

M.C.O.C. SPECIAL CASE NO. 21 OF 2006**DATE:25TH JANUARY 2012****EXT. NO.2082****DEPOSITION OF WITNESS NO.180 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Padmakar Pandharinath Deore

Age : 46 years

Occupation : Service (Asst. PI)

Res. Address : Flat No. 105, C' Wing, Niraj City, Khadakpada,
Kalyan(W), Dist-Thane

Examination-in-chief by SPP Thakare for the State

1. I was attached to Police Station Azad Maidan as PSI in July 2006. I reported to the ATS in the last week of July 2006, as per the orders of the CP. The nature of my duty was to assist the superiors for collecting information, taking the accused for remand and medical examination, verification of information, to guard the accused, etc.
2. In the middle of September 2006, ACP Tawde asked me to meet PI Khandekar. I met him. He told me that he is investigating the Borivali Blast, i.e., CR No. 156/06, that he has got some inputs that there is one SIMI activist by name Asif Khan Bashir Khan, resident of Jalgaon and asked me to take information as to where that person is

and whether there are any cases lodged against him at Jalgaon and to keep the information secret and contact him immediately if I get any information. Accordingly I went to Jalgaon immediately on the same day and reached on the next day morning. PC Chorge was with me. I went to the SP office and met the concerned officers in the District Special Branch, who were handling the cell of SIMI activists. They showed me the record of SIMI activists. The name of accused Asif Khan Bashir Khan and his photograph was in the record and there was information in it that he was the President of Jalgaon unit of SIMI and there were two crimes registered against him. One was CR No. 178/99 and the other was CR No. 103/01 under Section 153A of the IPC, both registered with MIDC Police Station, Jalgaon. The officers told me that CR No. 178/99 had been investigated by the MIDC Police Station and in the second crime the Local Crime Branch, Jalgaon had arrested a wanted accused by name Parvez Khan in August 2006. I noted all this information on paper and requested them to give me copies of the photographs of Asif Khan Bashir Khan.

3. I then went to the office of the LCB, which is on the ground floor in the same building and met PI Thakare and his staff who were

there. I asked for the papers of CR No. 103/01 and went through them. I came to know that 10-12 accused were arrested and 6-7 accused were wanted and chargesheet was sent in the Sessions court and some accused had been convicted for 10 years. It was also revealed that during the interrogation of the wanted accused Parvez Khan, the full name of wanted accused Asif Khan was disclosed as Asif Khan Bashir Khan @ Junaid. I took notes of all this information.

4. I then went to the MIDC Police Station. I met API Dhakrao and HC Pradeep Badgujar, who was in the confidential branch of the police station. I took information about the status of the case of CR No. 178/99. They told me that RCC No. 219/01 was registered in the court and it was disposed off. They did not have any details about the case. I collected photocopies of the FIR and other papers of both the crimes from them. I took HC Badgujar with me and went to the court and met the APP working in the CJM court and asked him whether we could see the case papers. We went to the court and court staff brought the case papers from the record and I perused them. On going through the case papers, I came to know that one of the accused in that case had been acquitted in the year 2002 and the

other accused who was Asif Khan Bashir Khan was shown as proclaimed offender in March 2002. I noted down all the details and the dates and told the APP that I wanted copies of relevant papers. He told me that an application will have to be moved. I told him to make the application and he moved it on the same day itself. He told me that the copies would be available after 2-3 days.

5. I then went to the Sessions Court, which is in the same premises to verify the other case. It was late, therefore, on that day we could not get any information. The court staff told me to come on the next day. I then went to the DSB office and collected the copies of the photographs. I then called PI Khandekar on phone and informed him about all the information that I had gathered. This was about the crime numbers of the two crimes, the names of the accused, sections of offences, date of proclamation, date of order of conviction, etc. He wrote all the information.

