

M.C.O.C. SPECIAL CASE NO. OF 21/06**DATE: 30th July, 2010****EXT.No.539****DEPOSITION OF WITNESS NO.32 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Eseki Muttu Nadar
Age : 52 years
Occupation : Hamali (Railway Porter)
Res. Address : Near Tata Power House, Borivali(E), Mumbai.

EXAMINATION-IN-CHIEF BY SPP RAJA THAKARE FOR THE STATE.

1. I work as a railway porter on the Borivali Railway Station. On 11/07/2006 I was called to platform no.4 in Borivali Railway Station at about 7.45 pm. A policeman had called me. There were two senior officers, one was by name Dhone. I was called for witnessing panchnama on the platform towards Dahisar side. The train was Virar bound. The coach where the bomb blast had taken place was half first class. The coach was shown by the railway staff. The coach was damaged, the handles, the seats were broken. The coach was lifted up towards the third track. The fans, lights, luggage racks were broken and had fallen down. There was blood, articles of passengers, etc., on the floor. Police asked me to look around and check saying that they want to prepare panchnama. When I was looking around the police were writing the panchnama. After some time a chemical officer came there. He wore rubber hand-gloves. He took pieces of burnt colour, paper, glass and mud with blood on it. He took none pieces and put them in nine plastic bags, wrapped them with brown papers, tied them by thread. He prepared labels, took may signatures and pasted the labels on the pockets. Other articles like mobiles, papers, etc., were collected in three different bags. Names on the paper were written. They were put in a big bag, tied and label

containing my signature was pasted on it. Two constables in black dress came there with a dog, which was taken around the coach. Another hamal was also with us as panch. He also signed on all the labels. Policemen had brought the photographer who took photographs and a person who took videos of the spot. The panchnama was explained to me and I signed it. The other panch also signed it. The police officer signed it. The panchnama now shown to me bears my signatures at sr. no.2, signatures of the other panch at sr. no. 1, signatures of the police officer by the side at eleven places. Its contents now explained to me are correct. (It is marked as **Ext. 540**).

2. (Ld SPP requests for showing to the witness the nine articles at sr. no. 26 of list Ext.16F that were seized at the spot. They are seven brown and two khaki parcels sealed with the lac seals of FSL with labels pasted on the brown parcels. They are given to the ld advs of the accused for inspection. They are shown to the witness). Labels on the packets no. 1, 2, 7 & 8 bears my signatures at sr.no.2, signatures of the other panch at sr. no. 1, signatures of the police officer by the side. (The packet no.1 is opened and found to contain a plastic bag containing a piece of rexine and cotton swap). The piece of rexine and cotton swab are the same. (They are marked as **Arts-189 and 190 respectively**, the plastic bag is marked as **Art-190A** and the envelope with the label pasted on it is marked as **Art-190B**).
3. (The packet no.2 is opened and found to contain a plastic bag containing pieces of glass, plywood and some mud). The pieces of glass, plywood and mud are the same. (They are marked as **Art-191 colly**, the plastic bag is marked as **Art-191A** and the envelope with the label pasted on it is marked as **Art-191B**).
4. (The packet no. 3 is opened and found to contain a plastic bag containing pieces of glass, plywood and mud). The label contains my signature at sr. no.2, signature of other panch at sr. no. 1 and signature of the police officer by the side.

The piece of pieces of glass, plywood and mud are the same. (They are marked as **Art-192 colly.**, the plastic bag is marked is **Art-192A** and the envelope with the label pasted on it is marked as **Art-192B**).

