

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

DATE: 30th September, 2010

EXT.No.623

DEPOSITION OF WITNESS NO.45 FOR THE PROSECUTION

I do hereby on solemn affirmation state that:

My Name : Shaikh Mohammad Wasi
Age : 31 years
Occupation : Travel Agent
Res. Address : B/504 , Jasmin Apartment, 65, Dockyard Road,,
Mazgaon, Mumbai-10.

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

1. I work as a travel agent in my father's office by name Western Travel Service. This agency is being run from the time of my grandfather. There are four staff members in our office. They are Shaikh Zahid Ali, who does the work of passport submission in the passport office, Kausar Ali, who is the manager, Shaikh Abuzar, who is the ticketing staff on the international counter and Sardar Hussain, who is a peon. I and my father also work there. We have a licence of the International Air Transport Association (IATA) and we issue tickets

of all international and domestic airlines. For ticketing all types of clients come to us. Sub-agents bring applications forms for passports, which we submit in the Regional Passport Office at Mumbai. We also do the business of conducting tours to Haj, Umrah and Ziarat. We take tours of groups and we do ticketing of the individuals who want to go for Ziarat. Groups of 50-60 persons go on tour. Since 2005 we have started maintaining registers of ticketing and visas and about tours we were already maintaining the registers since beginning.

2. On 08/08/06 ATS police had telephoned me and called me to the office of the ATS. On the same day I went there. On reaching there the ATS officer told me two names, i.e., Sohail Shaikh and Firoz Ghaswala. They asked me whether these two persons had done the ticketing and visa work from our office. I telephoned my office and asked them to verify. After some time it was informed that the ticketing and visa work of Suhail Mehmood was done by our office and only visa work of Firoz Ghaswala was done by our office. A copy of the passport of Sohail Shaikh and the register containing the entry of Firoz Ghaswala was brought from my office. Police saw the documents, prepared panchnama and after some time took my

statement. I will be able to identify the said documents that I had produced and which the police had taken. (Witness is shown the register Art-259 and zerox copy of passport of A/10 Art-259A). The register is of my office and the entries therein are made in the due course of our business. The staff members make the entries. I cannot tell the name of the staff member who has made the entry of Firoz Ghaswala on page no.14. (The register Art-259 is received in evidence and marked as **Ext.624** as consented by learned advocates). The name of the person, his address and the passport details are written in the register. A person by the name of Zawwar of my Shia community had brought the passport of Firoz Ghaswala and told me that he wants to go for Ziarat. I asked him whether he is a Shia and he said yes. I had so asked him because only Shia sect Muslims go for Ziarat to the tomb of Imam Reza in Iran. The entry of Firoz Ghaswala was encircled by red pen by the ATS officers and the panchas had signed near that entry.

3. (Witness is shown the zerox of the passport Art-259A and the passport Ext.621). The zerox is of that passport, but the photograph on the zerox is not clear. The page of the visa is as per the original

passport. The ATS officers had encircled by red pen the name and address and the visa page on the zerox copy of the passport Art-259A and the panchas had signed near it. The visa on the passport Ext.621 was taken for Ziarat in Iran. A Shia person who goes for Ziarat to Iran and visits the tomb of Imam Reza has the meals provided there and for that purpose a round stamp is put on the visa. No other document was shown to me by the ATS. They took my statement.

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

4. I have gone to Iran for Ziarat seven times. I was shown the passport in the ATS office. I had taken it in my hand and checked all pages. It contained the pages that are normally there in the passport. I had seen the immigration stamp and the visa. I did not notice any scoring. They had shown me the passport Ext.621. I cannot say from where the officer took it out. I do not remember where the passport was when I first saw it. Police did not prepare panchnama about showing the passport to me. I was shown the passport after about two hours after I reached the ATS office. I do not remember whether the ATS officer took out the passport from any packet and put it in any

packet after showing it to me. They did not show me zerox copy of passports of Faisal, Muzzammil, Zameer, Suhail and Tanveer and asked me to verify whether they had the stamp of Ziarat. I did not tell this to the police when I gave my statement. If it is so written in my statement then it is wrong. (Witness is confronted with the relevant portion. Hence, it is marked as 'A'). I cannot assign any reason why police wrote so in my statement. It is not true that my statement was not read over to me. I do not remember whether the portion mark A was written in it at that time.

5. It is not true that there is not much difference between Shia and Sunni sects Muslims. It is true that Sunni Muslims are strong believers of dargah visits. It is true that there are restrictions on Sunni Muslims when they go for Haj not to kiss the tombs of prophet Mohammad or founders of Islam religion or ascendants or descendants of prophet Mohammad and not to ask for blessings because they go to dargahs first. I do not know whether Sunni sect Muslims do not perform Namaj along with other sects of Muslims who do not believe in visiting dargahs.

6. It is true that the round stamp is put at the tomb of Imam Reza

to prevent a person from having meals more than once. It is true that it is not compulsory that a person should have meals at the tomb of Imam Reza in order to say that he has done Ziarat. It is true that in Muslim religion it is compulsory for a person who has got means, to go for Haj once in his lifetime. It is true that it is not compulsory for a Shia person to go for Ziarat. It is true that there are certain basic rituals to say that the pilgrimage of Haj is completed viz., going around the Kaba for a particular number of times, running between two hills called Safa and Marwa and pelting stones on symbolic evil. If a person goes hundred time to Macca but does not do these rituals, it will not be called as Haj. It is not true that all sects of Muslims not believe in dargahs go for Ziarat to Iran. There is no restriction by the Iran Government or by the office of the tomb of Imam Reza for non-Shia, Muslims and persons from other religions to visit there.

