

M.C.O.C. SPECIAL CASE NO. 21 OF 2006**DATE: 15TH FEBRUARY 2012****EXT. NO.2255****DEPOSITION OF WITNESS NO.185 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Anami Narayan Roy

Age : 61 years

Occupation : Pensioner

Res. Address : 62, Sagar Tarang, Worli Seaface, Mumbai-400030.

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

1. I retired as Director General of Police, Maharashtra in the year 2010. I was Commissioner of Police from February 2004 to February 2007 in the rank of Addl. Director General of Police. The bomb blasts in the local trains on 11/07/06 were very serious incidents of national importance. Hence, I was monitoring the progress of investigation. I received a proposal subsequently for according sanction for prosecution under the provisions of the MCOC Act. I received the proposal on 18/11/06. It was from the investigating officer and it came through the DCP, Addl. CP and Jt. CP of the ATS. The proposal was accompanied with the several volumes of documents.

2. On receipt of such proposals, generally, I scrutinize the documents to see whether there is enough material to accord sanction for prosecution. In this case, after receiving proposal, I took many days to study and scrutinize the papers. I took assistance of the investigating officer at that time, the legal advisor of my office and some times the Jt. CP, ATS. I accorded sanction for prosecution on 25/11/06, when I was satisfied that a *prima facie* case is made out against all the accused who were arrested and who were shown as absconding. The sanction order Ext. 13 now shown to me is the same, it bears my signature and its contents are correct.

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

3. The proposal was sent by ACP S. L. Patil of the ATS. I do not recall the exact date, but he was investigating officer of the case since sometime in the end of September 2006 after the provisions of the MCOC Act were applied. He may be working as a supervising officer of the investigation of these cases before his appointment as an investigating officer. The proposal had come to me through DCP Nawal Bajaj and Jt. CP Raghuvanshi. I had not gone through the papers of the investigation of the bomb blasts cases of 11/07/06

before 18/11/06. I did not receive progress reports about the investigation from the investigating officer from time to time. I do not remember the name of the investigating officer of CR No. 156/06 of Borivali Railway Police Station and the names of the other investigating officers of the six other crimes registered in connection with the blasts. All the seven crimes were clubbed together under one CR no. 05/06 of the ATS at some stage after the MCOB was applied. I do not remember the date on which the order of clubbing the seven crimes was passed and who passed it. Railway police were not under my jurisdiction. Greater Mumbai was under my jurisdiction. Mira Road Police Station was not under my jurisdiction. It and Vasai Road Police Station are under the jurisdiction of Supdt. of Police, Thane Rural.

4. I took assistance of the DCP and Jt. CP, ATS many times after I received the proposal, but I cannot tell the number of times. I do not think that I took the assistance of the Addl. CP, ATS. The concerned DCP, Addl. CP and Jt. CP of the ATS had verified the proposal and had put their endorsements before forwarding it to me. All had recommended sanctioning the proposal of the investigating officer. I do not remember the exact words of the endorsements made by

them. The Chief PP Pawar was the legal advisor. I took his assistance many times, but I do not remember the number of times. I did not call for any additional papers from 18/11/06 upto 25/11/06. The proposal and the documents were not examined by the legal advisor after it came to me. It was not examined by him before it came to me after it was initiated by the investigating officer. The proposal was initiated by the investigating officer on 13/11/06. I say this as it is dated 13/11/06. I do not know whether the papers of investigation were placed before the Chief PP after the invocation of the MCOC Act and before 13/11/06. Some times there were meetings jointly with the DCP, Jt. CP of the ATS and the legal advisor at the same time. The legal advisor had not submitted any legal opinion in writing. I did not ask for legal opinion from him, but I took his assistance in studying the proposal. I cannot pinpoint particular aspects on which I sought his assistance. I cannot say whether it was restricted to reading certain papers or pointing out certain papers. Same is the case about the officers of the ATS.

5. I prepared the sanction order. It was typed by my PA Kulkarni. I do not recall exactly, but I probably dictated it on 25/11/06. The

proposal was about 61 pages. I was acquainted with the facts of all the seven blasts and the development in the investigation before I received the proposal. I visited many sites of the blasts after it took place. I did not visit the railway police stations that were inquiring the blasts. I did not visit the concerned local police stations in connection with the investigation of the blasts. The ATS was established in July or August 2004. The basic idea was to take all measures to prevent terrorism, to collect intelligence about terrorist activities.

Q. Whether SIMI was a banned organization and whether the ATS had collected any secret or intelligence report concerning SIMI prior to 11/07/06?

A. Intelligence collecting is the work of the State Intelligence Department. However, the ATS may have obtained the information and data about banned organizations like SIMI.

I have no accurate knowledge about it. The ATS is an organization is created on the establishment of the Commissioner of Police. But, it has dual operational control. The commissioner of police, Mumbai has the operational control for the jurisdiction of Mumbai City, but for the rest of Maharashtra the Commissioner State Intelligence

Department and the Director General of Police, Maharashtra exercise operational control over the ATS. I do not remember whether the ATS had placed any report concerning SIMI before me prior to 11/07/06. No officer reported to me about the progress in the investigation prior to 18/11/06, but I kept myself generally aware of the developments in the investigation by discussing and monitoring the Jt. CP, ATS. Jt. CP Raghuvanshi was the head of the ATS at that time and in that capacity he was the supervising authority of the investigation of the cases. I did not call the papers of investigation through him or any other officer prior to 18/11/06. None of the officers placed any paper of investigation before me after the blasts till 18/11/06.

- 6.** The incident of seven serial bomb blasts had international repercussions. It was important for us to detect the case as early as possible.

Q. Was there a lot of pressure from the government to resolve the case?

A. Everybody was keen to see that the case is detected as early as possible.

It is not true that I had given directions to all my subordinates to

detect the case as early as possible. I had directed all police stations and other branches to render all possible assistance to the ATS in solving the case. I had not given a direction to the ATS to solve the case at the earliest. The ATS does not require such direction.

7. The office copy of the proposal must be with the ATS. I do not remember whether index of documents was placed before me along with the documents. There were about 25-26 bound volumes, but I cannot tell the number of pages. I minutely went through the documents that were necessary for arriving at my satisfaction. They were many, but I cannot tell their exact number. I cannot say from which volume I perused which paper.

Q. Which is the paragraph in the sanction order that indicates your subjective satisfaction?

A. The entire sanction order is based on my subjective satisfaction for according sanction. Paragraphs 6 shows the documents, etc., that I had gone through and paragraph 7 says about according the sanction.

