

M.C.O.C. SPECIAL CASE NO. OF 21/06**DATE: 5TH APRIL, 2011****EXT.NO.843****DEPOSITION OF WITNESS NO.82 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Shashikant Balwant Barve
Age : 53 years
Occupation : Service
Res. Address : 6A/38, B.D.D. Chawl, V. Y, Dahiwalkar Marg,
Naigaon, Dadar, Mumbai-14.

EXAMINATION-IN-CHIEF BY SPP CHIMALKAR FOR THE STATE.

1. I was appointed as SEO in 1990. One of my duties as an SEO is to conduct test identification parades. I received a phone call on 05/11/06 from the ATS Police Station, Bhoiwada as to whether I am available for conducting identification parade on 07/11/06. I said yes. I received their formal letter of request on 06/11/06 calling me on 07/11/06 to the ATS office. I went to the ATS office on 07/11/06 accordingly and met ACP Patil. He told me that I am called there to conduct test identification parade of the accused arrested in the western railway bomb blasts cases of 11/07/06. He told me the

names of the arrested accused as Faisal Aatur Rehman Shaikh, Asif Khan, Kamal Ahmad Mohd. Vakil Ansari and Naved Hussain Khan. He told me that I have to conduct the identification parade at Arthur Road Prison. I told him to arrange for panch witnesses to help me. He called five persons. I asked them their names and addresses and selected two out of them. One was Kailashnath Jaiswal and the other was Shahadur Prasad Rajghar. I told them that I have selected them to act as panch witnesses to help me in the test identification parade to be held at the Arthur Road Prison of the accused in connection with the bomb blasts cases of the bomb blasts on 11/07/06 and whether they are ready to act as panch witnesses. They consented. I then asked them whether there is any criminal case against them and whether any of their relatives was injured or had died in the bomb blasts. They said no. ACP Patil told me that the eight witnesses who were present for the identification parade had left for the prison of the first identification parade that was going to be held by SEO Purandare.

2. Thereafter, I along with ACP Patil and the two panchas started for going to the prison in the police jeep at 11.10 a.m. We reached at

11.30 a.m. We were asked to wait outside and he went inside the prison to take permission. He came out after taking permission and then took us inside the iron gate. The prison staff at the gate searched us and asked us to write our names and addresses in a register. We went to a room on the right side. ACP Patil introduced us to jailor Patil who was there. I told him that I have come there to take the identification parade of the four accused. He told me that an identification parade is going on and after it is over, he will arrange for the parade. I told him the names of the four accused. I told him that I will hold the identification parade of two accused at a time and told him that I would require twelve dummies for each parade similar in appearance to the accused. He said that he would arrange for it. ACP Patil went away from there. We were asked to sit in the office of jailor Patil. Jailor Patil also went out of the room after some time.

3. Jailor Patil returned after some time and told me that the first identification parade is over. I asked him about the witnesses and he told me that the witnesses were sitting in a room in the office premises of the superintendent. ACP Patil also came there and we went to that room and he introduced us to the witnesses. I told the

witnesses that I wish to take the identification parade. I wrote their names and addresses. Jailor Patil then took me and the two panchas to a room on the left side inside the inner gate. It was a big room about 20' x 40' having a wooden door. On both sides there was a mesh which was covered with curtains. On the opposite side there was a wall. We entered the room with jailor Patil and surveyed the room. I saw that there were many tube lights fixed there. There was a table by the left side of the door. I found that it was a proper room for holding identification parade because nothing outside was visible from the inside and *vice versa*. Similarly there was only one door and sufficient lighting. I told jailor Patil to bring the accused and the dummies. He brought the accused and about 20-25 dummy suspects. I selected twelve dummy suspects for the first identification parade of two accused.

4. The jailor went away from outside the room after handing over the accused and the dummies to me. I took the accused Faisal Aatur Shaikh and Asif Khan and the twelve dummies inside the room. I asked the twelve dummies to stand in a row and told the accused that they could stand anywhere in the row as per their choice. Both

accused went and stood between the dummies at the place of their choice. I told the panch witness Kailashnath to bring the first witness Amar Khan. After he left I closed the door. He came back after some time and knocked on the door. I opened one plank of the door and took the witness inside. I asked Kailashnath to stand outside. I asked the witness to see whether he could identify any person from the persons standing there in a row in connection with the bomb blasts on 11/07/06 and to touch him by hand if he identifies anyone. Amar Khan looked at all the fourteen persons carefully and came near me and told me that he could not identify any person. I took him to the door, opened the door and told Kailashnath to take him and bring the next witness. I also told him to take the witness to another room in the office premises of the superintendent and to make him sit there and to take care that he does not meet the other witnesses.

