

M.C.O.C. SPECIAL CASE NO. OF 21/06**DATE: 24TH MARCH, 2011****EXT.NO.830****DEPOSITION OF WITNESS NO.79 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Abdul Usman Kumbhar
Age : 40 years
Occupation : Business (Tempo owner and driver)
Res. Address : Room No.6, 2nd Floor, Chadrabhaga Bldg., 293,
Ghorpadi Peth, Maharana Pratap Road, Pune-42.

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

1. I stay at the given address since my childhood. I have studied upto the S.Y. B. Com from Pune College. I visit masjids for namaj. I visit Mecca Masjid, Bagwan Masjid, City Jama Masjid in Pune. Kamruddin Masjid is in camp area. Mecca Masjid is near my house and I visit it for namaj. I became acquainted with Farookh, Imran, Sajid and many others at the masjid. I know Feroz Shaikh and one person by name Feroz. I do not know anyone else by that name. Feroz Shaikh resides in Ghorpadi Peth. I have good relations with him. We grew up together. I did not go with him anywhere or to any

masjid. He is a social worker. He is a politician, working for BJP. I have heard of SIMI. I have no idea where SIMI programs used to be held.

2. Some of my relatives stay in Pakistan. They are my sister Sharifa Mohd. Yusuf, my mother's sister Hawa, my father's sister Fatima, her brother-in-law Abdul Gani and many others. Abdul Gani may be 60-65 years of age now. He is a tailor. All of them except my sister, stay in Karachi. My sister stays in Hyderabad. I have a passport. I had taken a visa and had gone to Pakistan. I had first applied for visa in 1997. I got it for 30 days. Then I went to Pakistan in 1997-98. I returned after five and a half months. Thereafter also I took a visa in 2001. I was to go to Pakistan to meet my sister. My family members knew of this. I had not told about it to any other person. One has to apply to the Pakistan Consulate at Delhi for obtaining visa to visit Pakistan. I had gone for that purpose to Delhi in June 2001 by Goa Nizamuddin train. I went alone. I halted at the guest house in front of Jama masjid in Delhi. My wife's name is Aisha and my son's name is Osama. I got my form filled up from the persons sitting in front of Jama masjid. I had mentioned in my

application that I wanted to meet Abdul Gani in Pakistan. No other person was with me when I filled the form. I got the visa on the same day. However, I could not go to Pakistan. I had contacted Abdul Gani in connection with my visit to Pakistan.

3. The full name of Sajid is Sajid Sundke. I remember the faces of the persons whom I knew outside the masjid, but whose names I do not know. I will be able to identify those persons if I see them. (Ld SPP asks the witness to look at the accused and say whether he recognizes anyone out of them). I do not know any of them. (Ld SPP requests permission to put a leading question to the witness. Permission granted. He requests that the accused no.3 be asked to stand up). I do not know him.
4. (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.

5. The ATS police had called me by giving summons in connection with the case of 11/07/06. I had gone to the ATS office on

07/04/07. The ATS police had inquired with me about my family, friends and visits to Pakistan. They had recorded my statement after the inquiry. They did not read over the statement to me. It did not happen that it was explained to me in Hindi and Marathi and I admitted that it was correctly written. ACP Patil had taken my statement. I had no complaint against him or the ATS. I did not ask ACP Patil to give me the statement to see what is written therein. Witness volunteers- I did not get any opportunity for doing so. It did not happen that I insisted on him to allow me to read the statement, but he flatly refused and asked me to go away. I did not think at that time that whatever answers I had given to their questions were correctly written in my statement. I did not complain to the ATS chief or to any other authority about the police not reading over my statement to me. I had not stated to the police that my statement was typed in Marathi and it was read over to me and explained in Marathi and Hindi and it is correct as stated by me. (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. It did not happen and I did not state to the police that SIMI activist