Q. So, paragraph 6 does not elaborate your subjective satisfaction?

A. I do not understand the question and please repeat it.

I am aware of the meaning of subjective satisfaction. I have passed several preventive detention orders and sanction orders under MCOC Act, in the capacity of Commissioner of Police. All the orders required to be passed after perusing the papers put up by the proposing authority. Careful and meticulous application of mind is necessary for that purpose. I passed the order only after I arrived at my subjective satisfaction.

Q. Which paragraph out of paragraphs 6 and 7 indicates your subjective satisfaction?

A. The entire order is based on my subjective satisfaction. Certain paragraphs are mentioned as preamble in every order that I passed. Paragraphs 1 and 2 in the present order are the preamble. Paragraphs 3 to 5 are not preamble. Paragraph 4 shows recording of my satisfaction. The existence of organized crime syndicate is necessary for according sanction for prosecution under the MCOC Act, that it is continuing in unlawful activities. For submitting a chargesheet under the MCOC Act, more than one prior chargesheets should have been filed against the syndicate or even a single member of the said organization and the cognizance of the offence

has been taken by the concerned court. It is not necessary that the unlawful activity should be with the object of obtaining only pecuniary gain for the syndicate or member. It may be for any gain.

Q. Therefore the documents showing the existence of the organized crime syndicate were necessary to be perused?

A. I will say that the documents of the investigation disclosed the existence of an organized crime syndicate.

They also showed the other ingredients required for according sanction. There is not one single document or material showing this, but the totality of the investigation that shows the existence of an organized crime syndicate. I will elaborate a few. More than one chargesheet pending against a number of the syndicate of which court had taken cognizance. More than one accused having been involved in earlier cases, confessional statements of many accused, recovery of material under Section 27 of the Evidence Act, statements of witnesses, identification by witnesses, multiple accused being involved in cases of similar nature, different members of the syndicate meeting and collaborating and planning to execute these blasts. The record of involvement of the arrested accused in previous

cases were placed before me and many of them were involved in previous cases. No specific previous case was considered for according sanction and it is not necessary.

Q. Whether any previous case against organized crime syndicate was considered by you before according sanction?

A. The entire record of involvement of the arrested accused in the previous cases was considered.

Relevant papers of two previous cases against an accused were placed before me. I do not remember the crime numbers, but one case is of the year 1999 and the other is of the year 2002, at Jalgaon. They were against accused Asif Khan Bashir Khan @ Junaid. He had been arrested in the first case of 1999. He was not arrested in the second case, but the chargesheet was filed against him. I cannot tell the dates when the cognizance of the offences were taken in both cases. These were the two cases considered by the competent authority for invoking the provisions of the MCOC Act under Section 23(1) of the MCOC Act. It was not necessary to consider those cases for according sanction.

(Adjourned for recess)

Date : 15/02/12

Special Judge

Resumed on SA after recess

Q. Whether the orders of the concerned courts taking cognizance of the offences were placed before you?

A. The papers of the court taking cognizance were placed before me including the framing of the charge and the judgment given by the learned court where the name of the accused is mentioned. I do not recall the date of the framing of the charge. Charge was framed in both the cases.

Q. Whether the name of the accused Asif Bashir Khan was specifically mentioned in the charges framed in both the cases?

A. In one case the accused was arrested, released on bail, but he jumped bail and did not appear during trial. While passing judgment against the other accused, the court has ordered to present the muddamal again during trial against the absconding accused. In the second case the said accused was absconding while pronouncing judgment against the other accused, the name of the said accused is mentioned. In one case his name was mentioned in the charge, but in the other case charge was not framed against him, but his name was

mentioned in the order. I am stating this from my memory and the matter is six years old. In the first case, his name was mentioned as Asif Khan Bashir Khan. In the second case, his name was mentioned as Asif Khan. I had gone through the FIRs in both the cases. I do not remember the name of the police officer PSI, who was the complainant in the first case and the date of the offence, but it was mentioned that it was during some period of time. The first FIR was against only two persons. I do not remember the names of the other accused.

8. I do not remember the date of the FIR, date of the chargesheet and the date of offence in the second case. There were many accused in that case, but I do not remember their numbers or names. The name of the accused Asif Khan was not mentioned in the FIR. It was mentioned only in the charge. His age and other particulars were not mentioned in the charge. Asif Khan is a common name in Muslims. Khan is surname. Shaikh is also surname. Shaikh and Khan may be used as two different surnames. Witness volunteers -since the name Asif Khan is a common name, some officers were sent for making ground inquiries and these inquiries established that the said

Asif Khan mentioned is the same absconding Asif Khan Bashir Khan @ Junaid. The name of one Asif Supdu is also mentioned as an accused.

Q. What subsequent material about it was placed before you?

A. Field inquiries made by a team that was sent to Jalgaon established the identity. The material was first placed before the competent authority under Section 23(1). I do not remember the specific document that I had seen in this regard, but I satisfied myself about the veracity of the inquiries that were made. I do not remember on what date the inquiries were made, but it was prior to the application of the provisions of the MCOC Act prior to seeking prior approval. I do not remember the date of the document. It is not that somebody went on my directions and made the inquiries. I did not call for any other papers when those documents were placed before me. The other 12 accused in the present case were not shown as arrested or wanted in those two cases. The accused Ehtesham and Tanveer were involved in two cases at Kurla, accused Kamal was involved in a case at Delhi and some accused was involved in a case at Bangalore, but it was unrelated. A chart of all the previous cases

against other accused was placed before me, but not the papers. I cannot remember the approximate number of cases in the chart. I remember of two cases of Kurla Police Station probably of 2003 against two accused. It is not true that the chart did not contain the two cases of Jalgaon. The accused Asif Khan was not involved in the cases at places other than at Jalgaon.

9. I am not aware whether cookers were used in the blasts. The accused had during the interrogation earlier had told the officers that cookers were used for making the bombs, but later during their own confessional statements they said household utensils like metal containers were used. I cannot tell the exact date when the accused told the officers that they had used cookers and to which officer. That material was not placed before me. During discussions and while monitoring, this information was given by different senior officers. I do not remember how many days after the blasts this information was given to me. The officers could be anybody out of the Jt. CP, Addl. CP or DCP. It was in the confessional statement of the accused Mohd. Ali and some other accused, but I do not remember their names. I do not remember in the confessional statements of how many accused this

was revealed.

10. I had given a press briefing once after the case was detected in which broad details about the information disclosed until then were given to the media. Other than this I did not give any interview to any media regarding this case. I do not remember the date, but it was some time at the end of September 2006. It was given to the electronic and print media both. Jt. CP Raghuvanshi, Addl. CP and DCPs were present. Pasricha, the Director General of Police was also present for some time.

