

M.C.O.C. SPECIAL CASE NO. OF 21/06**DATE: 29TH APRIL, 2011****EXT. NO. 952****DEPOSITION OF WITNESS NO.95 FOR THE PROSECUTION**

I do hereby on solemn affirmation state that:

My Name : Tafheem Akmal Hashmi

Age : 35 years

Occupation : Former Pakistan Army

Res. Address : Village-Peroshah, Tahsil and Dist- Gujarat, Pakistan

(Witness submits that inspite of his applications sent to this court about maintaining secrecy of his evidence, he desires that his name should be written in the evidence).

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

1. I was born on 01/07/1976 at Village-Peroshah, Tahsil and Dist. Gujarat, Pakistan. My parents are originally from Kashmir, but after partition they went to Pakistan. My grandfather died while crossing the border at the time of partition. I am educated upto B.Sc final. I went to school in the village and for college I was at Gujarat. After education I joined the Pakistan Army in 1993 or 1994. I was a hawaldar when I left service and was posted in 637, Infantry in

Bimber in Azad Kashmir. I left army for the first time in 1994 or 1995. I joined the Mujaheeddin thereafter. The work of mujaheeddin is to carry out the wish of Allah and to work for Islam and if anyone does not wish to follow it, then not to force him to do so. The training of mujaheeddin was in Afganistan as well as in Azad Kashmir. The reason for leaving Afganistan is that the Taliban people drove us out. Thereafter I went to Muzaffarabad in Azad Kashmir. I took training at Muzaffarabad. The training was at Uugi. I do not remember where I went from Uugi. I was there for 1 or 2 or 2 or 3 years. Thereafter I went to Kashmir. After I left army I was punished, but I did not cross the border, therefore I again joined the army. My paternal aunt's son was an officer in the army and he took me in the army. Sayeed Mazhar was a Lt. Col. in the unit which I joined. I was posted in the 637, Infantry in Bimber in Azad Kashmir. I again left the army in 1998 or 1999.

2. Al-Badar is an organization. Its office is in Muzaffarabad. I had relations with Al-Badar. I was its member. There are other organizations like Al-Quaida. There are organizations like Al-Jihad, Al-Barak, Muslim Mujaheeddin, Al-Fatah, etc. in Kashmir.

3. I do not know anything about Kargil war. I know that it happened in 1999, but I was not involved in it. I do not know who was behind that war. Mujaheeddin are not controlled by anyone. I do not know who used to fund the Mujaheeddin.
4. Launching means crossing the border and entering Kashmir. Muzaffarabad is in Azad Kashmir, i.e., Pakistan occupied Kashmir. Bandipura is on the road to Kupwada in Kashmir. I had encounters with the Indian Army many times when I was in the Pakistan army. I was in jail in 2006. I was caught in an encounter at Village Gulabgadh. At that time I was member of Al-Badar. I was arrested as I crossed the border. I was arrested on 27/07/06. I had met many people before my arrest, but I do not remember any special person that I met. I cannot say about any function in which I met any person.
5. I was brought to Mumbai after my arrest by the ATS police. When I was caught the army people told me to say some things and I told them. The army told me to say those things on the television. I made statement on the television in the army camp area. I had stated before the television on the instructions of the army people that the Lashkar-e-Toiba is behind the 07/11. I do not remember the full

details. I do not know what Lashkar-e-Toiba is. I remember that I had stated that I had met one person by name Tariq. I was brought by the ATS to Mumbai in connection with the statements that I made on the television. The ATS inquired with me about the statements that I had made on television. I gave all correct answers in my connection to the ATS. I did not make any false statement on my behalf. The ATS wrote down my answers. I do not remember the exact date on which my statement was recorded. I was produced twice before a court in Mumbai. The first judge had asked me whether I had any complaints and I had told him about my hand. I had sustained injury to my hand when I was arrested by the Indian army. The ATS, Mumbai kept me at Bhoiwada on the first day. There were other persons in the cell of the lockup where I was kept. I came to know those persons there. I will not be able to identify anyone of them, if I see them again. (Ld SPP asks the witness to look around the court hall and see whether anyone of those persons is present in the court. Witness looks around the court hall and points to the accused no.9, who is made to stand up and tell his name, which he states as Muzzammil Aatur Rehman Shaikh). He was being beaten on his hands by the ATS

police by hunter. I remember one more person by name Shakil, who said that he was brought from Nagpur and he was also being beaten.

