

M.C.O.C. SPECIAL CASE NO. OF 21/06**DATE:22ND FEBRUARY, 2011****Ext.No.794****DEPOSITION OF WITNESS NO.71 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Abdul Rehman Dawrey
Age : 38 years
Occupation : Service as Software Professional
Res. Address : Flat no.1, Gr. Floor, Natraj Apartment, NIBM Road,
Kondhwa, Pune-48.

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

1. I stay at the given address since last two years. In 2006 I used to stay in Flat No. 202, C' Building, Premanand Park, Shivarkar Road, Wanawadi, Pune-40. My parents used to stay in Flat no. 203 in B' Building in the same Premanand Park. I have a younger brother by name Rizwan Dawrey. We used to stay in the above Flat no. 203 with our parents since 1993. Rizwan had passed the 12th standard and then completed a computer course from NIIT in 1996. It was of basic computer knowledge and thereafter he specialized as a network administrator, system engineer and did the Linux administration. In 1996-1997 his friends Rahil Aatur Rehman Shaikh and Faisal Aatur

Rehman Shaikh used to visit my house. Rahil was also in computers so they got to know each other. Faisal had a brother Muzzammil. I had seen him sometimes and I knew him. Faisal's other name was Mustafa.

2. In 1996-97 I used to go to Kamruddin and Usmania masjids in Camp area, Pune. Sometimes Rizwan used to accompanying me. There used to be namaj in Kamaruddin masjid and there was an office of SIMI upstairs in the masjid. We used to be called to that office after namaj and I used to go there sometimes. I may have visited that office 5-6 times. Lectures of Kuran and Hadis used to be delivered at the SIMI office. Jakat collection used to take place from the general public. Rahil, Faisal, Asif Khan, Firoz and others whose names I do not remember, used to come to the office of the SIMI. Besides Kuran and Hadis, there used to be discussions about Muslim issues like arrests of Muslims and the atrocities on the Muslims. The persons whose names I told and the persons whose names I do not remember used to make the above discussions. I will be able to identify the persons who used to participate in the discussions, but whose names I do not remember. (Witness points to the accused

no.10 saying that his name is Suhail Shaikh. The accused is asked to stand up and tell his name, which he states as Suhail Mehmood Shaikh. Witness points to the accused no.3 saying that his name is Faisal Shaikh. The accused is asked to stand up and tell his name, which he states as Faisal Aatur Rehman Shaikh. Witness points to the accused no.9 saying that his name is Muzzammil Shaikh and that he used to come to his house, but he had not seen him at the masjid. The accused is asked to stand up and tell his name, which he states as Muzzammil Shaikh). These are the same persons. I do not know whether the other persons are present in the court.

3. There were many riots in Pune in 2001 and there were incidents of burning Kuran. There was an atmosphere of tension. At that time some persons of SIMI used to say that it will not be sufficient only to talk, but we should take some training. SIMI was banned in 2001. The above talks took place in the month of Ramzan in Camp area when we had gathered for tea. Faisal was one of the persons who used to take parts in the talks. On listening to the views expressed in the talks, I became frightened and I stopped meeting any of those persons. Rizwan continued meeting those persons.

(Adjourned for recess)

Date : 22/02/11

SPECIAL JUDGE

Resumed on SA after recess

4. In April 2003 Rizwan went to Jeddah in Saudi Arabia and joined a company by name Globe Soft as a system administrator. I have a passport. In September, 2003 I also traveled to Saudi Arabia and joined the same company after Rizwan had sent me the visa. I worked there upto January 2005 as a technical consultant. After a couple of months after September, 2003, Faisal, i.e., the accused no.3 and Rahil came to meet my brother Rizwan at Jeddah. I was staying with Rizwan, his wife and two children in the flat rented by him. Faisal used to come to meet Rizwan often. Once he showed me his Pakistani passport and tried to convince me to send Rizwan for training to Pakistan. I opposed and did not let my brother go and I also warned Rizwan to stay away from Faisal. Faisal told me that in 2002 he had gone to Lahore by the Samjhota express and from there he had gone to Muzzafarabad for training, where he had also met Hafiz Sayyed, who is chief of LeT. The passport that Faisal showed me was in the name of Mohd. Akram. In January 2005 I returned

back to India. Thereafter, I was in touch with Rizwan by phone and e-mail. He used to send 500 or 600 Riyals for the expenses of my father, most of the times through the regular banking channels. A family of Pune known to me, was in Jeddah at that time. They were Gaffar and his brother Afzal Shaikh. They were residents of Kondhwa in Pune. At that time my e-mail ID was adawrey@hotmail.com and my brother's e-mail ID was razwan_ahmd@yahoo.com or razwan_ahmd@hotmail.com. I do not now remember the other e-mail ID of Rizwan. I do not today remember his mobile number, but I had given it to the ATS.