5. (The packet no. 4 is opened and found to contain a plastic bag containing pieces of oil paint). The label contains my signature at sr. no.2, signature of other panch at sr. no.1 and signature of the police officer by the side. The pieces of oil paint are the same. (They are marked as **Art-193 colly.**, the plastic bag is marked as **Art-193A** and the envelope with the label pasted on it is marked as **Art-193B**).
6. (The packet no. 5 is opened and found to contain brown opened envelope with label pasted on one side and seal on the backside, in which there is a plastic bag containing pieces of sunmica and jute). The label contains my signature at sr. no.2, signature of other panch at sr. no.1 and signature of the police officer by the side. The pieces of sunmica and jute are the same. (They are marked as **Art-194 colly.**, the brown envelope is marked as **Art-194A**, the plastic bag is marked as **Art-194B** and the Khaki outer envelope is marked as **Art-194C**).
7. (The packet no. 6 is opened and found to contain plastic bag containing a small silver cylinder and a piece of metal). The label contains my signature at sr. no.2, signature of other panch at sr. no. 1 and signature of the police officer by the side. The small silver cylinder and a piece of metal are the same. (They are marked as **Art-195(1&2)**, the plastic bag is marked as **Art-195A** and the envelope with label pasted on it is marked as **Art-195B**).
8. (The packet no. 7 is opened and found to contain plastic bag containing pieces of half burnt clothes, burnt small battery cell, broken piece of lock of suitcase and ash). The pieces of half burnt clothes, burnt small battery cell, broken piece of lock of suitcase and ash are the same. (They are marked as **Art-196 colly.**, the brown envelope is marked as **Art-196A**, the plastic bag is marked as **Art-196B**).

9. (The packet no. 8 is opened and found to contain plastic bag containing a torn plastic carry bag having name GMCT, pieces of newspapers, rexine, metal, plastic, ash, etc.). The pieces of torn plastic carry bag having name GMCT, pieces of newspapers, metal, clothes, mud, etc., are the same. (They are marked as **Art-197 colly.**, the plastic carry bag having name GMCT is marked as **Art-197A**, the brown envelope is marked as **Art-197B**, the plastic bag is marked as **Art-197C**).
10. (The packet no. 9 is opened and found to contain plastic bag by name Ramesh Tailor and Chothies, in which there is a brown wrapper with label pasted on one side and seal, in which there is a white plastic bag containing several pieces of metal). The label on brown envelope contains my signature at sr. no.2, signature of other panch at sr. no.1 and signature of the police officer by the side. The pieces of metal are the same. (They are marked as **Art-198 colly.**, the brown envelope is marked as **Art-198A**, the three plastic bags are marked as **Art-198B (1 to 3)**, the plastic bag by name Ramesh Tailor is marked as **Art-198C** and the Khaki outer envelope is marked as **Art-198D**).
11. (Ld SPP requests for showing to the witness the articles at sr. no. 27 to 61 of list Ext.16F that were seized at the spot. Witness is shown the articles). The calculator, documents, I-cards, ATM cards, ration cards, mobiles, watch, rexine bags, etc., are the same. (The Citizen, Casio, Orpat, Kadio company calculators at sr. no. 27 to 30 are marked as **Art-199 to 202**. Certified true copies of mark-sheets, certificates in the name of Brijesh O. Mishra of Kohinoor Technical Institute are marked as **Art-203 (1to4)**, plastic bag is marked as **Art-203A**, Bank of India passbook in the name of Deepak Gawand is marked as **Art-204**, three I-cards and three railway pass in the name of Pande Kinny are marked as **Art-205(1 to 6)**, plastic bag is marked as **Art-205A**, ATM card of ICICI bank and SBI in the name of Vijaykumar are marked as **Arts-206 (1 & 2)**. Income Tax refund cheque and order in the name of Dhanjar is marked as **Art-206(3)**, railway pass,

