

M.C.O.C. SPECIAL CASE NO. OF 21/06**DATE: 13TH JANUARY, 2011****Ext.No.761****DEPOSITION OF WITNESS NO.62 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Devendra Lahu Patil
Age : 36 years
Occupation : Custom clearing agent
Res. Address : 303, C Wing, Nishigandha Park, Shastri Nagar,
Dombivali (W), Dist. Thane

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

1. Upto 2007 I was staying in Mira Road. For my work of custom clearing, I was required to go to Sewree or Mumbai Docks or Andheri Cargo. I mostly used to travel by train for my work, but if I was late I used to travel by taxi or autorickshaw. I used to travel by first class by train.
2. The incident took place on 11/07/2006. I had some work at about 3.00 p.m. at the Custom House in Fort. Therefore, I had gone there. The work there was finished in one and a half hours and then I wanted to go to Goregaon-Malad. After some time at about 5.15 p.m. I went to Churchgate station. When I reached the platform, the

Churchgate-Borivali 5.36 p.m. slow local was coming to the platform. As I wanted to get down on the front side, I walked towards Borivali side on the platform. When the train stopped on the platform, I boarded the first class bogie that was fourth from the motorman cabin. The train was on platform no.2. I entered the bogie from the direction of Hutatma Chowk. I stood near the last row of seats in between the gap of the two rows of seats. Some people were sitting and there were some vacant seats. A person had boarded the train along with me. He had a black coloured bag with him. There was another person with him. After entering the train, they turned right and went towards the seats on the east side towards the Hutatma Chowk side. The person who had the black bag with him, tried to keep the bag on the rack. As there were some small bags already on the rack, he could not keep his bag there. Therefore, he kept his bag below the seat near the window that was facing towards Churchgate. He sat on that seat. The other person stood in between the two rows of the seats. The train was 2-3 minutes late. Then it started.

3. At the two-three stations thereafter, the crowd in the bogie increased. I could not see those persons thereafter. I was pushed

back because of the crowd. The train reached Jogeshwari after about 6.15 p.m. After the train started from Jogeshwari, there was a loud explosion. There were tall persons in front of me. I was thrown down in the train and people fell on me. For two-three minutes I did not know what had happened. The train was moving at that time and it stopped after some distance. When I came to my senses, I somehow got up. I saw people severely injured. I became very afraid. I somehow got down on the west side and went to the service road and caught an autorickshaw. I told the rickshaw driver to take me to Dahisar Check Naka. There was a heavy traffic ahead and I somehow reached Dahisar Check Naka. I left the rickshaw there and caught another rickshaw for going to Mira Road and after reaching Mira road I went home. Because of the explosion for about half an hour my ears were affected and because of the fall I had sustained dumb injuries to my back. As persons had fallen on me I had not sustained any injuries. When I reached home, I came to know that there had been a series of seven bomb blasts. As I had not sustained any injuries and there was only whistling sound in my ears, I did not go to any doctor. I also did not go to the police.

4. After some days in the news that some persons had kept black bags containing bombs in the trains and the blasts had taken place. I thought that I had seen the person keeping a bag in the train and therefore, I should go to the police. Therefore, I went to the ATS office, Bhoiwada on 20/10/06. I met ACP Patil there and told him that I wanted to give some information about that incident. He made me to sit in his cabin. I gave him the information about the incident in the train that had taken place in my presence. He called some officers. They wrote my statement. I described the two persons whom I had seen. Then ACP Patil told me that he would call me later if he required and asked me whether I would be able to identify those persons. My statement was correctly recorded as narrated by me.
5. Thereafter on 06/11/06, a police constable came to my house. He told me that they had caught some accused and asked me whether I would be able to come on the next day morning for identifying them. I said yes. Accordingly on 07/11/06 I reached the ATS office at Bhoiwada at 9.00 a.m. and met ACP Patil. There were some officers and 5-6 persons present there. ACP Patil told me that we are required to go to the jail at Saat Rasta for the purpose of

identification parade. He introduced me to two SEOs, Purandare and Barve and two panchas. Then we all sat in the police jeep and went to Saat Rasta and the jeep was halted at some distance from the entrance of the jail. The police officer who was in the vehicle got down and went towards the jail. After some time he came back and sat in the vehicle. Then the two SEOs and panchas went towards the jail. After some time the SEOs came out and took us inside.

6. When we entered the jail, we were made to sit in a room on the right side. There were seven persons with me in that room. After some time one of the panchas came and took one person inside. He took us inside one by one. I was the sixth to be taken inside. I went inside through a door, turned left and to the right side there was a big room of grills. I was asked to go inside that room. SEO Purandare and two panchas were there. SEO Purandare asked me my name and asked me whether the police had shown me any of the accused or their photographs. I said no. Some persons were standing in front in two groups of seven each. The groups were at some distance from each other. SEO Purandare asked me to see whether I could identify any person out of those persons. I went ahead to those persons and

looked at them from close. I came back and told SEO Purandare that I could not identify any person from them. Thereafter I was asked to go out of that room and was taken to a room of a superior officer in which the five persons who had preceded me were sitting. When all of us gathered in that room, we were again taken to the room where we had sat earlier.

7. Thereafter, on the second occasion also similarly we were taken inside one by one, I was the sixth. Same procedure was followed by SEO Purandare. Fourteen person in two groups were standing there similarly. I looked at them closely but could not identify anyone. I told about this to the SEO and was taken outside and led to the second room where we had sat earlier. Then after we all gathered in that room, we were taken to the first room where we had sat earlier.