11. The mention of names of several Pakistani nationals in the sanction order was as per the proposal sent to me. One Suhail Shaikh from Pune was arrested in this case. I cannot recall whether one Suhail Shaikh from Pune was a wanted accused when I accorded the sanction. One Pakistani national by name Suhail Shaikh was shown as absconding accused. One Pakisani national was arrested from Antop Hill after the blasts, but I do not recollect his name. Subsequent to that one Pakistani national by name Mohd. Ali @ Abu Osama was killed in an encounter. He was found to be connected to the blasts. The other person was not found to be

connected. The distinction can be made about a national of a particular country and a person residing there. The person who is born, brought up and adopts the nationality of a country is its national. Unless an Indian person residing in a foreign country accepts the citizenship of that country, he cannot be called a national of that country.

- 12.** The press briefing that I gave was published in the electronic and print media. I disclosed the broad information about the investigation that was with us at that time. A person claimed to be a Pakistani national was killed in the blasts. He was identified as Salim. His dead body was found at Mahim or Matung blast site. The confessional statements of the accused person by which the body was identified, was the material that was placed before me. As far as I recall there may be something else, but this I recall for sure. I saw the photograph of that body after about two weeks of the blasts. It was of only the upper portion of the body including the face. I do not have the CD of the press briefing. I had seen the photograph of that body before the press briefing. I do not recall whether I mentioned the name of the said person in the briefing, but reference was made of

involvement of Pakistani nationals. The blasts had taken place at Matunga, Mahim, in between Bandra and Khar stations, Jogeshwari and Borivali. I do not recollect now exactly whether the body was found at the blasts site between Bandra and Khar. I had gone through the panchanamas of various blast sites after 18/11/06. I had not gone through any papers of investigation before I gave the press briefing. It is not true that I gave the press briefing only in Hindi language. It was in English, Hindi and Marathi. I do not remember the newspapers in which the news was published, but it must be in many. I have the habit of reading the newspapers. I used to read English and Marathi newspapers in those days. Times of India, Indian Express, Hindustan Times, Economic Times were the English newspapers that I read. I did not get newspapers at my office. I do not recall whether I had stated in the press briefing that a Pakistani national identified as Salim was killed in the blast in between Bandra and Khar.

- 13.** The disclosure in the confessional statements of the accused of use of utensils for keeping bombs was subsequent to the press briefing. It is true that in the press briefing we came out with the case that pressure cooker was used as told to us by the accused.

14. I do not remember whether it was disclosed to me that Pakistani nationals were made to stay at Borivali (E) and Malad. I do not remember whether I had stated so in the press briefing. It was informed to me that one group of Pakistani nationals had entered Mumbai from Gujarat border. I do not remember which officer informed me about it. I made such statement in the press briefing based on that information. The interrogation reports were the basis of my giving the statement as to how the cookers were used, but till that time the reports from the FSL were not received. (Learned SPP objects to the questions about the statements made by the witness in the press briefing on the ground that the press briefing is not an evidence of any fact. Learned advocate submits that witness has admitted having given the press briefing and the defence is not going to prove any fact in issue. The cross-examination is only for the purpose of evaluating the evidence of the witness. Questions are allowed). I do not recall whether I made the statement that eight pressure cooker were purchased, out of them seven were used and we have complete evidence regarding that. However, I remember having stated about the use of pressure cookers which was based on

the interrogation reports of the accused until then.

- 15.** The Crime Branch had assisted the ATS in the investigation and in the arrest of some accused. I do not know how many persons were called by Crime Branch before the arrest of the accused Kamal Ahmed. No accused was arrested on 14/07/06. I do not know whether persons suspected of being involved in the blasts were detained by the Crime Branch from 14/07/06. It is not true that according to me there were three modules behind the blasts, one was of accused Kamal Ansari and second was of accused Faisal Shaikh and his associates. It is not true that the accused Kamal Ansari was arrested on 19/07/06, as far as I remember he was arrested on 20/07/06. I referred to the arrest of some accused in the press briefing. It did not happen that Crime Branch detained the accused Faisal and others on 14/07/06, but did not arrest them officially. I do not remember whether I had made the statement that first of all some persons were called on 14/07/06, but they were not arrested, they were brought in on the basis of suspicion and after making inquiries with them, one person were arrested one after the other on 14th and 15/07/06. Witness volunteers – people were called for interrogation,

but no arrest were made upto 20/07/06. I do not remember whether I made the statement that the accused Kamal was arrested on 19/07/06. I cannot say whether we got the first clue about Kamal Ansari through the telephonic analysis. I do not recall whether I had stated that a person from Navi Mumbai was repeatedly contacted a person across the Nepal border, i.e., the accused Kamal Ansari. Some person was arrested from Navi Mumbai. He was possibly the person who was first arrested in the crime. I do not recall how the ATS reached the accused Kamal Ansari and whether it was through that person and the information given by the IB.

(Adjourned at the request of the learned advocate at 5.15 p.m.).

Date : 15/02/2012

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

Date : 17/02/12
Resumed on SA

16. I could not draw any conclusion on the day of the blasts when I visited the sites of the blasts that all the blasts were a part of a larger single conspiracy. I realized quite early during investigation during the period from the date of the blasts upto 18/11/06 that the blasts were a part of a larger single conspiracy, but not necessarily after discussing the issue with any particular officer. I had not called meetings of the investigating officers, but I had been discussing the matter with the senior officers periodically. I did not recall on how many occasions approximately such meetings were held. It is not true that I did not give directions to the supervisory officers of the ATS like Jt. CP, Addl. CP, DCPs and ACPs as to how the investigation should be carried out. I had no specific discussion with ACP Patil or any other ACP who was a part of the investigation after the provisions of the MCOC Act was applied. I do not recall whether ACP Patil or any other ACP used to attend the meetings that I had with the supervisory officers. I do not recall having called ACP Patil for such meetings, but if he was present in any of these meetings, I do not recall it. I cannot

pinpoint the date when I realized that the blasts were a part of a single larger conspiracy. I did not issue directions to club all the seven crimes together after I realized this or at any time before I received the proposal. I do not recall the provisions as to whose directions are required for clubbing two crimes for the purpose of investigation, but such directions should come from the supervisory officer. S. A. Khopde was the Commissioner of Police, Railways at that time. His jurisdiction is not confined to Mumbai City. The jurisdiction on the western side may be beyond Vasai and on the central side upto Panvel, but I do not know whether upto Karjat. I had no occasion to discuss the case with S. A. Khopde before 18/11/06. I do not recall about any correspondence from my department to him during this period. Jt. CP Raghuvanshi, ATS had ordered the clubbing of the crimes. It was sometime in between 10th to 15th of October, 2006. CR No. 05/06 of ATS was registered after the invocation of the provisions of the MCOC Act. The order of clubbing the crimes was given after the invocation of the provisions of the MCOC Act.

