

**M.C.O.C. SPECIAL CASE NO. OF 21/06****DATE:14TH FEBRUARY, 2011****Ext.No.782****DEPOSITION OF WITNESS NO.70 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Mohd. Shakil mohd. Mehboob

Age : 31 years

Occupation : Business

Res. Address : Hut No. 28, 4, Raja Direndra Street, Kolkata-9.

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

1. I stay with my father, four younger brothers, wife and my small child at the given address. I have studied upto the 8<sup>th</sup> standard. My younger brothers Mohd. Akil and Mohd. Jamil work in Archies factory at Bajbaj, Kolkata. One Mohd. Majid is my childhood friend. He is present in the court. (Witness points to the accused no.5, who is asked to stand up and tell his name, which he states as Mohd. Majid Mohd. Shafi). He is the same person. He resides nearby. I know one of his relatives by name Asif, who stays in Bangladesh. I had met him

when he had come to Kolkata in December 2003 in the marriage of his uncle Asgar. Asif's friends had also come with him. They stayed at the house of his uncle. I used to meet them in the mohalla. I remember the name of the friends, one of them was Tushar, one was Akbar @ Sami and one was Pappu. They had come to Kolkata before Ramzan in 2004 and had stayed in a hotel near the New Market. Accused no. 5 had taken me there to meet them. At that time Asif told me that they wanted to go to Delhi and asked me whether I know someone at Delhi. At that time my three brothers by name Mohd. Akil, Mohd. Jamil and Shadab were working in the factory of Archies at Surajpur in Noida, Delhi. Asif said that we would go there. Therefore, I, Akbar @ Sami and Asif started for Delhi. The boy Pappu had already gone there with Nata Anwar, who stays in my mohalla. At Delhi, Akbar told me that he wanted to search for girls college. Therefore, by bus from Surajpur, we went upto Jama Masjid. From there by an autorickshaw we searched around for girls college, but did not find any.

2. One day Asif said that the money with him was finished and asked me to give some money. I told him that I do not have any

money. Therefore I asked my brothers whether they had any money, but they also did not have any. Asif asked me whether I have any bank account. I told him that I have it but it is at my house. At that time I had a bank account in the ICICI bank in the Ice Skating Ring area. Asif asked me to call for the ATM card and the bank account number from there. Accused no. 5 was at Kolkata at that time. He went to my house, collected my ATM card and account number and a boy by name Rajesh sent it by courier at my brother's house in Surajpur, Noida. I did not have any balance in my account. Thereafter, Asif called up someone in Bangladesh and asked him to deposit money in my account. An amount of Rs.30,000/- was deposited in my account. Asif withdrew that amount by using the ATM card. All three of them distributed the amount amongst themselves. They used to go out for some work, but they did not tell me about the nature of their work.

3. I was doing the business of spectacles powers with the accused no. 5 as my partner for two years during the year 2003-2004. However, he was not attentive to the business. I used to give Rs.1,000/- p.m. to his brother Wahid as interest on the money that

Majid had invested in the business. Even now I am giving Rs. 600/- p.m.

4. Asif again came to Kolkata in February 2006. He met me and the accused no.5. I asked him why he had come. He told me that he had come for some secret work about which he cannot tell me. He said that he would tell the accused no.5 about the work for which he had come. I asked the accused no. 5 about it. He told me that Asif had come to India for doing some work in connection with the plight of Muslims in India. He said that he also wants to do that work. I questioned him as to why he is doing that work. He said that he is doing it as he wants to do something for Islam. I did not feel it good as he was not attentive to the business. One day he said that he wants to do some work about jihad and that Asif and some of his friends are going to do some big work for jihad. I was shocked on hearing this. I told him that I do not want to do that work and I do not want to be concerned with it. During his talks subsequently, I came to know that he is in contact with some person of Lashkar-E-Toiba in Mumbai.