5. In the first week of July 2006, Rizwan sent me an e-mail that Afzal is visiting Pune on 12/07/06 and he is sending a parcel of medicines and sweets and about 500 Riyals with him for our father. On 17/07/06 I collected the parcel and 500 Riyals from Afzal. When I returned home and opened the parcel, I found some medicines, dates and also one closed envelope. The 500 Riyals were separately given. Rizwan had not told me about the envelope. Therefore, I had a telephone conversation with him. I do not remember whether I called him or he called me, but I questioned him about the envelope. He told

me to keep the envelope safe till he gives further instructions. So I safely kept it with me. On 26/07/06 Rizwan came online and told me that the envelope was for Mustafa, i.e., Faisal. He told me to dispose off the envelope and move out from Pune as Mustafa was picked up in connection with the 07/11 railway blasts. In fact, I had already come to know about it, but I did not know that the envelope was for him. I did not destroy the envelope. I told Rizwan that I have not done anything wrong, that I have got a family and I cannot move out of Pune. I kept the envelope with me safely. On 30/07/06 the ATS officers visited my house and questioned me about my brother. I revealed to them the discussion that I had with Rizwan and handed over the envelope to them. Then my statement was recorded, the envelope, the 500 Riyals and the personal computer of Rizwan were seized. The ATS officers, two local police and two persons from Mumbai were present at the time of the seizure. I will be in a position to identify the CPU. (Witness is shown the CPU Art-308). The CPU now shown to me is the same. My father was present in Flat no. 203 from where the CPU was seized. I will be able to identify his signature. (Witness is shown the panchanama Ext.756). I am not in a

position to identify the signature in front of the words 'sakshidarachi sahi' on the last page. (Witness is shown page no. 8 and asked whether he can identify the signature below the words 'prat milali' that are in bracket). It is my signature.

Q. Whether you can say that the person by name Asif Khan whose name you stated earlier is present in the court?

A. I cannot say whether that person is present.

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

6. Police were at my house from 3.00 p.m. to 5.00 p.m. on 30/07/06. They recorded my statement on the same day. It was written by hand. It was about 5-6 pages. It was in Marathi and it was read over to me after it was completed. Officer Dinesh Kadam wrote it. I do not exactly remember the name of the other officer, but it might be officer Gaikwad from the ATS who was with Dinesh Kadam. They did not record my father's statement. I have passed the B.Sc.(IT) and I am doing MBA, 3rd semester at Pune. I completed B.Sc (IT) in 2010. Before that I was doing BHMS and completed three years, but left it in 1995 as I was interested in computers. Then I did some computer courses and certification in MCP internet of Microsoft. It was a self

study course and I had taken the course for six months at Astra Institute in 1996-97. I did the certification course in 1998. In 2006 my qualification was 12th standard in English medium, three years of BHMS and the computer courses. Before 2006 I was well acquainted with computer systems and was an expert in computers.

7. Officer Dinesh Kadam required about 30-40 minutes to write my statement. My father was in my house at that time. The statement was recorded in my living room. Apart from the police officers, my father, myself and two persons from Mumbai were present when my statement was recorded. They were asking questions to me and I was replying to them. I understand basic Marathi. My statement was explained to me in Hindi and then it was read over to me in Marathi. I had also read it, but I did not understand some technical terms. I found the statement to be correctly recorded. That was my first statement. My signature was obtained on it. After 30/07/06 my statement was recorded twice. On the next day I was called at the office of the ATS at Bhoiwada. Officer Dinesh Kadam recorded the same statement by typing it on computer. It was typed on 31/07/06 at 12.00 noon. I reached that office around 11.00 a.m. My father was

not with me. When my statement was recorded other than officer Kadam there may be two or three more police officers present. At that time also officer Kadam was questioning me and I was giving answers. I did not sign on that statement. (Ld Adv states that he calls upon the prosecution to produce the statement of 30/07/06. Ld SPP Chimalkar submits that there is no such statement, but witness is referring to the panchanama).

8. There was only one computer in my house on 30/07/06. Art-308 was the CPU of that computer. It was in my father's house, but I was using it in my house. I falsely stated a few minutes before, that the computer was in my father's house and I was using it there. This CPU Art-308 belongs to my brother Rizwan. He last left India in February 2006. He first went to Jeddah in April 2003. He came to India thereafter only once in February 2006. I am staying separate from my father from the year 2000. It was the first time in my life to go abroad when I went to Jeddah in September 2003. I did not visit India during my stay at Jeddah. I obtained my passport in 2000. From that year upto 2003 when I left for Jeddah, I stayed in Flat no. 202, C', Premanand Park, Wanwadi on leave and licence basis. I had that flat

upto 2006. I do not remember the name of the owner of that flat from whom I had taken it on leave and licence. The owner was an old lady, but I do not remember her name. I used to pay rent of Rs.3,000/-p.m. I had given a deposit of Rs.20,000/- or 30,000/- in cash. I do not remember whether I have the copy of that agreement with me. Neither the police officer who recorded my statement asked for it nor I produced it.