5. I closed the door after Kailashnath left and asked the two accused whether they wanted to change their places or clothes or their hairstyle. They said no. Thereafter the witnesses Ajmeri Shaikh, Vishal Parmar, Subhash Nagarshekar, Rajesh Satpute, Devendra Patil, Santosh Kedarsingh and Kishore Shah were brought in one by

one as per the same procedure. Before the witness Rajesh Satpute came inside on my asking, the accused Faisal had worn a round cap and the accused Asif Khan had removed his shirt and stood there wearing the T-shirt that was inside the shirt. I told the dummies that they can wear caps, if they have any, so as to appear similar to the accused. Four five persons wore round caps and some removed their shirts and stood there with their T-shirts that were inside their shirts. Rajesh Satpute looked at all the persons and touched the hand of the accused Faisal and said that he identifies him. I asked the accused his name, which he stated as Faisal Ataur Rehman Shaikh. The witness came near me and told me that he had taken the accused Faisal and one more person in his taxi from Bandra to Churchgate on 11/07/06 and they had a black coloured rexine bag with them. I was at the table writing all that was happening.

6. When witness Denvendra Patil came inside, he identified the accused Faisal by touching his hand. The witness came near me and told me that he had seen the accused Faisal and one more person with him boarding the Borivali slow local at Churchgate on 11/07/06 with a black coloured rexine bag. When witness Santosh Kedarsingh

came inside, he identified the accused Asif Khan by touching his hand. I asked him his name, which he stated as Asif Bashir Khan. Witness came near me and told me that he had taken the accused Asif Bashir Khan and one more person in his taxi from Bandra to Churchgate on 11/07/06 and they had a black coloured rexine bag with them. When witness Kishore Shah came inside, he identified the accused Asif Khan by touching his hand. I asked him his name, which he stated as Asif Bashir Khan. Witness came near me and told me that he had seen the the accused Asif Bashir Khan and one more person boarding Virar Fast local at Churchgate on 11/07/06, that they had a black coloured rexine bag with them and they both got down at Dadar station.

7. In this manner the first parade was over and I was writing whatever was happening. I told the panch witness Kailashnath to tell jailor Patil that the first parade is over and to take away the two accused and twelve dummy suspects and to bring the remaining two accused and dummy suspects. After jailor Patil came outside, I handed over the two accused and the twelve dummy suspects to him. He took them and brought the remaining two accused and about

twenty four dummy suspects. The two accused were Kamal Ahmed Mohd. Vakil Ansari and Naved Hussain. I selected twelve persons out of the twenty four dummy suspects. Same procedure as per the first parade was followed. The panch witness Kailashnath was asked to bring the witnesses one by one. When his turn came, witness Subhash Nagarsekar identified accused Kamal Ahmed Mohd. Vakil Ansari by touching his hand. I asked the accused his name, which he stated as above. Witness came to me and told me that he had seen the accused Kamal Ahmed Mohd. Vakil Ansari with one more person boarding Virar Fast local at Churchgate on 11/07/06 and they had a black coloured rexine bag with them. Other witnesses did not identify any other accused. I was writing the memorandum as per the events that were happening. After the second parade was over, jailor Patil was called and the accused and the dummy suspects were given in his custody. I then went to the office of jailor Patil along with the panchas and completed the remaining part of the memorandum there. I read over the memorandum to the panch witnesses and obtained their signatures. I put my seal, stamp and signatures on the memorandum. I will be able to identify the memorandum. The

memorandum now shown to me is the same. It bears my seal, stamp and signatures and the signatures of both the panchas on every page, its contents are correct. (It is marked as **Ext.844** u/s 291-A of the Cr.P.C.).