8. After some time we were again taken one by one inside. I was the sixth to go inside. On this occasion SEO Barve was present there. He asked me my name and asked me whether police had shown me any accused or their photographs. I said no. Fourteen persons were similarly standing there in two groups. SEO Barve

asked me to look at them and see whether I could identify any person. I went near those persons and looked at them closely. I started from one end. There was a person standing at the sixth place, I started remembering his face and I identified him. I came back to SEO Barve and told him that, that person is the person who had kept the bag in the train on the day of the blasts. SEO Barve called that person and asked him his name. He told his full name but I only remember it as Faisal. Then again I was taken outside and to the second room. After we all gathered there, we were again taken to the first room. Thereafter again we were taken inside one by one to the identification room. On that occasion also I was the sixth to go inside. SEO Barve followed the same procedure as before and asked me to see if I could identify any of the persons standing in front. I went near them and looked at them, but there was no person whom I could identify. I told about this to SEO Barve and then went outside. After some time were taken outside the jail and to the police station in the jeep. An officer took my statement. He asked me to come on the next day for the purpose of identifying some other accused.

9. On the next day I reached the ATS office at Bhoiwada at 9.00

a.m. and met ACP Patil. He introduced me to SEO Bendje and in the police jeep we went to the jail. As per the earlier day the officers went inside the jail and after some time we were taken inside. I was taken inside the parade room thrice, but there was no person whom I could identify. We went back to the Bhoiwada ATS office. I met ACP Patil who shown me two photographs and asked me whether I could identify the persons in those photograph. I said no. ACP Patil told me that they are photographs of dead persons killed in encounters. My statement was recorded. Then I went home.

10. If I see him again, I will be able to identify the person whom I had identified in the identification parade on 07/11/06 as the person who had kept the black bag in the train on 11/07/06. (Witness is asked to see whether that person is present in the court. He looks around the court room and points to the accused no. 3, who is made to stand up and tell his name, which he states as Mohd. Faisal Aatur Rehman Shaikh). He is the same person.

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

11. My statement was recorded at about 2.00 or 2.15 p.m. on 20/10/06. I had reached the ATS office at about 12.45 p.m. I left

the office at about 4.00 or 4.15 p.m. I had gone to the ATS office at Bhoiwada for the first time. I had no occasion to go to that office in between that day and 07/11/06. After 08/11/06 I had no occasion to go to that office. Upto 20/10/06 I did not go to any police station and give any statement or complaint about the incident.

(Adjourned for recess).

Date : 13/01/11

SPECIAL JUDGE

Resumed on SA after recess

12. I did not become unconscious on 11/07/06. I sustained dumb injury on my back. I did not sustain it as I fell on the rod of the seats. I cannot say on what I fell. The blast took place when the train had started from Jogeshwari station and the bogie in which I was had half crossed the platform. The train stopped when it had entirely left the platform. I cannot tell the distance between the last bogie of the train and the end of the platform. After getting down I did not go back on the platform of the Jogeshwari station. On coming out, I immediately caught an autorickshaw and went to Dahisar Check Naka. Till I reached home, I did not go to any police station.

13. From Jogeshwari I required about one and a half hours

to reached Dahisar Check Naka. I reached home at about 9.00 p.m. After reaching home I watched the television. On the television the news about the blasts and the bogies in which the blasts had taken place were being shown. The bogies in which the blasts had taken place and the platforms were being shown to some extent. I did not see whether thereafter the news about the blasts were being shown on the television and used to come in the newspapers. I read Lokmat newspaper. I see various channels on the television. I see television programs and news sometimes but not everyday. I saw the news about the blasts on the television continuously for 2-3 days after 11/07/06 . I do not remember whether during this period it was in the news that the investigation of the blasts was taken over by the ATS. I did not pay much attention to the news that I saw about the blasts, therefore, I cannot say what information I gathered from the news. I came to know about the reason for the bomb blasts three-four days before I went to the ATS office. I cannot tell the date when I came to know it. No one told me to go to the office of the ATS at Bhoiwada. I contacted the control room on 18/10/06 from my mobile and inquired about the ATS office. I did not ask the name of the officer who talked

with me. He asked me my name and particulars. Till that day I did not feel that I should contact the control room and ask about the ATS office. I cannot tell the exact date as to after how many days I came to know that the blasts had taken place because some persons kept black bags containing bombs in the train. I cannot tell whether I came to know about it from the television or the newspapers. My Trump mobile number on that day was 9869329051. It was in my name.

14. I used to go to Churchgate from Mira Road for my work everyday. I always used to travel by first class. I do not know the one way fare from Mira Road to Churchgate at that time. Witness volunteers- I used to take quarterly pass. My pass at that time was valid upto 22/08/06. I do not remember when I had purchased it. Thereafter, I again purchased a pass in August, 06. I did not produce my pass before the police when I gave my statement on 20/10/06. Police also did not ask for it. Except that pass I had no other material document to show that I was traveling in that train on that day. The quarterly pass of first class from Mira Road to Churchgate via Harbour line was costing Rs. 2025/- at that time. Now I travel by motorcycle from Dombivali to Andheri or Churchgate. I do not travel

by train now. I started using the motorcycle since I shifted to Dombivali. I did not have the motorcycle when I was at Mira Road.