6. I again went to the Sessions court on the next day. The staff searched, but did not find the papers. They called me on the next day. Therefore, I and the constable with me went around in Tambapura and Shirsoli areas where the accused Asif Khan Bashir

Khan used to be and tried to collect information about him by making confidential inquiry. I went to the Sessions court on the next day and I came to know from the staff there that the convicted accused had filed appeal in the High Court and all the papers were sent there. I then went to the APP in the CJM court and collected the certified true copies of the documents about which the application had been given earlier. I then telephoned the ATS office, Mumbai, ACP Tawde was on the phone. I told him that I had received certified copies of papers of one case and the papers of the other case have been sent to the High Court at Aurangabad in an appeal. I asked him as to what I should do. He told me to send all the documents that I had collected to him and to wait there and he would inform me on the next day as to what to do. I took out photocopies of the documents that I had collected and sent the documents that I had collected with PC Santosh Chorge to the ATS office and told him to hand over the documents to ACP Tawde.

7. I telephoned ACP Tawde again on the next day morning and asked him whether I should go to Aurangabad High Court. He told me not to go to Aurangabad and directed me to meet Addl. SP

(Home), Dilip Sawant. I went and met him. I told him that I wanted the papers from the High Court. He told me to wait at Jalgaon for two days and he would do the needful. Therefore, I waited there for two days and during this period I was taking confidential information about whereabouts of accused Asif Khan Bashir Khan, but I did not get any information. I only came to know that when the offence was committed in 1999 and he was arrested, he had been released on bail and used to attend the court dates regularly. However, after the crime no. 103/01 was registered and some boys were arrested and his name also cropped up in that crime, he left that area and was not seen thereafter. I also came to know that he came some time in between and took his wife and children also and there is no information about his present whereabouts.

8. I went to the office of the Addl. SP on 22/09/06 and met him. He gave me certified copies of documents that he had obtained from the High Court. He instructed me to go to the MIDC Police Station and collect copies of supplementary chargesheet that had been filed against Asif Khan Bashir Khan. I met API Dhakrao and collected photocopy of the supplementary chargesheet. I then came back to

Mumbai and handed over the documents that I collected to ACP Tawde. I will be able to identify them. The certified copies and photocopies Exts. 1506 to 1511 are the same. I had collected the photocopies of Exts. 1509 and 1511 from the police stations.

9. ACP Patil directed me on 26/09/06 to again go to Jalgaon, search the accused, collect certified copies of the documents from the police station and to record the statements of the investigating officers. I went to Jalgaon on the next day and tried to locate the accused with the help of my sources and the HC of MIDC Police Station. I did not get any information. Therefore, I decided to search his house to see whether I can get anything about his whereabouts. I took the search of his house in the presence of two panchas and in the presence of his younger brother Aziz Khan, who was present. I wrote the panchanama, obtained the signatures of the panchas, I signed it and Aziz Khan also signed it. The panchanama now shown to me is the same, it bears my signature and that of the panchas and the signature of Aziz Khan. (It is marked as **Ext. 2083**). I did not find any objectionable thing in his house. I called the brother and father-in-law of the accused to the police station. I inquired with them about

the whereabouts of the accused and took their statements. I also recorded the statement of API Dhakrao and obtained the attested true copies of the FIR, chargesheet and supplementary chargesheet of CR No. 178/99 and FIR of CR No. 103/01. Exts. 1509 and 1511 now shown to me are the same. I showed him the copy of the photograph of the accused Asif Khan Bashir Khan that was with me. He confirmed it on seeing his record and identified him on the basis of the photograph. He accordingly signed a certificate on the backside of the photograph. The certificate behind the photograph is in my handwriting and its contents are correct. The photograph is the same. (The photograph is marked as **Art.376** and the certificate is marked as **Ext.2084**). I got a certificate signed from Aziz Khan, younger brother of the accused Asif Khan, behind another photograph. The photograph is the same and the certificate is in my handwriting and below it is his signature and name in his handwriting. (The photograph is marked as **Art.377** and the certificate is marked as **Ext.2085**).

