

**M.C.O.C. SPECIAL CASE NO. OF 21/06****DATE: 23RD MARCH, 2011****EXT.NO.828****DEPOSITION OF WITNESS NO.78 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Shaikh Noman Ahmad

Age : 38 years

Occupation : Computer Repairing

Res. Address : Room No. 7, Bldg No. 87, Temkar Street, Nr. J. J.  
Hospital, Mumbai-8.

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

1. I have no complaints and no grievances against anyone. I used to reside in Mhada Transit Camp at Wadala in 2006. I am educated upto 12<sup>th</sup> standard from Maharashtra College at Nagpada. I learnt computers on my own and I do computer repairing at present. My mother is present in the court hall. Similarly, my relatives Muzzammil and Faisal are also present in the court hall. They are my paternal cousins. They are three brothers, the third is Rahil. I do not know where Rahil resides at present. Faisal and Muzzammil used to reside in Pune during the year 2000. I do not know where Faisal used to

reside in 2006. We had family disputes with the family of Faisal, Muzzammil and Rahil. The disputes arose 10-15 years before. I did not have good relations with Faisal. I do not know what work he used to do. I knew that Muzzammil had done computer course. I did not come to know anyone through Faisal. I do not know any other person out of the persons sitting in the dock except Faisal and Muzzammil. I have not gone abroad. I think that Faisal had gone abroad, but I am not sure. I do not know where he had gone. I have heard about SIMI. I do not know where its office is. I had never attended any program of SIMI. (Ld SPP requests that the accused no. 2 be made to stand up and asks the witness whether he knows the accused). I do not know the accused. The ATS had showed me his photograph. I do not know his name today. The ATS had told me his name as doctor something. (Ld SPP requests that the accused no. 4 be made to stand up and asks the witness whether he knows the accused). I do not know the accused.

(Ld SPP requests permission to declare the witness hostile as he is not supporting the prosecution and permission to cross-examine him. Witness is allowed to be declared hostile and permission to cross-

examine the witness is granted).

**Cross-examination by SPP Raja Thakare for the State.**

2. The ATS had shown me the photograph of the accused no.2 when I had gone there after the train blasts in Mumbai. I know that there were bomb blasts in the western railways on 11/07/06 and Faisal Aatur Rehman Shaikh and Muzzammil Aatur Rehman Shaikh were arrested in that connection after the blasts. I do not know when exactly they were arrested. I came to know about it when the ATS called me. Till that time I did not know about it. I did not inquire with any relatives as to why they were arrested. Police called me for making inquiries about the bomb blasts. Many other persons were arrested other than Faisal and Muzzammil. I am not sure but the names of the others were Ahmed and Junaid. I do not know the other name of Junaid. Police asked me about SIMI. It is true that when police inquired with me, I told them whatever knowledge I had. I do not remember the names of the police officers who inquired with me and whether ACP Patil inquired with me. It is true that whatever I was narrating was being typed on the computer by the police. It was read over to me, but I had objected to many things that were written

therein as I had not stated them. I had stated about our family and they had also asked me about the activities of Faisal and Muzzammil, but I had told them that I do not know anything about it. Police did not remove the things to which I objected. I did not complain to any superior officer about this because the situation at that time was that I feared that I would be involved in an illegal case. I had given another statement in this connection other than the police. I gave a statement in the court that is in front of VT. I had given the statement in the court on oath. I did not state the truth before the magistrate. It is true that I was given oath in the name of Allah that I would speak the truth and nothing but the truth. Even then I gave a false statement. I have not stated anywhere or complained to anyone about giving a false statement before the magistrate under pressure. I have faith in this court. It is true that I had come to court yesterday, but as the accused were not produced, my evidence was not recorded. It is true that I was brought before the court and informed that I would have to come today to give evidence. It is true that I did not complain to this court about the ATS or the magistrate. It is true that at the beginning of my evidence today I was asked and I stated that I have no complaints

and no grievances against anyone.

3. The things that I had not stated but the police wrote in my statement were concerning the visits of Faisal, Muzzammil and many others abroad and their illegal activities. I do not remember whether the ATS police had called me on 07/11/06. I am not confirmed whether Faisal, Muzzammil and Rahil had become members of SIMI in the year 2000. It is not true that they had taken me to the office of SIMI in Kurla. I had stated before the magistrate that Faisal, Muzzammil and Rahil are my cousins, that they had become members of SIMI in the year 2000 and in the same year they had taken me to the office of SIMI at Kurla. Witness volunteers-The ATS police had given me a statement to read in the taxi and had asked me to state accordingly before the magistrate. The magistrate sent me back and called me on the next day. The magistrate sent me back on seeing my frightened face and asked me to come on the next day. I did not state to the magistrate on the next day that I am not ready to give statement. I did not state to the magistrate that the ATS had given me a statement and told me to state accordingly before him. I do not have that statement with me now. It was taken back by them. I

stated somewhat as per the statement provided by the police and some things on my own knowledge. The incorrect things that I stated were concerning the visits of Faisal, Muzzammil and many others abroad and their illegal activities. I do not remember whether the remaining things that I stated before the magistrate were all true.