5. In May 2006 accused no.5 told me that he wants to do some

work for Islam and whether I would help him. I said no. In the second or third week of May 2006, he told me that some persons are to be brought from Bongaon on the border of India and Bangladesh. Therefore, one day he and I went to Bongaon by train. At that time he was talking with Asif and Munna on his mobile. After we reached Bongaon we went towards the Bongaon market area. After some time Munna came with six persons. They greeted the accused no.5 and told their names. They were Abu Bakar, Sabir, Kasam Ali, Ammujaan, Abu Hassan and Ehsanulla. We went to a nearby hotel for tea. All of them were in between 20 to 30 years of age. All of them gave their passports to Munna. I could gather from the passports that those persons were from Pakistan as the name Pakistan was written on the covers of the passports. Munna took the passports and left us.

6. I, Majid and those six persons went by two rickshaws to the railway station. Majid purchased eight tickets for going back to Kolkata. During their talk I came to know that those persons are from Pakistan and are sent by Azam Cheema, commander of Lashkar-e-Taiba in Pakistan. After reaching Kolkata I went to my house and the six persons went with Majid to his house. I told him that I am not

ready to do that work as it is not a good work and that I am a small man and I have business, but he was not ready to listen.

7. In this connection the ATS police had inquired with me and had taken my statement. I will be able to identify those six Pakistani persons. The ATS police had shown me two photographs, but I could not identify any one.

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

(Adjourned for recess).

**Date :14/02/2011**

**SPECIAL JUDGE**

**Resumed on SA after recess**

(Ld adv Wahab Khan requests permission to cross-examine the witness first. Granted)

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

8. Since my birth I am staying at the given address. Bongaon is about one and a half to two hours by train from Kolkata. It is true that relatives of Indians and Bangladesh reside in either country. I do not know whether it is a common thing for persons having passport and visa to go to either country. I do not remember my mobile number that I was using in 2006. It was stolen from a taxi. Accused no. 5 was

also using mobile in that period. I do not remember his number now. We used to contact each other on our mobiles, but I do not remember whether I had my mobile in 2006 or whether it was stolen at that time. The ATS police had come to my house. It is not true that they came on the basis of their knowledge of my mobile number. I do not remember the date when the ATS, Mumbai police came to my house. They did not take me with them to Mumbai. They asked me to come after 15-20 days. They had given me a paper, but I do not know whether it was a summons or notice. It was a printed paper and not a handwritten paper. I do not remember the names of the officers who met me at my house. There were 2-3 police officers out of whom some were from the local police station. They were not with me for any number of days. I was not taken to the local police station. They had made some inquiry with me as to whether I know the accused no. 5, etc. I was called to the ATS office at Kolkata and I stated all that I stated in my chief-examination. I cannot tell the exact time, but it was during the day that I had gone to that office. I was there for about 2-4 hours. The information that I gave was not written. I do not exactly remember about it. The said 2-3 officers inquired with me.

They did not show me any photographs.

9. I was at the ATS office for about 3-4 hours at Mumbai during the day. Only one officer was making inquiry with me and one was typing on the computer. Police did not prepare any sketch of any person with my help. I had not described the six persons. They had not asked me to describe them. I was not shown the photographs today in the court that were shown to me by the ATS police. I do not know whether there were some more photographs there. No SEO or panch witness was present when they showed me the photographs. Police did not show me a person by name Riyaz Nawabuddin or his photograph saying that he is a Pakistani. Police did not show me the accused no. 5 or his photograph.

10. I came to Mumbai on 07/02/11. I did not retain my current booking ticket as it was taken away by the ticket collector. I did not retain my ticket of 2006. I am not staying in any hotel or with any relative. I am staying in the guest house above the Kalachowki Police Station. There are seven beds in that room. I am alone in that room. I am not given any receipt. They did not take my signature on any entry in any register. There is no board of lodging and boarding.



The guest house is of the police. I do not remember whether I had given my contact number to the ATS police in 2006. Police had come to me on 14/11/10 and had told me to come to Mumbai for giving evidence on 08/12/10 and had told me to call on a landline number before coming to Mumbai. I did not go to the ATS office after coming to Mumbai on 07/02/11. The police officer who had come with summons earlier was present outside the station when I got down at the Dadar (E) Station. He took me to the guest house. It is not true that he took me to the ATS office. I did not bring my mobile with me to Mumbai. I have not paid any charges of lodging and boarding. I am provided with tea and tiffin twice during the day. A person, probably a constable, brings it. They have not demanded any money for it. It is not true that during this period of seven days my statement was read over to me.