6. The ATS police used to take me to the hospital. They had taken me once or twice. Once they had taken me for x-ray of my hand, but I do not remember why they had taken me on the second occasion. I was with the ATS for some days and in the Arthur Road Jail for some days. I am brought from Srinagar Central Jail this time. I am in that jail since four or five months. I am behind the bars since the time of my arrest. I am in Kuthwa Jail, Jammu under the Public Safety Act. If I have to make any application or complaint I send it through the superintendent of Jail. I had given an application from the Arthur Road Jail. I do not remember whether I had written it. I may have signed it. Witness volunteers- it was got written forcibly from me. I do not remember whether I had read it before I signed it. I do not remember to whom it was addressed. I do not remember in what connection I had given that application. I do not know what happened to that application. I do not remember whether I was produced in court after I had given that application. I do not remember when I was taken back from Mumbai. My statement was recorded in the court. I

do not remember whether it was recorded by the magistrate after giving me oath. I had not stated the truth before the magistrate. My statement was recorded in connection with the purpose for which I am brought here. I know English and I sign in English. My statement was being typed as I was narrating it. I had signed it after it was fully typed. I do not remember whether my statement was read over to me, but it was not correctly written. The magistrate had written whatever I had stated. I have faith in this court, similarly I had faith in that court also, where my statement was recorded. I had complained to the magistrate that the ATS had told me that they would not keep me in the Arthur Road Jail, but they would keep me with them. I do not remember for how many days I was in the Arthur Road Prison before I gave my statement before the court. I do not remember for how many days I was in the custody of the ATS. I do not remember whether I had complained against the ATS or any other person through proper channel when I was in the Arthur Road Prison. I do not remember whether I had complained in writing against the ATS officers to the jail superintendent or to the court.

(Adjourned for recess).

Date : 29/04/11**SPECIAL JUDGE****Resumed on SA after recess**

7. Chela Bandipur is the launching pad in Muzaffarabad of Hizbul Mujaheeddin. I had gone there. I did not meet any person by name Faisal there. (Ld SPP requests permission to put leading question to the witness and to make the accused no. 3 Faisal Shaikh stand up. Permitted). It is not true that when I was in Bhoiwada lockup, this accused was in that lockup, that when I was taking training at Muzaffarabad I had met him as he was there taking training at the Lashkar-e-Toiba camp.

(LD SPP requests permission to declare the witness hostile as he has resiled from his statement and requests permission to cross-examine the witness. Permission granted).

Cross-examination by SPP Raja Thakare for the state

8. It is true that I am a militant of Al-Badar and a deserter from the Pakistan Army. It is true that the telephone number of my house at Peroshah was 0433-540047. I know professor Sayyad Sabir Hussain Shah, but I do not remember whether his phone number was 0300-6209007. It is true that when the ATS police took my statement I had

stated my name as Tafheem Akmal @ Abu Amad s/o Mohd . Akmal Hashmi, age 30 years, occupation- militant from Al-Badar and deserter from Pakistan Army, Res-Village and post- Peroshah, Kadiyanwala Police Thana, Gujarat, Punjab Subah, Pakistan, Res. Tel.- 0432-540047, C/O professor Sayyed Sabir Hussein, 0300-6209007. I do not remember whether my statement was recorded on 13/10/06 or in October, 2006. It is true that I was born on 01/07/76 at the above address, that I have two brothers, viz., Naeem Akmal, age 34 years and Hameed Akamal, aged 20 years and three sisters, viz., 1) Rukhsana w/o Mirza Ishfaq Beig, aged 40 years, 2) Shagufta w/o Peerzada Sajid Masood, aged 38 years and 3) Tahira Zabbin w/o Javed Akhtar, that my father expired in April 2006, that he was working as shovel-operator in Gulf, that my mother Shehnaz Akhtar, aged 60 years is a housewife, that my brother Naeem Akamal is a driver by profession and is working at Mangla Dam at Mirpur, POK, that my another brother Hameed is running a grocery shop at my native place, that my brother-in-law Ishfaq Beig is working as goods clerk at Gujarat Railway station and that my another brother-in-law Peerzada Sajid Masood has a mobile phone shop in U.K. It is

true that I have studied up to 12th standard, that I have studied in English medium upto 6th standard in Dairistan Junior model school, Machine Mohalla No. 3, Jehlam, that from 6th standard to 7th standard I have studied in government high school Jehlam in Urdu medium at Sabji Mandi in Jehlam city, that from 8th to 10th standard I have studied in government high school at Peroshah. It is true that I did my 12th from Gujranwala Board, that I did the Diploma in Refrigeration and Air conditioning from Gujarat Institute, Pakistan. My family is Sunni Muslim, but I believe in Ahle Hadith. I do not know whether Lashkar-e-Toiba and Tahreek-ul-Mujaheeddin comprise of Ahle hadith people. I may have stated to the police that the terrorist from Lashkar-e-Toiba and Tahreek-ul-Mujaheeddin belong to Ahle Hadith, but I am not sure whether I had stated. It is not true that I had stated to the police that Hizbul Mujaheeddin is Sunni Deobandi, that Al-Badar is Sunni (no sect) and Al-Barque is Sunni (no sect). I do not know whether Lashkar-e-Toiba has the highest number of militants followed by Hizbul Mujaheeddin. As per me Al-Badar has the highest number of militants. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is