15. There is a heavy rush at 5.30 p.m. in the local train at Churchgate. At every station there is a rush to get down from trains and board them. Normally at the starting points of the trains all seats are occupied. I cannot tell the number of seats in the first class bogie. There are six doors to a first class compartment. I studied upto 12th standard in Technical College, Kopri in Thane. I went to stay at Mira Road in 2004 and stayed there upto 2007. I cannot draw the sketch of the train bogie. After entering the coach/bogie, on one side there were two rows of seats. At the end of the coach there was a continuous row of seats and before it there were two short rows of seats. From the end of the coach one cannot go to the another coach. There was a door on the opposite side of the door from which one enters. There was a passage between both these doors, where there were no seats. From that passage one passage went to the other end of the coach. I do not know whether there were four or six rows of seats on the other side of the doors. I cannot say whether there were three windows on each side of the rows of seats. I cannot

say whether there were two doors after that middle compartment and thereafter again two rows of seats and the end of the coach. I cannot say generally about the sitting capacity and about the position of the doors. I cannot contradict you if you say that there are no six doors to a first class coach but only four doors. Even if there are four doors, one can get down on the platform from the two doors by the side of the platform. There are partitions between the compartments by the sides of the two pairs of doors and the middle compartment. The passage in between is the only portion from which one can move from one compartment to another. It is not true that because of the partition, one will not be able to see a person who is standing near the window in the middle compartment, if he is standing near the window in the end compartment.

16. I entered the train on that day at 5.25 p.m. The train started after 14-15 minutes. I cannot tell the exact number of persons who entered the coach during this period. I cannot tell the number of persons who entered at Charni Road, Marine Lines, Grant Road, Bombay Central, etc., and how many got down. I cannot tell the number of persons who entered the coach with bags at Churchgate. I

cannot say whether any persons other than the accused, entered the coach with bags in the bogie at Churchgate. I do not remember whether any persons entered with bags at Marine Lines upto Andheri and how many got down with bags. In the coach in which I was, the luggage racks were full. I may have traveled in the 5.36 p.m. Churchgate-Borivali slow local earlier. I do not remember how many times I may have traveled and the days and dates. On one or two occasions I might have traveled in the 5.36 p.m train. I cannot tell the days or dates.

17. I had no confrontation with the two persons who came with the bag. I do not remember whether I had stated to the police that when I reached the platform, the Churchgate-Borivali 5.36 p.m. slow local was coming to the platform. I cannot assign any reason why this is not written in my statement.

18. The two persons entered the train behind me after about 20-25 seconds. There was not much crowd of persons entering the coach at that time, but there was some crowd. I cannot assign any reason why it is not mentioned in my statement that when the train stopped on the platform, I boarded the first class bogie that was

fourth from the motorman cabin, that the train was on platform no.2, that I entered the bogie from the direction of Hutatma Chowk, that I stood near the last row of seats in between the gap of the two rows of seats. (Ld SPP submits that it is so written in the last sentence of the first page and the first sentence of the second page of the statement of the witness).

(Adjourned at the request of Id adv at 4.30 p.m.)

SHINDE)

Date : 13/01/11

(Y.D.

SPECIAL JUDGE

Date : 14/01/11

Resumed on SA

19. The bogie that I boarded at Churchgate was certainly the fourth from the motorman cabin. The bogies in between were second class bogies. I do not remember which bogie was the fifth. It did happen that I had to make haste to stand at a particular place after I boarded the train. The train reached Jogeshwari at about 6.20 or 6.25 p.m. It did not happen that the blast took place when the train had reached Jogeshwari station. I did not state so to the police. (Witness is confronted with the relevant portion from his statement.

Hence, it is marked as 'A'). I cannot assign any reason why it is so written in my statement. I have no idea about the number of windows on the eastern side of the middle portion of the bogie. I do not remember whether I had stated to the police that as I wanted to get down on the front side, I walked towards Borivali side on the platform. I had stated to the police that after entering the train, they turned right and went towards the seats on the east side towards the Hutatma Chowk side (emphasis on 'towards the Hutatma Chowk side'). I cannot assign any reason why this is not mentioned in my statement. It is true that out of the six rows of seats in the middle portion, three rows face towards Churchgate and three rows face towards Borivali. There is a small space in between each pair of rows. I had stated to the police that, that person kept his bag below the seat near the window that was facing towards Churchgate. I cannot assign any reason why this is not mentioned in my statement. (Ld SPP submits that the sentence in the statement if read in context with the position of the seat on which the person sat will give the same meaning). I do not know what portion of the train is known as gangway. I do not remember whether I did not use the word gangway when I gave my

statement to the police. Even today I do not know the meaning of that word. I cannot assign any reason why it is not in my statement that the other person stood in between the two rows of the seats. (Ld SPP submits that according to him it is so written in the statement). I had stated to the police that the second person stood in the gangway of the middle portion.

20. It did not happen that after leaving Churghgate, there was a heavy crowd at the subsequent stations and our coach was jampacked with people. I do not remember whether I had stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as '**B**'). I cannot assign any reason why it is so written in my statement. It did happen that because of the crowd of the persons, thereafter I could not see those two persons from the place where I was standing.