8. I will be able to identify the accused whose identification parade I had taken on that day. (The Id SPP asks the witness to see whether he can identify. Witness looks around the court and points towards accused no. 1 saying that he is Kamal Ahmad, points to the accused no.3 saying that he is Faisal Shaikh, points to the accused no. 12 saying that he is Naved and points to the accused no.5 saying that he is Asif Khan but again says that he is not sure about Asif Khan). The first three are the same accused.

9. Thereafter I went to the ATS office at Bhoiwada and gave the memorandum to ACP Patil. I was at the prison upto 5.00-5.15 p.m.

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

10. I am sevak of MLA Kalidas Kolamkar, who was of the Shiv Sena earlier and is now with the Congress (I). I am required to accompany the MLA and to serve him. It is not true that my services are for the public. My jurisdiction as SEO is Naigaon. I do not have a

personal phone. I got a message on 05/11/06 that there was a phone call from the Bhoiwada Police Station on 05/11/06. I get many phone calls from that police station as and when my services are required by them. I had read in the newspapers reports of the bomb blasts on 11/07/06. I felt that the bomb blasts were unfortunate events and I had sympathy for the victims. When I got the phone call I did not know that I was to take the identification parade in connection with the bomb blasts on 11/07/06. I came to know of it only when I met ACP Patil on 07/11/06. I do not understand the question that on coming to know of it I felt that I would indirectly help the victims of the bomb blasts by holding the identification parade. I met ACP Patil at about 9.00-9.30 a.m. on 07/11/06. When I was entering his office ACP Patil told me about SEO Purandare who was leaving his office. At that time itself ACP Patil had told me about the accused whose identification parade was to be held.

11. I have conducted only this test identification parade after becoming SEO. Government of Maharashtra has given the guidelines in the Criminal Manual about conducting identification parades. The guidelines are given in the papers that were provided

after I became SEO. I do not know about the guidelines given by the High Court. I followed the guidelines fully. I prepared the memorandum as per the proforma given in the guidelines. The panch witnesses were not present when I met ACP Patil. I was with ACP Patil in his office upto about 11.00 a.m. I do not know from where the five persons were brought. I cannot tell the names and addresses of the three persons whom I did not select as panchas. I realized that the two panchas whom I selected were residents of Saat Rasta, Arthur Road Prison area. I wrote down their names and addresses in the ATS office. I did not ask them why they had come to the ATS office. I do not know that these two panchas are the regular panch witnesses of the Bhoiwada Police Station and they used to be in constant contact with the police and whether they had acted as panch witness in many identification parades before that day.

12. I was sitting in the office of jailor Patil for about 30-45 minutes before the identification parade. I do not remember the number that I got when I entered my name and address in the register. I did not get the information that the jail officers maintain entries of the prisoners with their photographs in their registers. I got

an occasion to see the four accused and the dummy suspects only when I went to the parade room. It is true that I came out of the parade room after the first parade and then after the second parade. I met jailor Patil outside the room when I came out of the parade room after the first parade. I did not go to the room of jailor Patil. I did not see any crowd when I came outside the parade room after the first parade, but I only saw jailor Patil, remaining two accused and the dummy suspects. They were just outside the door of the parade room. The parade room is about 20-25 steps from the inner gate. There were no rooms around that room. It was a single room and was not in a barrack. There was wall on the front side where there was a door and there was wall on the side opposite to the door. The mesh was on the left and right sides after entering the door. There were two and half feet walls on the right and left sides and thereafter there was mesh and the curtains were fixed to the mesh. One can see the mesh and the curtains on entering the door. The description of the identification room is an important fact. I did not write it in the memorandum. It is not true that on reading the first five lines on page 7 of the memorandum, it can be gathered that the room had walls on

all four sides. It is not true that I gave the description of the room today in order to corroborate the evidence given by the other witnesses.

(Adjourned for recess).

