagpada Police Station. There was no chief IO for all the seven crimes that were being investigated by the ATS officers, but there were supervising officers. ACP Bhat was one of the supervising officers. He committed suicide. I do not know the reason. It is not true that he committed suicide as he was pressurized by the senior officers to frame the accused in this case. It is not true that ACPs

Shengal and Tawde were the chief IOs of this case. I was not involved in the investigation of the Malegaon blast of 2006 and had not taken part in any investigation in that case. I do not know whether ACP Shengal was the IO of that case. I do not think that the ATS did not have the power upto 31/08/06 to arrest and keep in custody any person under sections 302, 307 of the IPC, provisions of the UA (P) Act and Explosive Substances Act. It is not true that I prepared false statement of Devendra Lahu Patil on the instructions of my superiors, that I wrongly kept the accused in my custody. It is not true that I prepared the station diary entry Ext. 1753 on the day when I came to give evidence. It is true that the investigating officers of other crimes used to question the accused when they were in my custody in respect of their cases. I used to question them when they were in the custody in other crimes. I do not remember whether Khalid and Mumtaz were taken for narco analysis tests.

- 34.** The accused were interrogated sometimes in the lockup and sometimes in the office. Entry is usually made in the lockup register while taking out the accused from the lockup and while putting them back. I cannot say whether when the accused

used to be taken out from the Bhoiwada lockup, they used to be interrogated in the Bhoiwada office and used to be taken to the other units of the ATS and to the crime branch office at Kurla. It is not true that I gave false evidence.

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

35. It is true that all the seven crimes were being investigated at the same time. Pls Rathod, Wadhankar, Vijay Kadam, Iqbal Shaikh, Khandekar, Agarwal were the other ATS officers investigating the other crimes. We all were coordinating amongst ourselves. It is not correct that because of this coordination the accused came to be arrested in all the crimes. I did not take the action of arresting the accused in my crime exclusively on the basis of this coordination. I do not remember whether I had stated when I gave my statement that I relied on the interaction with the other investigating officers for arresting the accused in my crime. The accused were in custody in other crimes. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'A'). I had stated so to ACP Patil, but I had also stated the word 'exclusively'. This word is not in the statement.

36. I was available to ACP Patil after 13/10/06 for whatever steps I took. I have not seen with my own eyes whether there is no record of my participation in the investigation after that date. It is true that my deposition about my part in the investigation after that date is for the first time. I do not remember the names of the other ATS officers who were with me on 7th and 08/11/06 when I took the SEOs, panchas and witnesses to the Arthur Road Prison. I did not try to find out from where the presence of the panchas was secured and their connection with the officers. I have no idea whether SEOs appointed by government reside in Bhoiwada and Kalachowki area. I had no talk with the SEOs in connection with their connection with the police officers. I have no idea whether the jail staff had made any entry about my entry in the prison along with documents.

(Adjourned for recess).

Date : 21/11/11

Special Judge

Resumed on SA after recess

37. I talked only with the jail officers, one was Swati Sathe and the other was probably the jailor Patil. I have no idea whether jailor Patil was making any entries in the register. I introduced myself

to them in the beginning. Swati Sathe was sitting in her office inside the jail. Jailor Patil was with her, but I do not know whether he had his table there. Swati Sathe was the jail superintendent. I do not remember whether I had seen other jail officers sitting in other rooms. I did not make any inquiry with the SEOs or panchas regarding the procedure that they followed in the jail. I immediately came out of the jail after meeting Sathe. I do not remember having seen a jail officer sitting near the door after entering and one near the inner door. I was not given any number when I entered. I have no idea whether the SEOs and panchas were given numbers. I do not remember who were the other officers ATS officers with ACP Patil. I do not remember the number of officers working under ACP Patil at Bhoiwada on 7th and 08/11/06. I do not remember the officers who were present on those days at Bhoiwada office. I was near the Arthur Road Prison from 11.30 to 3.30 p.m. on both days. I have not kept any record about going to Arthur Road Prison along with SEOs and others.

38. I was at Nagpada Police Station on duty on 11/07/06. I was deputed and I joined to the ATS on 12/07/06. Teams of the ATS

officers were formed for the purpose of investigation on 12th or 13/07/06. I cannot say whether I was the first officer who was entrusted with the investigation of a crime on 20/07/06. I had come to know till that time that all the blasts had taken place in the first class compartment of the local railways. I have no idea whether the details of the injured persons had been made known to the public before that date by various means. I came to know on 20/07/06 that 22 persons had died and 107 were injured in my crime. I visited Bandra Railway Police Station and the place of incident on the same day, but I do not remember the date. I did not come across certain unclaimed articles that were in the custody of the railway investigating officer. I did not try to find it out. I did not get any information about the persons involved in the crime from my subordinates till the time the investigation was with me. I came to know that it had rained on 11/07/06. I do not remember whether I had handed over the remand applications to ACP Patil on 13/10/06. I do not remember today the grounds that were mentioned in the remand applications of the accused no.1 on 14/08/06 and of accused no. 4 on 08/09/06 and in the subsequent remand applications. It is not true that I took the

accused in my custody though there was no material against them with me, that all of us had decided to involve them, therefore, I took them in custody in my crime.

39. There used to be meetings with the superiors in connection with the investigation, but on very few occasions. I have no idea whether there was a hue and cry in the public as no culprits were apprehended upto August 2006. I did not take efforts to find out the steps taken by the local police stations to apprehend suspects. It is not true that I acted to please my superiors.

No re-examination.

R.O.

Special Judge

Date:-21/11/2011

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