4. It is true that on 07/11/06 ACP Patil had shown me the photographs of Dr. Tanveer and Ehtesham. It is not true that on seeing those photographs I remembered that I had seen them at the office of SIMI at Kurla. I know that SIMI was banned in the year 2000. I do not know whether even after the ban Tanveer, Faisal and Ehtesham used to go to the office of SIMI. I had stated so to the police. (Ld SPP requests that the accused no. 13 be made to stand up and asks the witness whether he knows the accused). I do not know whether his name is Asif Khan Bashir Khan @ Junaid. (Ld SPP requests that the accused no.7 be made to stand up and asks the witness whether he knows the accused). I do not know the accused. I had stated before the magistrate that I do not know the full name of Asif, that he used to stay in the office of SIMI at Kurla, that I knew that he is resident of Jalgaon, that he started staying at Mira Road in

2003, that there was a program at the house of Sajid Ansari in 2003 and in that program Tanveer, Ehtesham, Shanu and many others were present, that in that program people were desirous of giving some post in the SIMI organization to Junaid, but he refused, that Israr Ahmed had given information about SIMI to Ehtesham in 2000 and had introduced him to other members, that in 2000 Ehtesham went to Nepal and in 2004 Tanveer, Muzzammil and Faisal had gone to Pakistan. I had no contact with Ehtesham, Muzzammil and Faisal and other persons whose names I do not remember, therefore, it is not true that they stopped meeting me eight months before the blasts in the railways at Mumbai. I had stated so to the magistrate as per the statement that was provided by the police. I was not in contact with Faisal and Muzzammil about one or one and a half years before the blasts. I came to know from the newspapers that Faisal, Tanveer, Muzzammil and Ehtesham were arrested. I did not suspect that the blasts in the trains were done by Faisal, Tanveer, Muzzammil and their accomplice. I had stated so to the magistrate as per the statement that was provided by the police. I had no concern with the SIMI organization. It is not true that as Faisal is my friend and

relative, I used to go to the office of SIMI. I had stated so to the magistrate as per the statement that was provided by the police. I can read Hindi to some extent and I sign in English. I will be able to identify my signature. (Witness is shown his statement u/s 164 of the Cr. P. C.). The signature on the statement now shown to me was made by me. It is true that below the statement the magistrate has written that the statement was recorded as narrated by the witness, that the witness has read the statement and he was also read over the statement and he has admitted that its contents are true and correct. I do not know whether the signature by the side of my signature is of the magistrate. It is true that it is nowhere written in the statement that I had stated the contents as per the statement that was given to me by the police. (Statement is marked as **Ext.829**). It is not true that the contents of the statement that I stated to the magistrate are true and correct and I had stated them on my own. I had stated them under pressure.

5. (Ld SPP requests that the accused no. 2,4,6,7,8,11 &13 be made to stand up). It is not true that my cousin brothers Faisal, Muzzammil and Rahil were members of SIMI, that they used to



attend the SIMi office at Fitwala compound, Pipeline Road, Kurla (w), Mumbai, that Faisal introduced me to SIMI and thereafter I started attending the SIMI programs from 2004 and during these programs I came to know other SIMI activists, viz., Dr. Tanveer Ahmed, Asif Khan @ Junaid Khan, Ehtesham Siddique, Zamir Ahmed, Sajid Ansari, Mohd. Ali, Abdul Wahid and others. 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 these things are written in my statement. It is true that SIMI activists were arrested after the ban in September 2001. It is not true that even after the ban the above members of SIMI were actively doing SIMI work secretly, that they used to hold regular meetings of SIMI in Kurla and Mira Road and used to allow me to attend these meetings because of my relationship with Faisal. 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 these things are written in my statement.

