

**M.C.O.C. SPECIAL CASE NO. OF 21/06**

**DATE: 29<sup>th</sup> September, 2010**

**EXT.No.615**

**DEPOSITION OF WITNESS NO.44 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Ashik Ali Mukadam

Age : 41 years

Occupation : Tours and Travels Agent

Res. Address : Room No.25, 3<sup>rd</sup> Floor, Baitur Abib Bldg., Dongri  
Market, Mumbai-9.

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

1. I have passed the M. Com and B.Ed. examinations. I organize tours to Haj, Umrah and Ziarat. The name of my firm is As-Serat Tours. Its proprietor is Mohsin Ali Muni. I met him in Syria in 2002 when I had gone for Ziarat. He saw my helping nature and my attitude towards the pilgrims. Therefore, he asked me whether I would join him in his business. Before 2002 also I was knowing him. In 1990 or 1991 I had gone with my mother to Haj. After that I frequently went for Ziarat, practically every year. I joined Mohsin Ali in his business in 2003. Thereafter, I work as a tour guide, taking

people around the places of Ziarat and giving them information about those places. I also do office work. The size of the group depends upon the number of the pilgrims, which may be thirty, forty, fifty, sixty, hundred, etc. Every year such tours are conducted five or six times. Every time I do not go with the tour. Sometimes my staff goes.

2. For the pilgrimage of Haj and Umrah, we take the pilgrims to Saudi Arabia. For Ziarat we take them to Syria, Iraq and Iran. All sects of Muslims go for Haj. For Ziarat, majority Shias go and we take people of our community, i.e., Shias. As of now a person requires Rs. 28,000/- for going to Iran, Rs. 61,000/- for Iraq and Rs.26,000/- for Syria. We give the work of obtaining visas to Afzal Hirji of Al Shaya Nasser Travels. His office is near Metro Cinema. Mostly people who are acquainted come to us for going for Ziarat, they also bring their relatives and friends for this work and sometimes people come through agents that are appointed by us. There are agents Mohammedbhai in Bhavnagar and Masoom in Ahmadabad. At present there is no agent in Mumbai.

3. We maintain a record of the pilgrims that we take on pilgrimages. We make entries of the details of the passport and paste photographs of the persons in the registers. On 07/08/06 an ATS person had come to our office.

He had some seven- eight names with him and he asked me to come to the office if we had done some work for them. I checked my record for the names that were with him. I found four such names out of the names that he had given, whose ticket and visa work was done by us. On the next day, I took the registers to the office of the ATS at Bhoiwada. Police prepared a panchnama and took the registers in their custody. I remember the name of an agent by name Mushtaq who had brought the passports of the four persons whose names I found. The names of the persons were Muzzammil, Zameer, Mohd. Chand and Zulfiquar. We take four photographs of each person. But the agent Mushtaq had brought four photographs of three persons and three photographs of one person. He told us that he would bring one photograph of the one person later on. We pasted the photographs of the three persons on our registers.

4. The passports of the four persons were received from time to time during 2004 to 2006. Mushtaq had told us that those four want to go for Ziarat to Iran. During that time I had my own group for going to Iran. After a few days he told me that the four people would not go with the group and they will go by themselves and asked me to obtain their tickets and visas. I will be able to identify the registers if they are shown to me. (Ld SPP

requests for opening a packet at sr. no. 10 of list Ext.16A. It is given to the learned advocates for the accused for inspection. It is a brown paper packet having a label dated 08/08/06 containing the description of CR no. 77/06 and other particulars and it does not have lac seal. On opening, it is found to contain three registers of As-Serat tours, one of 2004, one from 2005 and one more). The three registers now shown to me are of my firm. They are maintained in the due course of my business. The passport details, date of birth of the person, date of issue and expiry of the passport are entered in the registers. The entries are made by my staff members and some times by me also. (The register of 2004 is received in evidence and marked as **Ext. 616**, the register from January 2005 is marked as **Ext.617** and the third register is marked as **Ext. 618** as ld advocates of the accused consent. The brown paper with label is marked as **Art-260**). (Witness is shown the register Ext.616 and asked about the red circle around a name and a photograph on the third page). This red circle was made by the police. The entry is pertaining to Shaikh Muzzammil Ataur Rehman. (Witness is shown the passport Art-178). The passport is of the same person and its details are mentioned in the register. As per the entry in the register, this person was to go to Iran on 07/05/04. On going through the passport I say that this person had gone to

Iran but not for Ziarat. This I say because persons who go for Ziarat take Niyaz or Prasad and a stamp is put on their passport to show that they had taken the Niyaz. There is no such round stamp on the passport Art-178.

