

**M.C.O.C. SPECIAL CASE NO. OF 21/06****DATE: 21ST APRIL, 2011****EXT. NO. 942****DEPOSITION OF WITNESS NO.94 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Dyandeo Savaba Powar

Age : 60 years

Occupation : Retired PSI

Res. Address : Room No.203, B-2 Ekvira Co-op HSG., Surya  
Nagar, Vithava, Thane.

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

1. I was attached to Police Station Mahim as PSI from 2005 to 2009. I was on day duty on 04/10/06 from 8.00 a.m. to 11.00 p.m. Sr. PI Joe Gaikwad called me in his cabin at about 4.00 p.m. on that day and told me that I am given the duty of reporting to DCP, Zone-V alongwith staff for taking an accused in an MCOC case in custody. Accordingly I went with my staff in the police vehicle to the office of the DCP, Zone-V at Worli. The duty officer PSI Kumbhar made station diary entry number 26 about me and the staff leaving the police station in the police vehicle for that work. The entry in the original station diary now shown to me is the same, it is in the handwriting of

PSI Kumbhar that I know and identify. The contents of the true copy of that entry are the same as the entry in the original station diary. After I reached the office of the DCP, Zone-V, the DCP called me in his cabin and told me that the ATS has caught an accused in the bomb blasts case and the accused is in his custody. He asked me to take the accused in my custody. After the statement work was over I took the accused in my custody by putting veil on him. DCP Phadtare asked me to wait outside for some time till he prepares letter. I was called inside after some time and he gave me a letter addressed to the Sr. PI and told me that the accused should be kept in a special cell. He told me to take the accused in veil and to take care not to allow anyone to speak with him. He told me to so keep the accused in the special cell of Police Station Mahim and to produce him on the next day, i.e., on 05/10/06 at about 5.00 or 5.30 p.m. The letter Ext.923 now shown to me is the same, it bears my acknowledgment and signature of having received it.

2. I and my staff took the accused to Police Station Mahim and I gave the letter of the DCP to the Sr. PI. and produced the accused before him. The Sr. PI told me to lock up the accused in a separate

cell and take care that nobody talks with him or meets him. The ATS had already got the accused medically examined before producing him before the DCP. I put the accused in a separate cell and the duty officer PSI Kumbhar took an entry in the station diary at sr. no. 32 as per my instructions. The entry in the original station diary now shown to me is the same, it is in the handwriting of PSI Kumbhar that I know and identify. The contents of the true copy of that entry are the same as the entry in the original station diary. The name of the accused who was given in my custody was Muzzammil Aatur Rehman Shaikh. I will be able to identify him. (Witness looks around the court room and points to the accused no.9 sitting in the dock, who is made to stand up and tell his name, which he states as Muzzammil Aatur Rehman Shaikh). He was the same accused.

3. On the next day, i.e., on 05/10/06 at about 4.00 – 4.30 p.m I and my staff took the said accused in the police vehicle to the office of the DCP, Zone-V at Worli. He was taken out of the lockup and a veil was put on his head and was taken in the same condition to the office of the DCP. I took an entry in the station diary in my own handwriting at sr. no.37 about leaving the police station with the

accused. The entry in the original station diary at sr. no. 37 now shown to me is the same, it is in my handwriting and its contents are correct. The contents of the true copy of that entry are the same as per the entry in the original station diary. We reached the office of the DCP at about 5.00 p.m. I told the DCP that I had brought the accused. He called me in his cabin after some time and I and my staff produced the accused in veil before him. The DCP told me to wait outside. We waited outside upto around 11.45 p.m. At about that time the DCP called me inside his cabin and asked me to take the accused in my custody. I put a veil on the accused and took him outside the cabin of the DCP and waited outside as the DCP said that he would be giving me some letters. DCP called me in his cabin after some time and told me to take the accused to the Police Station Mahim and to produce him before the Chief Metropolitan Magistrate on the next day at 11.00 a.m. He gave me four envelopes, out of which one was addressed to the Sr. PI and remaining three were addressed to the CMM. The letter addressed to the Sr. PI Ext. 928 is the same now shown to me, it bears my acknowledgment and signature of having received the accused and the letter in my

possession. Out of the three envelopes addressed to the CMM, two were closed and had rubber stamps on them. Then I and my staff took the accused to the police station and produced the accused before the duty PI and gave him all the envelopes and put the accused in a separate cell, gave the necessary instructions to the guards and then made station diary entry. The entry at sr. no.1 dated 06/10/06 in the original station diary now shown to me is the same, it is in the handwriting of night duty officer PSI Sankpal that I know and identify. The contents of the true copy of that entry are the same as per the entry in the original station diary. I told the guards not to allow anyone to talk with the accused or meet him.