9. The CPU Art-308 was taken from my living room. I do not remember whether the label on the backside of Art-308 was the only label that was affixed at that time. The computer can be started by operating the button on the front top side and resetting can be done by operating the other button near it. CD or DVD can be inserted from the front side in the drive. There is no point on the side on which the label is affixed to enable one to operate the computer. There is no label on the front side and the top side. I do not remember the date and time on which I received and sent the last e-mail to Rizwan before 30/07/06 and their contents.

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

(Y.D. SHINDE)

Date : 22/02/11**SPECIAL JUDGE****Date : 23/02/11**
Resumed on SA

10. On 30/07/06 except taking away the CPU, Art-308, the police did not do anything with the said CPU or computer. Police took the CPU in their possession under panchanama. I signed the panchanama at about 5.00 p.m. at my residence. I do not remember whether the police officer who wrote the panchanama signed it before I signed. I think that one assistant of officer Dinesh Kadam wrote the panchanama, but I am not sure. I am not sure whether officer Gaikwad wrote it. The police officers from Pune did not write the panchanama. There was no other person except the six persons, including the two police officers from Mumbai and two from Pune. I do not remember the names of the two persons from Mumbai, but they may be around 22 to 25 years of age and they were speaking in Marathi. I did not speak anything with them. They also did not talk with me. The police left my house in between 5.00 or 5.15 p.m. They were at my house for about two hours.

11. I had purchased the computer at the end of 2005. I had

purchased it from a shop at Swargate, but I do not remember the name of the shop. I do not have the bill today. Neither the police asked me to produce its bill nor I produced it on my own. After coming to India in February 2006, Rizwan went back to Jeddah in March 2006, but I cannot tell the exact date or the week in which he left. I have a computer at my house. My present e-mail address is adawrey@hotmail.com and a_dawrey@yahoo.com. I do not have any of the active e-mail address of my brother Rizwan or his mobile number. Rizwan had an Indian passport. I do not know about today's position. I am not in contact with him now. I do not have any contact with him after 2nd or 3rd August 2006. I had called him on his mobile from my mobile from Pune. I do not remember Rizwan's mobile number to which I had made the call. My father does not have his current e-mail ID or mobile number. I do not know where he stays now. I do not know whether he stays in Jeddah, Abu Dhabi, any Gulf country or Pakistan. After he left India in March 2006, he has not returned to India. Rizwan was sending money for my father's expenses since he went to Jeddah in 2003. He used to send the money sometimes through the UAE exchange. He never sent the

money through my bank account. The money used to be collected from the office of the UAE exchange in Koregaon Park. I do not remember the name of the building and road where the said office is situated. I used to collect the money after showing my identification proof and sometimes my father used to collect it. I may have collected the money twice. Whenever I collected the money, it was sent in my name. Whenever it was collected by my father, it was sent in his name. I do not remember the exact month and year when I collected the money. I have a personal account in the ICICI bank, Bund Garden branch, Pune since 1999. I do not remember whether Rizwan had sent any money through that bank account for my father.

12. I used to draw around Rs.60,000/- p.m. at Jeddah. It will be correct to say that one of the reasons for my coming back to India was that the salary there was less. I do not remember how many times I had sent money to my father from Jeddah. I do not remember whether I had sent money to my father from Jeddah. I used to send money regularly to my wife. I used to send it through local currency exchange offices at Jeddah and my wife used to collect it from the local office of UAE Exchange at Koregaon Park.

Rizwan used the same exchange offices at Jeddah for sending money to my father on a couple of occasions when he came with me to that exchange office. My bank account is operated by me only. My wife has a bank account in HDFC Bank, Camp Branch. She is a housewife. That account was opened in 2007 or 2008. I married in 1997. She had a bank account in the IDBI Bank, Wanwadi Branch from 2000 or 2001. I did not send any money from Jeddah to her through her bank account. I do not remember whether I had credited any amount from Jeddah to my ICICI Bank account. I do not remember the total amount of money in Riyals that I sent to my wife from Jeddah, but I used to send 800 to 1200 Riyals at a time approximately. I do not remember how many times in a year I sent her the money.