5. (Witness is shown the register Ext.617 and asked about the red circle around a name and a photograph on the fifteenth page). This red circle was made by the police. The entry is pertaining to Zameer Ahmad Latifur Rehman. As per the entry in the register, this person was to go to Iran in 2005. (Witness is shown the passport Art-133). The passport is of the same person and its details are mentioned in the register. On going through the passport I say that this person had gone to Iran but not for Ziarat. This I say because persons who go for Ziarat take Niyaz or Prasad and a stamp is put on their passport to show that they had taken the Niyaz. There is no such round stamp on the passport Art-133.

6. (Witness is shown the register Ext.617 and asked about the red circle around a name on the twelveth page from back). This red circle was made by the police. The entry is pertaining to Chipa Mohammad Ali. As per the entry in the register, this person was to go to Iran in 2005. The agent had given only three photographs of this person. Therefore, his photograph is not in the register.

7. (Witness is shown the register Ext.618 and asked about the red circle around a name and a photograph on the eleventh page from back). This red circle was made by the police. The entry is pertaining to Zulfiquar Faiyaz Ahmad. As per the entry in the register, this person was to go to Iran on 02/05/06. ATS took my statement in connection with this.

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

8. I do not have knowledge about the employment visas on which people go for service out of India. It is true that even if there is no round stamp of tomb of Imam Reza at Mashad, it cannot be said that the person had not gone for Ziarat. It is true that there is no restriction on any sect of Muslims or for non-Muslims for Ziarat. It is true that Iran Government invites members of different communities from all over the world for conference and after the conference they are taken for Ziarat at Government expenses. I again say that I do not know about this. If a person who goes to Iran does not visit Mashad but goes to other religious places, the round stamp of Mashad will not be on his passport. If a person goes to Mashad but does not take the Niyaz, the round stamp will not be there on his passport. Niyaz means a meal at the tomb of Imam Reza at noon time upto 2006. If a person had visited the tomb in the morning for one or two hours or in the

evening, the round stamp would not be there on his passport. It is true that in respect of the guest visiting the tomb, one time free meal of good quality is given. If a person has this type of meals outside, he will have to spend money. It is true that pilgrims go in groups. It is not true that on reaching there the passports of the pilgrims are given in the office of the tomb of Imam Reza, the round stamp is put on the passports, a token is given and by showing the token the person can have the meals. A person can have meals there only once a year though he may go for Ziarat for thirty days. It is true that the officials of that tomb know on seeing the round stamp on the passport of a person that he had taken the meals. It is true that there is no compulsion at Mashad for a person to have meals and then only he can do Ziarat. If a person wants to extend his visit, he can go to the office of the Iran Government at Mashad and get it extended as per the rules. If the stamp is of Mashad office, it means that the visa was extended at Mashad. I have no idea whether the Mashad office puts a specific stamp that the visa is extended at Mashad. (Witness is shown passport Ext. 459 and asked whether it was extended at Mashad). On going through the passport I cannot say whether it was extended at Mashad. However, there is a stamp of visa extension. (Witness is shown the passport Art-178 and asked whether it was

extended at Tehran). I cannot say whether it was extended at Tehran. But it is seen to be extended. (The passports Arts-133, 178 and 251 are received in evidence and marked as **Exts.619, 620 and 621** as they are public documents). It is true the visa in the passports Exts.619 and 620 are extended in Iran.

9. We had given around Rs. 15,000/- to 17,000/- per person in the office of Afzal Hirji to one of the three or four staff members in his office for the purpose of ticket and visa. After a few days on the given date we went to that office and collected the tickets and visas. For the remaining three persons we followed the same procedure for obtaining tickets and visas. We are getting done the work from Afzal Hirji, therefore, the ticketing and visa work of these three persons was done from him. It is true that many names of persons of Shia and Sunni community are common and on the basis of names it is difficult to say to which sect the person belongs. Except with respect to certain particular names on the basis of which we can say that he does not belong to the Shia sect, most of the remaining names are common.

10. It is true that in India Sunni sect people mostly go to visit dargahs. I do not know whether the persons whose dargahs are in India, are the ascendants or descendants of prophet Mohammad. I have not read the



Kuran with its meaning. Moses is one of the prophets of Allah. Jesus is also prophet of Allah. Taurat and Bible respectively are the holy books given to them by Allah. Kuran refers to Moses and Jesus as prophets of Allah. It is true that the ascendants or descendants of Moses and Jesus are respected by Muslims. For the present day Muslims, prophet Mohammad is the messenger of Allah and Kuran is the book given to him by Allah for guidance of the community. The ascendants or descendants of prophet Mohammad who had followed the path of Islam, are respected by all sects of Muslims. It is true that prophet Mohammad's progeny was through a daughter by name Fatima. Her husband was Hajrat Ali. Both are respected by all sects of Muslims. It is a pious to visit their tombs for all sects of Muslims. Same can be said about the Hassan and Hussain, sons of Fatima. It is not necessary that every Muslim who follows the guidelines of the prophet Mohammad, does not abuse or use bad words for the ascendants and descendants of the prophet.

