

M.C.O.C. SPECIAL CASE NO. OF 21/06**DATE: 11TH JANUARY, 2011****Ext.No.755****DEPOSITION OF WITNESS NO.61 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Alankar Milind Mane

Age : 23 years

Occupation : Unemployed

Res. Address : Room No.1, Baithi Chawl, Parel, Mumbai-12.

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

1. On 30/07/06 the ATS police had called me at about 8.00 or 8.15 a.m. at the Kalachowki branch. There were two officers by name Kadam and Gaikwad and four constables. There was one more panch like me and an accused. They told me that I was called there in connection with Bombay Central Railway Police Station case in connection with bomb blasts. They said that they wanted to take the house searches at Pune of the wanted accused Rizwan Dawrey and of the accused to whom they had caught by name Suhail Shaikh. I

consented. Officer Kadam asked me my name and whether I have any case against me and whether I have acted as panch witness earlier. I said no. He asked me to take their, i.e., all the policemen's searches. We took their searches. One of the officer had a service revolver and one constable had a rifle. They had polythene bags, white thread and khaki papers and envelopes. The two officers took my search and the search of the other panch.

2. Thereafter we came out of the office and sat in a white coloured Qualis vehicle. The officer asked us to take the search of the vehicle. We searched it, but did not find anything. Then the two officers, four constables, the other panch and the accused Suhail Shaikh sat in the vehicle and went to Pune via Kalamboli and from the Express Highway. First we went to Police Station Wanawadi. Officer Kadam gave an application for help. An officer and a constable of that police station came with us in their vehicle. From there we went to the Premanand Park on the Shirwalkar Road. The vehicles were parked in front of the 'B' wing. The accused and two constables stayed back near the vehicle. We panchas and the police officers went to the room no. 203 on the second floor in the 'B' wing.

The officer rang the doorbell. An old man opened the door. The police officers introduced us to him and told him that they have come from Kalachowki office and the reason for their visit. Police asked him whether he wanted to search them and us. He declined. His name was Hussain Dawrey. Then we went inside the house. There was a hall, a bedroom, a kitchen and a balcony. The officer started searching the house. First he searched the hall, but did not find anything. Then we went to the bedroom. In the balcony of the bedroom there was an iron cupboard. Police asked that person as to whose cupboard it is. He said that it is of his son Rizwan Dawrey. Police opened the cupboard. In the locker on the left side, they found two books. One of the books was probably titled in English as 'Indian Muslim's Problems'. In one of the books there was zerox copies of two passports, one in the name of Rizwan Dawrey and one is in the name of his wife Bushra Dawrey. Police wrapped the books in khaki paper and took our signatures on slips of paper, they also signed it and sealed the packet by the slips and then tied the packet by thread. Police asked the person as to where Rizwan Dawrey is. He told that he had gone to Saudi Arabia on 06/04/06. He said that his another

son stays in the adjacent 'C' wing. Police prepared a panchanama, we signed it and they also signed it. The panchanama was over at about 4.00 or 4.15 p.m. I will be able to identify the panchanama, my signatures thereon and the books and the copies of the passports. 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 and the signatures of the police officer by the side, at three places. Its contents now read by me are correct. (It is marked as **Ext.756**).

3. (Learned SPP requests for showing two packets at sr. no. 8 of list Ext.16A to the witness. The packets are given to the learned advocates for the accused for inspection. Thereafter, they are shown to the witness). The labels on the packets contain my signatures at sr. no.2, signatures of the other panch at sr. no.1 and the signatures of the police officer by the side. (The packets are opened. One is found to contain two books). The books are the same. (The book titled 'India's Muslim Problem' is marked as **Art-304** and the book titled 'Islamic Directives to Reform the Individual and the Community' is marked as **Art-305**, the envelope with the label is marked as **Art-305A**. The other packet contains zerox copies of two passports).

These are the same zerox copies. (The zerox copy of the passport in the name of Rizwan Mohammed Dawrey is marked as **Art-306** and zerox copy of the passport in the name of Bushra Dawrey is marked as **Art-307**, the envelope with the label is marked as **Art-307A**).

