

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

DATE: 20TH OCTOBER, 2010

Ex.No.653

DEPOSITION OF WITNESS NO.51 FOR THE PROSECUTION

I do hereby on solemn affirmation state that:

My Name : Khurshid Begum Shaikh Ayyaz
Age : 28 years
Occupation : Housewife
Res. Address : Zopadpatti, Juhu Galli, Wireless Road, Andheri,
Mumbai.

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

1. My husband is a taxi driver. At present he is in Saudi Arabia. He is staying in Saudi Arabia since about 10-12 years. I stay in a slum in my hut. I had purchased flat no.101, Poonam Plaza, Hyderi Chowk, Mira Road in 2005 or 2006. I do not remember from whom I purchased it.

2. I had given the flat on rent in 2006 through an acquaintance Gulam. I had given the keys of the flat to Gulam and he gave the keys to Amir. Amir is an estate agent who does the work of renting flats. Amir told me that he had showed the flat to a prospective customer who had

approved. He told me that he had told the customer that Rs.20000/- will have to be given as deposit and Rs.3000/- will be the rent per month. I had met the customer when I had gone to the police chowki for preparing the agreement. One document was given to the customer, one was kept with me and one was kept in the police chowki. The customer's name was Irshad or Harshad. Amir was with us when the document was prepared. I do not remember the date on which the agreement was prepared. We had met below the flat. My flat is in a society. One Kasambhai is the secretary of the society. The rent used to be deposited with Amirbhai and I used to collect it once in two months.

3. After renting the flat I had once gone to the flat. I had gone in the first month of the rainy season. One man, one woman and two children were in the flat. The man was some other person than Irshad to whom I had rented the flat. I went inside the flat. I had phoned Amirbhai and told him that some other persons are staying in the flat. Then I took Amirbhai and Kasambhai to the flat. When I knocked on the door, a woman opened the door. Amirbhai and Kasambhai waited outside and I went inside the flat. There was a man, woman and two children in the flat. On seeing me the man went inside. The man was having a beard. Then I

talked with that woman. I did not talk with the man. I asked the woman as to who they are and they are not the persons with whom I had done the agreement. The woman told me that they are relatives of that man. She told me that the person who had taken the flat on rent is her brother-in-law.

4. I had received rent twice or thrice when I went once in two months to collect the rent. After June I did not receive rent and the flat was locked. Amirbhai and Kasambhai phoned me and told me that police had visited my flat and I was called to the office of the ATS. Therefore, on the next day I went to Kalachowki. Police told me that they found a person and some articles like powder in the flat. They inquired with me as to when and to whom I had rented the flat. They wrote whatever I stated and it was read over to me and I found that it was correct.

5. (Witness is shown Art.264). The first page has the xerox of my photograph, the photograph of the tenant. The backside of the page contains my signature, his signature and the signature of Amirbhai. Every page of the agreement bears my signature and the last page contains the xerox of my photograph and of the tenant. The original of the agreement was with me but it was spoilt in the rain. I had taken Art.264 from Amirbhai and kept it at my house.

6. I will be able to identify the person who was in the house. (Witness looks around the court room and points to the accused no.13, who is made to stand up and tell his name, which he states as Asif Khan Bashir Khan). He was the same person. (Ld.SPP submits that the xerox copy of the agreement Art.264 be exhibited as it is a secondary evidence. The Id.Adv.Wahab Khan objects to receiving the document in evidence as it is a xerox copy. Subject to objection Art.264 is marked as **Ext 654**).

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

7. I am a Muslim by birth. I observe pardah and I avoid going in front of any unknown male person. If an unknown person comes in front of me I immediately look down. It is not true that whenever any unknown person comes to my house and inquires about my husband, I talk with him from behind the door.

8. I do not remember the date and the month when I had gone to the flat. I had gone in the afternoon but I cannot tell the exact time. I cannot tell the day of the week when I had gone. Amir and Kasambhai were with me when I knocked the door. I had entered the flat after the woman opened the door. It is not true that at that time I felt that there was

a man in the house but I did not see him. After the woman opened the door, I saw her and the man also and when I entered the flat the man had gone inside. I saw the man briefly (zalak) and when I said that I am the owner of the flat he went inside. There were two children in the hall. One may be 4 or 5 years of age and the other may be 2 or 3 years of age. Police did not ask me to describe the woman, the man and the children. It is true that I did not describe them to the police on my own. It is not true that I did not see that man correctly. It is true that police had shown me a person in the office of the ATS at Kalachowki. It is true that they told me that they had caught him from my flat. I do not know whether he was handcuffed. It is true that police had shown the accused no.13 to me. It is not true that therefore I identified him in court.