10. I came to know there that API Dhakrao had only filed the supplementary chargesheet and the investigating officer Tare,

who had arrested the accused and filed the chargesheet, was attached to the Special Branch, Nasik. I also came to know that the Crime No. 103/01 was only registered with the MIDC Police Station, but the entire investigation was done by the Local Crime Branch, Jalgaon. I therefore, went to the office of the LCB, Jalgaon. I came to know that they were still investigating the crime as they had arrested an accused in the last month. I came to know that investigating officer of that crime who had filed the chargesheet was one Subhash Patel who was retired as ACP. I obtained his residential phone number and contacted him, but he was not at home. His wife told me that he had gone to America. PI Thakare who was investigating the crime at the time I had gone there, was also not available as he had gone out for some official work. Therefore, I could not record his statement.

11. I then went to the Nasik on the next day, met API Tare in the Special Branch, inquired with him, recorded his statement and showed him a photograph of the accused Asif Khan Bashir Khan. I wrote a certificate behind the photograph as per the information that he gave about identifying the accused and having arrested him on

03/12/99. The photograph is the same and the certificate is in my handwriting and below it is his signature and name in his handwriting. (The photograph is marked as **Art.378** and the certificate is marked as **Ext.2086**).

12. I returned to the ATS office, Mumbai on the next day and handed over all the documents of the investigation that I had done to ACP Patil. ACP Patil told me on 05/10/06 in the evening that I should produce the accused Ehtesham Siddhiqui before the DCP, Zone-IV Datta Karale on the next day at 9.00 a.m. for the purpose of recording his confessional statement. Accordingly I went to the ATS office at 8.00 a.m. on the next day, i.e., on 06/10/06. ACP Patil was present. He gave me a letter in duplicate addressed to the DCP that he is sending the accused to him for recording his confessional statement. I took the accused in my custody, veiled him, took escort, put him in a jeep and went to Kalachowki ATS office. I made station diary entry at the ATS office. The station diary entry no. 1 in the station diary register now shown to me is the same, it is in my handwriting and its contents are correct. The contents of the true photocopy of that entry are as per the contents of the original entry. (It

is marked as **Ext. 2087**). I then went to the office of the DCP with the accused in veil and produced him before the DCP at 9.00 a.m. I handed over the letters to the DCP and obtained his endorsement on one copy. Ext. 1056 is the letter that I handed over to him. DCP Karale asked me as to in what case the accused is involved and I gave him the particulars in brief. He took the accused in his custody and asked us to leave. I and my staff then went back to the office. I handed over the copy of the letter containing the endorsement of the DCP to ACP Patil. I will be able to identify the accused, whom I had taken to the DCP. (Witness looks around the court hall and points to the accused no. 4 sitting in the dock. He is made to stand up and tell his name, which he states as Ehtesham Qutubuddin Siddhiqui). He was the same accused.

- 13.** On the next day, i.e., on 07/10/06 ACP Patil called me at 4.00 p.m. and asked me to go to Police Station Matunga and meet API Randive and bring back the accused Ehtesham Siddhiqui from him. I went alone to Police Station Matunga, met API Randive at 4.30 p.m. and took the accused in my custody, veiled him and brought him to the ATS office, Bhoiwada and put him in the lockup. I informed

ACP Patil about it.

14. ACP Patil told me on 19/10/06 to go to Jalgaon to record the statement of PI Thakare, who was the investigating officer of CR No. 103/01. Accordingly I went to Jalgaon on the same day evening and reached on the next day, i.e., on 20/10/06, met PI Thakare and recorded his statement. I returned back and handed over the statement to ACP Patil. I was assisting in the investigation till the filing of the chargesheet.

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

15. I will be able to identify a passport sized copy of the photographs Arts. 376 to 378. I cannot say whether the shirt in these photographs show a pocket and a blue coloured pen cap. (Learned advocate asks the witness to see the photocopy of application form at pages no. 0083 to 0087 in Vol-IIIF and state whether similar is the position in the photograph of the accused. As the contents are referred, it is marked as **Ext.2088**). It is not true that the photographs Arts. 376 to 378 are the enlarged copies of the photograph of the accused in Ext. 2088. I did not prepare panchanama when I took the photographs from the DSB office, Jalgaon. I had not given a written

requisition letter to that office. I did not take statement of any officer of that office about handing over copies of the photographs to me. It is true that now except my words, there is no other proof that I obtained the photographs from that office. I did not take stamp of that office or initials of the officers on the photographs. They did not give me any letter about handing over the photographs to me. I did not put the photographs in an envelope and seal them. I have not heard of identification parade of photograph.