4. Then we got down by the stairs and went to the adjacent wing to the house of his brother in room no. 202 on the second floor in the 'C' wing. Police rang the doorbell. A man opened the door. Police introduced themselves and us panchas to him. Police asked him his name, which he stated as Rehman Dawrey. Police asked him whether he wanted to take their and our searches. He declined. They told him about the reason for the visit. Then we went inside. (The witness has stated about some things that that person stated to the police. Learned advocate Wabab Khan objected to this evidence being recorded on the ground that it is hit by section 162 of the Cr. P. C. and for that purpose he relied on the law laid down in the case of Vishnu Krishna Belurkar V/s The State of Maharashtra, reported in 76 BLR at page 627. Subject to the objection the answers are recorded). Rehman Dawrey stated on his own that Rizwan Dawrey sent some money for Faisal and he produced a white envelope. He also said

that Rizwan Dawrey informed him by e-mail that he had sent the money for Faisal. The envelope was opened and found to contain twenty two currency notes of five hundred denomination Riyals and one of two hundred denomination Riyal. Police put the white envelope and the notes in a khaki envelope, closed it and affixed a label containing the signatures of us panchas and their signature. Police also seized the CPU on which the e-mail had come. Police affixed a label as above on the slots of the cables of the CPU. The CPU was put in a plastic bag, then it was put in a box, wrapped with a khaki paper and a label containing our signatures as above was pasted on it. Police also searched that house, but did not find anything else. Then police prepared a panchanama of what had happened there, it was read over to us and then we put our signatures. The police officer also put his signature. Rehman Dawrey's signature was also obtained in token of giving him a copy. I will be able to identify the panchanama. The panchanama was over by 6.00 or 6.30 p.m. 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 and the signatures of the police officer by the side, at two

places. Its contents now read by me are correct. (It is marked as **Ext.757**). It also contains the signature of Rehman Dawrey in token of having received copy.

5. I will be able to identify the CPU. (Witness is shown the CPU at sr. no.8 of list Ext.522). The CPU now shown to me is the same. The white paper label pasted on the slots contains my signature at sr. no.2, signature of the other panch at sr. no.1 and the signature of the police officer by the side. (It is marked as **Art-308**).

(Adjourned as court time is over).

Date : 11/01/11

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

**Date : 12/01/11
Resumed on SA**

6. Thereafter, the police told Rehman Dawrey to attend the

Kalachowki office. He also came down with us. The officer told a constable to bring zerox of panchanama and after the zerox copy was obtained, it was given to Rehman Dawrey and his signature was obtained. Thereafter, the officials of Wanawadi Police Station left. Then we started for going to Lashkar Police Station. On reaching there, officer Kadam gave an application for police help. Three officers and four-five constables of that police station accompanied us in their vehicle.

7. Then we went to Central Street, Bhimpura, Galli No.16. The accused was showing the road. He asked us to halt the vehicle in front of a lane. We all got down and walked with him. In between he stopped and pointed to a house and said that it is his house. An old man was standing in front of the house. The accused said that, that man is his father. Police told him that they have come there for search of the house. They asked him to take their search, if he wishes. He declined. Then we all entered the house. His wife and two brothers were present in the house. Police started the search. There was a cupboard on the right side. Police opened it. In the middle drawer they found four audio cassettes, a passport in the name of

Suhail Shaikh, a Samsung mobile, six books, two maps and one ISD call rate card. There were two chits stapled to that card on which names and phone numbers were written. Two of the books were green coloured. I do not remember about the others. One of the maps was of Asia continent and the other was of Mumbai. There were some lines showing road on the map of Asia continent. There were spots at certain places in red colour encircled by green colour and names written by the side of the spots on the map of Mumbai. Police took our signatures on the books, maps and the ISD rate card. The passport, mobile and the audio cassettes were put in an envelope. The envelope was closed and a label containing our signatures was pasted on it. A panchanama about all these things was prepared, it was read over to us and then our signatures were taken. Then we came out and two zerox copies of the panchanama were obtained. One copy was given to the brother of the accused Suhail Shaikh and one was given to the accused and signatures of both were obtained. The panchanama was completed at about 8.00 or 8.30 p.m. Then we all started back.

8. I can identify the panchanama and the articles. 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 and the signatures of the police officer by the side, at three places. It also bears the signatures of the accused and his brother in token of having received its copy. Its contents now read by me are correct. (It is marked as **Ext.758**).

9. (Learned SPP requests for showing the Arts. 248 to 253C that are already identified by PW-35, to the witness). The map of Mumbai Art-248 bears my signature at sr. no.2, signature of the other panch at sr. no.1 and the signature of the police officer by the side. The label on the envelope Art-248A bears my signature at sr. no.2, signature of the other panch at sr. no.1 and the signature of the police officer by the side. The ISD Rate card Art 248B (1) and the chits Arts. 248B(2 & 3) are the same. The six books Arts. 249 (1 to 6) are the same. The zerox map Art. 250 bears my signature at sr. no.2, signature of the other panch at sr. no.1 and the signature of the police officer by the side. The passport Art-251(Ext.621), the mobile Art-252 and the four audio cassettes Art-253 (1to4) are the same. The label on the envelope Art-253A bears my signature at sr. no.2, signature of the

other panch at sr. no.1 and of the signature of the police officer by the side.