13. Rizwan used to intimate me in advance about the money sent by him. He used to inform me about the amount that he has remitted and a code number. I used to go to the exchange, show my identity proof and tell the code number to obtain the money. These communications used to be on phone and sometimes by e-mail. There was no need to produce any other document, except

showing one's identity proof and telling the code number. It never happened that Rizwan used to send 500 Riyals every month to my ICICI Bank account for household expenses. 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 money received from Afzal was the last money received from Rizwan. It will be correct to say that after July 2006 none of my family members have received any money from him. I was not called again to the police station after 31/07/06. I was not detained in any police station. I was called in the office of the Crime Branch at Kurla in the last week of the August 2006, in the office of Vijay Salaskar. I do not remember the date. I was called in the morning. I was allowed to go in the evening on the same day. I was called for the inquiry about my brother in the bomb blasts case. Vijay Salaskar and his officers API or PI Phadake, officers Dalvi and Alaknure questioned me throughout the day. On that day several other people like me were called there concerning the same case. I do not remember their names. I had seen Faisal there. I was inquired in connection with the statement that I had

given. Police were intending to arrest Rizwan in this case. I was intimated about it on 30/07/06. Police had gone to my father's house to search for him. They had gone twice. Office Alaknure had come for that search from the Kurla Crime Branch. I do not remember the date when he had come, but it may be after 18/08/06. He had also come to my house to search for him and asked me where he was and that they wanted to arrest him. After that day police have not come to my and my father's house to search for him.

14. On 26/07/06 I communicated with Rizwan by chatting on the internet. He had initiated the communication. Upto that day I had no knowledge as to what was in that envelope and for whom it was sent. I do not remember the description of that envelope, it's colour and if anything was written on it. If saving option is given, the chat is saved on the computer. It is saved on the server. I do not know the period for which the chat is saved with the server. E-mails received are not deleted automatically from the account. I do not remember whether I have not deleted any record of chatting with Rizwan or any exchange of e-mails with him. I had not deleted the chatting with him on 26/07/06 and the e-mail received on 05/07/06.

15. As the police were on the look out for him and as his name was involved in the 07/11 railway bomb blasts case, Rizwan stopped contact with us and stopped responding to our phones and e-mails. I do not remember the number of occasions on which I had tried to contact him after 26/07/06, but as there was no response from him, I stopped calling him. In the first week of the August 2006, officer Kadam asked me to inform him to get in touch with them and to co-operate with them. I do not remember the exact date. I do not remember where he told me, but it may be on telephone. It is not true that in compliance with that request I informed him that police are on the lookout for him in the 07/11 bomb blasts case.

16. It is true that from 30/07/06 onwards, I and my father and our family members were apprehending that Rizwan would be arrested in this case. The apprehension was strengthened as police called me from time to time thereafter for inquiry. It is not true that therefore it was my anxiety to save him from arrest. (Witness volunteers- I wanted him to contact API Kadam and to co-operate in the inquiry. So also I, my parents and all my family members wanted him to come back to India and make himself available for the inquiry

in connection with the blasts. Therefore, I had also tried to contact his office where he was working to know about his whereabouts. I also informed his office that his mother is serious and she is asking that he should come back to India to meet her).

17. Rizwan was working in Glob Soft company located at Farsi Center, Share Hayan, Jeddah, in July 2006. After January 2005 I never went abroad. After our contact with him stopped and though we wished that he should return to India to co-operate, neither I nor anyone of my family members went to Jeddah to bring him back. I do not remember date of issue and the period of validity of his passport. I do not know whether he did not renew his passport when he came to India in 2006. My father has a passport. I cannot tell its number or the period of its issue and validity. He was working in Abu Dhabi and he returned to India in 1997 or 1998. Thereafter, he did not go out of India. Police had asked for my passport during my inquiry and I had produced it before them on 30/07/06. It was with them for three months. They had not given me any receipt. They had not taken my father's passport. My passport was returned to me in the second week of September 2006. I was called in the ED office when it was

returned to me. I had taken it from the police in the second week of September 2006. I do not remember the name of the officer from whom I had taken it. My passport is still with the ED. I had produced it there in the second week of September 2006 as I was called there in connection with the Riyals that were sent by Rizwan. I had given it to officer Arvindkumar Singh. They had sent me a summons and had also directed to bring my passport with me. They did not give me any receipt about taking my passport. I had sent a letter to Arvindkumar in 2007 or 2008 by courier for returning my passport. I may have the copy of that letter with me and if I find it I will produce it. I do not remember whether I have the acknowledgment of that letter. They did not intimate me in writing about the reason for not returning my passport. I do not remember whether I had sent a reminder to that officer. I did not personally go to that office and request for returning my passport. I did not take the advice of any advocate for getting back the passport. Except the copy of the letter that I sent to the ED office, I do not have any other document to show that my passport is with that office. I cannot produce it tomorrow but if I find it, I will produce it in the next week. I cannot produce it tomorrow because I

am not sure whether I will be able to find it today. It is not true that I am falsely stating that my passport is with the ED office.