(Adjourned for recess)

**Date:- 29/09/10**

**Resumed on SA after recess**

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

11. Ziarat means paying homage to the person whose tomb it is.

Sunnis may be going for Ziarat to dargahs. It is not true that it was cheaper get the work done from Afzal Hirji. I do not know whether there are other persons who are doing the work of obtaining visas for Ziarat. A major part of the money that we give in the office of Afzal Hirji is for ticket. I do not know whether remaining amount is for visa fees of the consulate and of the visa processing charges of Afzal Hirji's office. I do not know the charges of the Iran consulate for issuing visa. I do not know whether Afzal Hirji's office used to charge for processing the work of visa or they used to do it free. If a person does not charge for processing the work of visa, then it will be cheaper for the passenger. Since more than seven years we are getting the work done from Afzal Hirji's office and even now.

Q.- Whether you felt that Afzal Hirji's office was not charging for processing visas?

A.- I have heard about it and it is possible.

I am charging processing fees.

12. It may be that some people who go for Haj, Umrah and Ziarat in the name of pilgrimage, in fact go for business purposes. It is in our religion that when we go for these pilgrimages, we bring gifts for relatives and friends. It is so written in the Kuran but I do not remember

exactly. Items like dry fruits, saffron, semi-precious stones, carpets, etc., are cheaper and of good quality in Iran as compared to the Indian market. I do not know whether business of these items between Iran and India is going on since ages.

13. The programs of our tours have a fixed itinerary. If a person wants to travel cheaper and stay in less costly hotels, he will not come in my tour. The more the people in my tour, the more my profit. I do not agree that if a person goes on his own individually, he will save money. It is not true that it is cheaper to go individually than with all groups. There are religious places in Iran other than the tombs of Imam Reza, Masom-e-qum and Shah Abdul Azim. There are historical and tourist places in Iran. People going for Ziarat to Iran visit the three tombs. Ali name is common in Muslim community. It is true that only because the name of a person includes the word 'Ali', it cannot be said that he is a Shia.

Q.-It will not be possible for you to tell the names of the persons, except your family members and relatives, who have gone for Ziarat in between 2004 and 2006?

A.-Sometimes my memory does not support and sometimes it supports.

I rarely read newspapers. It is not true that from the newspapers I came to

know that there was some problem about some persons who had gone to Iran.

14. The policeman had come personally to my office on 07/08/06. I do not remember at what time he came. He did not give me any summons or notice. I do not remember whether he asked me about the proprietor of my firm. He was not in uniform. He did not ask to see the registers. He showed me the seven-eight names written on a paper. I do not remember whether he told me to check the registers. I did not check the registers in his presence. After he went away, I had informed Afzal Hirji on phone. I do not remember after what time after he left that I informed Afzal Hirji. Afzal Hirji did not come to my office on 08/08/06. Mushtaq also did not come. I met Afzal at the office of the ATS on 08/08/06. I was called at 11.00 a.m. I reached there at about the same time. I do not remember whether Afzal was already there or he came later. I cannot say whether police inquired with me first or with Afzal. They inquired with me orally for about half an hour. Thereafter, they took the registers and prepared panchnama. Police did not seal the registers by lac seal. I do not know who wrote the panchnama. I do not know whether the panchnama was typed/written in my presence. I do not remember whether other than my

statement anything was written or typed in my presence. I was in the office upto 4.00 or 5.00 p.m. I cannot tell the time when the writing of my statement was over. It was done before lunch. I do not know whether the registers were in front of me when my statement was recorded. I do not remember whether I saw the registers at the time of giving my statement or after it. I cannot tell the name of the police officer in whose hands I gave the registers. I do not remember whether I gave the registers immediately on reaching there or after some time. It is not true that I do not know what the police did except encircling certain names by red pen. They had wrapped the registers in a brown paper, pasted the brown paper by gum. Two persons had signed near the encircled portions. I do not know whether the two persons were policemen. Police did not introduce them to me. They came there afterwards. I was waiting at the ATS office upto evening at my own wish. I do not remember how much time before leaving the office of the ATS, my statement was recorded. The entries in the encircled portions in the three registers are not in my handwriting and they are not signed by me. The registers are not maintained as per any Government rules or guidelines. There is no endorsement of the Iran consulate or of the police of having checked the registers. There are no signatures of the persons whose names

and details are mentioned in the entries.