4. I went to the police station on 06/10/06 at 9.00 a.m. and met the night PI. I took the three envelopes addressed to the CMM from him and asked the lockup incharge to take out the accused, took him in my custody, put veil on him and started with him and my staff at 9.15 a.m. in the police vehicle for going to the court. Accordingly the duty officer PSI Kumbhar took entry in the station diary at sr. no. 21. The duty officer PSI Kumbhar made station diary entry number 21 about me and the staff leaving the police station in the police vehicle

for that work. The entry in the original station diary now shown to me is the same, it is in the handwriting of PSI Kumbhar that I know and identify. The contents of the true copy of that entry are the same as the entry in the original station diary. When I went to the court of the CMM, Killa Court, Azad Maidan, I produced the accused before the CMM and handed over the three letters to the CMM. We were asked to wait outside for some time. Therefore we alongwith the accused in veil waited outside. I was called inside at about 1.00 or 1.30 p.m. and the CMM asked me to bring the accused inside the court hall. I brought the accused in veil in the court hall. Then the CMM asked me and my staff to wait outside. We went outside. We were again called inside the court hall at about 3.00-3.15 p.m. The CMM told me to take the accused and produce him before the DCP, Zone-V. I took the accused in custody and put veil on him and then went to the office of the DCP, Zone-V. The DCP gave me a letter addressed to ACP Patil of the ATS and asked me to handover the custody of the accused to PI P. R. Joshi of the ATS. Then I took the accused to the ATS office at Bhoiwada and handed over the letter and the accused to PI P. R. Joshi. He gave an acknowledgment on the letter of the DCP. The

office copy of the letter Ext.929 now shown to me is the same. I returned back to the Police Station Mahim and took entry in the station diary at sr. no. 40. The entry at sr. no. 40 in the original station diary now shown to me is the same, it is in my handwriting and the contents of the true copy of that entry are the same as the entry in the original station diary.

5. I was on day duty on 24/10/06 from 8.00 a.m. to 8.00 p.m. The Sr. PI called me in his cabin and told me that DCP, Zone-V had intimated on phone that an accused is brought before him by the ATS and that guard should be sent to take his custody. I took staff with me and went in the police vehicle to the office of the DCP, Zone-V. I took entry in the station diary at sr. no. 21. The entry at sr. no. 21 in the original station diary now shown to me is the same, it is in the handwriting of the duty officer. The contents of the true copy of that entry are the same as per the entry in the original station diary. I reported to DCP Phadtare. He told me to take an accused in the Borivali blasts, who was in his custody, in my custody. I took the accused in my custody, put a veil on him and waited outside as the DCP had told me that he would be giving a letter addressed to the Sr.

PI. After some time he called me inside and gave me a letter addressed to the Sr. PI. I put my acknowledgment on the letter. Office copy of that letter Ext.936 now shown to me is the same, it bears my acknowledgment and signature of having received the accused in my custody. The name of the accused was Majid Mohd. Ansari. I will be able to identify him. (Witness looks around the court room and points to the accused no.5 sitting in the dock, who is made to stand up and tell his name, which he states as Mohd. Majid Mohd. Shafi). He was the same accused. The DCP gave instructions that the accused should be kept in a separate cell and to give instructions to the guard commander not to allow anyone to meet him or talk with him and to produce him on the next day at 11.00 a.m. I took the accused in veil and the letter to the Police Station Mahim and produced him before Sr. PI Gaikwad. He told me to put the accused in a separate cell and gave the necessary instructions to the guard commander as given by the DCP. Then I made station diary entry at sr. no. 31. The entry in the original station diary at sr. no. 31 now shown to me is the same, it is in my handwriting and its contents are correct. The contents of the true copy of that entry are the same as the entry in the original station



diary.