7. It is true that the sect of a Muslim like Shia and Sunni is not written on the passport. Except some names, one cannot identify a person as belonging to a particular sect only on the basis of his name. It is true that whenever we received a passport of a person for visa for Ziarat, we do not ask whether he is a Shia. It is true that a

person is not a Shia or Sunni by birth but it is a question of following a particular faith. I do not know whether the Iran consulate confirms that the person who wants a visa for Ziarat is a Shia and that it does not refuse visa to a non-Muslim person who wants to go for Ziarat. It is true that Iran Government does not make a distinction between Shia and Sunni while issuing visa for Ziarat.

8. I reached the ATS office at about 11.00 a.m. and was there upto about 6.00 or 7.00 p.m. I had received the phone from the ATS office one day before. I do not remember at what time I had received it. I now again say that I had received the phone on the same day, i.e., on 08/08/06. I cannot tell the exact time. They did not give me notice. They did not give me any details on the phone. They give the details when I reached the office. I had stated when I gave my statement that on reaching there the ATS officer told me two names, i.e., Sohail Shaikh and Firoz Ghaswala, that they asked me whether these two persons had done the ticketing and visa work from our office, that I telephoned my office and asked them to verify, that after some time it was informed that the ticketing and visa work of Suhail Mehmood was done by our office and only visa work of Firoz

Ghaswala was done by our office, that a copy of the passport of Sohail Shaikh and the register containing the entry of Firoz Ghaswala was brought from my office. I cannot assign any reason why these things are not written in my statement. The register and copy of passport was brought from my office at about 2.00 p.m. Police did not enquire with me in between 11.00 a.m. and 2.00 p.m. After I received the information about these two persons from my office, I had told the ATS officers about it orally. After the register and copy of passport was brought to the ATS office, I opened the relevant page containing the entry and pointed it out to the ATS officer and gave the register to him. I do not remember whether the register was mixed up in three four other registers and the packet was prepared. Police did not prepare a packet of the register and the copy of the passport that I gave. They did not paste a label on the register. There were two-three officers when I gave the register and the copy of the passport. There was no other person other than them and me. No one out of those officers signed in my presence. The ATS officers had encircled the entry in red ink and showed it to two panchas who were called there. I cannot tell after what time the panchas came there after I had

handed over the documents to the ATS officers. I cannot tell the exact period for which the panchas were in the office in my presence. After the panchnama was prepared the ATS officers wrapped the register and the zerox copy of the passport in a paper and pasted and closed it by gum. Gum was not used for any other purpose than pasting the wrapper. I cannot tell the time after which this work was completed after I handed over the documents. The register and the zerox copy only were wrapped. My signature was not taken on the panchnama. My statement was recorded after about one hour after the panchnama was over. It was completed in half an hour.

9. It is not true that I had not produced the register and the zerox copy of the passport, that I deposed falsely on the say of the ATS that only Shia sect Muslims go for Ziarat to Iran, that I introduced the story at the instance of the ATS of I asking the agent whether the person is a Shia and he told me that it is so. Police did not read over my statement to me today or yesterday. It is not true that I deposed falsely as tutored by the ATS.

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

Adjourned as per the request of learned advocate at 4.30 p.m.

Date:- 30/09/10

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

Date : 04/10/2010

RESUMED ON SA

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

10. Sohail had given his passport for visa in 2002. Zawwar had given passport of Firoz Ghaswala for visa in May 2005. I do not remember the exact date and month when Sohail gave his passport. We started maintaining registers for visa from 2005, but before that

we did not maintain registers. After returning the passport to Sohail, I had no occasion to see the original passport upto the time when I saw it in court. It is true that from the stamp on the visa of the passport Ext.621 of Sohail, I cannot say whether the visa was done through us. Except the zerox copy of the passport of Sohail, I did not give any document to show that I had obtained his visa. It is true that police did not take my signature on the zerox copy Art-259A. The zerox was not endorsed as a true copy by putting the stamp of my office.

11. (Witness is shown the register Ext.627). It is not true that the writing of particulars required for obtaining visa, started from the page no. 14 only. It is true that entries in pages no. 1 to 13 are by pen. I cannot assign any reason why the entries on page no. 14 are in pencil. They are made by my staff members. It is true that there is no endorsement on the entry of Firoz Ghaswala that his passport was given by Zawwar. We obtain visas mostly for Ziarat and we also obtain them for educational purposes. I do not remember how many educational visas I had obtained in May 2005 or in 2002. The endorsements in the remarks column 'ticket' means I have issued the

ticket. The endorsement 'visa pilgrim' means visa for pilgrimage. 'One way' means only one way ticket, which is for education visa. The endorsement 'endorsed by party' in the column 'visa' means that the party has gone personally to the consulate for obtaining pilgrim visa. It is true that I cannot today say whether such a party had obtained pilgrim visa or some other visa. It is true that we do not mention the date of travel and the period of validity of the visa. All the six persons on page no. 14 had gone individually. I cannot say whether the rest of the five persons on that page had come through any agent or directly. One thing is certain that all the six persons on that page had gone to Iran only. I do not remember for what purpose the persons at sr. no. 2 and 6 had gone to Iran. The person at sr. no.6 is Deepak Panchal, a Hindu. Out of the remaining five, except Firoz Ghaswala, I cannot tell who is a Shia and who is a Sunni. As it is written in the remarks columns that it is a pilgrim visa, I say that visas for the persons on page no. 14 were for Iran. However, the specific word 'Iran' is not written. Muslims of all sects from India go to Saudi Arabia and Iraq for pilgrimage.

12. It is not true that I stated falsely at the instance of the

ATS that I arranged for the visa for Sohail, that I prepared the register at the instance of the ATS.

Cross-examination by Adv Dubey h/f Rasal for A/1 and 4 to 6

13. Declined.

No re-examination.

R.O.

**Spl. Judge
Date:- 04/10/10**

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