6. (Ld SPP requests that the accused no. 13 be made to stand up). I do not know whether the said accused Asif Khan @ Junaid was

a senior SIMI activist, that he is from Jalgaon but he left Jalgaon as he was wanted in a bomb blast case in Jalgaon, that in November 2001 he rented room no. 403, Kapadia nagar, near Sunni Masjid, Kurla (W) and started SIMI office there, that he assumed duplicate name Junaid to avoid security risks, that he conducted SIMI affairs from this room till August 2002 and thereafter shifted to Mira Road and worked for SIMI, that in February 2004 he was made Maharashtra SIMI president and was getting Rs. 3000/- from SIMI, that subsequently he moved to Nagpur and continued his SIMI activities from there and was in constant touch with other SIMI activists like Nisar Ahmed of Pusad, Shahjad Ahmed, Moin Iqbal of Akola, Salim Sajid of Yavatmal and Asrar Ahmed, Abdulla Usmani and Sajid Ansari of Mumbai and they used to discuss about the ban, arrest of SIMI workers and other matters related to Islam. 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 these things are written in my statement. I do not know whether in May 2006 Asif Khan @ Junaid attended SIMI Zonal Advisory Council meeting in the house of Sajid Ansari in Mira

Road. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'D'). I cannot assign any reason why it is so written in my statement. I do not know whether in August 2001 Ehtesham Siddique was sent by SIMI for one weeks training at SIMI's central training school in Zakir Nagar, New Delhi. It is not true that in November 2001, i.e., after the ban, myself, Ehtesham, Dr. Tanveer, Faisal Shaikh, Muzzammil Shaikh and Suhail Shaikh had attended one SIMI program at Anjuman High School near CST railway station, Mumbai and that program was organized with the basic aim of attracting young Muslim students towards SIMI. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'E'). I cannot assign any reason why it is so written in my statement.

7. I do not know whether Ehtesham was elected as Mira Road president of SIMI in July 2002, that he worked in that capacity till March 2003, that he visited Nepal in July 2003 and contacted Jaish-e-Mohd operatives for the purpose of setting up of arms and explosives training camp for SIMI cadres, that he was then made

Ansar of SIMI, that Ehtesham concentrated SIMI's work in Mira Road, that he developed close relationship with other SIMI activists Asif Khan @ Junaid, Faisal Shaikh, etc., that Ehtesham had printed and published lot of jihadi literature during this period, that he was financially assisted by Faisal Shaikh for this purpose, that in February 2005 Ehtesham Siddique was elected as Secretary of Bombay Sub Zone, that in August 2005 he had organized one program of SIMI at his residence in Mira Road, that during this program he had played over to the audience the CDs of lectures of Masood Azhar, the founder of Jaish-e-Mohd, a terrorist organization, that in March 2006 Ehtesham had organized two programs of SIMI on Khilafat and Jihad at Vikroli and Boriwali, that in last of March 2006 he was elected as Joint Secretary of Maharashtra SIMI, that in that capacity he conducted elections of SIMI office bearers in various units of Maharashtra, that I also learnt that Ehtesham had attended one meeting in Ujjain in the beginning of July 2006 for the purpose of setting up of arms and explosives training camps for SIMI cadres.(Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'F'). I cannot assign any reason

why these things are written in my statement.

(Adjourned for recess).

**Date:-23/03/2011**

**SPECIAL JUDGE**

**Resumed on SA after recess**

8. I do not know that Faisal and Muzzammil also used to attend SIMI's various programs, that they continued their SIMI activities even after ban, that they used to finance printing and publishing of literature even after ban on SIMI, that Faisal had visited Pakistan twice and had received jihadi training from the training camps of Lashkar-e-Toiba, that he was in constant touch with Lashkar-e-Toiba commander Azam Cheema and was receiving funds from him for jihadi activities, that once he received cash of Rs.1.5 lac from Azam Cheema through hawla, that Faisal also used to receive money through my step-sister Khalida Appa staying at Temkar Street, Nagpada, Mumbai, who was acting as conduit for channeling hawala funds sent by Azam Cheema, that Azam Cheema in alternate way used to send funds to Faisal through Gulf based Rizwan Dawrey or his brother Rahil Shaikh, that Faisal Shaikh sent many SIMI activists to Pakistan for training and that he was also insisting me to go to

Pakistan for training but I refused. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'G'). I cannot assign any reason why these things are written in my statement. I do not know that Dr. Tanveer also used to come to Kurla office of SIMI, that in the year 2000 he attended central training school of SIMI in Delhi for ten days training program, that prior to that he had attended Khilafat conference of SIMI, which was held in Aurangabad, that he was arrested in SIMI ban case, that even after that he continued to be associated in SIMI, that in 2002 he along with other SIMI activist Tanvir from Solapur had gone to Hyderabad for collection of funds for SIMI and that in the year 2003 he was made secretary of Mumbai SIMI unit. It is not true that I along with him had also attended one SIMI program held in Jalgaon in 2001. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'H'). I cannot assign any reason why these things are written in my statement. It is not true that I came to know afterwards that Dr. Tanveer and others had gone to Pakistan for jihadi training and after their return from training they had reduced contacts with

me. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'H'). I cannot assign any reason why it is so written in my statement. It did not happen that after some days of the blasts I read in the newspaper that Faisal Shaikh, Muzzammil Shaikh, Ehtesham Siddique, Dr. Tanveer, Mohd. Ali, Sajid Ansari and others were arrested by police in bomb blasts case and I felt that in view their secretive activities prior to the bomb blasts incident, they might have committed the bomb blasts. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'I'). I cannot assign any reason why these things are written in my statement. It is not true that my statement was read over to me and explained in Hindi and it was correctly recorded. I did not state so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'J'). I cannot assign any reason why these things are written in my statement.

9. I now again say that my statement was read over to me. Witness volunteers- I had objected to the contents. My objections are not written in the statement, because the police officer told me that if

it is so written in the statement then it would be invalid. I did not meet the family members of Faisal and Muzzammil after my statement to tell them about the police calling me and taking my statement as above. I had stated about the police taking my statement to my mother. We had thought of complaining to the community leaders, political leaders or a minister, about the police writing in my statement things that I had not told them, but because of fear we did not do so. I have faith in courts. I had prepared an affidavit in court about my statement. I have it with me, but not now. I have its zerox with me. I can produce the original. I had made the affidavit in this court on the day when my statement was recorded before the magistrate. I had taken the help of an advocate for preparing it. I had prepared it for my security. I have not produced that affidavit before this court or before the police or before the community or before any minister.

10. Police had arrested me when I had attended All India Muslim Education Board program in which there were SIMI members. A case was filed against me. It is not true that it was alleged that I am a SIMI member. I was required to take bail. The case is still pending. It is not true that I deposed falsely out of the fear of the accused



though I know them and their activities and that if I state against them, the SIMI will be exposed. I have nothing more to state than what I have stated before the court today.

**Cross-examination by Adv P. L. Shetty for A3, 8, 9, 11 and 12**

11. I came to know about the blasts on the same day. At that time I was staying at Antop Hill. I do not know the meanings of Khilafat, Ansar and jihadi. I do not know whether they are Urdu, Hindi or Arabic words. I was called at the Wadala Police Station in connection with the blasts for the first time. I was inquired whether I had any knowledge about the bomb blasts. I cannot tell on what day and in what month I was called. It may be ten days after the blasts. I was taken from Wadala to Unit-II at Saat Rasta on the same day and detained there for 20-23 days. I was not allowed to go home and no relative was allowed to meet me. I was only taken to the magistrate court as stated by me above. I again say that I am confused about the dates when I was taken to the court. Many officers were making inquiry with me in the Unit-II, but I cannot tell their names for my personal security reasons. I was not taken to any doctor or any hospital for my medical tests during this period. I was not taken to any

court as an arrested accused. The policeman who had taken me in a taxi had told my mother about taking me to Unit-Ii at Saat Rasta for inquiry. Police did not intimate my family members during the period I was detained there. I was tortured during this period by using third degree methods, by beating me, giving me injection once. Because of the injection there was burning sensation inside my body. Many other things happened. It is true that I am still under the fear of the torture during that period. I am still afraid to tell about the torture.

12. I was called to Kalachowki thereafter. I cannot say how many days after I was released from the Unit-II that I was called to Kalachowki. I cannot tell the date and day when I was called there. I was detained there for 2-3 days. I do not know whether my statement was recorded at the Unit-II or the ATS office. I was not permitted to go home during that period. I was called there and I went there on my own. I was not taken to any court during that period and to any hospital for medical check-up. I was not allowed to go out for food and no relative was allowed to meet me. After that period police released me voluntarily. During the first period of 20-23 days and in this period of 2-3 days I was not allowed to go out of the police

station. I was similarly tortured during the period of 2-3 days. The police tortured me to make me a witness and I was given life threats and also threatened that they will involve me falsely in this case and in SIMI case. Thereafter I was called to Unit-II for attendance 3-4 times. I used to go regularly whenever called. Police used to make me sit for 3-4 hours and then allow me to go. They did not inquire me. I was also called to the ATS office at Nagpada 3-4 times other than at the above two places and at Kurla once where I was detained for 2-3 days. I cannot tell the date and month of all the above visits to the police stations and offices. I was not allowed to go out, to meet any relatives, not taken to the court or the hospital for medical check-up during the period my detention at Kurla. There was no torture in Kurla. I cannot tell the names of the police officers at Kurla. My statement was recorded at Unit-II and at Kalachowki. They only inquired with me at Kurla and Nagpada, but did not record my statement. They inquired with me in connection with the bomb blasts and SIMI.