telephone daiary and other papers are marked as **Arts-206 (4 colly.)**, plastic folder is marked as **Art-206A**, I-cards of Deepak, Nilesh and Vinit are marked as **Art-207 (1to3)**, police belt, cap and broken nameplate in the name of Ramesh Devlya, PC-01-20, Mumbai Police are marked as **Art-208(1 to 3)**, other papers are marked as **Art-209 colly.** And plastic bag is marked as **Art-209A**, I-card of Chirag is marked as **Art-210** and I-card of Subhashchandra and other papers are marked as **Arts-211 colly.**, plastic bag is marked as **Art-211A**, I-card of Narsidas and other paper in brown pouch are marked as **Art-212colly.**, plastic bag is marked as **Art-212A**, cash amount of Rs. 600/- is marked as **Art-212**, Pyra card is marked as **Art-214**, visiting cards of Ravindranath, Hotel Metro Inn, Daman and other cards are marked as **Art-215 colly.** Black pouch is marked as **Art-215A**, plastic carry bag is marked as **Art-215B**, I-card of H. S. Collage in the name of Singh Devesh, telephone diary, photographs in plastic pouch, Hanuman Chalisa are marked as **Art-216 colly.** ATM cards of ICICI, HDFC, ABN Amro, Citi Bank, SBI, HSBC, BOI, Gr. Bombay Co-op Bank, United Western Bank in the name of K. Babu are marked as **Art-217 (1 to 9)**, a brown pouch containing the ATM cards is marked as **Art-217A**, plastic bag is marked as **Art-217B**, plastic I-card of Minex in the name of Partha Saha, railway I-card, pass, fine receipt and ATM Card of UTI Bank in the name of T. P. Shah are marked as **Art-218 colly.**, brown pouch is marked as **Art-218A**, plastic bag is marked as **Art-218B**, ration card of Pravinbhai Shah and receipt of passport officer are marked as **Art-219 (1&2)**, Western railway motorman compartment pass is marked as **Art-220** and 2 currency notes of Rs.100/-, 2 currency notes of Rs. 50/-, 1 currency note of Rs.20/-, 4 currency notes of Rs. 10/-, total amount Rs. 360/- are marked as **Art-221 (1 to 9)**, plastic bag is marked as **Art-221A**, Central Railway pension card in the name of Srinivas Rao and I-card are marked as **Art-222(1 & 2)**, plastic bag is marked as **Art-222A**, I-card of B. A. Khot, two I-cards of Nilesh Pandya and

three photographs are marked as Art-223 (1 to 6), plastic bag is marked as Art-223A, six photographs and resume of Sheeba Nair are marked as Art-224colly., plastic bag is marked as Art-224A, SBI passbook, HDFC & SBI ATM Cards, PAN Card in the name of Bisoi Puranchandra are marked as Art-225 (1 to 4), cheque of Citi Bank is marked as Art-226, black diary, photographs, SBI paying slips, cheque book cover, zerox of x-serviceman card, zerox of ICICI insurance card and other documents are marked as Art-227 colly. Plastic bag is marked as Art-227A, silver black Nokia-2600 mobile handset is marked as Art-228, white broken Nokia-6020 mobile handset is marked as Art-229, broken Kyocera mobile handset is marked as Art-230, a wrist watch of S'squre with black belt is marked as Art-231, plastic bag is marked as Art-231A, ICICI bank ATM Card is marked as Art-232, ICICI bank ATM Card in the name of Mugdha Deshpande is marked as Art-233, black rexine bag containing telephone diary of Sameer Deshpande, brown leather purse, pocket yellow pages, other articles are marked as Art-234colly., black rexine bag containing ICICI prudential form and other papers are marked as Art-235colly, black rexine bag containing a steel tiffin box are marked as Art-236 colly., cheque book of ICICI bank and three ESIS cards in the name of Shailendra Kamble are marked as Art-237 (1 to 4), black rexine bag containing I-card of Wilson college in the name of Vikrant Khanvilkar are marked as Art-238 (1 & 2), black rexine bag containing misc. papers are marked as Art-239 colly., I-card of IOC, Club Aaquaria and airport entry pass in the name of Sunil Murde in pouch are marked as Art-240 (1 to 4), cheque book of Bank of India of Vivek Deshmukh is marked as Art-241, rosary with cloth bag, plastic tiffin box, small books in Gujarathi in blue coloured rexine bag are marked as Art-242 colly., a gunny bag is marked as Art-242A.

Cross-examination by Adv Wahab Khan for A/2, 7, 10 & 13,

12. I am working as hamal since 35 years. I got licence in 1986. I go for work

at 6.00 am. I work upto 9.00 pm. It is true that persons without licence also work there as hamals. It is true that railway police do not trouble us. It is not true that I know the railway police persons. On 11/07/2006 I went to work at 6.00 am. It was rainy season. Police met me at about 7.30 or 7.45 pmn for the purpose of panchnama. I was not in the train at that time. One policeman came to call me. I was having snacks on the platform no. 4. I do not know the mane or buckle number of that policeman. He asked me whether I know about the bomb blast and whether I had picked up the bodies. I said yes. Then he took me to the spot of the blast. He did not ask me whether I have any relation with the police and whether I had acted as a panch witness earlier.