(Adjourned as court time is over).

Date: 25/01/12

**(Y.D. SHINDE)
SPECIAL JUDGE**

Date : 30/01/12
Resumed on SA

16. (Learned advocate submits that he admits the documents at pages 0081 and 0089 to 0119 in Vol-III F. Hence, they are marked as **Exts. 2089, 2090 (1 to 9), 2091 (1 to 3), 2092, 2093 (1 and 2) and 2094**).

17. I started at about 9.00 p.m. on 15/09/06 from Mumbai for going to Jalgaon. It is not true that I started on 18/09/06 after 1405 hours. (Learned advocate asks the witness to go through the station diary entry no.15 dated 18/09/06 in the station diary register). The entry is not wrong. (Learned advocate asks the witness to go through the station diary register and state whether there is any entry about leaving for Jalgaon prior to 18/09/06 and about returning back before or after 18/09/06). It is true that there is no entry about I leaving for Jalgaon and returning back prior to 18/09/06 or returning back after 18/09/06. PI Khandekar and ACP Patil did not take my statement. I did not know API Dhakrao, API Tare and PI Anil Thakare before that period. I did not have any talk with them on phone before leaving Mumbai. ACP Patil and PI Khandekar did not give me any information

that they had talked with these officers. I did not take certified copies of documents from API Shamkant Tare and PI Anil Thakare.

18. I have not collected certified copies of two chargesheets before 2006 or thereafter or after this case. I do not know whether two prior chargesheets are necessary for invoking the provisions of the MCOC Act. PI Khandekar had not given me any details about crime numbers, name of accused, name of police station, etc. I met API Dhakrao on 16/09/06 to 22/09/06, 28/09/06 and 29/09/06. I did not feel it necessary upto 28/09/06 to take his statement. It did not happen that whatever documents API Dhakrao gave me, were given on 29/09/06. I do not know whether the documents that I obtained from him before 29/09/06 have been filed in the court. I had not collected certified copies of any document from API Dhakrao before 29/09/06. I had not collected Ext. 1510 by making an application. I had not requested that I want only copy of charge. Addl. SP Dilip Sawant did not tell me that I would get only copy of charge and no other documents. I do not remember what other papers were collected from the High Court and I was not told about it. I was given a bunch of papers, but I did not read them.

((Learned advocate asks the witness to go through Ext. 1510). CR number and name of police station are not mentioned in the charge. I do not know whether the copy of the charge was collected from the record of writ petition, revision or appeal of the High Court. It is true that I did not collect Ext. 1511 from the court. There is an endorsement of true copy on it, but there is no date. It was made before me. The original was examined in my presence on 29/09/06. The book of FIR was with the police station. It is not true that I did not feel it necessary to search for the chargesheet of CR No. 103/01 and to obtain its copy. I did not try to collect the copy of the chargesheet from the court. There is no reason for this. I did not take the copy attested by the police station to the court. I did not tell the police station to give a attested true copy as I do not need a certified copy from the court. I did not personally verify whether the original chargesheet and supplementary chargesheet in CR No. 178/99 was filed in court. Ext. 1509 is of CR No. 178/99. It will be incorrect to say that CR No. 278/99 is written therein.

- 19.** I had recorded the statement of API Tare. (Learned advocate asks the witness to go through the statement of the witness

and to state whether it was revealed that CR No. 178/99 was registered on his complaint). It is true that it was so revealed. The name of the complaint in Ext. 1509 is Shyamkant Manohar Tare. It is true that the two signatures on page 3 of Ext.1509 are different from each other. I do not know whether the signature above the printed words 'signature of Officer- in-charge, Police Station' is of Shyamkant Tare. (Learned advocate asks the witness to compare the signature below the certificate photograph Ext. 2086). I cannot say whether the signature tallies with the signatures of the officer in-charge of the police station or of the complainant in Ext. 1509, because it is in Marathi. I cannot say which signature is of API Tare in Ext. 1509.