10. I will be able to identify the accused Suhail Shaikh who was with us. He is present in the court. (witness looks around the court room and points to the accused no. 10, who is made to stand up and tell his name, which he states as Suhail Mehmood Shaikh). He is the same accused.

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

11. I cannot say whether the books Arts. 249 (1 to 6) are colour zerox copies. It is true that on the cover of Art-249(5) there are faint words 'Mo. Akil' written in hand and on the covers of Art.249 (1 &2) there is the printed word' Asia'. I do not know in whose handwriting these words are. I cannot say whether these words were written when the books were seized. I do not know whether the originals of these books were seized in April 2006 in CR No. 256/06 of Kotwali, Khandwa and whether the words pointed out above are written by Khandwa police to distinctly identify the accused caught in that case. It is not true that the ATS police took out the colour zerox copies of those books from the Khandwa police and have planted

them on the accused no. 10. It is true that the accused no. 10 did not make any statement of disclosure of all these articles to the police in my presence. Police did not tell us from where they got the address of Rizwan Dawrey. Police did not carry their seal or any seal with them when we went Pune. They did not take the seals of the local police station with them. It is true that no article was sealed by putting lac and the seal of any police station.

12. I stay at a distance of 5-10 minutes from the ATS Kalachowki office. I was called from the ground in the Abhyudaya Nagar, which is at a distance of 2-3 minutes from the ATS Kalachowki office. They told me that we would come back by night. They told me at the ground itself that we would be required to go to Pune. They did not tell me for what case. They told me that the purpose of the visit to Pune was for taking search. I do not remember whether police were inquiring with the accused no. 10 when I went in the ATS office. They took my name and address at the office. I had told them my occupation as student. They had written my name and address. I was not asked to sign there. The writing of the panchanam was not started in the office. The police officer did not prepare any notes. I

was in the ATS office for about 20-30 minutes. The accused was present in the same room during this period. I do not remember whether police were taking the statement of the accused no.10 during this period. My signature was not taken on any register, statement or paper. They did not take the signature of the accused on any paper at the office. I do not remember whether police asked the accused in my presence whether he wanted to make any statement. No record was prepared about what had happened in the office. Police did not record my statement in this case.

13. After starting from the ATS office we directly went to the Police Station Wanawadi, Pune. I do not know whether no letter was taken from the ATS office. Police did not tell me the outward number of the application given to the Police Station Wanawadi. Police did not take my signature at Wanawadi and no panchanama was prepared. I did not see the police handing over an application to the Police Station Wanawadi. I do not remember whether office copies of applications given to the Police Station Wanawadi and Lashkar, containing the acknowledgments, were shown to me. I had seen the officer handing over the application in the Lashkar Police Station. It

was prepared there by hand. I do not remember whether its office copy was attached to the panchanama. Panchanama was prepared in the Lashkar Police Station. The ATS police did not ask me my name, address and occupation at that time. We were at Lashkar Police Station for 15-20 minutes. Police did not take my signature anywhere during this period. I now say that panchanama was not written in the Police Station Lashkar. I had seen the ATS police talking with the police of both police stations, but I did not hear what they were talking. The ATS police did not take zerox of any register from both the police stations.

14. We reached Wanawadi Police Station at about 2.00-2.30 p.m. We required about 6-7 hours to reach there from the ATS office. Police of those police stations did not take the search of the ATS police. The ATS police did not show any documents or any articles to the Lashkar police. I was outside the office of the police officer of that police station. The police officer of Police Station Wanawadi did not make any inquiry with me. I do not remember whether the ATS police introduced us panchas in the police station, but they had introduced us. Both police stations had doors, which

were open. The accused was not taken inside any police station. I do not remember whether the police of both police stations had come out and looked at the accused. I do not remember whether the ATS police had shown the accused to them. The accused was veiled from the ATS office. At both the police stations, the accused was sitting outside in the vehicle. The vehicle was parked at a distance of 10-15 feet from the gate of the police stations.