9. It is not true that I had not given the copy of the agreement to the police. I had signed on the agreement in the Kanakia Police Station. Other than in the police station, I did not sign on the agreement at any other place. I did not go to the Registrar's office for registering the agreement. Amir did not take me to the office of any advocate or notary. The stamp on the agreement was put in the police chowki. I do not know where the notary round stamps were put on the agreement. Amirbhai does

all that work. I did not give any document of purchase of the flat to the police. I had not gone to handover the key and possession of the flat to Irshad. I had visited the flat twice in between executing the agreement and being called in ATS office. It did not happen that I went two or three times to the flat and had talk with Irshad and his wife. I do not remember whether I had stated so to the police. (Witness is confronted with the relevant portion from her statement. Hence it is marked as A). I cannot say whether it is incorrect if it is so written in my statement. Now I again say that if it is so written in my statement then it is incorrect. It is true that it happened that in the beginning of June 2006 I had gone to the flat, that the tenants wife was not there but some other woman opened the door and on my asking she told me that Irshad is her brother-in-law and he has gone out of station. It did not happen that in the last week of June 2006, when I had gone to Poonam Park, I came to know from Kasambhai, the secretary of the society that some person other than the tenant is staying in my flat. I now again say that it had so happened.

10. I had no talk with that man in the flat. It did not happen that I had asked that person about my tenant Mohammed Irshad and he told me

that he is his brother and he has gone out of station and would come in a week and at that time I had seen his wife and children. (The witness is confronted with the relevant portion from her statement. Hence it is marked as **B**). I used to stay for a few minutes when I used to go to the flat and meet Mohd. Irshad and his wife. I have never met Mohd. Irshad in the flat. When I went for the first time after renting the flat to him, I saw a computer and two chairs in the hall. I did not go inside the flat, therefore, I cannot say whether there were other household articles in the flat.

11. I had taken the rent in June. Thereafter when I phoned Amir he told me that rent is not deposited and he would inform me after it is deposited. I had asked him two months after June. Thereafter I went to the flat and I came to know that it is locked. I had taken Amir with me. I cannot tell the date and month. The door has a padlock. I did not inquire with the neighbours of that flat. I had cut five months rent and paid the electricity bill out of the deposit of Rs.20000/-. I had given the balance amount to Amirbhai for returning it to the tenant after cleaning the flat. He had cleaned the flat and I coloured it. He told me that he had spent the balance amount towards our traveling expenses to the ATS office at Kalachowki. It is true that the inquiry with me and Kasambhai and others

was going on in between the period of 1-1/2 to 2 months. It is not true that after I saw that my flat was locked, the inquiry by ATS started. I visited Kalachowki office of the ATS twice. I do not remember the gap in between the two visits. On the first occasion I got the message from the Juhu ATS office. It is not true that I got this message in August 2006. I had only one key of the flat. I do not know how many locks were there on the door of the flat. I do not remember whether the door had a handle to open the latch. I had prepared a duplicate key and given it to Amirbhai for cleaning it and painting it, after I obtained a letter from the ATS to the society allowing me to rent the flat. After I saw the flat to be locked, I did not visit the flat. I did not attempt to open the flat. I had kept the deposit with me after taking it from Amir. I did not have the phone number of Mohd.Irshad and I am not able to contact by phone. Therefore, I had not contacted him to take back the balance amount of the deposit and any articles of his in the flat. However, I had told Amirbhai to do so. I do not know till today where the said Mohd. Irshad is.

12. There is a watchman to the Poonam Park Society. I do not know how many buildings are there in that society. Initially, I used to pay Rs.610/- maintenance and now it is Rs.800/-. When I was called to the

ATS office twice, on those occasions I had made efforts to obtain the key of the flat. Amir did not tell me that he was making the rounds of the ATS office from 1-1/2 to 2 months. Accused no.13 was shown to me on the first occasion. Police had told me his name as Asif Khan Bashir Khan and that articles for preparing the bomb were found from my flat. Police did not call me at my flat.

13. I do not know the exact date as 08.10.2006 on which I came to know that the ATS persons had come to my flat. I came to know about it from Amirbhai. It is not true that I did not see the accused no.13 properly when I went in the flat. I was not shown any photographs in the ATS office. It is not true that accused no.13 was not in my flat at any time. It is not true that he was shown leisurely to me in the ATS office. It is true that when I saw him in the flat I saw that he had beard. Police did not read over my statement to me today. It is not true that I deposed as tutored by the police.

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

Declined.

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

Declined.

MCOC SPL NO. 21/06

PW-51/10

No re-examination.

R.O.

Special Judge

Date:- 20.10.2010

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