21. I cannot tell the number of persons in my bogie at the time of the explosion. I cannot tell the number of persons who were standing by my sides, but it was jampacked. Entire bogie was jampacked. It did happen that after the explosion, the bogie was filled with smoke and the electricity went off. Therefore, I could not

understand where the passengers had fallen. I cannot tell how much time had lapsed after the blast and till the time the train stopped. I may have stated to the police that the explosion took place after the train started from Jogeshwari. I cannot assign any reason why this is not written in my statement. I may have stated to the police that for two-three minutes I did not know what had happened, that when I came to my senses, I somehow got up. I cannot assign any reason why this is not written in my statement. It is not true that at the time of my statement police did not ask me to show the spot where I was standing and the two persons were standing and sitting in the bogie or a sketch of the bogie. I myself marked those places and kept that paper on the table. I do not remember whether I took that paper with me. I had prepared the rough sketch when I was telling the information before the statement. The writing of the statement started, after I gave the entire information. I do not remember the name of the officer who recorded my statement. There were two-three officers present during my statement. Except ACP Patil I cannot tell the names of the others. All of them were making the inquiry with me. I cannot tell which officer asked what questions. I cannot tell the

name of the officer who typed my statement or who signed it or who read it over to me. After the statement, police did not take me at any time to the bogie in which the blast had taken place.

22. On 06/11/06 police did not give me an intimation in writing to come on the next day. I do not know the name and buckle number of the constable who had come to call me. The two SEOs, the two panchas and we eight persons went together to the prison in two vehicles. One SEO, two panchas, some witnesses and policemen were in my vehicle. There was one officer in my vehicle, but I cannot tell his name. SEO Purandare was in my vehicle. I do not know how many policemen were sitting in the vehicle in which SEO Barve sat. I do not remember how many witnesses were in my vehicle. All eight witnesses were not in my vehicle.

23. On each occasion of the four parades on 07/11/06, there were fourteen persons in the rows. I do not remember the name of the person who was taken inside the parade room before me and after me on all four occasions. The same panch who took me to the parade room had taken the person before me to the parade room. Same panch took me to the second room after each parade. Same

panch took all the persons to the parade room. I do not remember the name of that panch or his age or the approximate age of both panchas. The panch who took me to the parade room was inside that room till I left the room and I went out with him.

24. I cannot tell the approximate age of the persons standing in the rows at the time of the first parade or at the time of the other three parades. I cannot say how many persons in all four parades were looking like Hindus and how many were looking like Muslims. I cannot tell the clothes that were on the persons in all the four parades. I do not remember whether in all the four parades some people had specific clothes on them. I cannot say whether there were any persons with hair combed back and divided in the middle and grown on the back side. I do not remember whether there was any person in all the seven parades wearing a round cap or having grown a beard or having a stubble or having bandage on the face or any part of the body or any portion of the body being covered. I do not remember how much time I took at the time of every parade on 07/11/06. At the time of all the parades on both days, I saw the faces and the personality of the persons. I do not remember whether some

persons out of the fourteen persons in the first parade were repeated in the subsequent parades on 7th and 08/11/06. I cannot tell the time in between two visits to the identification room.

25. I entered the identification room at about 2.00 or 2.15 p.m. at the time of the third parade. We returned to the ATS office at Bhoiwada at about 4.45 to 5.00 p.m. I do not remember the name of the officer who took my statements on both days. Two three officers were present on both days, but I cannot tell their names and who signed the statements and whether they were the same officers who had taken my statement on 20/10/06.

26. Out of the two persons who boarded the train at Churchgate, the second person was having a handbag. I do not know whether he was carrying it in his hands. It was in his hands and he had not kept it anywhere. Those two persons were not wearing any specific clothes. They were wearing normal shirts and pants. The person who was standing was wearing a round net cap. The person who was sitting had a slight stubble. I cannot perfectly say whether the second person had a beard. One of them had long hair on the back of the head. I do not remember whether he had combed his hair

backwards and parted them in the middle.

27. It is not true that I did not describe any person on my own, but I was shown the photographs and tutored by the police, hence I gave their description, that police showed me photographs of some persons and accordingly I gave my statement, that on 11/07/06 I had not traveled in that train, that therefore I did not show my pass to the police, did not go to any doctor or to the police, that I am connected with the police, therefore, I was called by the police and they recorded my false statement and that I deposed falsely to help the police.

28. Police did not tell me the names of the two persons whose photographs they had shown me on 08/11/06. Till today I have not come to know their names. Police told me that one of them was killed in an encounter and one had burned in the bomb blast. I do not remember whether they did not tell me his name or at which place he was killed in the blast. They did not tell me when and where the encounter of the second person took place. I do not remember whether police showed me two photographs and told me that one of them is the photograph of the person who had died in the bomb

blasts and his name is Salim and whether the photograph of the second person is of the person by name Mohd. Ali @ Abu Osama @ Abu Umed and that he was killed in police encounter. I do not remember whether I had so stated to the police. (Witness is confronted with the relevant portion from his statement dated 08/11/06. Hence, it is marked as 'A'). I cannot assign any reason why it is so written in my statement. It is not true that I identified the accused no. 3 yesterday as he was pointed out by the police outside, that I identified him in the parade as I was told that he was the person, that he was the same person who had kept the bag in the train.