15. It is possible that Sunni pilgrims go for Ziarat to Iran.

Q.- The round stamp at Mashad is put on the visa to prevent a person from having second meal in a year?

A.- It is true.

It is not true that this rule is only for pilgrims going on tours. It is not true that these registers are not of my firm and I had not produced them. It is true that the registers are not serially paged.

Q.-The registers are not maintained chronologically as per dates?

A.-As and when the passports of the passengers are received entries are made in the registers.

It is true that they are not maintained datewise. It is not true that I identified the registers and the passports at the instance of the police, that I deposed falsely as tutored by the police.

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

Adjourned as per the application Ext.622.

**Date:- 29/09/10**

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

**Date : 30/09/2010**

**RESUMED ON SA**

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

16. We used to write the names of the agents in the registers sometimes. After we return from the tours, we have no occasion to see the passports of the pilgrims. By looking at the passport of some person I cannot say whether he had gone for Ziarat or not. Passports were not shown to me in the office of the ATS. Only the zerox of the pages of visa were shown to me. That was the first occasion when I saw the visas of the three persons after I had handed them over to the agent. I saw the original visas yesterday in the court for the first time after I had handed them over to the agent. The agents give only passports and photographs to my office and no other document about the passenger is given. Sometimes the passengers come to our office, but it is not necessary. As we conduct religious tours, the

persons who come to us come with the intention of going for Ziarat. Therefore, we assume that the visas that are arranged by us are for Ziarat. The visas issued are also for Ziarat. Whenever the passengers do not come directly to us, we believe the words of the agent that they are going for Ziarat. Muzzammil had taken only visa and ticket from me but he had not traveled with us in the tour. The main pilgrimage centers in Iran are the tombs of Imam Reza at Mashad, of Masoom-e-qum at Qum and of Shah Abdul Azim in Tehran. There are other pilgrimage centers also. It is not necessary that a visit to all the pilgrimage centers in Iran is called as Ziarat. (Witness is shown the passports Exts. 619 and 620). The visa mentions the word 'Pilgrimage', which means Ziarat. I am not much conversant with Persian language.

17. The register Ext. 616 is maintained by my staff and myself. I cannot say who out of my staff made the entry in respect of Muzzammil. We write the particulars on the first page of the passport in our register. Once or twice we maintained eight columns in the registers. They are serial number, photo of the passenger, name and address of the passenger, passport details, date and place of birth, payment details, travel from and remarks. We have discontinued the practice of maintaining eight columns. I cannot say from



what time to what time this practice was continued or when it was discontinued. I discontinued it. I do not remember whether this practice was followed at the initial stage. It is true that the registers are not serially paged. (Witness is shown the register Ext.616 and asked to read out the columns). The first column is serial number, second is name of the passenger, third is passport details, then on the front page is the fourth column of the date and place of birth, fifth column is payment details, sixth column is blank. The passengers on the first and second pages did not come through agent, they came directly to me. On the third page, except Muzzammil remaining passengers came directly to me. Passengers on the fourth page also came directly to me. Thus, except one passenger, all passengers on the first four pages came directly to me. It is true that it is nowhere mentioned in the register about the passengers coming directly or through agent. Except Muzzammil rest of the passengers came in groups or individually. This is also not mentioned in the register. It is true that in column no. 1 of the four pages, serial numbers are not written serially and orderly. The entries in the registers are the only documents with us about arranging visas for those persons. The page containing the entry of Muzzammil contains photographs but not serial numbers. Except the entry

of Muzzammil, all other entries on that page are in my handwriting. It is true that the photographs on this page are affixed in the column of date and place of birth, the name and address of the passenger is written in the column of payment details and in the last column the ticket and visa particulars are written. I cannot say who wrote the words 'Haj 2004 in computer' by pencil in the entry of Muzzammil and when. The words mean that the entry might have gone in the computer in our office under the heading 'Haj 2004'. That may be a wrong entry. I had seen the entry when I produced the registers in the ATS office. I did not produce the hard copy of the entry in the computer having the heading 'Haj 2004'. It is true that passport details are not mentioned in the entry. It is true that except the entries on the page containing the entry of Muzzammil, further about ten pages do not contain such type of entries on the front pages like pasting the photographs and writing the details in the continuation of the columns on the first page. It is true that it is only on this page that the passport details of the passengers are not mentioned.

