

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

**DATE: 6TH OCTOBER, 2010**

**EXT.No.631**

**DEPOSITION OF WITNESS NO.48 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Sajid Mohd. Chand

Age : 38 years

Occupation : Construction contractor

Res. Address : Room no. 448, Jamat-E-Jamoria Colony, Bazar  
Road,

Bandra (W), Mumbai-50.

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

1. I stay at the above address and I also own a terrace flat at Lucky Villa Building, 'A' Building, 25<sup>th</sup> New Kantwadi, Perry Cross Road, Bandra (W), Mumbai that I had purchased in the year 2000. I had purchased this flat from Chetan Nishar. It is on the third floor. It was flat no.24. It was divided in two and I used to rent out both flats through broker Albert Fernandes, who used to stay in the opposite building, 'B' Lucky Villa. One part of the flat was vacant in 2005. Albert came to me and told me that he had a customer for taking the

flat on rent. Then we went to the flat and another broker by name Lala was there with the customer. Lala told the name of the customer as Sameer. The customer approved of the flat. I asked Lala where the customer resides and for what purpose he wants the flat. Lala told me that the customer stays at Mira Road and wants to stay in the flat after his marriage. Then I had a talk with the customer and a deposit of Re. 1/-lakh and rent of Rs. 5,000/- was agreed and it was also agreed that an agreement will be executed. The customer told me his name as Faisal Shaikh and stated that he is fondly called as Sameer.

2. He gave me a token amount of Rs. 22,500/- in cash. After the agreement was prepared he gave a cheque of Rs. 50,000/- and Rs. 27,500/- in cash. About rent it was agreed that Rs. 2,500/- will be paid in cash and Rs. 2,500/- will be deducted from the deposit amount. The agreement was executed for a period of eleven months. After the expiry of the period, the amount of deposit was to be returned after deducting Rs. 2,500/- per month, as agreed. The agreement was executed in July, 2005. I will be able to identify the agreement if it is shown to me. (Witness is shown the original agreement that is with his statement). The agreement now shown to me is the same, it

bears my signatures, the signatures of Faisal on the first four pages and the signatures of both of us and of Lala and Albert on the last page. Its contents are correct. (It is marked as **Ext.632**). I deposited the cheque in my account in the Abhyudaya Bank, Link Road, Bandra (W) branch. The cheque amount was credited to my account. Along with the agreement, I had produced zerox copy of my passbook containing the credit entry of the cheque amount, when I gave my statement to the police. It is the same now shown to me. (It is marked as **Art-263**). Zerox copy of the agreement was given to Faisal. The zerox copy Ext.537 now shown to me is the same. I will be able to identify the person Sameer, i.e., Faisal. (Witness looks around the court room and points to the accused no.3 who is sitting in the dock. He is made to stand up and tell his name, which he states as Faisal Ataur Rehman Shaikh). He is the same person. Police took my statement and at that time I produced the agreement and the zerox copy of my bank passbook.

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

3. My father's name is Mohd. Chand Shaikh. I am a Sunni Muslim. There were two flats on the third floor. I had purchased the

flat in my name. The terrace is on the third floor and it is approximately 2000 sq. ft. The flat that I purchased was of 480 sq.ft., i.e., 24' x 20'. There were four rooms and two toilets and bathrooms. There was one kitchen in which there was one toilet and bathroom out of the above two. These four rooms were divided in two parts. One part consisted of one room and the kitchen in which there was toilet and bathroom, which was given number 301. The other part consisted of two rooms out of which there was toilet and bathroom in one room, which was given number 301A. Faisal was given the part number 301. Part number 301A was given to a family by name Zeenat. Now a person by name Afsar stays there, since two-three years. He is staying there since 2007, but I cannot tell the exact date and month. After Zeenat vacated, it was given to Afsar. I do not remember the name of the family that used to stay in 301 before it was given to Faisal. I cannot tell the date on which the agreement with that family started and the date on which the period was over. No one stays in 301 now as it is closed by police. I did not apply to the court for giving it in my possession. I did not complain to any higher police officer about locking the flat.

4. Police officer Rathod took my statement in September, 2006.

Police had closed the flat after my statement was recorded. Police did not give me any notice or chit about it. I had no occasion to go in part number 301 after I gave it to Faisal and till my statement was recorded. I had occasion to go to the third floor in August 2006 before my statement. At that time the Zeenat family was staying there. It is true that the only entry to all the three flats on the terrace is from the terrace itself. I knew Albert since before 2000. I met Faisal before the agreement, when he had come to see the flat. On the same day the terms and conditions about renting the flat were agreed upon with the help of both agents. I cannot tell the date in July 2005 when this happened. There was probably someone with Faisal at that time, but I do not know his name. I had asked Lala since what time he knew Faisal. Lala resides in Khardanda. I cannot tell the exact date, but it might be 4<sup>th</sup> or 5<sup>th</sup> July in 2005 when the agreement was typed. I may have signed on the agreement probably on these two dates. I do not know from where the broker Albert had typed the agreement. I had orally told him about the terms and conditions. I signed on the same day on which it was typed. The terms and conditions agreed upon

between both of us, were written in the agreement. I do not know when the red stamp of franking was put on the agreement. Albert did it but I do not know when and from where.

5. I got the token amount of Rs. 27,500/- on the day when the terms and conditions were finalized. I do not remember whether I gave a receipt about it. I do not know whether the agreement was got prepared from an advocate. The particulars about the cash amounts and cheque in the agreement are correctly written. A person who was with Albert wrote the cheque number and name of the bank on the fourth and sixth page. I do not know whether the cheque number was correctly written. I did not verify whether the cheque number is correctly written. Signature of the person who was with Albert was not taken on the agreement. Lala had told the name of Faisal as Sameer. At the time of the agreement Faisal said that his name is Faisal but he is fondly known as Sameer.

6. I have not given any written intimation along with copies of agreements in the Bandra Police Station about giving the flats on rent to various persons. I had not registered the agreements with different tenants in the Registrar office. Three-four years before I came to

know that leave and licence agreements are required to be registered with the Sub-Registrar. I similarly came to know that intimation about keeping a particular tenant and a copy of the agreement is required to be given to the police station. When my statement was recorded I did not have knowledge about registration of agreement and intimation to police station. I had not stated to the police when I gave my statement that the agreement was required to be registered and an intimation was required to be given in the police station. (Witness is confronted with the relevant portions from his statement. Hence, they are marked as 'A' and 'B'). I cannot assign any reason why it is so written in my statement. After I signed the agreement, it was with Albert for about one year. I took it from him when the police had called me. I did not issue notice through advocate to Faisal about the flat. I did not complain to any police station about it.

7. I had told the police that Lala told me that the customer's name is Sameer, that at the time of the agreement Faisal told me that his name is Faisal Shaikh but he is fondly called as Sameer. I cannot assign any reason why this is not written in my statement. It is not true that I deposed falsely on the say of police.

**Cross-examination by Advs Salunkhe for A/2, 7, 10 & 13 and by  
Rasal for A/1 and 4 to 6**

8. Declined.

**No re-examination.**

**R.O.**

**Spl. Judge  
Date:- 06/10/10**

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