17. On going through all the papers of the investigation, I realized that the period of conspiracy had started somewhere around

February, 2006, but it was also during a much larger period and more overt activities had taken place from May 2006. The duration of the conspiracy continued upto the day of the blasts. The conspiracy had started from February 2006, terminated in the blasts on 11/07/06. I cannot answer the question as to whether the conspiracy came to an end after the blasts had taken place. The material that was before me pointing towards the existence of a conspiracy was statements of witness and the accused including their confessional statements showing multiple accused meeting each other, talking about their plans, collecting material, trying to get Pakistani nationals, making of the bombs, etc. All this material pertains to the period prior to the occurrence of the crime. Confessional statements of more than one accused, multiple accused had stated that many of them had met, had meetings. Confessional statement of accused Faisal mentions that they had meetings. Others also have mentioned it. All this material did not travel beyond 11/07/06.

Q. On what date the information of the offence of organized crime was recorded under the MCOC Act?

A. FIRs regarding the bomb blasts were registered on 11/07/06 under

the provisions of the IPC, Explosives Act and others. Provisions of the MCOB Act were invoked on 24th or 25/09/06. The seven FIRs were not under the MCOB Act when they were registered initially. Information of a crime is the FIR. CR No. 05/06 was the information that was registered after the prior approval was given. I do not recall the name of the officer on whose complaint it was registered, but it may be ACP Patil or some other officer.

Q. Whether the complaint of CR No. 05/06 was placed before you?

A. Papers of CR No. 05/06 were placed before me.

18. It is not true that the contents of paragraphs 1 to 3 contain a narration of the brief facts of the case. The contents of paragraphs 4 to 6 show the work that I did before according the sanction and my satisfaction. The contents of the paragraph 7 is the order according sanction. The name of accused Sohail Shaikh, resident of Pune, Maharashtra, presently based in Pakistan, is shown at sr. no. 4 in the list of absconding accused in paragraph 4 as well as in paragraph 7. He was not a Pakistani national, at least we do not know that he is a Pakistani national.

Q. Whether any material was placed before you indicating that the

conspiracy continued even after 11/07/06?

A. The conspiracy culminated in the blasts. The only fact after the blasts that I recall is that the accused person who brought six Pakistani nationals, who entered through Bangladesh border, from Kolkatta to Mumbai, same accused took them from Mumbai to Gujarat and from Gujarat to Kolkata, from where they were made to cross the border with the help of the same person, who helped them cross the border while coming. This was the material placed before me about the continuing of the conspiracy after the blasts. It was the confessional statement of the accused Majid and statements of some witnesses, whose name I do not recall. I do not remember the exact date when accused Majid was arrested from Kolkata. I do not recollect whether he was arrested prior to or after the invocation of the provisions of the MCOC Act, the date of his confession and which DCP recorded it. As far as I remember, he was arrested in Kolkata and brought to Mumbai. I do not recall any other material that was placed before me about the continuation of the conspiracy after the blasts.

19. The finding in paragraph 4 is correctly recorded that

during the period from 1999 to October 2006, the team planned a criminal conspiracy to cause bomb explosion in local trains of Western Railway, Mumbai. Witness volunteers – the period of the larger conspiracy from 1999 includes the multiple accused going to Pakistan on a number of occasions by different routes by camouflaging their journeys to get trained in conducting submersive activities including bomb blasts. The conclusion in paragraph 5 is based on perusal of all the material that was placed before me. Investigating officer did not seek my opinion while submitting the proposal as to whether the provisions of the MCOC Act were rightly invoked in the case or not. It is true that application of mind for according sanction under section 23 (2) is totally different than application of mind for giving prior approval under section 23 (1). last line in paragraph 5 'hence the provisions of the MCOC have been rightly invoked in the present case' is my conclusion.

- 20.** It is not true that I did not apply my independent mind while passing the sanction order and that I did not peruse any of the statements, confessional statements and other material. I am aware that the accused had retracted their confessional statements

subsequently. They may have done so before the special judge.

Q. Whether the confessions were retracted before you accorded sanction or after?

A. In my view that is not a material fact while applying my mind to accord the sanction. No such documents were placed before me.

It is true that I have not specified in the order the names of the witnesses and accused and the other documents which influenced to my mind while passing the order. The two previous cases of the organized crime syndicate had not been specified in the order. It is not true that since no such documents were placed before me, I described it vaguely. It is not true that I bodily lifted the provisions of law from the statute and incorporated them in the order without applying my mind.

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

21. I did not receive any VCD in respect of the accused giving confessional statement. I did not ask for it at any time. I was not told till today that the confessional statements of the accused were recorded on VCD for relying upon the same and producing in the court. I did not see any video recording of any of the accused in

this case making a confessional statement. It will be wrong to say that the accused were pressurized and made to give statement which was video recorded and video recording was sold to the media by the ATS officers. Some news channel had shown the purported video recording of some accused making some statement. An inquiry about it was held and it was found that these were not any CDs prepared by the investigating agency or given to the news channel. As far as I know confessional statements were not video recorded. I do not recall who made the inquiry. I did not personally make any inquiry. I do not recall whether it was made as per the directions of Home Minister, R. R. Patil. A report about the inquiry must have been submitted to him. I realized from the report of the inquiry that the inquiring officer must have seen the recording. I do not remember whether I had directed Jt. CP Raghuwanshi or Add. CP Jaiswal.

Q. Can you verify from the office and the officers and tell the name of the officer who had conducted the inquiry?

A. I am a retired officer and I do not have access to the office record. The report can be called from the police station.

I had not seen any video recording of confessional statements of two

accused. I had seen part of what was shown on the television by the news channel. I will not be in a position to identify it. I will be able to identify my press briefing, if shown in the video recording.

Q. Whether the entire ATS team was present in the press briefing?

A. Some ATS officers were present.

22. DCPs are zonal incharge. There are 6-7 police stations in his zone.

Q. Whether it happened that teams were formed in every zone for making the investigations?

A. Instructions were issued to all police stations to make inquiries and collect information regarding the investigation of bomb blasts cases and relevant information may be given to the ATS. All police station and branches were instructed to render all possible assistance to the ATS for this investigation.

(Adjourned for recess)

Date : 17/02/12

Special Judge

Resumed on SA after recess

23. I do not recall whether I stated in the press briefings that teams were formed in every zone comprising of an inspector and

6-7 other inspector and that they should concentrate on this case only and not do any other work of the police station. I had mentioned that officers had been instructed to give priority to the work of rendering necessary assistance to the ATS in the investigation of this case. The officers of all the police stations were following my instructions. They were expected to do so. I do not recall about exempting any police station.

24. I had given the press briefing at the end of September 2006 and it may be on the 30th. I do not recall whether the press briefing was given on the day when the accused Naveed was arrested and whether it was on the next day of the arrest of accused Mohd. Ali.

