

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

DATE: 26TH OCTOBER, 2010

Ext.No. 663

DEPOSITION OF WITNESS NO.55 FOR THE PROSECUTION

I do hereby on solemn affirmation state that:

My Name : Kevalkumar Tarchand Jain

Age : 42 Years

Occupation : Business

Res. Address : Bhairav Novelty, Lardas Nagar, Tembhipada Road,
Bhandup(W), Mumbai-78.

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

1. On 09/10/06 at about 11.30 or 11.45 a.m. I was going towards Apna Bazar on Govind Keni Road, Naigaon. At that time a constable in civil dress asked two-three persons whether they would act as panch witness with respect to an accused whom they had caught in connection with railway bomb blasts. Those persons did not consent. Then he asked me the same thing. I asked him where I would be required to go. He told me that I would be required to go to the ATS office in Bhoiwada. I went with him. The constable introduced me to

officers Tawde and Tajane. They took me to a room where a person was sitting in a corner. There was another panch like me standing there. Then the officers asked the person sitting in the corner to stand and tell what he wants to tell. He started narrating. His name was Asif @ Junaid Khan. He started narrating and one officer was taking down what he was stating. He said that they had a meeting in the flat of Faisal at Bandra in connection with the bomb blasts. He told the names of Dr. Tanveer, Mohd. Ali, total five-six persons. He stated that they had gathered all the articles required for bombs from different places, assembled seven bombs and kept them in seven bags at the house of Mohd. Ali at Govandi. Then they took those bags and kept them in the house of Faisal at Bandra. He stated that thereafter they had placed the bombs in different trains as per plan. He stated that he had hidden some remaining articles used for preparing the bombs and he is ready to show the place where he had hidden them. The officer read over the statement to us and asked us whether there is any difference between what is written and what the accused had stated. It was correctly written. Signature of the accused was taken and then we were asked to sign by the side. The writing of the

statement started at about 12.30 pm and was over by 1.00 p.m. I will be able to identify my signature and the signatures of others. The memorandum of the statement now shown to me bears my signature at sr. no.2, signature of the other panch at sr. no.1, signature of the accused and signature of the police officer by the side. Its contents now read by me are correct. (It is marked as **Ext.664**).

2. I will be able to identify the accused Asif Khan. (Witness looks around the court hall and points to the accused no.13 sitting in the dock, who is made to stand up and tell his name, which he states as Asif Khan Bashir Khan). He was the same accused.
3. The police officers told me that we would have to go to the place that the accused said he would show. They arranged for two vehicles and took camera, khaki papers, weighing scale, seal and lac, white papers with them in a plastic bag. They brought the accused to the vehicle. They asked us both panchas to search the vehicles. We took the search of the vehicles. There were no articles in the vehicles. The officers told us to take our searches. We took their searches and except their personal articles, we did not find anything else. PI Tajane sat in front by the side of the driver, two constables sat on the middle

seat with the accused in between them and we both panchas sat on the back side. PI Tawade and other two three constables sat in the other vehicle. We started from Bhoiwada and as per the directions of the accused, we went via Ambekar Road, Matunga, Dharavi Road, Bandra court and the western highway. After crossing the toll naka, at the Shivaji Square, he asked to turn left and took the vehicle to Naya Nagar in Hyder Ali square. He asked to halt the vehicles at the square, we all got down and the accused led us to a building by name Poonam Park. There were four buildings A, B, C, & D. We reached the gate, a person in civil dress was there, he was asked who he is and he stated that he was the watchman. PI Tajane introduced himself and showed the accused and asked him whether he stays there. The watchman said that the accused stays in that building. The accused led us to the first floor in the A wing to flat no. 101. The front door of the flat had a small brass lock. When the police asked the accused about the key, he said that he had thrown it. The officer sent a police constable to bring a key maker. After about 15-20 minutes, the constable brought a keymaker. The officer asked him his name. He told some Mohammedan name and said that he stays in

Lodha Complex in Mira Road. He prepared the key of that lock. The officer opened the lock of the door of that flat with the key. The nameplate above the door was showing name Shaikh.