Date : 05/04/11

SPECIAL JUDGE

Resumed on SA after recess

13. I did not make any notes anywhere at the time of the parade. ACP Patil had given me a copy of the memorandum at the same time. I had read the memorandum once in between, but I cannot say when I read it. I did not read it before coming to the court today. I have not taken any identification parade after 07/11/06. I was not called for that purpose by anyone. It is true that today I told the names of the accused, panch witnesses and the witnesses for the first time after I wrote them on that day. I told the names from my memory. At the time of the second parade, I knew the dummy suspects that were present in the first parade. It is true that the accused had different faces and physiques. Their clothes were also different. The dummy suspects had also different clothes. It is true that I had given liberty to the accused to stand at any place of their

choice. I cannot now describe the clothes worn by the dummy suspects who were standing by the sides of the accused. I did not describe the clothes worn by the accused and the dummy suspects. I had inquired with the witnesses whether they had been shown the photographs of the accused. I did not inquire with them whether they had any occasion to see the photographs of the accused on the television or in the newspapers. I did not inquire with ACP Patil as to when the accused were arrested, since when they are in their custody and when they were taken out of the police station after their arrest. When I received the letter on 06/11/06 I realized that the police had arranged for holding the test identification parade on 07/11/06. I came to know on 07/11/06 that the police had arranged for keeping the witnesses and panch witnesses present.

14. I did not know at the time of the first parade where the other dummy suspects for the second parade were. Same is the case with respect to the remaining two accused. The second parade started at about 2.30 p.m. and was over at about 3.15 p.m. I did not immediately thereafter handover the memorandum. I was in the office of jailor Patil upto 5.15 p.m. completing the remaining portion of the

memorandum. I was writing the memorandum as per the events that were happening. The last witness came inside the parade room at about 3.00 p.m. I cannot tell after how much time he went out of the room. It is not true that I had entirely written the memorandum after the last witness left. I cannot say upto what point I had written the memorandum when the last witness left. I had written some portions concerning every witness and left some gap. I cannot say on going through the memorandum as to what portions I had written and what portions I had left open. I cannot say on going through the memorandum what portion I wrote in the office of jailor Patil.

15. I do not know whether any entries were taken about taking out the prisoners. I did not meet the superintendent of the prison. I did not meet any other prison officer except officer Patil on that day. ACP Patil was not with me when I started back from the prison. I met ACP Patil last in the prison at about 1.10 or 1.15 p.m. Thereafter I met him at about 6.00 p.m. when I went to his office. The two panchas were with me when I started from the prison. I did not meet the witnesses at that time.

16. It is not true that accused Kamal Ahmad Mohd. Vakil

Ansari was not produced before me in between 2.30 and 3.15 p.m. on that day. I do not know whether he was taken out of his barrack at 1.30 p.m. and put back at 1.50 p.m. It is not true that, therefore, I am stating falsely that I had conducted his identification parade during the period stated by me in the memorandum. I do not know whether four out of the dummy suspects were present in the earlier parades. It is not true that I prepared the memorandum as per the proforma supplied and the names that were given and therefore it is duplication as I was copying the proforma.

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

17. I was not a worker of Shivsena. I am working for MLA Kalidas Kolamkar since 4-5 years. He is MLA of Naigaon area. He is MLA for last six terms from Naigaon, Wadala constituency. He might have been MLA of Shivsena for four terms. I do not know whether he was a corporator before being elected as MLA. I am SEO at present also. I do not know who recommended my appointment as SEO. I had not applied. I do not know whether recommendation of some person is required for being appointed as SEO. I was not called for the inquiry in connection with the appointment as SEO to the Police

Station Bhoiwada in the jurisdiction of which I reside. I was not called for such inquiry by any police station. MLA Kolamkar may be from the Shivsena party in 1990 when I was appointed as SEO. I was appointed as SEO again on 15/11/06 upto 15/11/11. I cannot tell the date of my appointment as SEO before this period and upto what date it was. The subsequent appointment starts after the earlier appointment is over. I am continuously being appointed from 1990, but I cannot say how many times I have been appointed. This was the first and the last identification parade during this period of twenty one years of my appointment as SEO. My appointment in 1990 was as SEM, i.e., Special Executive Magistrate. I do not remember when the title of SEM was changed to SEO. I do not remember whether no person was permitted to work as such in between the intervening period of the change of title from SEM to SEO. I did not help the police in their investigation as an SEM or SEO during this period of twenty one years except this parade. I did not record any dying declaration or statement as an SEM or SEO. I did not apply for reappointment after the expiry of the period of appointment before 15/11/06. I did not give my identity card to the police on 06/11/06 or

07/11/06, but I had showed it to ACP Patil on 07/11/06.