20. I did not collect any documents from the CJM Court, Jalgaon. I had asked the APP to make an application for copies. I cannot say whether he gave the application in the CJM Court or in the district court. There was no trial pending in the district court. I do not know whether the certified copy department of the CJM Court was closed when I went there, whether the judicial clerk and superintendent were present. The APP may have filed an application on 16/09/06. I did not go with him for filing the application. He gave

the copy to me on 18/09/06. It is not true that no application was made on 16/09/06 and no copy was given to me on 18/09/06. It is not true that the application was filed on 20/09/06 and copy was received on 22/09/06. (Learned advocate asks the witness to go through the Exts. 1506 and 1507). It is true that they show that application was given on 20/09/06 and copies were issued on 22/09/06.

(Adjourned for recess).

Date : 30/01/12

Special Judge

Resumed on SA after recess

21. (Learned advocate asks the witness to go through the Ext. 1509). The charge under section 153A is not triable by Sessions Court. I cannot say whether SC No. 340/2001 means sessions case number. Ext. 1506 also shows SC No. 240/01. I did not spend any money for obtaining certified copies. No money was demanded from me. The officers there did not tell me that they were required to spend money. (Learned advocate asks the witness to go through Exts. 1506, 1507 and 1508). It is true that the endorsement of the district court shows that Rs.63/-, Rs. 7/- and Rs.56/- respectively were deposited for the copies. It is true that API Dhakrao had given

Exts. 1509 and 1511 on 29/09/06. I did not take the statement of any officer about obtaining Exts. 1506 to 1508. I do not remember whether I did not get copies of chargesheet in CR No. 103/01. It did not happen that the APP at Jalgaon was told on phone to obtain the copies. I do not know what grounds were written in the application for certified copies. I did not sign on any such application. I had not read them. I do not know who paid the charges of certified copies and at whose instance. I had not taken any application or letter with me when I went to Jalgaon. I did not give any written requisition or request letter to any authority at Jalgaon.

Q. Did PI Thakare, API Tare and API Dhakrao state to you when you recorded their statements that they had made an endorsement behind the photographs? (Learned SPP objects to the question on the ground that it will be hit by section 161 of the Cr. P. C. as it amounts to asking the witness about the contents of the statement. Secondly, those witnesses are not examined, therefore, the question cannot be asked by way of bringing on record contradiction or omission. Thirdly, the witness has stated that the endorsement was made by him in his handwriting. In my humble opinion, the question

cannot be allowed as it amounts to narrating contents of the statement, which is not permissible under Section 161 of the Cr. P. C.). PI Khandekar did not take down the information that I gave to him in my presence when I was at Jalgaon. (Learned advocate asks the witness to go through the station diary and state whether any entry was made about he giving the information on telephone). There is no station diary entry about it. It depends upon the person who takes the information to make the station diary entry if any important information is received on telephone. It is true that station diary entry no. 15 of 18/09/06 is made as per the information given on phone. I sent PC Santosh Chorge back on 18/09/06 in the evening with the papers that I had collected upto that time. I had sent relevant papers of CR Nos. 178/99 and 103/01 and certified copy provided by the APP. I had not received Exts. 1506, 1507 and 1510 before 18/09/06 and I had not sent them to Mumbai on 18/09/06. I received Exts. 1509 and 1511 on 29/09/06. There is no statement of any officer that all the above documents were given to me before 29/09/06. I do not know whether PI Thakare and APIs Dhakrao and Tare are available today.

22. I had not taken laptop with me there. I had requested for use of computer for taking the statement. I do not know whether the witnesses and the panchas at Jalgaon are available. API Dhakrao has signed the true copies.