4. The accused entered the flat and we all went inside behind him. There were sheets lying scattered in the hall. Then he took us inside and to a bedroom on the left side. An attache and a rexine bag were in that room. The accused opened the rexine bag and took out articles that were in a transparent bag. There was white powder in that transparent bag. In a corner of the rexine bag there was a blue carry bag. From the carry bag he produced twenty pieces of white wire each about five to six inches long, two of which were attached to an aluminum head that was about one to one and a half inches long. The powder was weighed and found to be 2.700 kgs. Two 10 grams samples were taken from the powder in separate plastic bags. The remaining powder was wrapped in a khaki paper, sealed and our signatures were taken. The wires were wrapped in cotton, put in a plastic bottle that was in the kitchen, a label was pasted on it and we were asked to sign. The samples were wrapped in khaki papers, sealed and our signatures were put on the label. The rexine bag was

ash coloured, having chain and the words 'Hindustan ki Kasam' were on it. I had seen the bag from inside. During this work the secretary and chairman of that building came there and introduced themselves. Thereafter the officers asked them whether they know the accused and they said that they know him and he used to stay there.

5. There was a khaki coloured cardboard box in a corner of that bedroom. Police asked the accused to open it. There were about 22-23 religious books in Urdu in that box. PI Tajane asked the chairman and he said that they are religious books. The chairman translated the name of every book in Hindi and the names were written. There was a yellow coloured file by the side of the box. There were books in Urdu about terrorism in that file. Police took the books and the file in their possession.

6. Then we all went to the kitchen. There were household articles like utensils, glasses. There was dust on them and the windows were closed. A toilet and bathroom was attached to the kitchen. There was a loft that was searched, but nothing was found. Then he took us to the second bedroom. Nothing was found there. Then we returned to the hall. There was a computer unit on the wooden table. There was

a file containing an agreement by the side of the computer. The name of a woman was in the agreement. There was a Reliance electricity bill. Police seized all these things and then prepared a panchanama. We took all the articles to the vehicle. Then the flat was locked, the panchanama was finished and our signatures were taken. The panchanama now shown to me is the same, it 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 four places and the signatures of the accused on the last page. Its contents now read by me are correct. (It is marked as **Ext.665**). A zerox copy of the panchanama was given to the accused and his signature was taken.

7. I will be able to identify the articles that were seized. (Ld SPP requests for showing the witness the articles at sr. no. 5 to 13 of list Ext.16F. Six packets are given to the learned advocates for the accused for inspection. Witness is shown the six packets). One big packet and three small packets with labels, contain my signatures at sr. no.2, signatures of the other panch at sr. no.1 and the signatures of the officer by the side. (The sealed packet at sr. no. 5 is opened and found to contain ash coloured rexine bag having the name

Hindustan ki Kasam and a brown paper with seals and a label). The bag now shown to me is the same and the label bears my signature at sr. no.2, signature of the other panch at sr. no.1 and the signature of the officer by the side. (Bag is marked as **Art-279**, inside khaki wrapper with label is marked as **Art-279A** and the outer wrapper with seals is marked as **Art-279B**).

8. (The packet at sr. no. 6 of list Ext.16F having label is opened and found to contain a small transparent plastic pouch which contains slight white powder). The label on the outer wrapper bears my signature at sr. no.2, signature of the other panch at sr. no.1 and the signature of the officer by the side. The plastic pouch is the same. (The slight white powder inside the pouch is marked as **Art-280**, the plastic pouch is marked as **Art-280A** and the wrapper with label is marked as **Art-280B**).