18. I have taken education upto Inter Arts in Marathi medium. The memorandum is in my handwriting. I did not take any rough notes. I had started writing the memorandum before I entered the parade room. I had so written the portion on page 4 upto the end of the names of the witnesses. I cannot say what portion I wrote after I came out of the parade room. I was writing the remaining portion of the memorandum from 3.15 to 5.15 or 5.30 p.m. I was writing it without the help of any diary or notes or book. I wrote the events in the memorandum in the sequence in which they took place and no one helped me in writing it. It is true that after the entire memorandum was written, I read it and was satisfied that it was correctly written, then I read it over to the panchas and obtained their signatures. I had no occasion to read the memorandum on the same day after I had signed. As per my knowledge there may be some repetition or mistakes while writing the memorandum. I think that names of the dummies are written twice. I remember only this. I realized it when I read the copy of the memorandum twice or thrice. I had read the copy of the memorandum that was given to me by ACP Patil. I

realized this 10-15 days before when I read the copy. I did not receive any witness summons, but I was informed on phone on 22/03/11 to attend the court. One officer Malwankar had made the phone call. He had called me to the ATS office and told me that I would have to give evidence, but he did not tell me the date on which I was to give evidence. I was not called to the court before today. I was called yesterday, i.e., on 04/04/11 to the ATS office and asked to come today to the court.

19. (Learned advocate draws the attention of the witness to pages 6 to 10 of the memorandum). It is true that the contents from the second paragraph on page 6 upto the end of page 8 of the memorandum is repeated on pages 9 and 10. I cannot say why the contents are repeated. It is not true that I did not conduct the parades, but I only copied an already written memorandum.

20. I came to know before I took the parades that SEO Purandare had taken identification parades on that day concerning the same case. I was not told the names of the accused who were paraded before him. I did not ask officer Patil whether the dummy suspects that he had brought were used in the earlier parades. I did

not also ask the dummy suspects about it. It is true that all the accused before the court are dissimilar in all respects. It is true that the twelve dummy suspects and the two accused brought for the first parade did not have any additional clothes with them. Before starting the parades I knew the procedure that I had to follow and the precautions that I had to take. I have written in the memorandum the procedure that I adopted and the precautions that I took. It did not happen that some procedure that I adopted and some precautions that I took remained to be written in the memorandum. I have written in the memorandum that for both parades 24 dummies were called and I selected 12 out of them. On going through the memorandum I say that I have not written that 24 dummies were brought at the time of each parade. It is true that I was introduced to the panchas at Bhoiwada.

21. I never had an occasion to go to the Arthur Road Prison before or after that day. I do not know whether Arthur Road Prison is near Saat Rasta area. There is Kasturaba Hospital in front of the prison. I cannot tell the name of the road on which the prison is. There is Saat Rasta at the distance of 200 meters from the prison.

There is N.M. Joshi Marg at the other end of the road of the prison. I did not inquire who had brought the panchas and from where. I did not inquire with the two panchas about the jurisdiction of the police station in which they reside. I wrote their addresses correctly as stated by them. Saat Rasta is in Mumbai Central area. I do not know whether it is also called Jacob Circle. I cannot deny whether Jacob Circle is known as Saat Rasta. I stay in Mumbai since my birth and I am educated here.

22. I work as sevak of MLA since last five years. I get an honorarium from that work and it is a source of my livelihood. Before that I used to get honorarium as president of Adarsh Vyayam Mandir, BDD Chawl no. 6 & 7A and it was the source of my livelihood. I am its president since 1990. The Adarsh Vyayam Mandir is no more as it collapsed in the rains. It is not true that it collapsed as it was not repaired. I was with MLA Kolamkar since he became an MLA. It is true that I was working with Vilas Sawant when he was the home minister for State. He had constructed the Adarsh Vyayam Mandir. It is not true that he appointed me as president. The Vyayam Mandir was constructed from the MLA fund of Vilas Sawant and he gave it to

our institution and that institution appointed me as president. It is not true that after Vilas Sawat lost the election, I went to MLA Kolamkar. Kolamkar defeated Vilas Sawant. It is not true that I was with Kolamkar since he became MLA. However, I used to meet him in connection with the Vyayamshala. It is not true that I have had close relations with him since he became an MLA. It is true that the addresses of both the panch witnesses are of Saat Rasta.

(Adjourned as court time is over).