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

29. I somewhat remember ACP Patil's face. I do not remember whether there was only one SEO present in ACP Patil's office on 07/11/06. I cannot say where SEO Barve was when I went with SEO Purandare in the vehicle. ACP Patil was not with us when we went to the prison. I cannot tell for what time we waited outside the Aurthur road prison. I do not remember whether I met SEO Barve or whether I had seen him outside the prison. I had not met and seen

ACP Patil outside the prison. I cannot tell the time for which I waited for going inside the identification room for the first time. I did not see or meet ACP Patil inside the prison. It did not happen that I met SEO Barve for the first time in the prison, that ACP Patil introduced him to me for the first time in the prison.

30. I cannot tell the exact time when the train started from Churchgate station. It is true that the train that I caught did not start at 17.36 hours. I do not remember the number of the train that started two-three minutes late. It is not true that I did not catch the 17.36 train that had left the station at 17.36 hours. It is not true that the 17.36 train on that day was not late and it left the station on time.

31. I do not have licence of custom clearing agent. I am working as such since 8-9 years. Licence is issued for this work by the custom department after police verification and documents are required to be furnished for licence. I cannot tell the fees for such licence. It is true that custom authorities do not entertain agents without licence. Custom authority issue identity cards to the agents and without identity card one is not permitted to enter the barricaded area of the custom department. Customs area is a prohibited area. As

I have not passed the 12th standard, I could not apply for the licence. I cannot say whether the persons who are issued licence have passed the 12th standard. I have not read the rule about requirement of passing 12th standard for applying for licence. My office is in Cargo Complex, Sahargaon, Andheri. My office is in a chawl in the Sahargaon, but I do not remember the name of the chawl. I have a separate room. I do not know the name of the owner of that room. He is a Christian. He is not my partner. I do not know where he works. I have a registered leave and licence agreement with him. My friend had registered it, therefore I cannot say whether it was registered in the Bandra office. My friend's name is Sandeep Tadkar. The agreement is not in my name. This office is from one and a half years. In 2006 I had my office at Sahargaon but in different place. I do not remember the address of that office or the name of the owner of that place. The agreement of leave and licence of that place was not in my name. It was in the name of my friend Sandeep Tadkar. I do not remember whether it was registered and its validity period. It was with the owner of the place. I do not know whether it was notarised. I had not signed as a witness. My name was not mentioned in that

agreement as the person who would be doing business there. Sandeep Tadkar was my partner. He is a custom licence holder. I did not have independent business. Custom agents have to give their permanent office address.

(Adjourned for recess)

Date : 14/01/2011

SPECIAL JUDGE

Resumed on SA after recess

32. I do not meet custom officers once in a day on an average. I do not meet them at any time, even in a week or a month. My clients are not companies, but they are private persons. They are not permanent clients. Sometimes they come for some more work again. Agents have to maintain registers. All details of the parties and the work that is done is required to be entered in the registers. Custom department calls those registers at any time, if any shipment is blocked. My register has been called once or twice. My friend had taken it. The register is not in my name. I did not personally take it to the office. There is no mention in the registers that they are my parties. It is true that as I do not have licence I cannot enter the prohibited custom area. We clear goods of trading line. Big

companies have fixed agents. I cannot tell the rate of import duty on different goods in October 2006. I did not used to clear consumer goods like TV, refrigerator, AC,etc. I used to do the work of plastic beads, mobile chargers, etc. I did not pay the custom duty in my name at any time for any goods. The parties used to give demand drafts for the payment of the custom duty. It is true that I do not have any record to show that I was doing the work of custom clearing agent. I have no evidence to show that I have done this work for a certain number of parties before October, 2006. It is true that I have not entered any custom area as an agent or as employee of any agent, that I have not corresponded with any party or custom officer about the work. Custom duty is paid at Andheri Cargo, Nhava Sheva, Mumbai Dock and Mulund. It is true that custom clearing agents work in their own local area of the custom office. During office hours they are always in the area of the custom offices, whether they have any work or not. Every area has a union of agents. If an unregistered agent or an agent of another area goes to some other area, the union people object to it.

33. It is true that I have no evidence to show that on

11/07/06 I had gone to the Custom House at Fort. I can tell for what work I had gone there on that day. I had to give documents to my friend Dinkar. He is a licenced custom clearing agent. The documents were given by a party. It is true that I had not gone there for clearing work. I had stated to the police that I had gone there for custom clearing work. It is not true that I gave this false information to the police. It is true that I did not have any work in the Custom House on that day. I had stated to the police that after the work at the Custom House, I was to go to Goregaon-Malad. There was a new party at Goregaon. His name was Amit Patel. I was to go to him to discuss about the goods. I do not know his office address. I did not do any work of custom clearing for him till today. I met him once after about one month or one month and fifteen days after 11/07/06. I did not take his appointment. He was not an agent. On that day I wanted to meet him only. I intended to meet some more parties, but it was not sure. I cannot tell their names as I do not remember. One requires fifteen minutes on foot to go to the VT station from Custom House. Churchgate station is at more distance than the VT station from the Custom House. There are trains going to Goregaon-Malad from the

VT station.

34. I had mobile in 2006. I use the same mobile number now that I was using in 2006. It was with me on 11/07/06. I was receiving and making calls from that mobile. It did not happen that during the entire day the mobile was in the office or with my family members. There was no landline telephone in my house or any care of number. I had three mobile cards in my name in October, 2006. I do not remember the other two numbers. I was not using all the three numbers at the same time. My friend Sanjay Chavan and my wife used to use the other two numbers. After the incident of the blast, I did not call my friend or my wife, till I reached home. I do not remember whether Sanjay Chavan had called me during that period. My wife had not called me. I felt that I should inform my wife about the incident and that I was saved. Even then I did not call her.