9. (The sealed envelope from the FSL bearing the name of the division as G. A. E. I, Div, case no. M-506/06, Exhibit No.1, Borivali Railway Police station, CR No. 156/06 is opened and found to contain an opened brown packet having lac seals on two sides and label containing the description and white threads, a big plastic pouch

inside that opened envelope, which contains twenty white pieces of wires, two each out of which are attached to one plastic holder, which is covered by red sticking tape, a small pouch containing broken and burnt aluminum pieces).

(Adjourned for recess).

(Y.D. SHINDE)
SPECIAL JUDGE

Date:- 26.10.2010

Resumed on SA after recess.

10. The wires and the aluminum pieces are the same. (The wires are marked as **Art-281colly**, the aluminum pieces are marked as **Art-282 colly.**, the small plastic pouch containing the aluminum pieces is marked as **Art-282A**, pieces of red sticking tape is marked as **Art-282B**, the bigger pouch is marked as **Art-282C**, the opened brown sealed packet containing seals on both sides is marked as **Art-282D** and the envelope of FSL is marked as **Art-282E**).

11. (The sealed packet at sr. no. 7 of list Ext.16F having label is opened and found to contain a small transparent plastic pouch which contains slight white powder). The label on the outer wrapper bears my signature at sr. no.2, signature of the other panch

at sr. no.1 and the signature of the officer by the side. The plastic pouch is the same. (The slight white powder inside the pouch is marked as **Art-283**, the plastic pouch is marked as **Art-283A** and the sealed wrapper with label is marked as **Art-283B**).

12. (Another sealed packet at sr. no. 6 of list Ext.16F having label is opened and found to contain a transparent plastic bag which contains white granules). The label on the outer wrapper bears my signature at sr. no.2, signature of the other panch at sr. no.1 and the signature of the officer by the side. The granules and the plastic bag are the same. (The white granules inside the bag are marked as **Art-284**, the plastic bag is marked as **Art-284A** and the wrapper with seals and label is marked as **Art-284B**).

13. (The plastic bag at sr. no. 8 of list Ext. 16F bearing the name Azadi Hotel, Tehran and the books therein are shown to the witness). The twenty-two books in Urdu, one in English, one spiral binded book in Urdu, an outer cover of Frontline weekly dated July 14, 2006, a pamphlet of Vector classes, a visiting card of Bombino Collection and the plastic bag are the same. (The twenty two books and the spiral binded book in Urdu are marked as **Art-285 (1 to 23)**,

the book in English is marked as **Art-286**, the outer cover of Frontline weekly is marked as **Art-287**, pamphlet of Vector Classes is marked as **Art-288**, visiting card of Bombino Collection is marked as **Art-289** and plastic bag is marked as **Art-289A**).

14. (The file at sr. no. 9 of list Ext.16F is shown to the witness. It contains educational and other documents in the name of Ansari Mohd. Imran of school and polytechnic of Indore and Bhopal. They are shown to the witness). This was the file that was found by the side of the bag. (It is marked as **Art-290 (1to 26)** and the Urdu newspaper is marked as **Art-290A** and the plastic bag is marked as **Art-290B**).

15. (The file at sr. no. 10 of list Ext.16F is shown to the witness. It contains handwritten papers in Urdu and Hindi. They are shown to the witness). This was the file that was found by the side of the bag. (It is marked as **Art-291colly**).

16. (The plastic bag bearing the name Japan store, Lucknow at sr. no.8 of list Ext.16F containing Urdu and English newspapers, some magazines, four CDs are shown to the witness). This bag was found there. (The bag and its contents are marked as

Art-292 colly).