(Adjourned for recess)

Date : 23/02/11

SPECIAL JUDGE

Resumed on SA after recess

18. I do not have any evidence except my words to show that police had taken my passport. In 2005 when I returned and started working in Approva Systems at Pune. My salary was 80,000/- per month. I got a promotion in 2006. But I do not know in which month. It is correct to say that I got promoted in January or February ,2006 and my salary was increased to 90,000/- per month. My father is retired and does not do any work. I am maintaining him.
19. I first became acquainted with Faisal in 1997. I knew him by that name from that time and in Saudi Arabia I came to know his another name as Mustafa. I used to call him by his name Faisal. He used to come to meet my brother at our house in 1997. I do not remember the month. I came to know him as he used to come to meet my brother at my residence. I do not remember how many times he came to our house. He used to come occasionally.

Muzzammil did not come often. I do not remember when he came to our house for the first time. I cannot tell when Faisal and Muzzammil came for the first time to our house and when they came last. I cannot tell when Rahil came to our house for the first time and when he came last and how many times he came. I had stated to the police when they came for the first time about Faisal and Muzzammil coming to our house to meet Rizwan. I cannot assign any reason why this is not written in my statement. Hadis means sayings of the Prophet. Kamruddin and Usmania masjids are about 5 kms from my house. Both masjids are about 1 km apart. Usmania masjid is nearer to my house than Kamruddin masjid. There was no SIMI office in Usmania masjid. It is not true that in 1996-97 I used to go only to Kamruddin masjid. The SIMI office in that masjid was one room about 300 to 400 sq.ft. I am not aware whether there was any office attendant. I went to that office about 5-6 times. I did not become member of SIMI. I never participated in SIMI activities. I never went to its office voluntarily. I do not know whether Rizwan was its member. He had called me to that office a couple of times. He asked me to accompany him and to sit for the lectures. I do not remember the

exact date when he asked me to accompany him for the first time. Before he asked me to accompany him, I never visited the SIMI office. I do not remember the month and year when I first attended the lectures in that office. I am not sure whether it was in the year 1996. I may have visited the SIMI office after 1996 five or six times, but not always with Rizwan. I never went to the SIMI office alone. I do not know whether that office had office bearers. No pamphlets were distributed during the lectures about the lectures. I do not know whether any noting of the proceedings was made by anyone. Many youngsters like me used to attend the lectures. The lectures were held immediately after the namaj, normally after 8.30 p.m. About 200 Muslims used to participate in the namaj at night. There was no announcement after the namaj about the lectures in the SIMI office. However, the information used to be given from person to person. Around 15-20 persons used to attend the lectures in the SIMI office. They were mostly from Pune. I had not stated to the police that I used to go to Usmania masjid also for namaj. I do not know the number of masjids in Pune. There are two masjids in Wanawadi about 1 km from my house. I had stated to the police that there used to be namaj

in Kamaruddin masjid and there was an office of SIMI upstairs in the masjid, that we used to be called to that office after namaj and I used to go there sometimes, that I may have visited that office 5-6 times, that lectures of Hadis used to be given there. I cannot assign any reason why it is not written in my statement. SIMI members used to collect jakat, but I cannot tell their names. I do not remember how many times I gave it. I did not give any jakat. I do not know whether Rizwan used to give jakat. Jakat used to be collected from the persons who had come for namaj. I did not collect any jakat. I do not know whether Rizwan used to collect it. I do not remember whether I had stated to the police that jakat used to be collected from general public. I cannot assign any reason why this is not written in my statement. I do not know whether there were large scale arrests of Muslims from Pune in 1996-97. There was no issue of arrest of Muslims during the lectures in the SIMI office. I had stated about harassment of Muslims in my chief-examination. I had not stated to the police that there used to be discussions about harassment of Muslims. I do not know about harassment and atrocity on any Muslim person in 1996-97. I cannot tell the date and month on which the

discussion about harassment and atrocity on Muslims took place. After SIMI was banned in 2001, I stopped going to the SIMI office. I do not remember the English month of Ramzan in 2001. I do not know whether SIMI activist or its members protested and took out rallies in Pune after it was banned. I do not know whether there was any communal tension or communal rioting anywhere after the ban was imposed. I and my SIMI friends had not gathered in the office of the SIMI in Kamruddin masjid after one or two months after Ramzan in 2001. It did not happen that activists and members of SIMI were angry as Government of India had banned the SIMI organization in September 2001 and because of the ban they had made protests in Maharashtra and other places and had done communal riots about which I knew, that one or two months after the ban was imposed and when it was Ramzan month, we had gathered in the office of SIMI in Kamruddin masjid. 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 all these things are written in my statement.