35. I did not see at that time whether the floor of the bogie had not damaged because of the blast. I do not know whether the portion of the luggage rack and its surrounding portion was damaged more.

36. I used to go to Churchgate 10-15 times in a month. I do

not remember the number of platforms at Churchgate in 2006. I cannot tell the number of entrances to that station. I cannot tell the locations of the common and individual indicators on that station. One can know from the announcements if a train is late. Even without announcement one can know it. I do not remember whether there was such an announcement about the 17.36 train. It is true that one gets confused at the Churchgate and VT stations if one is in haste. Many times it happens that the indicator shows that a particular train is on a particular platform but till one goes there, he finds that the train has gone. Sometimes it happens that in haste one sits in a train and on inquiry one comes to know that it is going to leave after some more time, therefore, one goes to some other train. I cannot say whether trains leave and enter the Churchgate station within a minute or two. There are separate indicators on every platforms. After a train leaves the platform, the information about that train goes away from the indicator. Many time it happens that on seeing the indicator at the entrance gate, one goes to a particular platform only to know that that train has left and some other train is standing there.

37. I had an account in HDFC bank, Dombivali branch, in

2006. I used to operate it. Small amounts used to be received by cheques. Those were not of parties. In that period I did not make any payments by cheque. I have never filed income tax return. I had PAN card. I know that it is compulsory to file income tax return, if one has a PAN card. I had given application for PAN card. I had given my application to an agent, therefore, I cannot say what occupation I had mentioned in the application. I did not see what occupation was written in the application by the agent. It might be that my occupation of custom clearing agent is not mentioned in that application. I do not know whether my actual occupation is mentioned in that application. I have my PAN Card. Its number is AZRPP5194L. (Witness has read over the number from the PAN card that is with him). I had taken the PAN card only for the purpose of identification. I do not know what was written in that application. The agent had not read over what was written by him. I received the PAN card by post. I may have taken it one or two years before 2006.

38. I used to stay at Mira Road three-four years before 2006. My address of Dombivali is of my parents who stay there since beginning. I married eight years before. My father was serving in

Bombay Port Trust. Around 2004 I went to stay at Mira Road. There was no particular reason for going there. I did not serve in the Bombay Port Trust. I never did the custom clearing work independently. I do not remember whether I stated to the police that I do the work independently. (Witness is confronted with the relevant portion from his statement dated 20/10/06. Hence, it is marked as 'C'). I cannot assign any reason why it is so written in my statement. I was married in 2002. At Mira Road I used to stay with my wife.

(Adjourned at the request of Id adv at 4.15 p.m.)

Date : 14/01/11

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

Date : 17/01/11

Resumed on SA

39. The office of the D.G. F. T. is at Churchgate. I cannot tell the full form of D.G.F.T. IC code is given by this department. I cannot tell the IC code of any party whose transaction I did on 11/07/06. The parties are having the details and phone numbers of their custom clearing agents. I cannot tell the name and address of any party for whom I did my work on or before 11/07/06. There is no custom officer at Sewree. It is not true that I have not gone to the custom office at Nhava Sheva. I used to go once or twice in a month to that office and also to the office of Bombay dock. I used to go 10-15 times in a month to Sahar custom office. At Nhava Sheva the State Bank of India is the bank for payment of custom duty. It is not true that I have not deposited any custom duty in that bank. I cannot now tell the details and the name of the party for whom I deposited the custom

duty. I did not pay custom duty at the Bombay Dock. At Sahar there are State Bank of India and Canara Bank for depositing custom duty. I have deposited custom duty in State Bank of India. I cannot now tell the details and the name of the party for whom I deposited the custom duty. I have never entered the prohibited area of the Nhava Sheva, Bombay Dock or Sahar custom premises. It is true that challans for payments of custom duty are issued from the offices in the prohibited area of the custom premises. It is true that I did not obtain such challans as I did not enter those areas. After accepting the deposit of the custom duty, the bank gives counterfoils of the challans to the agent, who then goes to the custom office in the prohibited area and obtains the delivery of the goods. I have never done this work. I was working for parties from Gujrat. N' form is for octroi exemption in Maharashtra. This work is also done in the prohibited area. I have not done this work.

40. My name and my family member's names are included in the ration card of my parents on the address of Dombivali. Election identity card is also on the address of Dombivali. I had an account in the ICICI bank, which was closed about three years back. The

address of that account was of Dombivali. I never transferred my ration card or the election identity card on the address of Mira Road. I had a leave and licence agreement about the house at Mira Road. It was not registered. A no objection certificate from the local police station was not obtained. The agreement was notarized. I do not have it now. Now I do not have any evidence to show that I was staying at Mira Road.