17. (The witness is shown the CPU at sr. no. 11 of list Ext.16F). The CPU is the same. The label thereon contains my signature at sr. no.2, signature of the other panch at sr. no.1 and the signature of the officer by the side. (It is marked as **Art-293**). (The witness is shown another CPU at sr. no. 11 of list Ext.16F). The CPU is the same. The label thereon contains my signature at sr. no.2, signature of the other panch at sr. no.1 and the signature of the officer by the side. (It is marked as **Art-294**). (The witness is shown the laser printer at sr. no. 11 of list Ext.16F). The printer is the same. The label thereon contains my signature at sr. no.2, signature of the other panch at sr. no.1 and the signature of the officer by the side. (It is marked as **Art-295**). (The witness is shown the computer monitor at sr. no. 11 of list Ext.16F). The monitor is the same. The label thereon contains my signature at sr. no.2, signature of the other panch at sr. no.1 and the signature of the officer by the side. (It is marked as **Art-296**).
18. (The witness is shown the zerox copy of application for NOC to society/information to police and agreement of leave and

licence and one electricity bill of Reliance Energy). The documents are the same that were found in the hall. (The application for NOC along with the agreement of leave and licence are marked as **Art-297colly** and the Reliance Energy bill is marked as **Art-298**).

19. (The witness is shown the packet at sr. no. 13 of list Ext.16F). The label thereon contains my signature at sr. no.2, signature of the other panch at sr. no.1 and the signature of the officer by the side. (It is opened and found to contain a plastic pouch in which there is a key). The key and the plastic pouch are the same. (Key is marked as **Art-299**, plastic pouch is marked as **Art-299A** and the wrapper with the label is marked as **Art-299B**).

20. The panchanama was over at about 5.00 to 5.30 p.m. Then we all sat in the vehicle and went back to the ATS office at Kalachowki. The officer told us that they would have to call the dog squad for examining the articles that were seized. He told us to have some snacks as it would require some time till it comes. Accused also had to eat meals after his fast of Roza. Therefore, I and the other panch went outside to have some snacks and we returned at 7.30 p.m. At that time PI Tajane introduced us to some four-five policemen

as of the dog squad. They had a dog by name Max with them. The packet of 10 gms white powder was opened and it was placed before the dog. When the dog smelt it, it started barking. The dog squad police said that the powder is explosive. They lighted the powder which caught fire. It gave a bad odour and it was cracking. The remaining powder was kept in the packet and resealed. The packet of wires was opened and five each were packed in two separate packets. Labels were pasted on the packets and our signatures were taken. Holes were prepared on the packets. Another panchanama was prepared, which was over by 9.00 p.m. The panchanama now shown to me is the same. It bears my signature at sr. no.2, signature of other panch at sr.no.1 and the signature of the police officer by the side. Its contents now read over by me are correct. (It is marked as **Ext.667**). The dog squad people said that the wires with the pieces attached are detonators.

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

21. Police had showed us the camera in the Bhoiwada office. It was in the hands of some officer, whose name I do not know. I do not know whether there were any photographs in the memory of

that camera. I do not remember whether the camera was used at the flat. The accused signed by a pen other than the pen by which the memorandum was written. The officer did not show him the place on the paper for putting his signature.

22. The other panch was present in the office when I went there. His name was Jitendra Jain. Police did not ask him in my presence whether he had acted as a panch witness earlier. Police did not tell me that he is their regular panch. Jitendra Jain did not tell so to me also. I had a stationery shop at Bhandup. In October 2006 I had given it on rent. At that time I used to do wholesale business of stationery. I did not have any office. There was no timetable for my business. It is not true that I had no fixed customers. I used to maintain order book. Names of the parties to whom the goods were supplied are written in the order book. I never supplied stationery to the ATS office. In 2006 I was residing in Bhandup. I do not have any official record of my business. The order book is not pagewise, datewise or serially. I do not have bank account. I file income-tax returns. Payment was not by cheques. I did not show the stationery that I purchased and sold in the balance sheet. I used to show