11. There are different jamats like Sunni, Shia, Ahl-e-Hadis, etc. in Muslims. I am a Sunni. I go for namaj in masjid as well as at the dargahs. I do not eat niyaz at the dargahs. I do not know whether persons following Ahl-e-Hadis do not eat niyaz at the dargahs. I follow Ahl-e-Hadis. Local police station is five minutes distance from

my house. I thought that I had some important information with me. I did not feel that I should go and give the information to the local police station as accused no. 5 was my friend. As the accused no. 5 had lost interest in the business and was doing some other work, it was not necessary for me to sever relations with him.

12. I came to know about the arrest of the accused no. 5 late in the night. I came to know about it from people. I came to know that he was caught from my locality in Kolkata. I do not remember after how many days of his arrest, the ATS police came to me. At that time I did not feel that I should go to the police and give them the information that I had. All people there knew that the accused no. 5 was my friend and my partner in the business. Police had come to me to make inquiries in connection with my relations with him. I had come to know that he was taken and kept in the local police station. At that time I did not know in which case and for what purpose he was arrested. I did not go to the local police station, but I came to know that a crowd had gathered there and the police were driving away the people.

13. My brothers Jamil and Shadab were at Kolkata when

my statement was recorded. They were at Noida for 2-3 years, but not when my statement was recorded.

14. I have studied Kuran in Arabic language. I have studied Arabic language in Masjid. I cannot translate from Arabic to Urdu and *vice versa*. I have not read any literature on jihad. I have no knowledge about the meaning and purpose of jihad on the background of Kuran and Hadis. I do not know the meaning of jihad from the point of religion. I have not attempted to know its meaning from any knowledgeable person. It did not happen that after learning about the work for which the persons had come from Bangladesh, I reluctantly became ready to help them. I had not stated 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. The ATS police did not show me any passport but they had asked me about the writing on the covers of the passports. They did not ask me to draw any sketch of the cover of the passport.

15. I used to meet Majid after every one or two days. He stays after one or two houses. We used to meet in the evening time.

I do not remember whether I met him in the afternoon on 12/07/06, i.e., on the next day of the railway train blasts in Mumbai. It is not true that I deposed falsely that six persons had come, that they were Pakistanis and had Pakistani passports and that they were sent by Azam Cheema, commander of LeT in Pakistan. It is not true that the ATS police had arrested me as I had contact with the accused no. 5 on mobile. It is not true that I deposed falsely as the ATS police brought me from my town. It is not true that police recorded my statement at the ATS office in Kolkata and that deliberately that record is suppressed. It is not true that since the last seven days I am kept in the custody of the ATS to keep me under pressure. It is not true that I deposed falsely because of that pressure.

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

16. Asgar, uncle of Asif, was called along with me to the ATS office at Kolkata. I do not remember who else was called. I do not know whether Abdul Majid @ Rajesh was called. I was called alone. That office is on the Lord Sinha Road. I do not remember the date when I was called. It is not true that I was taken there on 30/09/06 and kept there upto 01/10/06. I was called again on

01/10/06. During this period the officers were making inquiry with me. It is not true that whatever was being inquired with me, was taken down in writing. I was interrogated for about 2-3 hours on every day. It is true that I was called on 03/10/06 again and inquiries were being made after a gap of one day with other persons also. I do not remember whether Mumbai police had come on the second occasion for making inquiries. Even at that time my statement was not written. It is not true that I do not know when my statement was recorded. It was recorded at Mumbai on 03/11/06. I do not remember whether any officer of Mumbai who had inquired with me at Kolkata was present at Mumbai. It is true that it is only today that I identified Majid before any authority. I have not told anyone about the accused no. 5's age and residential address.