20. I do not exactly remember, but I think that there were

riots in Mominpura in Pune in 2001. I do not remember the month and I cannot tell in the jurisdiction of which police station they had happened. There were no incidents of Kuran burning in Pune. I do not exactly remember in which month there was communal tension in Pune. It was in Mominpura and Camp area. I had stated to the police that there were many riots in Pune in 2001 and there were incidents of burning Kuran, that there was an atmosphere of tension. I cannot assign any reason why this is not written in my statement. I do not remember whether I had stated to the police that the above talks took place in the month of Ramzan in Camp area 'when we had gathered for tea'.(emphasis on words into inverted comas). I cannot assign any reason why it is not written in my statement. It is true that I did not go to the SIMI office after 2001 as I did not want to participate in their illegal activities. Rizwan is two years younger to me. SIMI office was closed after it was banned, therefore, there was no question of I and Rizwan go there. I reside in the area of Wanawadi Police station. I do not know in which jurisdiction the Camp area is. I did not complain to any police station about the views expressed in the talks in the month of Ramzan, after the ban on SIMI. I had not stated about this

anywhere, till the ATS officers inquired about it with me. I am not sure whether I would not have gone on my own and given the above information to the police, if the ATS police would not have come to me. It did not happen that after the ban on SIMI, Rizwan continued attending the SIMI office. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as '**C**'). I cannot assign any reason why it is so written in my statement.

21. Faisal and Rahil came to meet my brother Rizwan in November or December 2003. I did not take in my hands the Pakistani passport that was shown by Faisal. He had opened it and shown it to me in a manner so that I could read the name 'Mohd. Akram. I do not remember the address of the passport holder and its serial number. I do not remember any other thing about the passport, except the name. He had shown me the pages other than that on which there was a name, but I do not remember those pages. It is true that in Muslims the names like Rahil, Asif Khan, Firoz, Faisal, Muzzammil, Mustafa and Mohd. Akram are common names. I do not know whether these names are in Sunni sect or Shia sect. I knew

about Hafiz Sayyed's name before Faisal told me about him as I had come to know from the news. I do not remember when I first came to know about it. From the media I knew that he was the chief of LeT. I had stated to the police that Faisal had tried to convince me to send Rizwan for training to Pakistan. I do not remember whether I had stated to the police that I had warned Rizwan to stay away from Faisal. I cannot assign any reason why it is not written in my statement. I had not stated to the police that in the e-mail sent by Rizwan in July 2006, he had told me about sending parcel of medicines and sweets and 500 Riyals for our father. The 500 Riyals that Afzal gave were not in envelope. I had stated to the police that the 500 Riyals were separately given and Rizwan had not told me about the envelope. I cannot assign any reason why this is not written in my statement.

22. I came to know about the blasts of 11/07/06 on the same day in the evening. I came to know after 20/07/06 from the news on TV that Faisal was arrested. I do not remember whether he was shown in the news. I do not remember whether his photograph was published in the print media. I remember that his name was

shown as Faisal. I did not come to know about Muzzammil's arrest. Before 26/07/06 I had come to know that police had caught many people in connection with the railway blasts in Mumbai. I did not ask Rizwan why he told me to move out of Pune. He had told me to convert the Riyals into Indian currency or to destroy the envelope including the currency. Conversion of Riyals into Indian currency can be done officially. It is illegal to convert it from any other agency. I do not remember whether Rizwan told me to keep the envelope of Riyals far away from the house and 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 '**D**'). It might be that I may have stated so to the police. I may have stated to the police that Rizwan told me to dispose off the envelope and move out from Pune. I cannot assign any reason why this is not written in my statement. I had stated to the police that I had already come to know about it, but I did not know that the envelope was for him, that I told Rizwan that I have not done anything wrong, that I have got a family and I cannot move out of Pune, that on 30/07/06 the ATS officers visited my house and questioned me about my brother. I cannot

assign any reason why these things are not written in my statement.

23. It is true that police did not ask for the statements of my bank accounts and that of my wife and I also did not produce them, that I did not produce any document about the money that he used to send through UAE Exchange. I have no document with me at present to show that Rizwan had sent money through UAE exchange. It is not true that I deposed falsely in favour of the police to save my brother Rizwan, that I never went to Jeddah, therefore, I did not produce my passport before the police. I have no document to show that officer Kadam took my passport. It is not true that in order to take the favour of police to save myself I am implicating Faisal. It is not true that there was no office of SIMI in Kamruddin masjid.