41. I had not given my mobile number or the Dombivali address to the police when I gave my statement. I did not take the phone numbers of the ATS officers. It is not true that I used to meet them once or twice in a month. I got the summons to attend court on my Dombivali address five days before. I do not know whether it had the address of Mira Road or Dombivali. I do not have its copy with me now. I can produce it. It is not true that I never lived at Mira Road. It is true that I had not received any correspondence, I did not take any mobile connection in my name or in my wife's name and gas connection on the address of Mira Road. I cannot tell the name of any person who was residing and was the owner of the adjoining flats. I can tell the name of the secretary, chairman and treasurer of

the society in which I lived. Mohd. Khan was the secretary of the society. I cannot now tell the name of the chairman and treasurer. 'Khan' is surname of Muslim people. I do not know whether 'Mohammad' is used as a prefix like 'Mr.' or 'Shriman'. I do not know his full name. It is not true that I am an informer of the ATS officers, that they have my mobile number and Dombivali address.

42. There was a column of occupation in the application forms for opening accounts in the HDFC and ICICI bank. I had given business as my occupation. It is true that at that time and also at the time of filling the application for election identity card and mobile sim card I had not written my occupation as custom clearing agent. I have not mentioned this occupation in any correspondence with the government or the police.

43. I have no idea whether any persons working as custom clearing agents had died in the incident of 11/07/06. I had not heard that two-three agents working in the Sahar Air Cargo had been killed and some had been injured. On 12/07/06 I did not go for my work. I do not remember whether it was a working day. I did not attend my work for one week. From around 18/07/06 I started going for my

work. I used to go sometimes whenever I had work. I used to watch television and read the newspapers during the one week that I was at home. I do not remember whether during that period police were asking for persons having information to contact them. During that period I did not think that I had some important information that I should tell the police. I told about the incident to my parents. They did not advise me to go and tell the police about it. I was regularly attending my work in Mumbai one week after the blast and upto 19/10/06. I came to know about the reason for the blast on 17th or 18/10/06. I contacted the control room on 17th or 18th on phone number 100 in between 5.00 to 6.30 p.m. I did not tell about the entire incident on phone. At that time I got the address of the office of the ATS. On 20/10/06 I first went to the Police Station Bhoiwada. There I inquired about the ATS office. They told me about it. First I met the guards, then some officer. At that time officer Patil was not in the office. The officer whom I met, made inquiries with me for about 10 minutes. Then he took me to officer Patil, who inquired with for about 45 minutes. I do not remember whether he took me to his superior officer. The superior officer did not inquire with me. When

officer Patil inquired with me, he did not write down anything. I was with him during 1.30 p.m. to 3.30 p.m. During this period he was inquiring with me, but he did not take down anything in writing. Thereafter, I was sitting in that room and officer Patil was also sitting there. After the inquiry by officer Patil, I was in the ATS office for about half an hour. My statement was not recorded in between 3.00 to 3.30 p.m. It is not true that my statement was not recorded on that day.

44. I do not know whether the 5.36 p.m. train on 11/07/06 was scheduled to reach the Churchgate station at 5.27 p.m., that it reached the station at 5.32 p.m. on that day. It is true that the scheduled time of departure of that train was 5.36 p.m. It is not true that it departed from the station on the scheduled time.

45. I cannot tell how many black rexine bags I saw on that day. The train stopped at all stations upto Bombay Central. It is not true that on that day I did not travel by 5.36 p.m. train. Police did not ask for my clothes that I was wearing on that day. They had become bloodstained. I did not give them to the police on my own. Police did not show me any dead body.

46. I had stated to the police when I gave my statement that for my work of custom clearing, I was required to go to Sewree or Mumbai Docks or Andheri Cargo, that I mostly used to travel by train for my work, but if I was late I used to travel by taxi or autorickshaw, that the work there was finished in one and a half hours and then I wanted to go to Goregaon-Malad, that when the train stopped on the platform, I boarded the first class bogie that was fourth from the motorman's cabin, that the train was on platform no.2, that I entered the bogie from the direction of Hutatma Chowk, that I stood near the last row of seats in between the gap of the two rows of seats, that some people were sitting and there were some vacant seats, that I somehow got down on the west side and went to the service road and caught an autorickshaw, that I told the rickshaw driver to take me to Dahisar Check Naka, that there was a heavy traffic ahead and I somehow reached Dahisar Check Naka, that I left the rickshaw there and caught another rickshaw for going to Mira Road and after reaching Mira road I went home, that because of the fall I had sustained dumb injuries to my back, that as persons had fallen on me I had not sustained any injuries, that as I had not sustained any

injuries and there was only whistling sound in my ears, I did not go to any doctor. I cannot assign any reason why these things are not written in my statement.

47. I had stated to the police when I gave my statement that thereafter on 06/11/06, a police constable came to my house, that he told me that they had caught some accused and asked me whether I would be able to come on the next day morning for identifying them, that I said yes, that there were some officers and five-six persons present there, that ACP Patil told me that we are required to go to the jail at Saat Rasta for the purpose of identification parade, that then we all sat in the police jeep and went to Saat Rasta and the jeep was halted at some distance from the entrance of the jail, that the police officer who was in the vehicle got down and went towards the jail, that after some time he came back and sat in the vehicle, that then the two SEOs and panchas went towards the jail, that after some time the SEOs came out and took us inside, that When we entered the jail, we were made to sit in a room on the right side, that there were seven persons with me in that room, that after some time one of the panchas came and took one person inside, that