13. I cannot tell the date and month when I was taken to the court for statement. Two policemen had taken me to the court on

both days, but I do not know whether they were officers or constables. They were in plain clothes. I was taken in the afternoon on the first day and immediately sent back home. I was taken to the court from Kalachowki. I do not remember whether I returned back to that office from the court and then I was sent home. I reached the court on the next day at 11.00 a.m. Two policemen were with me at that time. They were the same policemen who had taken me to the court on the earlier day. I had gone to the ATS office at 9.30 a.m. before going to the court. I returned home directly from the court at about 2.30 or 3.00 p.m. Police did not give me any statement in writing for making the statement before the court. They had given me a written page from which I had to give the statement. I now again say that they did not give me that page, but asked me to learn it by heart and to state accordingly in the court. It is true that because of the fear of the police and the threats that they had given me, I gave the statement as the police wanted. It is true that I am crying while giving my evidence, because of the fear of the police even now.

14. It is true that many people were rounded up and called to the police stations and the police offices stated by me above for

the purpose of inquiry. I do not know whether they were detained like me. Faisal and Muzzammil were the two persons known to me who were called at the office of the Unit- II during my period of detention there. They were brought there 3-4 days after I was taken there. I do not know whether they were taken to the court. I do not know from where they were brought. Their father was brought there one week after I was taken there. He was detained there for one week. I was taken to Kalachowki from there. I do not know whether he was released before me or after me, whether he was allowed to meet any relative, whether he was taken to the court or hospital. Police took my statement 3-4 times. I cannot tell the date of any statement. I do not remember the date of my last statement. My statements were recorded at Unit-II, Kalachowki and Nagpada by different officers. I was forced to sign on one or two statements. One or two statements were in Hindi and the remaining were in English. The statements were about the things that I did not know.

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

15. I have mentioned all the things about the torture, illegal detention, beating, etc., in my affidavit. The original affidavit is at my

house. I am ready to produce its zerox today. There are three affidavits. (Learned advocate calls upon the witness to produce them. Witness produces zerox copies of three affidavits, which are marked as **Art-312 (1to3)**). Learned advocate asks the witness whether he would produce the original affidavits tomorrow. The witness asks whether it is necessary to produce them and he does not wish to produce them because of fear. Ld adv asks the witness to produce the original affidavits). It is true that I made the affidavits to protect myself from false implication in any case. I will not be able to identify any persons who were with me at the police stations or at the police offices except Muzzammil and Faisal. (Ld advocate asks the accused no. 7 to stand up and asks the witness whether he had seen the accused at Nagpada). I had not seen him at Nagpada. During the last 10-15 days I had received phone call from the ATS office pressurizing me to give evidence. I do not want to give the mobile number of that officer or his name.

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

16. I was not in the custody of the ATS when I give my statement before the magistrate. I did not complain about the

statement before the magistrate because I was in fear. I did not know the names of the persons whose photographs were shown to me in the ATS office.

(Witness is directed to produce the original affidavits tomorrow).

**Date:-23/03/2011**

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

**Date : 24/03/11**  
**Resumed on SA**

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

17.I have brought the affidavits. They are with my mother who has come to court. However, I do not want to produce them, even for comparing them with the zerox. (Ld adv Wahab Khan is convincing the witness for producing the affidavits. However, the witness is reluctant to produce them). My evidence about preparing the affidavits may be treated as false. I pray that contents of the affidavits may be kept secret. (Ld adv Wahab Khan submits that in the interest of justice the witness be directed to produce the original affidavits for comparing them with the zerox and then original affidavits be returned to him. Ld SPP submits that in view of section 131 of the Indian Evidence Act, the witness cannot be compelled to produce the documents in his possession.

18.In my humble opinion, the second proviso to section 165 of the Indian Evidence Act does not authorize any judge to compel any witness to answer any question, or to produce any document which he would be



entitled to refuse u/s 121 to 131. Considering the anxiety expressed by the witness about his personal safety, I am of the view that he cannot be compelled to produce the original affidavits even for comparing them with the zerox copies).

19. It is true that I am afraid of producing the original affidavits as I fear the ATS officers. It is true that I did not forward them to any higher authority as I feared for my life, if their contents came to the notice of the concerned ATS officer. I cannot reply whether between yesterday and today I got a phone call from the ATS officers pressurizing me not to produce the original affidavits and therefore I am not producing them.

No re-examination

**R.O.**

**Special Judge**

**Date:-24/03/2011**

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