(Adjourned as court time is over)

Date : 23/02/11

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

Date : 24/02/11
Resumed on SA

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

24. The ATS police did not prepare a panchanama when they took my passport and did not make any entry in any register. I did not make any grievance anywhere about the ATS police taking my passport. They did not record my supplementary statement about it. They did not take any acknowledgment or receipt from me when they returned my passport to me. I had given a zerox copy of the passport to them.

25. I do not remember how many times I may have gone to the Kamruddin masjid for namaj. I am not aware whether it is a wakf property or private property. Even now I go to that masjid sometimes. I do not know whether the masjid has trustees. I do not know whether it is a masjid of SIMI. During that period there was no board of the SIMI office. I have gone to many masjids in India for namaj. It is true that in nearly all masjids there is a notice that without the permission

of trustees no meetings or programs can be conducted and no donations can be collected in the masjids. It is true that one can know the sect of a Muslim person by the way he performs the namaj. I do not perform namaj in the masjid of Shias. I do not know whether Kamruddin masjid is a Shaafai masjid. I do not believe in sects. I am a Konkani Muslim. It is true that in India Konkani Muslims and Kerala Muslims belongs to Shaafai sect. I mostly saw Muslims belonging to the Hanafi sect offering namaj in Kamruddin masjid, sometimes I also saw Shaafais. It did not happen in my presence that sweets like nankatai and jilebi were distributed in the masjid by way of prasad. I do not remember attending any feast at the masjid or any feast going on or any board about it or whether I was invited for niyaz. I do not remember whether I had seen majority of namazis of Tablighi group. It is true that niyaz or feast is common in Sunni household and mosques. We do not host religious feasts in our house. I have not performed ziarat at dargahs as Sunni sect Muslims do it. It is true that the prayer hall, toilet and the washing place in Kamruddin masjid belongs to the masjid. I do not remember how many floors it has. There is a library in the only one room that is on the upper floor.

There are many books in the library. I do not know whether the residence of the Imam of that masjid is in that room. I do not remember whether there was a door to that library. I do not know whether the library is still there on the first floor. I do not remember seeing any person locking or unlocking the door of that library. It is true that there is a religious lecture after namaj in nearly all masjids, which is normally after the last night prayer. Some people continue performing namaj at the same place even after the group prayer with the Imam. It is true that in some masjids, the people giving the religious lectures after the namaj go to some distance for that purpose, so as not to disturb the people continuing their namaj. I do not remember whether namaj is perform in Kamruddin masjid in the Tablighi manner. I do not know whether Sunni Muslims do not go for namaj to that masjid.

26. It is true that till today I have not taken the ATS officers or Pune police to the place to show that the meetings used to take place there. They also did not ask me to show that place. I do not know whether there was no SIMI office on the first floor in that masjid. I do not know whether the room on the first floor was for the personal

use of the Imam. There used to be religious lectures in the year 1996-97 by the side at the same place where the last namaj used to be performed. I do not know whether the clerk of that masjid used to lock the masjid after the lectures after the last namaj and no one was permitted to remain in the mosque or to use the toilets. I do not know whether no one was allowed to go to the room on the first floor without permission. Police did not ask me to describe the said room. I did not describe it to them on my own. It is not true that in 1996-97 I did not attend any lectures in that room.

27. I do not remember the full names of Rahil, Asif Khan and Firoz. I did not know their addresses. The ATS police did not ask me their full names and addresses. They did not take me with them in search of those persons and they did not ask me to describe them and I did not describe them on my own. I was not shown any accused in the ATS office. However, I was shown an accused in Kurla Crime Branch. I performed namaj in that office once. I do not remember whether at that time I had washed my hands at the window. I can try to identify the accused that was shown to me. He was Faisal. (Ld adv asks the accused no. 6 to stand up and asks the witness whether he

had seen him in the Kurla Crime Branch). I had seen this accused in the Kurla Crime Branch. He was not handcuffed. No officer pointed him to me. I do not remember whether I talked with him. I had seen him in August 2006. I do not know whether he was there in connection with the bomb blasts case. (Ld adv asks the accused no. 2 to stand up and asks the witness whether he had seen him in the Kalachowki office of the ATS). I do not remember whether I had seen this accused in that office. I had performed namaj once in that office. I do not remember whether I did not know to which direction I should face while performing the namaj and at that time a person present there had told me about that. I do not remember whether the accused no.2 had told me the direction and had given me water for washing my hands. I do not remember whether there were many CPUs in that room and of what time namaj I have performed. Namaj is performed five times in a day commencing from the early hours of morning upto the last namaj at 8.30 to 9.00 p.m. I had performed the evening namaj in that office. I do not remember whether the accused no.2 had asked me my name before I performed the namaj. I had gone with my parents once in connection with this case to the Kurla Crime

Branch. I do not remember whether I went there two weeks after I had seen the accused no.6. I do not remember how many days afterwards I had gone there. On the second occasion also I had seen the accused no.6 there. I do not remember whether my father had taken his passport with him. I do not know whether his passport was kept there for verification.