17.                There may be about 10-12 rooms in Majid's house. He and his six brothers, their wives and mother used to stay in that house. Everyone has a separate kitchen. There are many children in that house, about 15-16. Their main business is the footwear shop of their father. Accused no. 5 also used to work there. One shop is by name Raja Footwear. I do not know whether the name of the second

New Star Footwear. I do not know whether all the brothers used to tell about the business transactions to their mother. It is true that accused no. 5 is the youngest amongst brothers. He was married one or one and a half years before 2006. It is true that at the time of the incident, he had a baby girl. I started my spectacles shop in 2003. It is true that only I had the knowledge of preparing power glass. Accused no. 5 had the knowledge about the business as he used to come to the market with me for purchases. It is not true that before that he did not have the knowledge about preparing spectacles. He used to keep frames in his footwear shop and used to fit them with glasses as per the customers demand by getting it done from the market. It is true that there is a difference between getting glasses prepared from the market and preparing spectacles. We had taken premises on rent for the spectacles shop. I and accused no. 5 used to run that shop. It is true that he used to work in the footwear shop also. My shop did not have any name. Police did not ask me to show any proof about my business.

(Adjourned as court time is over).

**Date : 14/02/11**

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

**Date : 15/02/11**  
**Resumed on SA**

18. I know the accused no. 5 and his family since my childhood. There are houses of other people around his house. Police station is about five minutes distance on foot from his house. It is not true that my family members are on visiting terms at his house. I was not treated as an outsider at his house, but I was treated as a family member. Relatives used to visit his house. I do not know whether many of his relatives are residing in Bangladesh, but I know only Asif. Asif is the son of accused no. 5's father's sister. I do not know whether said aunt of the accused no. 5 used to visit their house. I had stated to the police that relatives of the accused no. 5 stay in Bangladesh. I do not know whether Asif used to often come to visit Majid. I had stated to the police that he used to often come to meet his uncle Asgar in our mohalla. Asgar stays across the main road. I know him since my childhood. I had not met Asif before Asgar's marriage. I only remembered the name of Tushar, friend of the

accused no.5 and not the names of the other friends, when I gave my statement to the police. Therefore, I had stated only his name. I remembered their names when I gave my statement to the magistrate, i.e., after about a month. I had not stated to the police that at the time of Asgar's marriage in December 2003, Asif's friends had also come with him, that they stayed at the house of his uncle, that I used to meet them in the mohalla, that I remember the name of the friends, one was Akbar @ Sami and one was Pappu. I had not made any record of the names of the persons and the events that I had stated to the police that had happened from 2003 till my statement was recorded in 2006. It is not true that I used to go to the house of the accused no.5 everyday during 2003 to 2006. I was on good talking terms with his brothers and our relations were brotherly. I did not complain about accused no. 5 to his brothers or family members. After Asgar's marriage in 2003 I had no occasion to meet Asif and his friends again in 2003.

19. I cannot tell the month in 2003 when I started my shop. I do not remember the English month when Asif's friends had come in 2004 before Ramzan. They had come 20-25 days before Ramzan. I



do not know for how many days Asif stayed at the hotel. I do not know the name of the hotel. We went to Delhi one week after meeting them at that time. I had gone with Asif and Akbar @ Sami. My three brothers used to stay in one room. It was a big room having bathroom. I stayed with Asif, Akbar, Pappu and Anwar in my brother's room. We stayed there for 7-8 days. Everyone of us was bearing one's own expenses. I had about Rs. 1,500/- to 1,600/- with me. I had gone there to meet my brothers. I had no other work. My brothers stayed in Delhi for 3-4 years. They used to come to Kolkata to meet us in holidays. I do not know whether they had good knowledge of Delhi. I did not inquire with my brothers as to how to go to any particular place in Delhi. I had knowledge of Delhi as I had been there many times. I did not know the name of the girls college and in which area it was. I do not know whom Akbar wanted to meet. We went for that purpose 2-3 days after we reached Delhi. Two-three days after we reached Delhi, Asif told me that the money with him was finished. I had stated to the police that one day Asif said that the money with him was finished and asked me to give some money, that I told him that I do not have any money, that therefore I asked my brothers