6. On the next day, i.e, on 25/10/06 I and my staff took the accused out of the lockup at 10.15 a.m. and got him medically examined at the Bhabha hospital. Then I made a station diary entry at sr. no. 23. The entry in the original station diary at sr. no. 23 now shown to me is the same, it is in my handwriting and its contents are correct. The contents of the true copy of that entry are the same as the entry in the original station diary. The medical officer gave the OPD case paper of having examined the accused. It is the same now shown to me. (It is marked as **Art-318**). It mentions the number of PC-29346 who was with me. Then I took the accused to the office of the DCP, Zone-V and reported to him that I have brought the accused. He asked me to wait outside. After sometime he called me and I produced the accused before him. He then asked me and my staff to wait outside. Accordingly we went out of his cabin. After 3.00 p.m. the DCP called me inside his cabin and told me to take the custody of the accused which I took and put veil on him and waited outside. Then the DCP gave me three envelopes addressed to the CMM, out of which two were closed having rubber stamps on them.

He asked me to take the accused and the letters to the house of the Asstt. CMM and to produce him before him as it was a public holiday on that day on account of Ramzan Eid. Accordingly I went to the residence of the ACMM and reported to him and gave him the letters. I produced the accused before him and I and my staff went out of his house. After sometime he called us inside and told me to take the accused to the DCP, Zone-V. Accordingly I went to the office of the DCP, Zone-V and reported to him. He gave me a letter addressed to the ACP of ATS and asked me to take the accused to the ATS office. I took the accused and the letter to the ATS office, handed over custody of the accused to API Alaknure, who gave an acknowledgment of having received the custody of the accused and the letter. The letter Ext.941 bears his acknowledgment and it is the same. Then I returned back to the Police Station Mahim and made an entry in the station diary at sr. no.37. The entry in the original station diary at sr. no. 37 now shown to me is the same, it is in my handwriting and its contents are correct. The contents of the true copy of that entry are the same as the entry in the original station diary.

7. ACP Patil had recorded my statement in connection with the above duties on 09/11/06. At that time I had produced certified true copies of all the station diary entries and the medical certificate. The certified true copies of all the entries is the same now shown to me. (It is marked as **Ext.943**).

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

8. Mahim Police Station is under DCP, Zone-V. I do not remember when DCP Phadtare took charge of Zone-V. I had done similar work about other accused in other cases before him before 04/10/06 also. I do not remember the name of the accused, the case and the date on which I had produced the accused before him. I had produced only one accused before him before 04/10/06, but I do not remember in how many cases he was an accused, who was investigating that case, whether my statement was recorded and who recorded it. I do not remember whether I had done similar work about other accused after 24/10/06.

(Adjourned for recess).

**Date : 21/04/11**

**SPECIAL JUDGE**

**Resumed on SA after recess**

9. My statement about the work that I did on 4, 5 and 06/10/06 was recorded on 09/11/06. I did not go on my own before 09/11/06 to give my statement about the work. PI Joshi had got the accused medically examined before he was produced on 04/10/06 before the DCP, but I do not know in which hospital he was examined and on what date and at what time. I do not have any document about the said medical examination. I do not remember whether the accused Muzzammil was not examined during the period the DCP gave him in my custody on 04/10/06 upto I handing him over in the custody of the ATS on 06/10/06. I do not remember who was the night PI on 4<sup>th</sup> and 05/10/06, on 24<sup>th</sup>, 25<sup>th</sup> and 26/10/06, the day PI on 05/10/06, 24<sup>th</sup> and 25/10/06 and who was the lockup incharge on 4<sup>th</sup> , 5<sup>th</sup> , 6<sup>th</sup> and 24<sup>th</sup> 25<sup>th</sup> and 26/10/06.