15. We required 30 minutes from Police Station Wanawadi to the first house. There was only one person in my presence in that house. I did not see whether there was any other person in that house. I went in the hall and bedroom. I did not go in the kitchen and the toilet and bathroom. I do not remember whether the toilet and the bathroom were adjacent to the kitchen or to the bedroom or to the hall. I do not remember whether the doors of the kitchen and bedroom were opening in the hall or the kitchen was in between the bedroom and the hall. I do not remember whether after the hall, first we entered the kitchen and then we entered the bedroom. I do not remember the number of doors of that hall. I do not know the direction of the entrance door. There was no gallery to the hall. I do

not remember whether there was a sliding window in the hall. We were in that house for about 45 minutes upto 4.00 – 4.30 p.m. Officer Kadam and two constables were taking the search. I did not personally take the search. I do not remember how much time I was in the hall. I was in the bedroom for about 5-10 minutes. I do not remember whether I entered the bedroom more than once. Entire bedroom was searched. I do not remember whether there was a single bed or a double bed or whether there was an air conditioner. I cannot perfectly tell the number of doors to the bedroom. I do not remember whether there was a window in the bedroom. I cannot tell the total number of persons present in that house at that time. It did not happen that after coming out of all the three houses, a police officer went inside after some time. Signatures of the inmates of the houses were taken.

16. We went inside the second house at about 4.00 or 4.30 p.m. The occupant of the first house was not taken with us to the second house. Police did not know the address of the second house. I had entered that house. It was a one bedroom, hall, kitchen flat. I did not enter the bedroom and kitchen. I was in the hall for about 30-

45 minutes. The ATS officer had asked me to enter and see the other rooms. The other panch was with them, therefore, I did not go. I did not take the search of the hall. I cannot tell the direction of the front door. I cannot tell the number of doors opening in that hall. I cannot tell whether toilet or bathroom or kitchen or bedroom is adjacent to the hall. The ATS officers were taking the search in the hall in my presence. I do not remember whether there was an air conditioner in the hall. I do not remember whether there was furniture in the hall. I cannot tell the size of the hall.

(Adjourned for recess)

Date : 12/01/2011

SPECIAL JUDGE

Resumed on SA after recess

17. I do not know how many persons were in that house. I did not inquire with any person in that house. No person from that house came and met me at that time. Police had made inquiry with a person of that house in the hall in connection with that work. I cannot tell the exact time for which he was inquired with. I was able to hear what they were saying, but I do not remember today what they were saying. The other panch was with us at that time. Police did not take

that person's statement in writing in my presence. That person gave information to the police. He was giving the information for about 5-10 minutes. I was in that hall for about one hour.

18. I had taken the Saudi Riyals in my hand. Police had given them to me. I do not remember whether police noted the numbers of the notes anywhere or whether they had read over the numbers. I made about four-five signatures in that room. My signature was taken on loose label. Thereafter, 3-4 pages of the panchanama were written. I had signed on loose labels in the first house also. Thereafter, 3-4 pages of the panchanama were written in that house. There was no noting on rough notes about I being called to the ATS office at Mumbai and other things. We left the second house at about 6.15 to 6.30 p.m. The accused no. 10 was not taken inside both these houses. He was in the vehicle at that time with a veil. The person from the second house had come down with us.

19. I cannot tell the distance between the second house and the Lashkar Police Station. We were there for about 5-10 minutes. We required about 5-10 minutes to reach the third house. We reached there at about 7.15 to 7.30 p.m. There may be about 6-7

policemen from the Lashkar Police Station who came in their vehicle. I cannot tell the number of the vehicle. It was a police vehicle. In the third house there may have been only one room and a bathroom and a toilet by the side. I cannot tell the measurements of that room or the direction of the front door. I do not know how many doors were opening in that room. I did not take search of that room. Police took the search of that room in my presence for about one hour. All the policemen were searching. The books were found within 10-15 minutes of starting the search. The maps were found 2-3 minutes thereafter. Only one policeman found the books and maps. I do not remember his name. He was not an officer but he was a policeman. The policemen of Lashkar Police Station did not come in that room. There were five persons in that room. Parents, two brothers and wife of the accused were present in that room. I do not remember about the furniture in that room. I do not remember about the number of windows of that room. Police did not take the statement of any person from that house. Police did not tell all the persons from that house to go out of the house as they wanted to search it. I cannot perfectly tell the age of the mother of the accused. I cannot say whether at the

time of search, police told her to sit at one place or to change her place. I do not remember whether I saw her moving around. I do not remember whether I noticed something special about her that I would not forget. I do not remember whether she told the police about her physical condition and asked them why they had come to trouble her. I do not remember whether on seeing her I thought that she was undergoing some treatment. I cannot perfectly describe her or the father or the brothers of the accused. I do not remember whether the books and maps were shown to the family members of the accused or whether any inquiry was made with them about them. Police did not ask the accused about the books and the maps. I had taken them in my hands. I do not remember whether I saw some portions in the books to be underlined. Police did not underline anything in my presence.(Witness is shown the first page of the book Art-249(1)). I do not know when the underlining were done. Accused did not produce anything from that house.