Date: 05/04/11

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

Date : 06/04/11
Resumed on SA

23. I told the jailor to bring about 24-25 dummy suspects. I deposed yesterday about the procedure that I followed and the precautions that I took. It is true that I first talked with the accused when they were brought in the parade room. Two accused were brought at the beginning of the first parade and remaining two at the beginning of the second parade. I met the remaining two accused after the first two accused were taken away after the first parade. I kept the panch witness Kailashnath outside the parade room during both the parades. It is true that he does not know what happened inside. I do not know whether there is any rule that one panch witness is required to be kept outside the parade room and he is only required to bring the witnesses and take them back. There is no reason why I kept the same panch witness outside the parade room during the second identification parade also. The procedure of the identification

parade that I explained to the accused was that they could stand at their place of choice in the row and they could change their clothes and their hairstyle. I did not tell them anything other than these things. I wrote in the memorandum whatever I told the accused in the parade room. All four accused did not say anything to me throughout the parade. (Learned advocate draws the attention of the witness to the third sentence on page 11 and asks him to explain what is meant by 'olakhparade ghenyachi prakriya samjaun sangun'). The procedure that I explained is the same one as I explained earlier about change of clothes and place of standing as per their wish. I told them so when I first met them. I did not ask the accused and tell them anything other than this. I did not ask the accused when they were arrested, for how long they were in police custody, when they were remanded to judicial custody, whether police had taken their photographs and whether they were shown to any witness when they were in police custody.

24. The accused Faisal wore the cap after the fourth witness went out and after I told the accused that they could change their places and clothes. The accused had the cap with him. It was

white. I saw the cap for the first time when he wore it. I did not know till that time that he had a cap with him. No person was wearing any cap till the work of the fourth witness was over. Out of the four accused, Asif Khan had a beard. It was slightly more than a non-shaved face. I cannot say whether all the other accused were clean shaven. I cannot say now about the hairs of any accused. The accused Asif Khan could have been differentiated because of his grown beard. There were 4-5 persons amongst the dummy suspects who had similar beards. I have not mentioned in the memorandum that accused Asif Khan had a beard and there were 4-5 persons amongst the dummy suspects who had similar beard because I have mentioned that similar looking dummy suspects were made to stand there. I did not provide caps to any dummy suspects. I did not know till the accused Faisal took out the cap as to whether any dummy suspects had caps with them. By looking at their names in the memorandum I cannot tell who out of the dummy suspects wore caps. I cannot say whether any dummy suspects having beard wore cap. It is true that I did not mention the ages of the accused in the memorandum. All the four accused were Muslims. It is true that on

going through the memorandum, I can say that out of the twelve dummy suspects in the first parade, six were Muslims and six were Hindus and in the second parade, eight were Hindus and four were Muslims. I cannot say which out of the two accused in the first parade was in between 19 to 23 years of age. It is true that on going through the memorandum I say that there were seven dummy suspects in between 19 to 23 years of age and one dummy suspect was of 36 years of age in the first parade. I cannot say which out of the two accused in the second parade was in between 19 to 25 years of age. It is true that on going through the memorandum I say that there were six dummy suspects in between 19 to 25 years of age. There was no accused of the age of 42 years, but one dummy was of that age. Only after Asif Khan removed his shirt, I came to know that he was wearing a T-shirt inside his shirt. Same is the case about the dummy suspects who removed their shirts. I cannot now tell which dummy suspect removed his shirt and stood in his T-shirt and the colour of the T-shirt. It is true that as accused Faisal wore a cap and accused Asif Khan removed his shirt, I told the dummy suspects to do so. I told the dummy suspects to do so as it was an important thing. The said

accused continued wearing the cap and the T-shirt till the end of the parade. I cannot assign any reason why I did not write in the memorandum that some dummy suspects wore caps and some removed their shirts and stood in their T-shirts and why I did not write that Asif Khan had T-shirt inside his shirt. It is not true that it did not happen that the dummy suspects wore caps and removed their shirts and stood in their T-shirts, therefore, I did not write so in the memorandum.

25. I do not know where ACP Patil was during the 30-45 minutes I was sitting in the office of jailor Patil. I do not know where he went after he introduced me to jailor Patil. I met ACP Patil thereafter before conducting the parades, when jailor Patil informed me that the first identification parade is over and we went to the room where the witnesses were sitting. About 30-45 minutes went by since the time ACP Patil introduced me to the jailor and we went to the room where the witnesses were sitting. I do not know where ACP Patil had gone during this period.