10. It is true that it is not mentioned in any station diary entry that the accused was brought in veil to the Mahim Police Station and was taken out from there in veil to the DCP and to the court. It is true that it is not mentioned in the letters Exts. 923 and 928 given by the DCP that the accused should be taken in veil. It is true that there is no documentary evidence to show that I had carried the accused in

veil from the office of the DCP to the police station, back to the DCP and to the court and ATS office. I do not have any documentary evidence to show that PI Joshi had got the accused medically examined. I came to know him on 04/10/06. I do not know when he had brought the accused to the DCP. PI Joshi left after he had given the accused in the custody of the DCP. When I reached there the accused was in the custody of DCP, Zone-V. I did not meet PI Joshi on 04, 05 and 06/10/06. I do not know when he had come to the office of the DCP on 04/10/06 and when he left. I left the police station on 04/10/06 after I made the entry no. 32 in the station diary at 17.45 hours. I came on duty on 8.00 a.m. on the next day. I was on day duty at the police station on 05/10/06. On that day I had done nakabandi duty and then was present in the police station. I do not remember where I did that duty and during what timings. I cannot tell the name of the ACP and DCP on night round duty on 04 and 05/10/06 and on 24 and 25/10/06. I am aware that ACP and DCP visit the police station every night. It is true that such visits are not by the ACP and DCP of that police station, but they are the officers who are given such duty. It is true that names of such officers are

displayed in the police stations. It is true that before 09/11/06 I did not give my statement anywhere about the work that I had done and no officer told me to give my statement or report. I did not give any report in writing to DCP Phadtare, but I gave copies of the station diary entries. I did not obtain his acknowledgments. I did not give copies of station diary entries to the ATS at any time. I do not know who gave them the copies. I cannot say whether the ATS officers got the copies of the station diary.

11. I was at the office of the DCP for about two hours on 04/10/06 and for about three hours on 05/10/06. I took the accused to the office of the DCP on 05/10/06 and was there till the time his statement was completed and I took him back to the police station. I left the office of the DCP with the accused at 00.50 hours on 06/10/06. I had reached the office of the DCP at about 5.30 p.m. on 05/10/06. This period in between is about 5 to 5 ½ hours.

12. The four envelopes that the DCP gave me were yellow. The names and addresses of the addressees were on all the four envelopes. The name of the addressor as D. M. Phadtare, DCP, Zone-V, Brihanmumbai was on the envelopes. The rubber stamps

were on one side of the envelopes, on the side which is pasted close. There was no lac seal. The envelope did not contain the remark on the above portion that it is the confessional statement of the particular accused. The three envelopes that the DCP gave on 25/10/06 were yellow. (Ld adv for the accused shows an envelope marked as 'X-3 for identification'). This is a khaki envelope. (Ld adv for the accused shows an envelope 'X-7 for identification'). The letters were given in the envelopes of this colour. The DCP had given me four and three letters on 05/10/06 and 25/10/06 respectively in the envelopes of this colour. It is not true that the envelope bearing the words 'X-7 for identification' is not one of the envelopes. (Ld Adv for the accused shows the envelopes Exts.922, 926, 935 and 939). It is true that these envelopes are white. I understand the difference between khaki colour, colour of the envelope bearing the words 'X-7 for identification' and the white coloured envelopes. It is true that out of the six envelopes that I gave to the magistrate, the envelope bearing the words 'X-7 for identification' is only here.

13. I had sent my staff to take out the accused from the lockup on 05/10/06. I had gone with the staff to keep the accused in

the lockup on 04/10/06. I had personally put the accused in the lockup in the night of 05/10/06. The accused was kept in the same cell on 04/10/06 and 05/10/06. It was on the first floor. There are three cells on that floor and three on the ground floor. It is the general lockup of the police. It is in a separate building. The distance between main building of Mahim Police Station and the general lockup is 4-5 kms. I now again say that it is just adjacent to the police station.

(It appears that the witness is not attentive and on inquiry with him he says that he is suffering from high blood pressure and that his blood pressure has increased. He submits that he may be cross-examined on the next date. Hence, adjourned and witness is bound over).