Q. The theory of use of pressure cooker in the blasts was wrong?

A. Until the time of the press briefing based on the interrogation of the accused, it was learnt that pressure cookers were used in the blasts. However, subsequently the accused persons in their confessional statements and interrogation told that household utensils were used for making bombs including pressure cookers.

Q. Had you stated in the press briefing that out of the arrested

accused many of them had gone to Pakistan for training for three times?

A. I had stated that many of the arrested accused had gone to Pakistan for training and some more than once.

I had not stated that 'mitti' swab was taken from the house of accused Kamal Ansari during the search at Madhubani, Bihar. I had stated that swab was taken.

Q. Did it happen that till the time of press conference the eighth pressure cooker was not found?

A. Pressure cookers were not recovered till then.

I do not recall whether I had stated that the eighth pressure cooker was not used, that where it is and in what condition, whether any eight device was prepared, whether it is kept somewhere and it is a part of our investigation, it may be with some of them or destroyed and it is a part of investigation, because accused Mohd. Ali in whose house the bombs were prepared was arrested a day before. I did not have full information till then as to whether quartz timer was used. I do not remember whether I had stated in the press briefing that quartz timer was used for the blasts. However, I had stated that time

was used.

Q. Whether it happened that in the encounter at Antop Hill, one Pakistani national was killed and one was arrested alive?

A. It is true that one Pakistani national was arrested and subsequently one Pakistani national was arrested.

I do not recall whether I had stated in the press briefing as suggested by you. Till the time of the press conference no expert report was received about the seizure of a particular type and quantity of explosives. I had stated in the press briefing that about 2 to 2 ½ kgs RDX and 3 ½ to 4 kgs Ammonium Nitrate were used in the bombs. We had come to know till that time that 15-20 kgs RDX was brought by the person by name Ehsanullah from Pakistan for these bomb blasts. I may have stated so in the press conference. It is not true that we did not get any clues at the spots of the blasts. I had stated so in the press briefing. Witness volunteers – that refers to the identity of the accused or group responsible for the blasts.

Q. Whether it will be correct to say that we got a lot of help from the telephone analysis?

A. Telephone analysis information was collected for looking for any

relevant clues.

I do not know whether an SMS that had come from the mobile of accused Kamal one day prior to the blasts was the first clue.

It did happen that a person from Navi Mumbai was in contact with some number on the border of Nepal. The said person was Mumtaz Chaudhary and he was the first person to be arrested in this case and subsequently discharged and then accused Kamal Ansari was arrested from Bihar. It is not true that Mumtaz Chaudhary was illegally detained as per my directions and the accused Kamal Ansari was shown as arrested first and then Mumtaz Chaudhary was shown as arrested.

- 25.** Call details record were not in the documents submitted with the proposal. I did not call for them. I did not feel that they were necessary to establish the role of the accused. Witness volunteers – during their interrogation many accused told that there are clear instructions to them not to use mobile phones for any operational purpose or important communication between themselves. They generally used only landline and PCOs. They had even stated that sometimes they give only missed calls to each other as a signal and

then contact each other from a designated PCO. There is material on record to show that the accused deliberately left the mobile at home while going for the work including on the day of the blasts. There is witness for this.

26. I do not remember when I was told that some of the accused are also involved in the Malegaon 2006 blast. I do not recall whether anyone told me about it as I was not concerned with it. I do not remember whether some officer had stated in the press conference that Malegaon is the next number. (Learned advocate moves an application for production of CD containing the video recording of press briefing by the witness, a transcript of the briefing and an invoice from Esha News Monitoring Services Pvt. Ltd for confronting the witness. After hearing both sides, the application Ext. 2356 is rejected).

27. I do not remember whether I made inquiry in connection with a letter dated 03/11/06 written by one of the ATS officers to the President of India with regards to this case that the accused are falsely implicated at my instance and the instance of Jt. CP Raghuvanshi, whether said letter was marked to me for inquiry. I

had not taken the statement of any ATS officers in connection with this. I was not asked to give any explanation by any authority in this connection. I do not know whether such a letter was shown on the Zee 24 Taas channel.

28. I was living in 'Amber' building. Jt. CP Raghuvanshi was living in 'Avanti' building. 'Varsha' in Malabar Hill is the residence of the Chief Minister.

Q. After the blasts and upto 11/11/06 you visited the ATS office, Nagpada Police Station, residence of Jt. CP Raghuvanshi, Mantralaya and Varsha, residence of CM many times in connection with this case?

A. After the bomb blasts of 11/07/06, meetings were held in Mantralaya to review and discuss the incidents and I would have definitely gone to Mantralaya more than once in this connection, even during this period. I do not remember any meeting having being called at Varsha regarding this case. I have not visited residence of Jt. CP Raghuvanshi in this period. I visited ATS office more than once. I do not remember having visited Nagpada Police Station in this connection.

I do not remember whether I visited the ATS office 32 times. The ATS office is located in the old traffic training institute at Byculla. I visited it many times. I have gone to Kalachowki and Bhoiwada ATS office once or twice, but I do not remember how many times. I used to have meetings with DCP Bajaj and Baviskar, Add. CP Jaiswal and Jaijeetsingh and Jt. CP Raghuvanshi on some occasions. I do not remember whether I met ACP Vinod Bhat. I used to make inquiry about the progress of the investigation of the case during these visits. Officers of the ATS were apprising me about the progress. It is not true that I used to give specific instructions about the investigation to the officers. I am not aware of any complaints made by any accused during my visits.

Q. Did you issued specific instructions to the ATS officers that there are complaints of police torture and they should be carfull?

A. There weer no complaints of police torture. Accused Kamal Ansari was produced before the magistrate sometime in early August, he had complained of pain in his ears. The Id magistrate had recorded 'on repeated questioning he has no complaints against police'. The said accused was then sent for medical examination after which the

magistrate recorded 'since it is a very important case, the investigation of this case be carried out under the close supervision of the Commissioner of Police, Mumbai'. On receipt of this I instructed all officers to ensure that all due precautions regarding handling of arrested persons were observed including the D. K Basu judgment of the Supreme Court and I have carried this instructions repeatedly to the officers to ensure that everything be done strictly according to the law. The above observations of the magistrate are not before the court. I do not remember the date.

29. I do not remember the exact date when I saw the accused, but I saw them in the ATS office. I had seen some of the accused on some occasions and I had seen all of them. Mostly it was in the Byculla office and it may be at Bhoiwada or Kalachowki also. Jt. CP Raghuvanshi must be with me on those occasions. It is not true that we both had beaten them whenever we met them.

30. Honda City MH-01-BA-102 may be one of the official cars used by the me at that time. It is not true that it was the only official car.