26. It will be correct to say that as informed I reached the ATS office at Bhoiwada at 9.00 a.m. on 07/11/06 and met ACP Patil. It

is true that the time of starting the process of identification parade, the time when the first parade was over and the second parade started are not mentioned in the memorandum. It is true that as per rules two similar accused can be paraded in one parade and if they are dissimilar separate parade has to be taken. I cannot assign any reason why I did not take separate parades for each accused.

27. It is not true that I did not conduct identification parades on that day and that I copied the memorandum that was provided by the ATS.

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

& 13

28. I was wearing my wrist watch when I went to the prison. I was noting the timings by looking at the watch. It did not happen that at 12.30 p.m. jailor Patil showed me the place where I was to conduct the identification parades and I went there at 12.30 p.m. I did not write so in the memorandum. It will be wrong if it is so written. (Witness is shown the first sentence in the second paragraph on page 9 of the memorandum). I say that it is wrongly written. I realized this mistake now. It is true that there is a possibility that a word is

written twice when something is being written about the work that is going on. It is true that this possibility is not there about an entire sentence. It is not true that it is impossible that an entire page is repeated when the writing is being done about the work that is going on. It is true that if an episode occurs twice, it can be written twice. In this case no episode occurred twice. It is true that one concentrates on the writing when someone is dictating some matter. It is true that it can happen that if a person dictates some sentence again, there can be a repetition in writing. It is true that if a person is copying from some matter, some sentences or pages can be repeated if the pages are displaced or thrown away by air. It is true that entire page cannot be repeated if the matter is written as per the events that take place.

Q. Can you say for sure as to whether the repetition of the contents from the second paragraph on page 6 upto the end of page 8 of the memorandum on pages 9 and 10 was because of copying or dictation?

A. It was because the papers in my hand flew away and the papers on which I had already written were found subsequently.

These pages were written in the office of the jailor. I cannot say

whether pages had flown in the parade room or in the jailors office. The first pages were not before me when I rewrote the contents. I put the page numbers after the entire memorandum was written in the jailors room and not when I was writing the memorandum in the parade room. The already written pages that I found subsequently were mixed in the papers. I came to know of this in the office of jailor Patil. It did not happen that only the pages before the misplaced pages were before me in the office of jailor Patil. It is true that the papers containing the portions that I had left blank were before me in the office of jailor Patil. The blank portions were concerning the act of particular witnesses in the identification room. I did not come to know when I started completing the memorandum that the portion from a particular point upto a particular point was not found. I cannot assign any reason why I did not rewrite the portion above the portion on page 6 that I reproduced on page 9. I cannot say for how much time I searched for the misplaced papers.

29. I did not write the complete memorandum in the parade room as per the events that took place, because it was not possible to do so. The reason for this is that I could not detain the witnesses till

I wrote whatever they had done.

(Adjourned for recess).

Date : 06/04/11

SPECIAL JUDGE

Resumed on SA after recess

30. I cannot reproduce the contents of the three pages word to word even after reading them a number of times.
31. ACP Patil did not introduce SEO Purandare or the witnesses to me in his office. SEO Purandare and the witnesses were just leaving the office of the ATS when I reached there. I and SEO Purandare were not introduced to the witnesses at the same time. I went with ACP Patil, the two panchas and the driver of the vehicle. I did not meet or see SEO Purandare and the witnesses outside the prison when I was with ACP Patil. I entered the prison with ACP Patil at 11.45 a.m. I was sitting in the office of the jailor before I started my parades and not in the room where the witnesses were sitting. I did not see the witnesses and SEO Purandare from the office of the jailor where I was sitting. ACP Patil was not with me during this period.
32. I do not know whether the identification parade is to be

conducted in the presence of both panch witnesses and whether the memorandum is to be completely written as the parade progresses. I cannot say how many pages I can write in one hour if someone dictates the matter or if I copy it. It is not true that it is not possible to write 44 pages in three hours.