**Date:-21/04/2011**

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



**Date : 26/04/11**  
**Resumed on SA**

14. I put the accused in the lockup of Police Station Mahim at 5.40 p.m. on 04/10/06. I started from the office of the DCP with the accused at 5.20 p.m. It is true that after I received the accused and the letter addressed to the Sr. PI, Mahim from the DCP, I immediately left the office of the DCP for going to the Police Station Mahim. Mahim Police Station is about 20-22 kilometers from the office of the DCP, Zone-V at Worli. It is not true that the road from the office of the DCP, Zone-V at Worli upto Police Station Mahim is of heavy traffic. If there is traffic in the evening, one requires about one hour from our police station to the office of the DCP, Zone-V. It is not true that in between 5.00 to 7.00 p.m. there is traffic jam on the Annie Beasant Road, on which the DCP, Zone-V office is. I required about 40 minutes on 04/10/06 when I took the accused from the office of the DCP, Zone-V to Police Station Mahim. On that day there was no heavy traffic on that road. One driver by name Pawar was driving the police vehicle, but I do not remember the number of the vehicle. I had taken the accused in another vehicle, i.e., a light van on 05/10/06. It

is a police vehicle, but I do not remember the number. On that day also said Pawar was its driver. I required about 35 minutes to reach the office of the DCP. It is true that during 4.00 to 7.00 p.m. the traffic from Police Station Mahim to the DCP, Zone-V office at Worli is comparatively less than the traffic from the opposite direction. I reached the Police Station Mahim at 0030 hours on 06/10/06 with the accused. After putting the accused in the lockup and making station diary entry I directly went home. PI Shinde was the night PI on 05/10/06. I came to know from the DCP that the accused had been medically examined before he was produced before him. I came to know this on 04/10/06 when I took the accused in my custody. The DCP told me about it in connection with the health of the accused as he was involved in the bomb blasts case. He did not tell me specifically not to get the accused medically examined. The DCP had told me to get the accused medically examined on 05/10/06. He did not give any written order. It is true that it is not mentioned in any letter or document that the DCP gave me. I do not remember whether the accused was medically examined on 05/10/06. Bhabha Hospital is the nearest government hospital to Police Station Mahim. It is at

Bandra, but I do not remember its distance from Police Station Mahim. We send injured/complainants who come to our police station to the Bhabha Hospital for medical examination. I do not remember when I remembered that the DCP had told me on 04/10/06 that the ATS had got the accused medically examined before producing him before him. I did not remember this when my statement was recorded on 09/11/06, therefore I did not state so to ACP Patil who recorded my statement.

15. I reached the court of the CMM at Esplanade with the accused on 06/10/06 at 11.00 a.m. I required one hour and forty five minutes to reach the court from the police station as there was traffic on the road. I do not remember the day of the week. If there is no traffic, one requires about one hour to cover that distance normally. On that day we had started from the police station and said Pawar was the driver. From Mahim we went via Worli, Peddar Road, Chowpaty, etc. I do not remember the further route. It is true that one reaches VT straight if one goes to Dadar TT from Mahim and then travels on the Ambedkar Road. One requires maximum one hour if one takes this route after 9.15 a.m. When I reached the court, the

judge was on dias. I produced the accused before the judge at about 1.40 p.m. for the first time. There were three head constables with me at that time. They were Bagal, Rane and Sawant, but I do not remember their buckle numbers. We were outside the court in between 11.00 a.m. to 1.40 p.m. It was court hall number 37 on the second floor. It is true that court hall number 37 is on the first floor. I had not gone on the second floor, but it was the first floor. It did not happen that I produced the accused at 11.00 a.m. before the court, but as the complete documents were not with me, the judge told me to bring those documents after some time, therefore we went outside and I sent someone to the police station and brought the remaining documents. The CMM did not ask me any questions. The CMM was on duty and it was not that some other magistrate was the incharge CMM. I gave the three envelopes to the CMM for the first time at about 1.30 p.m. I gave them together. I reached the office of the DCP at about 3.45 p.m. I handed over the custody of the accused to PI P. R. Joshi at 3.50 p.m. PI Joshi was there at that time, but I do not know when he had come there. He was there when I reached the office of the DCP.