28. I pay jakat every year. Jakat is the compulsory 2.5% contribution out of the income of an individual to be distributed in poor people. Many masjids and orphanages run on the collection of jakat. Masjid office bearers issue receipt of jakat when they come to collect it during Ramzan. Jakat is to be paid before namaj of Eid in Ramzan. I have not given jakat in the Kamruddin masjid. I do not know whether Rizwan had not given jakat there. I do not remember whether I had not seen anyone giving jakat at Kamruddin masjid. It is not true that jakat was never collected whenever I attended the religious lectures at that masjid.

29. Offline data is stored in the archives of the server company. The ATS police did not show me the printout of the call details of my mobile and did not ask me to produce it. They did not

start my computer in my house. They did not open my e-mail account in my presence. They did not ask me to give a soft copy or printout of the e-mails that I received and sent. They did not show me any printout or soft copy of any e-mail of my account. They did not take the specific dates and times of my contact with Rizwan by chat. I did not tell them about it on my own. They did not take any statement in writing from me about Rizwan's whereabouts and as to how I would contact him and call him. None of my family member's statement was taken about it.

30. I remember the description of Asif Khan about whom I stated. He was of Pune. I do not remember whether his name was Asif Khan Afzal Khan. I will be able to identify him today. The ATS police had shown me a person by name Asif Khan and had asked me whether he was the same person, but I said no. (Ld adv asks the accused no. 13 to stand up and asks the witness whether he was shown to him in the Kalachowki office of the ATS). I do not remember whether this accused was shown to me in that office. I was also shown a photograph, but I could not identify that person. It is true that accused no.13 is not the Asif Khan of Pune. I do not remember

whether the person and a photograph was shown to me on different days. I do not remember whether the photograph was of the person by name Asif Khan. I do not remember the date and month when that person or a photograph was shown to me.

31. I am not Faisal's close friend. I have not stayed with him or worked with him. He did not ask me to do any illegal work. I was not a close confidant of Faisal. I was not given any oath to maintain secrecy. When I came to know about Faisal's arrest I had thought of going to the police and telling them about the information that I had, but I was afraid, therefore I did not go. I had given the envelope containing the notes to the police. It was not opened in my presence at my house as well as at the ATS office. The ATS officers did not tell me that it contains notes. They did not give the notes in my hands saying that it is foreign currency found in that envelope.

32. I do not know the full name and address of Afzal. I did not see him in the ATS office. I do not remember whether the ATS officers took me with them in his search. They did not ask me his description and I did not give it to them on my own.

33. It is not true that on 30/07/06 officers of Salaskar's unit

had come to my house. The ATS officers did not give me any notice to call me to their office. They had come to my house with my name and address. I do not know how they knew about it. I do not remember whether there was any private person with them to show my house. They did not search my house. I do not remember whether I had accompanied them to show some house. I had gone with them to the house of accused no. 10's sister on 30/07/06. Thereafter, I had taken them to the house of the accused no. 10 in Camp area. I was sitting in the car when the ATS officers went inside his house. I do not remember whether officers Dinesh Kadam and Arvind Gaikwad went inside his house leaving me alone in the vehicle. I do not know whether accused no. 10 was with us in the vehicle, but there was a veiled person in the vehicle. I had seen accused no. 10's face in Camp. I do not remember what vehicle it was and how many seats it had. I do not know whether there was no panch witness in the vehicle when we went to Kondhwa and Camp. I do not know whether the police went to the house in Kondhwa for search. I was not taken inside the houses in Kondhwa and Camp area. I was reached to my house after visiting the Camp area. I did not accompany them in the

vehicle to Mumbai.

34. It is not true that today I am under the pressure of the ATS and even in 2006 when they had come to our house, I and all my family members were under their pressure. It is not true that I and my family members apprehended that I would be implicated in a false case. I have not gone to the ATS office during the last ten days at any time. I did not receive any phone call from them. However, I had called up PI Rathod after receiving the summons and he told me to come for giving the evidence. It is not true that I deposed falsely as I am tutored by the ATS, that Faisal told me at Jeddah that he had gone to Muzzafarabad for training. It is not true that I have never gone out of India.

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

35. Declined

No re-examination.

R.O.

Special Judge

Date:-24/02/2011

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