commission as my source of income. I did not describe the nature of commission. I can show the return of 2006 with balance sheet. (Ld adv asks the witness to produce the income-tax return and the balance sheet). Witness volunteers-the shop is in the name of my wife and I will produce the return in her name. My wife used to do the business with me as she used to sit in the shop. I have no documentary evidence about my wholesale business of stationery. I used to purchase the stationery from Manish Market. My brother has a room in Naigaon. It is true that more police reside in Naigaon area. There is police training center in Naigaon. At that time my brother was not residing in that room. That room was vacant and I had taken my friend Devraj there for showing him that room. My brother was staying in Mazgaon. Devraj wanted the room on rent. He did not take the room on rent. We went by train to Dadar and then walking to the room. I had showed him the room at about 10.30 to 10.45 a.m. One requires fifteen minutes on foot from Dadar station to my brother's room. The ATS office in Bhoiwada is about 150 meters from that room. I was not called from my brother's room. I was going towards Apna Bazar for making some purchases when I was asked by the

police. That room was in the name of my brother. There is a document in the name of my brother issued by the building owner under the pagdi system. It is not a registered document. One can give such a room on rent. I do not have any written permission from the landlord to sublet the room. The policeman met me at a distance of 100 meters from the ATS office. Main road is four-five meters from the ATS office. People go by that road. There is court by one side of the ATS office and on the other side there is residential building. There are shops at the distance of five to seven meters. The policeman did not show me his identity card. It is true that he told me to help him to act as a panch witness in bomb blasts case. As the constable introduced to me to PI Tajane, I did not ask him why I was called there. I had asked them how much time the work would require. The officer told me that it would require about three-four hours. I did not ask him whether we would be required to go out. The accused was sitting in that room before I went there. The panch witness was already there. Five-six policemen were in the room. They were not inquiring with the accused when I saw him for the first time. I talked with the accused when the officer told me to ask him. I did not

ask him whether he was beaten or threatened or whether he had any complaint against the police. It is not true that I talked with him for 20-25 minutes. I talked with him for about ten minutes. It is not true that thereafter PI Tajane asked me and other panch to sit there. Thereafter, the police officer asked me my name and address. They wrote it on the paper. Thereafter they wrote below my name as per the narration of the accused. Accused did not give statement twice. I did not talk with him twice.

(Adjourned at the request of Id adv at 4.45 p.m.)

Date:- 26.10.2010

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

Date :- 27/10/2010

Resumed on SA :-

23. Police did not write in the panchanama that when we reached the flat and they asked the accused about the key, he said that he had thrown it, that a plastic bottle was brought from the kitchen, that police told the accused to open the box in which 22-23 religious books were found.

24. It is true that the name plate on the door of the flat showed the name Zakir Umar Shaikh. Police did not inquire in my presence with the chairman or secretary of that society as to who the said Zakir Umar Shaikh is. There were four flats on the first floor. Persons from the other flats had come out when we had gone there. Police did not knock their doors and

call them outside. Door of one flat was open. About 5-7 persons gathered there when we were about to leave at the end of our visit. They did not make any inquiry with the police. Police had asked the watchman since what date the flat was closed. They had asked him when the flat was opened on the last occasion. They did not ask this to the neighbours. It is true that the watchman had given answer to the query of the police.

Q. At that time the watchman had stated to the police that the flat was lastly opened on 8/10/2006 ? (Ld. SPP objects to the question on the ground that any question about a statement by a witness to the police during inquiry will not be admissible as it is a statement u/s. 162 of the Code of Criminal Procedure. Ld. Adv. for the accused submits that he is developing his case on these lines and such type of questions were asked to PW 49.

Heard both sides. Perused cross-examination of PW 49. To my mind, PW 49 was asked specific questions about his activity and knowledge and not what he or any other witness had stated to the police. Hence, the question is not allowed).