23. I do not know about the procedure for obtaining certified copies from the High Court. The photos of the accused that I obtained from the District Special Branch at Jalgaon were not printed in my presence. They were got printed from a private laboratory. I had paid Rs. 200/- for them, but I have not claimed reimbursement. I did not preserve the receipt as I had told the constable to obtain them. I had given the money in advance. The constable did not tell me about the cost. I do not remember the name of the constable. I gave him the money at about 11.00-11.30 a.m. and I collected the photos in the evening. I had seen the photograph of the accused in the DSB branch. I cannot say of what year the record was. I did not ask about it. I had not seen the photograph on the computer from a CD. It was a single photograph. It was a passport size photograph. I again say that it was a postcard size photograph. I did not obtain an endorsement on the photographs from the DSB that I obtained the copies from

them. I did not feel it necessary to obtain it.

24. I returned to Jalgaon in the morning on 23/09/06. There is no station diary entry about it. There is no station diary entry about PC Santosh Chorge returning to Mumbai. There is no station diary entry about I going to Jalgaon on 26/09/06 and returning to Mumbai on 01/10/06. It is not true that I went to Jalgaon for the first time on 18/09/06, that my superiors had already talked with APP R. D. Pawar before that day, that the applications were made in that court for applying the provisions of the MCOC Act. It is not true that the original of the document Ext.1509 was not in the court, therefore, I collected a copy from the police station. I cannot say whether chargesheet of CR No. 103/01 was not in the court, therefore, I did not give a copy to the IO. It is not true that no chargesheet was filed in the court in connection with CR No. 103/01. It is not true that the copies of the photograph of the accused were got printed at Mumbai from the passport photograph of the accused that was at his service place and the certificates of the officers and his brother behind them were obtained at the ATS office, Mumbai. It is not true that I deposed falsely that I went to Jalgaon on 15/09/06, returned back and then

again went on 26/09/06 in order to cover up the mistakes made by PI Khandekar in his evidence and during the course of applying the provisions of the MCOC Act. It is not true that I did not bring any documents from Jalgaon. I did not meet DCP Nawal Bajaj after returning from Jalgaon.

- 25.** It is true that station diary entries are made while leaving the police station and returning. There is no station diary entry about I resuming duty on 06/10/06. Witness volunteers – the station diary used to be at Kalachowki ATS office and I used to be at Bhoiwada office. The station diary register was not called from Kalachowki office as it cannot be called. It cannot be taken out for urgent work, even if superior officers ask us to do so. The station diary register cannot be taken out from the office. The station diary was not at Bhoiwada office. (Learned advocate asks the witness to go through the station diary dated 07/10/06). It is true that it shows that I came back with the accused Ehtesham Siddhiqui on that day. There is no entry that I returned back to the police station after I took the accused to the DCP on 06/10/06. (Learned advocate requests that station diary entry no. 9 dated 07/10/06 and entry no. 15 dated

18/09/06 be exhibited. Prosecution is directed to furnish attested copies). It is not in my handwriting. There is no entry of 07/10/06 of I having gone to bring back the accused on that day. It is not true that from the time I took the accused on 06/10/06, I was continuously there to pressurize the accused. It is not true that I had taken the accused to the hospital or to the magistrate court. It is not true that in between 6th and 07/10/06, I had gone to the Matunga lockup and taken the signatures of the accused Ehtesham on ready-made confession.

26. I have not taken part in the investigation of Malegaon blast of 2006 and did not go there for that purpose. I do not know who did the investigation and whether the accused in that case were in the custody of the ATS. I did not attend any meeting of CP Roy or Addl. CP Jaiswal. It is not true that I deposed falsely about going to Jalgaon and doing the work there. It is not true that I did not do any work there, therefore, PI Khandekar did not record my statement.