(Adjourned for recess).

(Y.D. SHINDE)

Date:- 04/08/10

SPECIAL JUDGE

Resumed on SA after recess

13. I have acted as a panch witness in the cases of railway accidents. I cannot tell the number of cases. I may have acted as a panch witness on possibly 20th of May, 2007 or 2008. I do not remember what timings were written in that panchnama. A watch and a chain were seized. It was prepared by police officer More. It is not true that I do not refuse the police to act as a panch witness. I have never given evidence in the court before today.
14. I know Bharat Palkar since fifteen years. I do not know whether he also acts as a panch witness in railway accident cases. I do not know whether police asked him whether he had acted as a panch witness earlier. I do not know when he was called by the police. At the time of this case, he was standing there before me. I was taking out the dead bodies and injured since 6.30 pm upto 7.15 pm.

There were fifteen-twenty hamals doing this work, excluding members of the public. There were about fifteen-twenty other persons from the public doing this work. There were few policemen at that time and later on some more came. We were helping in the rescue operations voluntarily and going at our will in the coach. It is true that after the railway and city police came there, they asked us to move away from the place. At that time people with video cameras had come there and they were shooting the spot. I was not called to the spot at that time. There were about fifty-sixty policemen. Fire brigade person had come there later on. They were talking with the policemen. After the police asked us to move away from the place, I was called to the spot after about 30-45 minutes. All the policemen were in uniform. They were surveying and checking the spot. It is not true that they were searching inside the coach and outside. They were standing on all sides. I did not see any cloth bag or bag with the policemen. It is true that during the half an hours period they collected articles from the coach. It is not true that at that time they were also writing something. It is true that police showed me the articles that were collected. It is true that I do not know from where the police had collected the articles. When I was called and shown the articles the writing was going on. Police did not take photographs or do video shooting of the articles as they were lying at the spot. Police did not take the photographs of the articles that were collected. I do not know how many policemen had collected the articles. It is not true that I do not know since what time the writing was going on. The writing was not done in the coach. There was no water on the floor of the coach. The seats were not wet and there was no rain water. No article was given in my hand. It is not true that police took my signature on papers that were blank. It did not happen that I signed on a page that was blank. It is not true that I was taken to Borivali Railway Police chowki. My signatures were taken on the backside of pages which were fully written. I may

have signed at fifteen-twenty places. Thereafter, a file was prepared about the articles that were collected and my signatures were taken. I may have signed at about fifty four places.

Q. Whether the first twenty signatures were made on the panchnama?

A- I do not understand what the panchnama is but it was written paper.

My signatures were taken on full sized papers and on balels. It is not true that subsequent fifty signatures were taken on labels. They were made on full sized papers. My signatures were taken at the end of the papers after the written matter. I had signed a total of seventy pages. It is not true that my signatures were taken in the Borivali Railway Police Chowki, that no article was seized in my presnce, that I identified the articles on the say of the police.

Cross-examination by Adv P.L Shetty for A/3, 8, 9, 11,12

15. I do not know the name of the officer who wrote the paper. Two officers were writing. I cannot tell which officer wrote which page of the panchnama. Ne officer took my signatures on the panchfnama. I am uneducated. I signed after the police officer signed.

16. I cannot tell the name of the officer who wrote the matter above my signatures on the labels. My signatures on the labels were taken after the matter above was written. The no. M-302/06/9 on the label Art-198A was not written at that time.

Cross-examination by adv Mokashi for A/1, 4, 5 & 6

17. (Cross-examination by Advs Wahab Khan for A/2, 7, 10 &13, P.L Shetty for A/3, 8, 9, 11,12-Adopted).

No re-examination.

R.O.

(Y.D. SHINDE)

MCOC SPL NO. 21/10

PW-32/10

Spl. Judge
Date:- 30/07/10

SPECIAL JUDGE
UNDER MCOC ACT,99,
MUMBAI.