whether they had any money, but they also did not have any, that accused no. 5 was at Kolkata at that time, that he went to my house, collected my ATM card and account number, that they used to go out for some work, but they did not tell me about the nature of their work. I cannot assign any reason why all these things are not written in my statement. It did not happen that I asked my friend Rajesh to send my ICICI account number and ATM card kept at my house at Kolkata, through courier at my brother's address at Surajpur, Noida, Delhi. I again say that it had so happened and I had stated so to the police. I had not stated to the police that even today I am paying Rs. 600/- to the accused no. 5's brother.

20. People from Pakistan require passport for coming to India. I was on friendly terms with Asif as I had met him many times. It is not true that same is the case with Pappu. I did not make any efforts to know what the accused no. 5 wanted to do about Islam when he told me about it in 2006. I also did not talk with Asif or with accused no. 5's brother about it. I did not tell his mother about it. I met Munna for the first time near Bongaon market in Bongaon. I do not know whether there are many hotels in that market. We were in

Bongaon for about one hour. We all were not together for the entire period. We were together when we had tea. I cannot tell the name of the hotel where we had tea and on which road it was. Munna had brought those six persons with him. I do not know from where he had brought them. We were sitting at a long table in the hotel where we were till we had tea. There may be 3-4 tables in the hotel. I do not remember how many other people were there in the hotel. I did not have any talk with any of the persons who were with us. I had stated to the police that I, Majid and those six persons went by two rickshaws to the railway station, that during their talk I came to know that those persons are from Pakistan and are sent by Azam Cheema, commander of Lashkar-e-Taiba in Pakistan, that I told him that I am not ready to do that work as it is not a good work and that I am a small man and I have business, but he was not ready to listen. I cannot assign any reason why these things are not written in my statement. It did not happen that we went by taxi from Bongaon market to the railway station. I had not 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 to

written in my statement.

21. I did not again see and meet Majid and those six persons after reaching home. Police had asked me my bank account number, the entry of Rs.30,000/- in my account and had asked for the ATM card. I could not give all these things to them as I searched for them at my house, but could not find them.

22. I am the eldest amongst brothers. My father is alive. My mother is dead. In 2003 my brothers were quite young. It is not true that I used to bear the expenses of my family. My brothers have not taken any education. They used to work in factories. It is not true that since 2003 I have no means of livelihood and I am indulging in illegal activities. It is not true that I deposed falsely because of the fear of the police and the law, that I deposed as per the wish of the police, that I had not gone to Bongaon at any time, that I had no occasion to see any Pakistani passport.

**Cross-examination by adv Shetty for A3, 8, 9, 11 & 12**

23. I do not remember the date when the amount of Rs. 30,000/- was credited in my account and when it was withdrawn. Today I do not have any account in any bank. I had opened the

account in the ICICI bank in between January to March 2002. I had closed it in 2005 or 2006, but I cannot tell the month. The ATM card was with me upto 2005. I did not give my bank account number or the ATM card number to the police. My friend Rajesh had introduced me when I opened the account. He was not my close friend of confidence. He used to stay adjacent to me. I met Asif for the first time in the marriage of Asgar. Thereafter, I did not develop regular friendship with him. Nata Anwar stays about 4-5 steps in front of my house. I do not know about his relation with Pappu. I know Tushar, Sami and Pappu through Asif. I do not know how they are related and since when they are related with Nata Anwar. I do not know whether they had any concern with each other before they came to me for going to Delhi. Akbar @ Sami had told me that the purpose of the visit to Delhi was to search for a girls college. I did not ask Akbar about the particulars of the girls college or the purpose of the search. Asif and Pappu were aged about 22-23 years in 2004. I was 24 years of age. Akbar @ Sami was about 33-34 and Nata Anwar was about 30 years of age in 2004. I did not know which girls college we searched and I cannot tell the address that Akbar was searching. I