Q. As per the log book you visited the ATS office in this car 32 times?

A. I cannot say about it as I cannot vouch for the log book, because my car may have been used by some other officer also or it may have gone there without me also. I cannot say who used to travel by this car from my residence. The driver makes the entry in the log book. I cannot say whether the endorsements of my name and designation on every page is wrong or not. It is possible that my name is written though it was used by some other officer, because it was assigned to me. This is not very unusual, because this situation may be found in respect of many vehicles. I do not recall the numbers of all the official vehicles that I used at that time. Sometimes, we had used unnumbered operational cars, but not private cars. There may be 2-3-4 vehicles by rotation for the Commissioner of Mumbai. I do not know whether there is no record in my office that I used any vehicle other than the above. Other officers also used to use unnumbered operational cars.

31. I do not remember whether DCP Nawal Bajaj had come to meet me on 21/08/06, whether I had asked him to survey section 7 at Antop Hill along with DCP Karale, that they had surveyed it as per my instructions. It is not true that they had administered ethyl alcohol

to one accused Mohd. Ali on that day, that he died on 22/08/06 in police custody, that thereafter we showed it as an encounter at Antop Hill. (Learned advocate asks the witness to go through the photographs produced along with the certified true copies of the chargesheet produced by the application Ext.2358). I cannot say on going through the photographs whether it is of the person Mohd. Ali. (Learned advocate asks the witness to go through the report of the FSL that is in the chargesheet filed along with the above application). The FSL report shows the 94 mg of ethyl alcohol per 100 milliliter in the blood. PI Vijay Salaskar and PI Pradeep Sharma had taken part of many encounters in which criminals were killed. It is not true that I used to encourage and appreciate encounters. Witness volunteers – my views about encounters have been made public on many occasions that I did not encourage encounters.

Q. You received a fax message/ telegram on 11/11/06 with regard to abduction of Lakhanbhaiya along with one Anil Bheda and that message was dispatched to other officer for appropriate action before alleged encounter of Lakhanbhaiya? (Learned SPP objects to the question on the ground that it is not relevant to the fact in issue.

Question is not allowed).

Q. You tendered an unconditional apology in the High Court in connection with the receipt of telegram in your office on 11/11/06 and its forward dispatch for appropriate action by the DCP in connection with the alleged abduction of Lakhanbhaiya and Anil Bheda by officer Pradeep Sharma and his team?

A. I had clarified the matter in my affidavit and the Hon'ble High Court had accepted my explanation and closed the matter relevant to me.

(Adjourned as court time is over).

Date : 17/02/2012

(Y. D. Shinde)
Special Judge

Date : 21/02/12
Resumed on SA

32. I do not remember how many encounters took place during my tenure as Commissioner of Police. It is not true that about 100 encounters may have taken place per year. I cannot tell even approximately how many encounters took place in every year. I do not know whether there was no encounter in the last year.

Q. Whether in the first affidavit filed in the Bombay High Court in the case of encounter of Lakhanbhaiya, I had mentioned that we had not received the telegram?

A. I had filed two affidavits in that matter. In the first affidavit something was mentioned to the effect that such telegram was not found to have been received. However, inquiry will be continued to trace the same. Later on, it was found that it was happened to be a Sunday on which date the registry of my office remains closed and the telegram was received in the Control Room and entered in the Control Room diary. The same was subsequently sent to the Commissioner of Police, Navi Mumbai to whose jurisdiction the complaint pertained. This position was clarified to the Hon'ble High

Court in the subsequent

Q. After the time BSNL confirmed the delivery of telegram to your office, then you filed the second affidavit confirming its receipt?

A. I have given the complete answer in answer to the earlier question.

33. No order of registering FIR against me has been passed. The MM, 32th Court, Bandra had passed an order under Section 156 (3) to register FIR against me, two DCPs, two Sr. Pls, one ACP and one PSI. Witness volunteers- it was stayed by the High Court and also the Supreme Court. The magistrate had passed speaking order rejecting the application of taking cognizance and had asked the complainant to lead evidence. Those orders were challenged by way of revision in the sessions court, which allowed the revision and directed the magistrate to reconsider. Then again the magistrate refused, again that order was challenged and again he was directed to pass the order and then the order was passed, saying that in view of the order of the sessions court the order is passed. The allegation in that case were that some papers that were submitted to seeking the preventive detention order and the originals

of which were not found later on were fabricated by the local police station.

34. I do not remember whether I had gone to the ATS office with the Jt. CP Raghuvanshi on 24/10/06, whether I met the accused Mohd. Ali. It is not true that we both talked with him, that we told him that if he does not become an approver and does not sign the confessional statement, he will have to remain in jail for long time and if he co-operates, he will be released in one or one and a half months.

35. I cannot say on going through the log book of the vehicle as to on what dates I did not travel in that vehicle. Witness volunteers- Three Jt. Commissioners and 2-3 Addl commissioners used to leave in my building and in the adjoining building Avanti. While going out we often changed our cars. Jt. CP Raghuvanshi had a security threat at that time due to which he was advised to change his vehicle frequently as a measure of security. The starting point of my vehicle was from Nagpada, but not everyday. It is true that the purpose of journey in the log book is always written as official work and the kilometers are also written. There was a pool of vehicle for

me, Jt. CPs and Addl Cps. It is not true that the said vehicle was exclusively used by me.

Q. As per the log book you visited the ATS office on 32 occasions, therefore you are saying that other officers also used to use my car?

A. I have already answered that I had visited the ATS office on many occasions, but I do not remember whether it was 32 times. I am not denying that I visited the ATS office many times, it may have been more than 32 times also. I do not remember whether as per the log book I had gone to the ATS office after 03/11/06. Witness volunteers – the log books are essentially maintained to see that they are used only for official purposes and their entire running is justified. Point to point movement is not required to be written.

Q. The driver has noted point to point movement in the log book?

A. Some places to where the vehicle has gone are mentioned, some places are not mentioned. This is in respect of all government vehicles. There can be official work in Hyatt hotel. I used to go to the ATS office for discussion about this case. Witness volunteers – I used to go there also to motivate the officers, to encourage them to make efforts to detect the case early and to ensure that everything was

done strictly according to law and procedure. It is not true that I used to go there to torture the accused, to pressurize them and to threaten them, that I used to instruct the officers how to plant different articles on them and how to fabricate the record. It is not true that I used to threaten the accused that if they do not concede to our demands, then they would be implicated in the Malegaon blasts. It is not true that I had told the ATS officers to implicate the accused Mohd. Ali and Asif Bashir Khan in the Malegaon case as they were not conceding to our demands, that I told the Addl. CP Jaiswal to give the prior approval in that case. I was in no way connected with the investigation of Malegaon blasts case 2006 as it was not within my jurisdiction. It is true that accused Asif Bashir Khan has not given confession in this case. I do not remember whether he had been taken for giving it. It is not true that I told the ATS officers to prepare the confessional statements and send it to the DCPs and I told the DCPs to sign them and send them. I do not remember whether I had gone to the ATS office on 3rd and 23/10/06. It is not true that I had prepared the letters addressed to different DCPs and had directed the ATS officers to send them to the DCPs. It is not true that at the

zonal level the DCPs were taking part in the investigation of this case. Witness volunteers – the ATS was doing the investigation and all others were assisting them.