25. It is true that the watchman's answer was not written in the panchanama. Police did not take his statement or the statements of the

chairman and secretary. Police did not take their signatures on any document that they prepared. It was revealed during the inquiry with the neighbours, watchman, chairman and secretary, that Zakir Umar Shaikh was owner of the flat. Police had inquired with them about his whereabouts and they had stated that he had sold it to a woman. We reached the flat at about 1.30 p.m. to 1.45 p.m. When we reached the gate of that building, the police officer introduced himself, therefore, the watchman did not stop us. Police did not give any request letter to him. The watchman did not ask us or the police to make entry in visitor's book. Police did not ask him to show the visitor's book. There is watchman cabin there. I do not know whether there was visitor's book there or not.

26. It is not true that no writing was done *en route* to Mira Road. PI Tajane was writing *en route*. He did not take my signature while we were traveling. He told us that he is writing about the route. After I got down from the vehicle, he did not take my signature. It is not true that he wrote 4-5 pages. Accused was veiled. I cannot tell the numbers of the vehicles in which we had gone. They were police vehicles. Police did not make any entry in any book in the vehicle. PI Tajane had asked the driver whether he had made any entry. Police did not inquire with the neighbours about

the key of the flat.

27. The key maker was between 18-20 years of age. Police did not give him any notice or summons. The key maker required about 10 minutes to prepare the key. He did not inquire with the neighbours. Police did not take his signature anywhere. It is not true that police did not pay any charges to him in my presence. I did not see how much he was paid. The charges were not agreed and paid in my presence. The officer did not tell me whether he had paid any charges. Police did not write anything about it in the panchanama. I did not see any policeman taking out money from his pocket. I do not know whether police took photograph of the door before opening it. Police did not take photograph of the key maker while he was preparing the key. I do not know whether police took photographs of the rooms before touching any article. Police had taken photographs when the accused took out the articles. He took out the articles by both hands. Some officer other than PI Tajane was taking photographs. They had taken photographs about my presence in that flat. Police took photographs when the articles were seized and sealed. I will be able to identify the photographs of the accused taking out the articles. Police had taken photographs of the hall, bedroom, kitchen. I was photographed in the hall.

(Ld. Adv. submits that he gives notice to the prosecution to produce all the photographs. Ld. SPP Chimalkar submits that it is true that photographs were taken at that time, but a new camera was given to the ATS at that time and though the officer took the photographs, they could not be printed because of some technical flaw. Hence he is not able to produce them).

28. Police did not lift any finger prints from that flat. Police did not call the bomb detection and disposal squad at the flat. Police did not check whether the computers were in working condition. Police did not check the hard disks of the computers. The key maker did not enter the flat. Police did not call any neighbour or the secretary or the chairman before entering the flat. The secretary and chairman came in the flat at about 4.00 p.m. They were stopped before entering. It is not true that none of the seized articles were shown to the secretary and chairman. The process of seizing the articles and sealing them was going on when they came. Half of the articles had been seized before they came. The big packet of powder was prepared and the sealing of the samples was going on. Only one packet was prepared when they came. All packets were sealed. A big packet of the powder, two of the samples and one of the plastic bottle were prepared. I had taken all the articles in my hands and seen them. It did not

happen that before the secretary and chairman came, all packets except the books were sealed. If it is so written in the panchanama, then it is correct.

29. Police did not prepare packet of the books. They did not seal the books. I may have signed on 7-8 labels. Police had prepared four packets. Remaining labels were affixed on the CPUs, monitor and printer. I now again say that five packets were prepared by police. The work of verifying the books took about 15 minutes. Police did not call any local policeman in my presence. Police had given information that the wires and powder can be used for preparing bombs. We came out of the flat at about 5.10 p.m. We reached the vehicles at about 5.40 p.m. Police asked me to accompany them. It is not true that till the time I came out of the flat at about 5.10 p.m., I had not signed at any place on the panchanama. It is true that the accused had not signed at any place on the panchanama in the flat.

30. We reached the ATS office at about 6.45 p.m. We had reached the flat in about one hour and ten minutes in the morning. I was in the ATS office upto 9.30 p.m. The dog squad came at 8.00 p.m. One sample packet was opened in their presence. The other sample packet was not opened.