16. The accused was before the CMM for one hour and fifteen minutes. The court staff had told me at 11.00 a.m. to wait outside as the court was working. I do not remember by what route we went from the court to the office of the DCP at Worli. I required about 45 minutes to cover that distance. It did happen that at 11.00 a.m. I was told to wait outside as the court was busy. It did happen that I produced the accused and the three envelopes before the CMM at 1.40 p.m. It did not happen that after the CMM gave the accused in my custody, I produced him before the DCP at 3.00 p.m. I had not stated so to ACP Patil when he took my statement. (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. I do not remember whether I had stated to ACP Patil when I gave my statement that then the CMM asked me and my staff to wait outside, that we went outside and that we were again called inside the court hall at about 3.00-3.15 p.m. I cannot assign any reason why it is not written in my statement. It did not happen that I was required to take the accused from the DCP to the ATS office for handing over his custody to the ATS. It is not true that DCP did not

give any letter addressed to the ATS for taking back the custody of the accused. The ATS office was at Bhoiwada. ACP Patil had his office there. I took the endorsement of PI Joshi on the letter given by the DCP. It is wrongly written in the letter Ext.929 that the accused was handed over to PI Joshi of the ATS, Mumbai at 1500 hours in the office of the DCP on 06/10/06. This letter was typed on 06/10/06. I do not know who dictated it, who typed it and at what time it was typed. I do not know who wrote the handwritten digits '1500' in that letter and at what time. I do not know whether the digits were there when the letter was given in my possession.

17. I was sitting outside the cabin of the DCP during 5.00 p.m. to 11.45 p.m. on 05/10/06 as per the order of the DCP. It is not true that I was ensuring that no one goes inside the cabin of the DCP and no one comes out of the cabin during this period. No person entered the cabin of the DCP or came outside during this period. I also did not leave my place during that period. The DCP did not call me inside during this period. It is true that after I took the accused in my custody on 05/10/06 from the police station at about 4.00-4.30 p.m., I went directly to the office of the DCP and did not go anywhere

in between. It is not true that except telling me to take the accused to the Police Station Mahim and to produce him before the CMM at 11.00 a.m. on the next day, the DCP did not tell me anything else. He had told me to keep the accused in a separate cell and to protect him from any attack. He did not tell me anything other than this. I do not remember what clothes the accused wore on 04, 05 and 06/10/06. It is true that when he was given in my custody on 04/10/06, he did not have any other clothes and any other belongings other than the clothes that he was wearing. I do not remember whether he was wearing the same clothes on 06/10/06 that were on him on 04/10/06. I do not remember whether there were marks of beatings on the face and the body of the accused and whether one hand was swollen.

18. It is not true that no one had told me that the accused had been medically examined, that there were marks of beatings on his face and body, therefore I did not take him for medical examination on 04, 05 and 06/10/06. It is not true that I deposed falsely on the say of my superiors, DCP Phadtare and on the say of the ATS.

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

(At 1.30 p.m. adv Shetty submits that adv Rasal has intimated him that he is busy in Sewree court and would be coming after recess. Adv Ms. Shaikh h/f Wahab Khan submits that adv Wahab Khan is busy in cross-examination of the witness in CR No. 32 and has requested to defer his cross-examination to tomorrow. Ld SPP has no objection).

**Date : 26/04/11**  
**Resumed on SA after recess**

**SPECIAL JUDGE**

(Adjourned as per order on adjournment application Ext.944 by adv Ashwin Rasal h/f Rasal).

**Date : 26/04/11**

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



**Date : 27/04/11**

(None present for Adv Rasal. Adjourned as per order on adjournment application Ext.949 by adv Salunkhe h/f Wahab Khan).

**Date : 27/04/11**

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

**Date : 28/04/11**  
**Resumed on SA**

**Cross-examination by Adv Wahab Khan for A2, 7, 10 & 13**

19. It is not true that my statement was read over to me before I stepped in the witness box. I gave my evidence out of my memory. I do not remember whether I had similarly gone to the office of DCP Phadtare on 25/08/06 and 26/08/06 in another case. I do not remember whether I had taken an accused Firoz Tajiuddin Deshmukh earlier to the accused in this case to him. I had not gone to the ATS office before this case and my statement was not recorded. I do not remember whether I had gone to the ATS office on 13/03/07, whether I had produced station diary entries at that time also.