Q. On the pretext of assisting the investigation I got the readymade confessions signed from the DCPs?

A. It is not true. Recording of confessional statements is as per the statutory provision and is to be done as per the procedure laid down. The officer recording it is answerable to the law and the court.

36. I do not remember whether I, Jt. CP Raghuvanshi and Addl. CP Jaijeetsingh had gone to the ATS office on 10/09/06. It is not true that we had met the accused Tanveer there, that we told him that his narco test is clear, but as we are not getting the real culprits, we have to keep him in the custody.

37. I do not know whether Malegaon blast case of 2006 is now with the NIA and all nine accused have been granted bail. I do not have official knowledge about that case.

Q. On the day of the press briefing you had knowledge about Madrid blast, London blast and other blasts and the clues that was left by the culprits?

A. The central intelligence agencies circulate the analysis of incidents that happened outside for our knowledge and information. Therefore, I had the knowledge about them.

It is not true that I instructed the investigating officers of the ATS to use panchas and accused that they have used in earlier cases, as the panchas and witnesses in this case, that I instructed them to sideline the real eye-witness and not to call them for parade or to confront them with the accused, that to justify my actions I used to give false confirmation to the media that the accused have confessed to the crime.

38. I have read in news papers that one swami Aseemanand has confessed to his complicity in the Malegaon blast 2006. There is no question of my thinking that he was following Al-Quida manual. I did not know before that, that nine boys have been implicated in that case. I have read in the newspapers that in the Mecca Masjid blast and Samjhota blast, a group was blamed initially, but subsequently another group was blamed. It is not true that the misunderstanding that was in these two blasts and Malegaon blast 2006 is also there in this case. I do not know whether two sanctioning

authorities in other case have mentioned that this crime has also been done by the accused in that case, whether there is a reference in one remand application, two confessional statements that the blasts in this crime were committed by them and whether in CR no. 01/08 of Octopus Police Station, it is mentioned in the chargesheet that this blast had been done by another group. I cannot say whether the then Jt. CP Rakesh Maria had stated in a press conference that these crimes were committed by some other group.

39. Lectures may have been organized for ATS officers to apprise them of legal provisions and procedures. I am not aware whether lectures were organized for apprising them of terror modules and their modus operandi. I am not aware, but Lt. Col. Purohit may have given lecture to the ATS.

40. Teams from different states used to visit the ATS office in connection with the investigation of the blasts. I had never met DG Vanjara from Gujarat in the ATS office. I do not know whether he had gone to the ATS office. It is not true that he had brought Abu Umaid @ Mohd. Ali, who was killed in the encounter. Crime Branch officers and ATS officers do not exchange accused with the investigating

agencies of other states without maintaining official record. PSI Daya Naik was working under me. He was suspended during my tenure. He was present in many encounters along with Pradeep Sharma.

41. We had not received any information that the unknown and unclaimed dead body was of a person from UP. It is not true that there were two rival claimants for this body. But I know that there were no legitimate claimants. I know that a family was prosecuted for having falsely claimed a dead body involved in the Andheri blast. I did not give directions to the investigating officers to collect their DNA to verify it with the DNA of the dead body. It is not true that the correspondence in this connection was directly made from my office. I had received only one communication from Municipal Commissioner informing about the unclaimed body and requesting for its early disposal. I had forwarded the communication to the ATS for necessary action.

42. I cannot say how many times I met DCP Bajaj before according the sanction. He may have met me in my office. I do not remember how many times I met him in between 18/11/06 and 25/11/06. It is not true that he did not come to my office at any time

during this period. I did not direct the ATS officers to not make a record about my visits. I do not know whether any official record is maintained about officers visiting the ATS office. It is not necessary that station diary entries are always made in the police station for recording the visit of DCP. They are not necessarily made for their visits in the ATS office. Station diaries are maintained in police stations and not in office. ATS Police Station is different from the office of the Jt. CP and Addl. CP of the ATS. I do not recall whether station diary is maintained in the ATS Police station.

Q. Whether the inquiry report about the video of some of the accused making confessional statements being shown by some news channels is available?

A. When this TV channel had telecast it, I was not the Commissioner of Police. Hence, there is no question of my ordering or conducting any inquiry. I am not aware if any report was submitted. However, a report has been submitted to the Hon'ble court in this connection.

I have not gone through any such inquiry report. I am not aware whether the Home Minister had given directions about making the inquiry. It is not true that I am aware that ACP S. L. Patil had given

the CD containing the video recording of the confession and therefore I am not disclosing about it.

43. There was no instructions to the ATS officers to inquire with the accused about the bomb blasts though they were in custody in some other crimes. I am not aware whether thorough and detailed inquiry was made with Riyaz Nawabuddin in connection with these blasts. I do not know whether some persons had been called for inquiry on 13th, 14th, 15/07/06 by the ATS officers and inquiry was made with them. I do not know since what date legal advice was taken in this case. ACP Vinod Bhatt of ATS expired on 28/08/06.

Q. Whether it was a suicide case?

A. The case was investigated and it was found to be an accident case.

It is not true that I and Jt. CP Raghuvanshi and other officer were pressurizing him to involve the present accused in this case.

Q. You were threatening him to implicate his wife Seema Bhatt along with 14 other persons in a case related to police housing scheme?

A. It is not true. Vinod Bhatt was not the investigating officer and had no direct role in the investigation. Jt. CP, ATS had issued a written

order designating officers with specific roles in which ACP Bhatt was given the role of scrutinizing the documents, because till that stage there were seven different cases being investigated by seven different teams. He had not played any direct role in the investigation. Therefore, there was no question of giving him any direction. It is not true that in that connection one M. Doshi, resident of Malad was shown arrested and ACP Bhatt was threatened that his wife is next, that because of this pressure he committed suicide.

(Adjourned for recess)

Date : 21/02/12

Special Judge

Resumed on SA after recess

Q. Two prior chargesheets were never placed before you?

A. I have described in detailed in my earlier cross-examination that all the documents relating to two previous cases of which the learned court had taken cognizance were placed before me. It is not true that two chargesheets were not collected by the ATS.