he took us inside one by one, that I was the sixth to be taken inside, that I went inside through a door, turned left and to the right side there was a big room of grills, that I was asked to go inside that room, that SEO Purandare and two panchas were there, that SEO Purandare asked me my name and asked me whether the police had shown me any of the accused or their photographs, that I said no, that some persons were standing in front in two groups of seven each, that the groups were at some distance from each other, that SEO Purandare asked me to see whether I could identify any person out of those persons, that I went ahead to those persons and looked at them from close, that I came back and told SEO Purandare that I could not identify any person from them, that thereafter I was asked to go out of that room and was taken to a room of a superior officer in which the five persons who had preceded me were sitting, that when all of us gathered in that room, we were again taken to the room where we had sat earlier, that thereafter, on the second occasion also similarly we were taken inside one by one, I was the sixth, that same procedure was followed by SEO Purandare, that fourteen person in two groups were standing there similarly, that I looked at them closely

but could not identify anyone, that I told about this to the SEO and was taken outside and led to the second room where we had sat earlier, that then after we all gathered in that room, we were taken to the first room where we had sat earlier, that after some time we were again taken one by one inside, that I was the sixth to go inside, that on this occasion SEO Barve was present there, that he asked me my name and asked me whether police had shown me any accused or their photographs, that I said no, that fourteen persons were similarly standing there in two groups, that SEO Barve asked me to look at them and see whether I could identify any person, that I went near those persons and looked at them closely, that I started from one end, that there was a person standing at the sixth place, I started remembering his face and I identified him, that then again I was taken outside and to the second room, that after we all gathered there, we were again taken to the first room, that thereafter again we were taken inside one by one to the identification room, that on that occasion also I was the sixth to go inside, that SEO Barve followed the same procedure as before and asked me to see if I could identify any of the persons standing in front, that I went near them and looked

at them, but there was no person whom I could identify, that I told about this to SEO Barve and then went outside, that after some time we were taken outside the jail and to the police station in the jeep. I cannot assign any reason why these things are not written in my statement.

48. No SEO or panch witness was present on 08/11/06 when I was shown the two photographs in the ATS office. I do not remember whether any panchanama was prepared at that time. I do not know what a panchanama is. An officer showed me the photographs, but I cannot tell his name. They were taken out from an envelope. I do not remember whether the envelope was sealed. There were only two photographs in that envelope. I was not shown a Pakistani national by name Riyaz Nawabuddin in the ATS office at any time. I was not told that he is in their custody and I was not asked whether I would be able to identify him.

49. In 2006 my monthly income was Rs. 10-12,000/- from my work as custom agent. There was no one else earning in my house at that time. It is not true that the responsibility of the whole family was on me. My father had a pension. We were staying

together. I used to go to Dombivali only on holidays. It is not true that I was not working as custom clearing agent, that I was not residing at Mira Road. It is true that my permanent residential address is of Dombivali. It is not true that accused no. 3 was shown to me before 20/10/06 when he was in police custody, that his photograph and video recording was also shown to me, that no identification parade was held and I did not identify anyone, that I identified the accused and deposed falsely on the say of police, that I was called on phone by the ATS office and told to give false statement, that I am tutored by the police. (Ld adv asks the accused no. 3 and 13 to stand together and asks the witness whether they both have distinctly separate personalities). It is true that both accused have separate personalities.

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

50. I did not enter the Churchgate station from the main entrance but I entered it from the exit entrance. I do not know whether in front of the exit entrance there is an indicator. There are indicators on the platform as one goes towards Borivali side. When I entered the platform, I saw Virar and Borivali fast trains standing

there. I knew that Borivali fast trains are slow after Andheri. I do not remember which train was standing on platform no.1. I do not know whether it was slow or fast. I do not remember the time of departure of that train. It is true that there are only two continuous rows of seats, one each at the either end of the bogie. Between these two rows, there are shorter rows of seats. Seven persons can sit on the long rows and three persons on the short rows. If a fourth person tries to sit on the short row in the first class compartment, the persons who are sitting there object. The passengers in the first class compartment also object to taking big luggage in the bogie. When I boarded the train, I was standing in the passage in between the two doors, on the left side of the rows of seats with my back to Churchgate and facing towards Borivali. It is not true that therefore it means that I was not standing in the southern portion. It did happen that I had to make haste after I entered the bogie to stand in the southern portion. I cannot describe any sitting or standing passengers in that bogie when I boarded it. I cannot describe any person standing adjacent to me in the entire journey.

51. I became normal on the next day morning. It is true that

because of such a big incident, I was attentive to the news about it. I came to know that Jogeshwari Railway officers were investigating the incident. I did not see and come to know that persons responsible for the blast had been caught. Till I went to the ATS office on 20/10/06, I had no knowledge about the persons who were caught. It will be incorrect to say that after some days I came to know that police had caught some persons. (Witness is confronted with the relevant portion of his statement. Hence, it is marked as 'D'). I cannot assign any reason why this is so written in my statement. I had not stated to the police that I came to know after some days from the news that the accused who were caught had kept black bags in the local trains at Churghate and had caused the blast.(emphasis on 'the accused who were caught'). (Witness is confronted with the relevant portion of his statement. Hence, it is marked as 'E'). I cannot assign any reason why this is so written in my statement.

(Adjourned for recess)

Date : 17/01/11

SPECIAL JUDGE

Resumed on SA after recess

52. After about a week I started traveling by trains. The

incident took place during rainy season. I did not think of helping the other passengers who were injured. I did not describe the injured persons or the bag to the police. It is not true that I did not travel in that train on that day.

No re-examination.

R.O.

Special Judge

Date:-17/01/2011

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