Firoz Pathan had asked me to remain present in the SIMI program to read Darsh-e-Quran of SIMI in Mecca Masjid, Mominpura, Ghorpadi Peth, Pune, that since 1995 I used to remain present in SIMI programs and was its member, that I used to attend SIMI programs at Kamruddin Masjid, Camp area, Pune, that at the places where I used to attend the programs of SIMI I came to know Iliyas Momin, age 40, r/o Ghorpadi Peth, Pune, Firoz Pathan, age 30, r/o Ghorpadi Peth, Pune, Laik Shaikh, age 35, r/o Ghorpadi Peth, Pune, Farookh, age 30, r/o Ghorpadi Peth, Pune, Imran Shaikh, age 38, r/o Camp area, Pune, Suhail Mehmood Shaikh, age 38, r/o Camp area, Pune, Faisal Aatur Rehman Shaikh, age 32, r/o Mominpura, Ghorpadi Peth, Pune, his brothers Muzzammil and Rahil, residing at the same address, Satid Sundke, age 35, r/o Sundke bldg., Guruwar Peth, Pune, Hanif Shaikh and Rizwan Dawrey. (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. (Ld SPP requests that the accused no. 3, 9 and 10 be made to stand up and asks the witness to look at them). It is not true that these three are the same Faisal, Muzzammil and Suhail Shaikh, whose names I

mentioned in my statement. The Farookh Madki whom I knew resides in Ghorpadi Pedh, Pune. The Imran that I knew does not stay in Camp area, but he stays in Mominpura, which is in Ghorpadi Peth. I do not know whether Firoz Pathan, Laik Shaikh, Farookh, Faisal and Muzzammil also stay in Ghorpadi Peth. Camp area is one and a half kilometers from Ghorpadi Peth. I do not know whether Suhail Mehmood Shaikh stays in Camp area.

6. I have brought my passport. It is true that on 04/11/97 I got visa to visit my relatives in Karachi, Pakistan and on 05/12/97 I went by aeroplane to Karachi. It is true that I had applied for staying for more period than the visa, but it was rejected and I was ordered to return to India within 15 days, that I returned to India on 13/05/98, that ACP Makarand Ranade of Police Station Faraskhana, Pune had inquired with me about it.
7. It is not true and I had not stated to the police that I knew Faisal since the year 2000 as he was a SIMI activist, that during that time he used to stay in Room no. 201, 2nd floor, Mujaheedin Bldg., Ghorpadi Peth, Pune, that I had friendship with him and we used to meet, that I had told him about visiting Pakistan and that my relatives were in

Pakistan. (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. It did not happen and I had not stated to the police that in 2001 I told Faisal that I was going to Pakistan to meet my sister Sharifa, that at that time Faisal expressed his desire to visit Pakistan, that accordingly we both went to Delhi on 23/06/01 from Pune by Goa Nizamuddin train, halted in the guest house in front of Jama masjid, that on 23/06/01 I filled the visa form for myself, my wife Aisha and son Osama from the persons sitting at the gate of Jama masjid showing the reason of my visit as to meet Abdul Gani, age 60 years, r/o New K. Tailor, Kumbharwada, Near Hari Masjid, Karachi, Pakistan, that Faisal also applied for visa showing the same reason, that on 24/06/01 I and Faisal went to the Pakistan Embassy and gave applications, that at 4.00 p.m. I got the visa of myself and my family members, but Faisal did not get it but an entry was made on his passport and then we returned to Pune, that I had informed my relative Abdul Gani in Karachi, Pakistan that my friend Faisal is coming to meet him and has accordingly mentioned it in his form, that three months thereafter Faisal got visa

for going to Pakistan, but I did not go as my elder brother had separated from the family and I was indebted and my wife also objected to my going to Pakistan, that however, Faisal went to Pakistan by train in October 2001, that at that time I had given him the name, address and phone number of Abdul Gani, that three-four months thereafter Faisal met me and told me that he had gone to Pakistan, that I came to know on reading the newspapers that Faisal was arrested in July 2006 by the ATS police in connection with the bomb blasts on 11/07/06 in the western local railways. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'D'). I cannot assign any reason why these things are written in my statement.

8. It is not true that I am a SIMI member, that I know that Faisal, Muzzammil and Suhail are SIMI activists, that I know that Faisal had gone to Pakistan for terrorist training, that therefore I am deposing falsely to save myself from being involved as a SIMI member and to save these accused, that I know that Faisal, Muzzammil and Rahil are real brothers.

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

9. Declined.

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

10. My stay at Pakistan was extended as I have many relatives there and they requested me to stay for more days. It is not true that the ATS had called me for inquiry because I had overstayed in Pakistan.

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

11. Declined.

No re examination.

R.O.

Special Judge

Date:-24/03/2011

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