44. I do not remember whether I had gone to the ATS office on 05/09/06. It is not true that on that day I told the accused Ehtesham that there is a heavy political pressure on us. I do not

recall whether there was Prime Minister visit to Mumbai on 05/10/06, whether I had gone to receive him at the airport at 3.15 p.m. I was present in the inauguration of the SEBI Bhavan by the Prime Minister, but I do not remember whether it was on 06/10/06. The function was in the Bandra-Kurla complex. I do not remember the time of the function. My office had assigned bandobast duties to the DCPs for the visit. They were intimated in advance. No one out of the DCPs had refused the order, but I cannot say whether there was any change in the duties subsequently. I do not remember whether the Prime Minister had left Mumbai at 2120 hours at 06/10/06. In all probability I would have gone to see him off. The rehearsal of the bandobast duty is done half day or one day before the visit of the Prime Minister. Concerned DCPs remain present and supervise the rehearsals. By and large the rehearsal is at the same time and for the same spots as per the itinerary of the Prime Minister. It is not necessary that if a DCP or any other officer is unable to carry out the bandobast duty, he has to obtain a written permission. It is not true that I and my other officers conspired and falsely implicated the present accused and as a part of the conspiracy I signed the sanction

order.

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

45. The incidents of bomb blasts that had occurred on 11/07/06 were of a very serious nature. I received the information of all the blasts within a gap of 8-10 minutes. I instructed all the police stations to take measures for maintaining law and order since it was a question of law and order. I visited the spots immediately. I do not recall the exact timings. I cannot give the approximate time gap between the blasts and my visits. I did not try to contact the concerned railway officers who were at the respective railway stations. I only tried to contact the railway police commissioner. The railway police officers were present at the spots during my visits. It is not true that no one tried to meet me. At that time there was no special dialogue with them. I do not recall having seen any senior railway police officers of my rank during my visits. I did not try to find out during my visits whether any crime is registered. Some time later I came to know about the registration of crimes. I cannot specify in minutes or hours when I came to know about it. I do not remember the names of the police officers and other persons who were present

at the spots. They were from railway police as well as from local police. Media people were present there at many spots. Political functionaries visited the spots at different times. I was not present when they visited the sites, but I was present only when the Prime Minister and the Union Home Minister visited the sites therefore I do not know whether political functionaries were concerned with the injured and the public at large. I had occasions to visit the Home Minister and Chief Minister of Maharashtra on that night. There was phone contact with them immediately after the incident took place. I met them some time that night. The meetings were in connection with the measures to be taken regarding the incident. It is not true that no higher officers were called by them for the meetings. Police Commissioner Railway was called. He as well as the Director General of Police were present in the meeting in connection with the measures to be taken regarding the incident. I was not immediately aware of the steps taken by the railway police officers. I knew at the time of the meetings in a general sense about the steps taken by them. I had not given directions to the concerned police stations in whose jurisdictions the blasts had taken place.

46. The Director General of Police transferred the investigation from the railways to the ATS. It was on the same day or the next day. The posting of senior officers to the ATS was done by the government. Officers of the level of inspector and below were given from city police. I was not consulted by the government while making the postings of the senior officers. The Director General may have been consulted. Pasricha was the Director General in 2006.

Q. Whether the officers who were deputed for the ATS after the incident where the most efficient investigating officers?

A. The Jt. CP was asked to select his team of officers from anywhere and those who he chose from Mumbai city police were provided by me as the Police Commissioner. Others who have from outside Mumbai city were provided by the Director General.

PI Salaskar was one of the officers who was taken for the ATS team. He was in the Crime Branch at that time. He was heading some cell, but not attached to any particular unit. I would not remember which team of the ATS was assigned a particular area. I was not monitoring the investigation in the beginning, but I was getting general information about the investigation. Subsequently, after an order was

passed by the Id magistrate to closely supervise, I was monitoring the progress more regularly. This was sometime in early August. It is not true that till then I was not aware about the progress of the investigation and rendering all assistance. I do not recall whether I have seen the paper that was placed before the magistrate by the officers. I do not know that till that time there was no evidence in the investigation that was carried out. I had no occasion to see what was the evidence against respective accused till the cases were clubbed together. Till that time the investigating officers had not contacted me to place the progress of the investigation before me. It is not true that till that time the supervisory officers were not placing the progress of the investigation before me. It is true that I did not know the evidence that was collected against respective accused till then. The media may have been anxious to know about the progress of the investigation during this period. Respective police stations did not divulge the progress of the investigation made by them to the media. There was no system or procedure for giving information to the media. I have not taken any action against the media for any news given by them.

47. I did not personally interrogate any accused in this case. The progress is reported to me, therefore, I generally know regarding the arrest of the accused. It is not true that I did not take information about the date of the arrest of the respective accused and in whose custody they were when I accorded the sanction. It is true that the sanction order does not mention the period of custody of the accused with a particular team. All the accused were in police custody till they were remanded to judicial custody. I would not remember which accused was in the custody of which police officer, in what time and when he was taken in the custody by another officer in another crime. I did not try to analyse the gap between the dates of arrest of the accused and dates of their making confessional statements, but that information was before me. It is true that the confessional statements were recorded after the magistrate had passed the order directing me to supervise the investigation. I do not recall the dates of recording of statements of eye-witnesses, therefore, I cannot say whether there was a huge delay in doing so. The prior approval was in connection with CR no. 156/06. No prior approval was taken for the rest of the crimes. It is not true that there

is no mention of the CR in paragraph 7 of the sanction order because sanction is accorded to ATS Police Station, CR No. 05/06 in the earlier part and subsequently all seven cases for which MCOC is mentioned in paragraph 7. CR no. 156/06 is not mentioned in paragraph 7 of the order. Sanction is accorded to CR no. 05/06. It is true that prior approval is not given to CR 05/06 of the ATS. There was no prior approval for the crimes other than CR No. 156/06.

48. All the confessional statements may have been recorded during the period between the first week of October to the last week of October 2006. There were about 38-39 DCPs in Mumbai at that time. It is true that one or two DCPs recorded the confessional statements of more than one accused. I did not try to find out the reason for this. I do not recall whether I became aware that necessary permissions were not obtained from the respective courts about the seized articles brought from the outside states. I am not aware that accused Mohd. Ali Alam Shaikh was in the illegal custody of PI Salaskar from 31/07/06 to 09/09/06. I do not remember whether he was brought to Nagpada ATS on 09/09/06 and he remained there in custody upto 29/09/06 without being produced. It is not true that I

have personally interrogated him after he was taken in the custody of the ATS, that during it he was assaulted about which a complaint was filed in the court, that he was promised to be released if he becomes a witness in the case of Malegaon bomb blast 2006.

49. It is not true that as I was interested in the case, the present accused were involved at my behest, that the sanction accorded is without application of mind and that since we were not able to arrest the real culprits, we falsely involved the accused.

No re-examination.

R.O.

Special Judge

Date:-21/02/2012

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