had stated to the police that at Delhi Akbar told me that he wanted to search for a girls college. I cannot assign any reason why it is not written in my statement. At that time he knew about my bank account. I do not know since when he knew it. As Asif had asked me, I had told him at Delhi about having an account in the ICICI bank. He had asked for Rs. 30,000/- from me in Delhi. I had asked my brothers whether they had the money. I do not remember whether I had stated so to the police. I cannot assign any reason why it is not written in my statement. I had stated to the police that Asif had asked me whether I have any bank account, that I told him that I have it, but it is at my house. I cannot assign any reason why this is not written in my statement. During our stay at Delhi we all were together throughout. I do not know where Asif and his friends used to go in Delhi and what they used to do. Asif had withdrawn the amount of Rs. 30,000/- on one day, but I do not know whether it was a single transaction. Asif had gone inside the cabin and we all were standing outside. He went only once in the cabin. He was there for about 3-4 minutes. I was not inside the cabin when he withdrew the amount. I do not know whether one cannot withdraw Rs. 30,000/- on one day. I do not know

the limit of withdrawal of my ATM card. I may have Rs. 2,000/- or 3,000/- of my own in my account when Rs. 30,000/- was withdrawn. I am not related to Asgar and Rajesh. I do not know the name of the courier company through which he had sent the ATM card. I do not remember the date and the time at which I received the courier. Accused no. 5 had invested about Rs. 45,000/- to 48,000/- in the business. We had not prepared any partnership agreement. My knowledge and work was my capital. The ICICI bank account was my personal account. I had not opened an account for the business. I was not doing any transaction of deposit and withdrawal from that account as the amount of sale of our house was deposited in it and it was withdrawn at the time of my mother's illness. The house was sold at the end of 2001 and Rs.45,000/- was deposited. The amount was withdrawn and exhausted in 2002 -2003. I cannot tell the exact date and month when it was exhausted. Other than this there were no other transactions. Police had asked me about my passbook and the ATM card, at Kolkata and also at Mumbai. I do not remember for how many times I was inquired with at Kolkata. I was at Mumbai for my statement only for one day. I did not bring my passbook and ATM

card to Mumbai. As I did not find it, I did not bring it. I did not know the account number, therefore, I could not obtain a copy of the passbook. I knew the address of the branch of that bank. It was about half an hour's distance by bike. It is not true that I did not have any account in the ICICI bank, therefore, I did not produce the passbook or the ATM card though the police repeatedly asked for it.

24. I had stated to the police that the accused no. 5 was not attentive to the business in 2003-2004. I cannot assign any reason why it is not written in my statement. I had stated to the police that when Asif came in February 2006 and I asked him why he had come and he stated that he had come for some secret work 'about which he cannot tell me'. (Emphasis on the words in inverted comas). I cannot assign any reason why it is not written in my statement. I had asked the accused no.5 what type of work he wanted to do for Islam. I had stated to the police that I questioned him as to why he is doing that work, that he said that he is doing it as he wants to do something for Islam, that I did not feel it good, that one day he said that he wants to do some work about jihad and that Asif and some of his friends are going to do some big work for jihad, that I told him that I do not want



to do that work and I do not want to be concerned with it, that in May 2006 accused no.5 told me that he wants to do some work for Islam and whether I would help him, that I said no. I cannot assign any reason why these things are not written in my statement. I can describe the passports that were with those persons. The word 'Pakistan' was written on them. I do not know what was written before and after that word. There was a 'chand' and 'tara' on top and the passports were green coloured. I do not know whether there was any monogram. I can read English to some extent but I do not understand it much. I had stated to the police that the six persons came and greeted the accused no.5 and told their names. I cannot assign any reason why it is not written in my statement. I met Tushar only once at the time of marriage. I do not remember whether I was using Reliance or Tata mobile in 2006. Now I have Reliance mobile number 9330434615. I have only one mobile. It is in my name. I do not know to whom the number 9339806485 belongs.

25. It is not true that I deposed falsely on the say of the ATS police because of their fear.

No re-examination.

**R.O.**

**Special Judge**

**Date:-15/02/2011**

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