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

27. I did not make any investigation in this case before 15/09/06. I cannot say why my statement was not recorded. I took the

details of two cases on my own and not as instructed by PI Khandekar. It cannot be said that all the papers that I brought have been produced. Other than Exts. 1506 to 1511, I had brought whatever relevant papers of both the crimes from the police station as were available there. They were statements of witnesses, panchanamas, FIR, chargesheets, statements of accused and copies of case diaries. I cannot tell which statements or panchanama that I brought are not on record. I cannot tell the dates of filing chargesheets in both the crimes. I know that supplementary chargesheet in CR No. 178/99 was filed on 22/09/06 against the accused Asif Khan Bashir Khan. Ext. 1509 is the copy of that chargesheet. It was given by the police station. I do not know whether the court has taken cognizance of the supplementary chargesheet. The accused was not in the custody of the MIDC police at that time. He was a proclaimed offender on that day. I came to know about it on 16/09/06 when I went to the court. He was not a proclaimed offender when the first chargesheet was filed. This means that prior to filing of the supplementary chargesheet on 22/09/06, chargesheet was already filed against the accused. Some time after

the filing of the first chargesheet, the accused was declared as a proclaimed offender. The court case number was RCC 219/01. I do not remember the court case number of the supplementary chargesheet that was filed on 22/09/06. I did not try to obtain copies of chargesheet or order of taking cognizance from the court. I am in service since 26 years. If an accused is shown wanted in the first chargesheet, supplementary chargesheet can be filed against him. If a person is arrested and chargesheet is filed against him, supplementary chargesheet can be filed against him, if there are directions by the court. I do not know whether order was taken from the court in CR No. 178/99 under section 173(8) of the Cr. P. C. for further investigation and then supplementary chargesheet was filed. The MIDC police came to know about the directions of filing supplementary chargesheet in that crime, when I obtained the copies of the chargesheet and judgment on 18/09/06. There is no specific direction about filing the chargesheet after arresting the accused or without arresting him. I think the direction is of 2002. I did not obtain the order of taking cognizance by the court in both crimes. I cannot tell the dates of filing chargesheets in both crimes.

28. The supplementary chargesheet was filed in the court of the CJM, Jalgaon. I do not know how many magistrate courts are in Jalgaon. I did not go to the court while filing the chargesheet. I got Ext. 1509 in the night of 22/09/06. Ext. 1509 is the report under section 173 (5) of the Cr. P. C. I do not know what documents like statements and panchanamas were filed with it. There is no stamp of acknowledgment of the court in which it was filed. The court case number is also not mentioned in it.

29. I do not know what proceeding was pending in the Sessions Court and the High Court in respect of CR No. 178/99. No one told me to apply to the Sessions Court for obtaining copies. The offence under Section 153-A of the I. P.C. is triable by the magistrate of the first-class. I do not know where the APP applied for copies. I told him on 16/09/06 to apply for the copies. I met him on 17/09/06 and obtained the certified copies on 18/09/06. I got the copy of the judgment and charge of CR No. 178/99. The certified copies of roznama and charge of CR no. 103/01 were received on 22/09/06 from Addl. SP Sawant. I cannot describe which certified copies I received. I got the certified copies on 22/09/06. I myself brought the

copies and gave them to ACP Tawde. I do not remember whether the copy of the roznama was of the High Court or of the Sessions Court. It was of the magistrate court. CR No. 103/01 was tried in the Sessions Court. I cannot tell whether copies of roznama of sessions court was there. (Learned advocate asks the witness to go through the Exts. 1506 to 1511). There is no roznama of CR No. 103/01. I do not know where it is. I sent the relevant papers that were received from the LCB with the constable. They included copies of FIR and investigation papers. They were about 100 pages. There were 3-4 certified copies of documents that I brought from 23/09/06. They include the copies obtained from the High Court and roznama from the District Court. The other two certified copies were of CR No. 178/99. (Learned advocate asks the witness to go through Exts. 1506 to 1511). Exts. 1510 and 1511 are in respect of CR No. 103/01. It is true that the accused Asif Khan was not arrested in this crime. It is true that except the FIR in that crime, there is no other paper of investigation amongst these documents. The FIR is against nine persons. The name of Asif Khan Bashir Khan is not amongst them. It is true that the copy of the charge does not mention CR No. 103/01. It

is true that offences under Sections 121 to 123 of the IPC though found in the charge are not mentioned in the FIR.