33. I did not meet or see Supdt. Swati Sathe inside the prison and I did not have any discussion with her. It did not happen that she had made arrangements for the parade. I did not ask ACP Patil when I met him in his office as to where the accused are kept, whether in any yard, circle or barrack. I do not know whether the accused were taken out from their high security barrack at 1.30 p.m. and put back at 1.50 p.m. It is not true that the portion before the last two lines on page 6 was written before I entered the parade room. I wrote it in the parade room. It is not true that I wrote the entire earlier portion in the parade room. It did happen that at 1.00 p.m. jailor Patil came and told me that the first parade is over. It did not happen that jailor Patil came with the eight witnesses to the room where I was sitting with ACP Patil and there ACP Patil introduced them to me. It is incorrect if it is so written in the memorandum. I do not know whether

ACP Patil was having the file of the case papers and the court orders with him when we went to the prison. He did not show me photographs of the accused that were to be paraded, so as to avoid any mistake on my part. I did not ask him whether the photographs of the accused were published in the media or in the magazines. It is true that even if the witnesses are the same, the dummy suspects have to be changed if new accused are paraded. I cannot say whether the witnesses can identify accused if dummies in one parade are repeated in the parade of other accused. I was not doing any other work in the office of jailor Patil except writing the memorandum. ACP Patil was not present there at that time. I do not know when ACP Patil went outside the prison after he introduced me to the witnesses. I made all my signatures and obtained all the signatures of the panchas on the memorandum in the office of jailor Patil. No panch refused to sign on the memorandum saying that the events described therein had not taken place in his presence. ACP Patil had narrated the facts of the case briefly at his office. I did not ask any questions to the panchas when I was writing the portions left blank by me. I did not ask the panchas in the office of jailor Patil to explain parts of the

portions of the parade. I did not find it necessary to ask the panch who was present inside the parade room to narrate the parts of the portions of the memorandum that I had left blank. It is not true that I was filling up the blank portions in the memorandum in the office of jailor Patil on the basis of the information of the case that ACP Patil had given me in his office.

34. I remember the guidelines that were given by the State Government for holding identification parade. I have the record of whatever work I have done as an SEO. I do not know whether periodical reports of the work done as an SEO are to be sent to the State Government. I have not sent any such report. I do not remember whether it is so mentioned in the guidelines. I can bring the guidelines to the court. (Learned advocate calls upon the witness to produce the guidelines on the next date). It is true that the proforma of writing a memorandum is not given in the guidelines. I did not tell ACP Patil that I had never conducted an identification parade earlier. He did not ask me about my experience in doing so. I did not have any proforma of memorandum with me when I met him. I did not ask for any such proforma from anyone. I was not provided

with any such proforma by any acquaintance or police officer before meeting him. I did not know at that time and even today that such a proforma is given in the High Court Criminal Manual. I did not study about this point before meeting him. I did not know the proforma of memorandum of identification parade before I met him. No acquaintance or police officer had given any memorandum of identification parade for reading before meeting him.

35. Our appointment as SEO is for five years and after five years the appointment is made by a new gazette. I do not know whether there is a gap of some days after the expiration of the earlier period of appointment and the subsequent notification of appointment. It did happen that every witness looked at every person in the row carefully. The jail officers did not inform me that the prisoners are locked up during the period in between 12.00 noon to 3.00 p.m. I did not come to know this when I went there. I do not know whether I had met jailor Govind Patil. I do not know whether the senior jailor was Sudhir Kingre and only he was provided a separate room. I do not know whether jailor Govind Patil was incharge of the Anda barrack and he was not provided any separate room. I do not

know whether no separate room was provided to any jailor by name Patil.

36. If any accused had any injury mark on his face, the precaution that was required to be taken was that the dummy suspects were also to be given a bandage to conceal the spot of the mark. If this is not done then only on the basis of the injury mark the witness can identify the accused.

37. It is not true that I did not take identification parade inside the prison and did not write the memorandum there, that ACP Patil dictated me the contents of the memorandum in his office and because of the dictation there is repetition. I do not know whether the panch witnesses are the regular panch witnesses of the ATS office and they are always present there. It is not true that the panchas put their signatures in the presence of ACP Patil in his office and that I am deposing falsely and I identified the accused on the say of the police.

No re-examination

(Y.D. SHINDE)
SPECIAL JUDGE

MCOC SPL.21/06

PW 82/37

Ext.843

Date:-06/04/2011

**UNDER MCOC ACT,99,
MUMBAI.**