18. (Witness is shown the register Ext.617). It is true that the first page does not mention from what date to what date the register is. However, it is written that it is from January 2005. The pages in this register are also

not serially numbered. The passengers listed on pages fourteen and fifteen are from one group. Except Zameer all others had come directly. It is not mentioned as to whether they had come directly or through agent. The entry of Zameer is not in my handwriting. I cannot say in whose handwriting it is. There are no photographs on the three entries on the back page of page fifteen. Serial number is not written in the entry of Zameer. The serial numbers start from one on the back page of that page. It is true that passport details are mentioned in all entries in these pages. It is true that traveling details are not mentioned in the thirteen entries on these pages. Though the title on the fourteenth page is 'Iran/Iraq', none of the thirteen persons had gone to Iraq. I cannot say when these people had traveled. It is true that except the entry of Zameer, all other entries on that page are in one handwriting. I cannot say whether the entries on the back page of page fifteen are in the same handwriting as that of the four entries on page fifteen. I cannot tell the name of the staff member who made the entries above and below the entry of Zameer. Dates of entries are not mentioned.

19. It is not true that the entries of Muzzammil and Zameer are made at the behest of the ATS officers. I do not remember the date but the words 'only Iran visa' are written by me in the entry of Zameer. All the

remaining twelve persons were given only Iran visas as at that time the Iraq border was closed. It is not true that I wrote the words 'only Iran visa' in the entry of Zameer at the office of the ATS. It is true that in the entire register, the dates of travel and the dates of issue of ticket and visa are not mentioned. It is not our practice. It is true that from the first page there is no mention in the entries about the month. In the thirteen entries date of departure and date of arrival is also not mentioned. Generally we do not write these details. There is no special case of writing these details. In some entries it is written. I cannot say on going through the entry of Zameer, as to when he had gone and when he returned. Till the time I was called at the office of the ATS, I did not know when Muzzammil and Zameer had traveled to Iran and when they returned. Even today I do not know the dates of their departure and arrival. I do not take any person with me other than for pilgrimage.

20. (Witness is shown the entry of Chipa in the register Ext.617).

The first three persons on the front page and first on the back page of page twelve from the back, are of one family and the fifth person is an individual. There is no endorsement as to whether these persons came through agent or directly, the date of departure, arrival, date of issue of visa and tickets is also not mentioned. I cannot tell the name of the staff member who made the

entry of Chipa or the entry above it. The handwritings of both entries are different. The entry given serial number 65 on page eleven from the back is continued from the first entry on the page twelve from the back. It is true that it is not mentioned in the register as to from which agency we had obtained the tickets and visa. Photographs of the person at serial number five above the entry of Chipa were not received in sufficient numbers, therefore, the photograph is not pasted there. This means that wherever photographs are not pasted, it is to be understood that photographs were not received in sufficient numbers. The entry at serial number 5 above Chipa's entry was a business visa. Other than the contents of the entries in the registers, I gave evidence from my memory. As per the entry, Chipa is a resident of Jamalpura of Ahmadabad.

21. It is not true that all the entries of the four persons are not in serial with the other entries on their pages as they were made in the office of the ATS, that I deposed falsely because of pressure of the ATS and all the entries are manipulated.

**Cross-examination by Adv Rasal for A/1 and 4 to 6**

22. Normally all the registers are maintained yearly. It is not necessary that the entries are made from month to month serially. (Witness is

shown the register Ext.618). It is true that the entries on page ten from the back upto the back page of page fourteen are given reverse serial numbers 1 to 43 and serial number 44 starts from page nine from back. All these persons upto serial number 79 traveled in one group, except Zulfiquar at serial no. 22. The entries are of one group of passengers. Except the endorsement in the entry at serial no. 22 that the passport is given, there is no such endorsement in any other entry. I cannot say on what date that endorsement was made. It is in my handwriting. It is not true that at the behest of the ATS I put that endorsement.

23. After discontinuing the practice of writing the details in six columns, the practice of putting details in three columns started. Same practice is followed upto now. (Witness is shown the register Ext.617). It is true that more than three columns are made from page eighteen from the back onwards in the register. The entries on page number seventeen are of passengers who had gone on 02/05/05 to Iran. (Witness is shown the register Ext.616). The entries on page number fifteen are of passengers who have gone for Haj in 2005. I did not see the entry in the computer about Muzzammil of Haj 2004. It is true that in front of some entries in the registers, photographs appear to be removed, but there is no endorsement

about the reason for removing them. There is no endorsement in the entries where there is no photograph about asking the agent to supply the photograph. It is not true that the entries are made and I deposed falsely at the behest of the ATS.

**No re-examination.**

**R.O.**

**Spl. Judge  
Date:- 30/09/10**

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