20. It is true that the blast at Mahim was near the jurisdiction of our police station. It is true that some residents of that area were injured and some had died. It is true that I was on duty at that time and on the day of the blasts. It is true that I and the staff and officers of our police station had reached the spot of the blast

within 15-20 minutes. I had seen many injured and many dead people and had helped the staff and the senior officers in taking them to the hospital. DCP Phadtare, Crime Branch and ATS officers as well as K. P. Raghuvanshi had come there. We were asking the injured as to how they were injured. I was there for about 3-4 hours. The railway police were preparing spot panchanamas, recovery panchanamas, etc. I came to know that there was a bomb blast. Railway police had asked me who I was and I had told him that I am attached to Police Station Mahim. I was in my uniform, therefore, there was no question of telling my name, designation and address. Railway police did not take my statement.

21. It is true that the entire lockup building is not used as lockup. Some rooms in that building are used as store room and for other purposes. The detection room is on the ground floor of that building. The said lockup is used for all police stations under Zone-V. Crime Branch does not keep accused in that lockup. Accused of our police station are kept separate. It is not true that only one room on the ground floor is used as lockup of our police station. The accused of our police station are kept in the four rooms on the first floor. It is

not true that the accused are kept separately as per the nature of the offences. No room on the ground floor and the second floor is used for lockup. The building comprises of the ground floor and the first floor only. The four rooms on the first floor are used as lockup for our police station as well as for other police stations. It is true that one has to enter through a collapsible gate on the first floor for going to all the rooms. There is a head constable and other constables at the gate on the first floor. It is not true that a PSI and his staff with weapons sits in a room on the ground floor. The guard commander decides in which room an accused is to be kept. It is true that there is no bathroom and toilet in all the four rooms. There is a common toilet and bathroom in the corner of the first floor for the accused kept in all the four rooms. It is not true that other than the staff of Police Station Mahim, the staff of other police stations is also on duty at the lockup. No other room other than these four rooms are used as lockup. It is true that there is no lock to the door of the staircase on the ground floor. It is true that there is a common lock to the collapsible gate on the first floor. It is true that the lockup commander incharge maintains a lockup register about the entry and exit of the inmates of the

lockups. It is true that bed, tooth brush, toothpaste and soap are not provided by the police to the inmates of the lockups. It is true that if any accused is to be taken from the lockup for inquiry or for any other purpose, a requisition is given to the guard commander at the collapsible gate, he calls the concerned accused who comes out from the lockup in which he is, he is taken out and an entry is made in the register. The persons in the lockup are provided meals at the cost of government. A record is required to be maintained about this. Both the accused in this case were kept in room no.2 on the respective dates. I did not give the copy of the lockup register to the DCP or the IO. They did not ask me for it and I did not feel it necessary to give it to them. It is not true that I did not keep both the accused in the lockup, that I prepared a false record on the say of the DCP and my superior officers and that I deposed falsely.

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

(LD adv had submitted at 12.15 p.m. that he is required in the High Court in a part heard confirmation matter and will come as soon as possible. Hence, deferred to after recess).

**Date : 28/04/11**

**SPECIAL JUDGE**



**Resumed on SA after recess****Cross-examination by Adv Shetty h/f Rasal for A/1 and 4 to 6**

22. I got the accused in my custody on 24/10/06 in the office of the DCP. The Sr. PI of my police station told me at 11.00 a.m. to go to the DCP office. It is true that except the letter Ext.936, the DCP did not give me any other letter when he handed over the custody of the accused to me. HC Aware and two constables were with me but I do not remember their buckle numbers. I got the accused examined at the Bhabha Hospital at 10.25 a.m. on 25/10/06 as per the order of the DCP. There are orders of the court that an accused is to be medically examined after every 48 hours. I came to know this when I got the accused in my custody on 24/10/06. The DCP told me this. The DCP had not told me this on 4/10/06. I did not get the accused examined on 24/10/06. The DCP did not give me any written order not to get the accused medically examined on 24/10/06 and that it will be sufficient if it is done on 25/10/06. I had not stated to ACP Patil when I gave my statement on 9/11/06 that I got the accused medically examined on 25/10/06 on the directions of the DCP. I did not inquire with the accused whether he was medically