30. I had collected some more papers along with Exts. 1506 to 1511. I do not know to whom PC Chorge handed over the papers when he returned to Mumbai. I do not know where those papers are. I do not know what ACP Tawde did with the documents that I handed over to him. The papers brought by PC Chorge are not amongst Exts. 1506 to 1511.

(Adjourned as court time is over).

Date: 30/01/12

**(Y.D. SHINDE)
SPECIAL JUDGE**

Date : 31/01/12
Resumed on SA

31. I went to the DSB, Jalgaon for the first time on 16/9/06. I did not visit it thereafter. I do not remember the names of the head constables and constables whom I met there. I did not meet API Tare or Dhakrao on that day in the SP office. There is no Superintendent of Police for the DSB branch. The office of the DSB is in the SP office building. I do not remember the name of the SP, Jalgaon at that time. I did not go to the SP office on that day. I met API Dhakrao at the MIDC Police Station on that day and he showed me the papers of investigation. I did not meet any officer in the office of the DSB, other than the head constables and constables. I do not know whether there was any officer in that office in-charge of the SIMI activities. I could not peruse any documents of cases against the accused Asif Khan in that office, because there were no documents there. I was not shown photographs of some other persons suspected to be involved in SIMI activities. The head constables showed me the photograph of the accused Asif Khan. I had collected 4-5 copies of the photograph. The office of the SP is in the Jalgaon city. I met PI

Thakare for the first time on 16/9/06 in his office of the LCB. It was on the ground floor in the SP office building. I collected photocopies of the papers of investigation from him that were in connection with C. R. No. 103/01. They were about 70-80 pages of the chargesheet. I do not know the date of disposal of that case. PI Thakare did not give copy of the judgment. I sent those papers with PC Chorge to Mumbai on 18/9/06. I did not record the statements of PI Thakare or anyone from his office on that day.

32. I reached MIDC Police Station on that day at about 1.30 – 1.45 p.m. and was there for about half an hour. I met API Dhakrao there. It was the first occasion to meet him. It is true that I had not recorded the statement of PI Thakare or API Dhakrao before 29/9/06. I recorded the statements of two police officers, i.e., PI Thakare and API Dhakrao in connection with collection of documents. I recorded the statements of two relatives of the accused Asif Khan, i.e., his elder brother and father-in-law and of API Dhakrao at Jalgaon on 29/9/06. I did not obtain any documents from the relatives.

33. I was contacting ACP Tawde on phone from Jalgaon every evening. I had contacted PI Khandekar on phone from Jalgaon

only on 16/9/06 in the night. I met the APP for the first time on 16/9/06 and told him on that day to apply for certified copies. I did not get any certified copy on 17/9/06. I got one on 18/9/06, i.e., the judgment in C. R. No. 178/99. I sent PC Chorge to Mumbai in the night on 18/9/06.

34. PI Khandekar or ACP Tawde had not given the photograph of the accused when I went to Jalgaon. I met API Tare for the first time on 30/9/06.

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

35. I was assisting in the investigation upto the end of November, 2006. I was not asked to inquire about a particular crime. I was asked to inquire about the history and whereabouts of the accused. I was not required to collect information about the actions and reactions in the society concerning the blasts. I inquired only about the accused Asif Khan. I did not make station diary entry about the information that I gave from time to time. No entries about my visits were made in the offices that I visited at Jalgaon.

36. I went to the office of the DCP at about 9.00 a.m. on 6/10/06 and met him at that time and was with him for about two

minutes. It is not true that I did not have any talk with any officer at that time. My constables, the accused and the DCP were present at that time. DCP Karale asked the accused his name in my presence. I did not have any occasion to have any talk with DCP Karale thereafter. I do not verify whether entries were made in the lock-up register when I took out the accused and put him in the lock-up. I did not produce the accused before any officer of the ATS after taking him out from the lock-up. I did not make any station diary entry about taking him out of the lock-up. It is not true that I deposed falsely at the instance of my superiors.

No re-examination.

R.O.

Special Judge

Date:-31/01/2012

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