The dog squad people did not give any certificate in writing in my presence. They did not collect the residues of the sample powder that was burned. I had signed on three labels in the ATS office. Before the police dog was given the sample powder to smell, the dog squad persons had stated about the powder being explosive. It is not true that the accused was not present at that time. Police did not ask the accused to sign anywhere at that time. I had put one signature at the ATS office.

31. It is not true that the accused did not make any statement in my presence, that I made all signatures at the ATS office, that I deposed falsely that the accused took us to the flat at Mira Road, that articles were seized at his instance, that the key maker was called and the flat was opened by the key which he prepared, that I deposed falsely that photographs were taken. It is not true that since two months before 9/10/06 the flat was in possession of the ATS. It is not true that I deposed falsely as I am tutored by the police. It is not true that I identified the accused and the articles at the instance of the police.

(Adjourned for recess).

Date:- 27.10.2010

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

After recess :-

Resumed on SA :-

(Ld. Advocates Rasal and Shetty request for time to cross-examine this witness. Ld. SPP has no objection. Hence cross-examination is deferred till next date).

Date:- 27.10.2010

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

Date : 30/10/2010

Resumed on SA :-

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

32. I reached the ATS office with the constable at about 12.00 hours. I required about 5-7 minutes to reach the ATS office from the place where the constable met me. On reaching the office I first met PI Tajane. The other panch and the accused were already sitting there. It is true that on reaching the office I did not immediately talk with any person. I asked the accused his name. PI Tajane did not introduce the accused before I talked with him. I asked the accused his name ten minutes after I reached the office. It is not true that no other policeman or officer introduced the accused to me before I asked his name. One of the officers introduced the accused. I now again say that PI Tajane introduced the accused. He pointed to the accused and said that they have caught him in the railway bomb blasts case and we should hear what he says. He did not tell me about the details of the case. I did not ask him when they had caught the accused and since when he is in custody. He also did not inform

me on his own.

33. I have passed 8th standard in Hindi. There were five-six officers in the office along with PI Tajane. All were in civil dress, therefore, I cannot say how many constables were there. There were total six persons there in civil dress, therefore, I cannot say how many of them were officers and how many were constables. It required about 25 minutes for the accused to give his statement. The statement started from his name upto the words 'hamare saath chalo'. Neither any officer nor anyone of us panchas talked in between when he was making the statement. No one of us asked any questions in between to him. Neither I nor the other panch wrote whatever the accused stated. PI Tajne himself wrote the statement. Entire panchanama was written by him. It did not happen that any rough notes were taken during the entire panchanama. The accused made his signature first after the writing of the memorandum of his statement Ext.664 was completed. Thereafter the officer signed. Then we panchas signed. The process of all four of us putting our signatures took place at the same time, one by one. After we all signed on Ext.664, nothing more was written on the panchanama. It

is not true that whatever writing was done thereafter, was done at the flat at Mira Road. The writing of the panchanama in the vehicle started when the vehicle had crossed Matunga. The writing was going on till we reached the Hyder Ali Chowk. PI Tajne was writing. The writing of the panchanama was not stopped in between. We required about one hour and ten minutes from Bhoiwada to the Hyder Ali Chowk. Matunga was 10-15 minutes from Bhoiwada. All that had happened in my presence was written in the panchanama. Whatever did not happen was not written. PI Tawde was sitting on the front side in the vehicle that was behind us. Three-four officers were sitting on the back side. I do not remember the number of that vehicle or the vehicle in which I traveled. We both panchas searched both vehicles. I searched PI Tajne and a slim and tall person. The other panch searched two-three persons, but I cannot tell their names. I cannot assign any reason why it is not written in the panchanama that the police asked us to take their searches, that we took their searches but did not find anything other than their personal articles. I cannot tell the name of the watchman. Someone out of the chairman and secretary was by name Kasambhai. I did not ask anything to the