examined before 25/10/06. It is true that there is no direction in the letter Ext.936 to take the accused to the police station and back to his office in veil. He had instructed me orally. I did not ask the DCP about the reason for taking the accused in veil. I reached the office of the DCP at 1200 hrs. and the DCP gave the accused in my custody at about 12.15 p.m. I directly went to the police station after taking the accused in my custody. The DCP did not give me any letter addressed to the Sr. PI on 25/10/06. I gave the accused in the custody of the ATS at 5.30 p.m. on 25/10/06. I produced the accused before the DCP at 11.45 a.m. on 25/10/06. He gave the accused in my custody at 2.20 p.m. I started with the letters and the accused at 3.00 p.m. from the DCP office and went to the house of ACMM at Kurla. The court of the CMM is at Esplanade at V.T. The DCP had given letter addressed to the CMM. I went to the ACMM at Kurla whose name was Shisode. I knew his house prior to that day. He was the Addl. CMM at that time. I do not know where his court was and at what center he used to work. The DCP had directed me to take the accused to him. He did not give me a written order about it. I do not know whether there was no such direction in the letter



Ext.940. The DCP had not given any other letter except one letter and the two envelopes to me. I was at the house of the ACMM for about one hour and fifteen minutes. I reached his house at about 3.45 p.m. and left his house at 4.35 p.m. This period is of fifty minutes. I do not remember the address of the house of the ACMM or the road on which the house was. I had not gone to his house before that day and even after that day. I cannot tell even roughly the location of his house. The accused was with the ACMM for one hour. One hour is sixty minutes. I now again say that the accused was with the ACMM for fifty minutes. The house of the ACMM at Kurla is about 15-20 kms. from the office of the DCP, Zone-V, at Worli. The house of the ACMM faces east. I required about 30-35 minutes from the office of the DCP, Zone V to the house of ACMM at Kurla and same time for the return journey.

23. There was no lac seal on the two envelopes that the DCP had given me. The name of the addressee was the CMM, Mumbai. I do not remember whether the name of the sender was also written. The envelope did not contain the description of the contents that it is the confessional statement of so and so accused. The letter

addressed to the CMM was not in an envelope. (Witness is shown the envelopes Exts.935 and 939). It is true that the envelopes do not contain the name of the addressee as CMM, Mumbai but it contains the name of the sender as DCP Phadtare. I do not know whether the ACMM opened the envelopes and whether the ACMM wrote something.

24. I did not see any identification mark of the accused. I did not examine his body during the two days that he was in our custody, therefore, I cannot tell whether there were marks of beatings on his body. My staff was with me when I went to the Bhabha Hospital but I cannot tell their buckle numbers. I do not remember the name of the doctor who examined the accused. The doctor examined the accused for fifteen to twenty minutes. The doctor examined the whole body of the accused. I do not remember whether he was asked to remove his shirt and pant. I had taken the accused to the OPD department and not to the casualty department. I do not remember the day of the week of 25/10/06. It is not true that the OPD of Bhabha Hospital is closed on Wednesday.

25. I put the accused in the lock-up at 12.30 p.m. on 24/10/06.

There is no entry in the lock-up register to the effect that I put him in the lock-up. I and my staff took out the accused from the lock-up on 25/10/06. There is no entry of my name in the lock-up register that he was given in my custody. HC buckle no. 20291 was on lock-up duty on 24/10/06 but I do not remember about 25/10/06. I do not remember the names of the two officers who were on duty on both days. I was on duty from 8.00 a.m. to 8.00 p.m. on 24/10/06 and 25/10/06.

26. There is a common passage in front of all the four rooms of the lock-up on the first floor. It is true that a person who is in lock-up can freely go to the common toilet alongwith a guard after being taken out from his room. It is not true that I did not take the accused to the house of the ACMM on 25/10/06, that I deposed falsely at the instance of my superiors, that on 25/10/06 the accused was not medically examined and I obtained the medical certificate without taking him to the hospital. I do not remember the name of the staff member whose buckle number was 29346/Mahim. Ramzan-Id is a public holiday. My statement was recorded on 9/11/06 from about 11.00 a.m. to 2.00 p.m. ACP Sadashiv Patil personally inquired with

me and recorded the same. I do not remember the name of the officer who was typing my statement on the computer. API Alaknure was not present at the time of recording of my statement. It is not true that ACP Patil was not in his office from 11.00 a.m. to 2.00 p.m. on 9/11/06 as during that period he had taken the accused to the court for remand.

No re-examination  
R.O.

**Special Judge**

**Date:-28/04/2011**

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