20. I do not know whether maps like Art-248 & Art. 250 are easily available in the market. No inquiry was made about the maps in my presence. I did not have any talk with the accused in the house.

I signed on one label in that house. Thereafter, the writing of the panchanama started. It required about 5-10 minutes to prepare the panchanama. The writing of the panchanama started 5-10 minutes after I signed on the label. Around two or three pages were written. In the first and the second house also it required about 5-10 minutes to write the panchanama. In the first house after signing on the labels, the writing of the panchanama started after 5-10 minutes. Same thing happened in the second house also. The police officers were not preparing rough notes before writing the labels. Before signing the labels, no parts of the panchanamas were written.

21. None of my relative is in the police department. I did not refuse to go with the police for panchanama as I was a student and it was a Sunday. All three houses were in residential areas, where people were living. No neighbouring person was called at those places at the time of search. Police did not take photographs and did not video shoot the search. I had seen the photograph in the passport at the time of my chief-examination. It is not true that therefore I identified the accused. It is not true that the police told me to look at the photograph in the passport and then identify the accused, that I

had not gone for house search anywhere, that no house was searched in my presence and nothing was found and seized in my presence, that I signed on the labels and the panchanamas in the ATS office, that all the seized articles were planted by the police.

22. The computer was not operated in my presence. Police did not tell me anything about the contents of the hard-disk. I have not given evidence in any court before today. I have not acted as a panch for the ATS before this. It is not true that as I stay close to the ATS office, I have close relations with the ATS officers. Police did not ask me and the other panch about our names, addresses and occupations in the first house. It is not true that no member of any house signed anywhere in my presence, that I deposed falsely as I am tutored by the police.

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

23. Declined.

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

(Adjourned as per application Ext.759 at 4.15 p.m.)

Date : 12/01/11

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

**Date : 13/01/11
Resumed on SA**

24. I did not talk with the accused at any time during the whole day. The other panch also did not talk. I do not remember which out of the three houses were searched by officer Kadam. I cannot say which officer took the search of which house. I had read all the three panchanamas after they were prepared. I cannot say why it is not in all the panchanamas that officer Kadam took the search of a house. I and the other panch did not take the search of any house. I did not write down the statement made by Rehman Dawrey. I do not remember whether police made any inquiry about the residence of the person Faisal who was mentioned by Rehman Dawrey. Neither the police nor we signed on the books and the zerox copies of the passports Arts-304 to 306. Signatures of the person from whose house they were seized, were also not taken on them.

25. I was an ex-student of Vashi Board in 2006. I was aged

18 years at the time of panchanama. I had failed in the 10th standard before that in 2006. I was studying in the Shivaji Night High School, Bhoiwada. I did not take further education after I repeated the 10th standard. My date of birth is 11/09/1988. I do not have any ID proof with me now to show my date of birth. I stay in the same place in which I was staying in 2006.

26. I do not have any knowledge about computers. I generally know what a CPU is. I do not know from which side the box can be opened. Only one label was pasted on the CPU. Neither the police nor we checked the front portion of the CPU. I do not know whether the CPU can be dismantled from the front side. I do not know whether a CD can be inserted from the front side and operated. I cannot say how many flats were there on the floor of the first house. Police did not inquire with any neighbours of the three houses. I cannot say why it is not written in the panchanama that Rehman Dawrey came down with us, zerox copy of the panchanama was obtained and he was given a zerox copy and his signature was taken. I do not remember whether police inquired about any other passport in the first house. I do not remember whether anything was written on

the envelopes in which there were Saudi Riyals. It is true that, that was my first and last occasion upto now to see Saudi Riyals. It is not true that I say that they were Saudi Riyals only because police told me so. It was so written on the notes. The notes were colourful. There was symbol of an Arab person. I do not remember whether the colours of and the symbols on all twenty three notes were similar.

27. I do not remember whether anyone in the house of the accused was sick and unable to walk and whether some persons stayed sitting at the same place during the period of search.

No re-examination.

R.O.

Special Judge

Date:-13/01/2011

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