watchman. The watchman did not come inside the flat. He came with us upto the flat. After reaching us there he went back. The secretary and the chairman came there after about one hour or one and a half hours after we reached there. They were not called. When the accused was asked about the key, he said that he lost it. There is a difference between throwing and losing. He did not say that he had thrown the key. He said this when we reached the first floor. Till that time neither we nor the police had asked him about the key. The watchman was present when the accused told about the key. Neither we nor the police inquired with the watchman about the key or asked him to bring the duplicate key, if he has it. Neither we nor the police inquired with the chairman or secretary about the key. Police did not inquire with anyone other than the watchman, chairman and secretary. We and the police did not inquire with the persons who had come outside the neighbouring flats. Only two women had come outside. Police did not write the statement of any person till the time we started from there. I cannot assign any reason why it is not written in the panchanama that police showed the accused to the watchman and asked him whether he stays there. Neither we nor the police

asked the watchman as to how many persons other than the accused were staying in that flat and no particulars of those persons were taken from him and from the chairman and secretary. We did not see the society office. We and the police did not inspect the register maintained by the watchman. Inquiry was made with the watchman whether he maintains visitors register. No inquiry was made as to who had visited the flat before we went there. I cannot tell the name and buckle number of the constable who had gone to call the keymaker. I and the other panch did not note down the name and address of the keymaker. Police did not take his statement. I do not know where he does his business and where from he was brought.

34. I had opened the files that were seized in the flat. Some names were written in some books. I cannot say in which book it was written. I had not opened all the books. I had opened the book in English Art-286. There were two-three pieces of paper in the book. I do not know what was written in them. The rubber stamp on the first page of the book is of Dr. M. Hatif Iqbal Quraishi. We and the police had seen this name on that day. (Ld Adv shows a wedding invitation card that is in the book to the witness). I do not know whether it was

in that book at that time. It is true that it is addressed to Br. Hatif Iqbal. (It is marked as **Art-300**). I had opened the file Art-290(1to26). Police had also seen it. Police did not ask about Dr. Hatif or Ansari Mohd. Imran to anyone there. (Witness is shown the book Art-285(16)). I had not opened this book. The last page of the book bears the name Bilal Ahmad Rather S/o Mohd. Shafi Rather, book no.130. Police also did not see this.

35. The wires Art-281 are about 5 feet long each. On that day one wire was taken out and shown and it was about 5-6 inches long and the other wires were in the bundle. On that day 5 feet long wire was not shown to me. At present the head to which the wires are attached are neither tubular nor like capsules. It was written in the panchanama that I was shown one wire that was 5-6 inches long. I cannot assign any reason why it is not written in the panchanama and it is also not written that remaining wires were in bundles.

36. Police did not prepare any panchanama when the keymaker prepared the key and gave it to the police. It will be incorrect to say that he prepared the key, opened the door and then gave the key to the police. Label was not pasted on the bag Art-279.

The bag was wrapped in a khaki paper and it was sealed. Police did not take the blue carrybag in which the pieces of white wire were found.

37. After completion of the panchnama Ext.665, the accused put his signature first, then PI Tajne and then we put our signatures. The signatures were made on the first floor after locking the flat. After we went to the ground floor, there was no writing and none of us signed anywhere. The accused signed at one place on the panchanama Ext.665. It is not true to say that I deposed falsely to help the police. We did not go back to the ATS office at Bhoiwada, but we went to the Kalachowki office. The other panch stays at Kalachowki. I did not inquire when he was brought to the office and by which constable.

Cross-examination by Adv. Rasal for A/1, A/4, A/5 & A/6 :-

38. The keymaker was preparing the key with the help of two-three files. He used to insert the key in the lock and take it out repeatedly. I did not see him using round file. He used flat files.
39. There was only one watchman at that time there.

No re-examination.

R.O.

Special Judge

Date:- 30.10.2010

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