marked as 'A'). I cannot assign any reason why it is so written in my statement. My ID number in the army was 4405780. It is true that I joined Pakistan Army in 1993 at EME center, Quetta, that I did my basic training of nine months at 1-T.T. Batalian, that my further training was at 3- T.T. Batalian, where Sayyed Mazar Hussain Shah Kazi was the Lt. Col. It is not true that the training period was of 2 ½ years and at the fag end of the training in 1994, I ran away from the training center as I was not getting any leave and my paternal grandmother had expired at my native place. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'B'). I cannot assign any reason why it is so written in my statement. I left the army as I wanted to take training for Jihad. It is true that I know about Mohd. Boota also an electrician from EME whose brother Pasha was a militant from HM, that on my request he sent me to his brother Pasha at Trigadi Siyalkot, that Pasha sent me to Peshawar at Markaz-e-Islam to the office of Al-Badar which was a wing of HM at that time. I wanted to become a militant as my grandfather and father's elder brother were killed while crossing the border in 1947. Rahila Riyaz Hashmi is my

cousin sister. She used to sing anti-Indian songs. It is true that in the army training I was given training of G3 and LMG and other trainings. I wanted to take the training of Hadis and Kuran. It is true that I wanted to take the training of explosives. My native place is 10-12 kilometers from POK. It is true that there is anti-Indian sentiment in my native place as well as in the entire Pakistan. It is true that after I left the army for the first time, I went to Pasha at his village, Trigadi, Sialkot, that he sent me to Peshawar along with two HM militants, viz., Shafiulla and Ali and from there we all went to Meran Shah, near Bannu, that at Peshawar 4/5 new members from HM joined us, that Hamza Inquilabi was the group commander, that from Meran Shah we crossed over to Afganistan and reached Khost & Kunnad, that there we did training of AK 47, PICA, LMG, Snifer, Pistol for 21 days, that thereafter Taliban people came there and drove us out and we all came to Muzaffarabad POK and stayed there for 15-20 days, that from there we went to Mansera-Uggi, Sarhad state, Pakistan where we underwent the training in weapons, explosives, wireless, etc., for about one year and that then I went back to my native place. I worked in 637, Infantry workshop, Bimber at POK upto the end of 1998 after I

rejoined the army. It is true that in 1998-99 I again deserted the army and joined Al-Badar at Gujarat. It is not true that I started collecting funds from the members of public in the name of jihad in the office of Al-Badar at Purane Chungi, Gujarat. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'C'). I cannot assign any reason why it is so written in my statement.

9. I do not know whether in the Kargil war there were 2500 other militants from HM, LeT and HJ and only 6 militants were killed, whether Pakistani Army was fighting the battle under the camouflage of militants and we all were kept in reserve at the back side, that lot of Pakistani army personnel were killed and they were from 1 Commando, 2 Commando, 3 Commando, 8 Sindh, NLI, Block Regiment, Engineering & EME section, that we all were given return fare ranging from Rs. 1000/- to Rs. 2000/-, that I was asked to give speech about Kargil War in Gujarat District, falsely claiming victory, that I refused to give speech since I had seen with my own eyes about Indian Army recapturing vital positions in Kargil, but other militants gave false speeches to collect funds. I had not stated so to

the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'D'). I cannot assign any reason why it is so written in my statement.

10. It is true that in October 1999, I was launched in India with 11 porters and 2 guides via POK, Tejiyanala, Khurpa Top, Barasta, Kalaroos receiving points, that I was posted at Kalaroos point to receive other groups. I had not stated to the police that in 15 days time 4 militants were brought from Al-Badar, viz., Faisal and Kasim and two other came to Jammu and Kashmir in India. I had stated that Faisal, Kasim and two others were guides and they used to bring groups of militants to that point. It is true that from Kalaroos I came to Kanthpura, that the army raided our hide out and opened fire on us but luckily we all survived, that from there we went to Pootshahi about half an hour distance there, that my colleagues and I caused mine blast at a civilian house at Cherkot in which the civilian expired, that I was watching from the distance of about 200 meters, that this incident occurred in December 1999, that Afgan, Afzal Ejaj, Temur, Shehbaz, Modsim Billa, Sher Ali from Al-Badar were there in this operation, that from Cherkot we again went to Pootshahi and stayed

in various hideouts in the nearby jungles till the winter season was over and we had carried with us ration for 2-3 months, that then we went to Pootshahi at Babuna where Lukman, Akram Shahin-Divisional Commander, Ahmed Nawaz-presently Chief of Al-Badar of Kashmir, Sherdil, Gayur, Khurshan, Dilwar, Afzal, Afghan, Ejz, Gazi, Irfan Hashmi, Temur, Shahbaz, Fayas, Afghani, Sher Ali attacked either RR (Rajputana Rifles) or GR (Gurkha Rifles), that I and Motsim Billa were at the rear side at the time of attack for cover fire, that in the said attack Akram Shahin was killed. They used Rocket Launcher, (RPG-7), Pica (Russian LMG), AK47, Disposable, UBG1 and Grenades. It is not true that I had stated that we used the above weapons.

11. It is true that in August, 2000 or so, I along with Hamza Askari, Jamanat Gul, Waqar Shaji (Dist. Commander), Zarar (Dy. Dist. Commander), Tauseer, Mohamadin, Amar Tipu, Bilal, Wahid, Kasam All from Al-Badar went to attack an army camp at village Nadial, Tehsil-Bandipura, Dist-Baramulla, but before we reached that said camp, army started firing on us, that we also counter fired on army jawans with AK 47 rifles, that none of the militants sustained

any injury, that later on I came to know that one surrendered militant, viz., Beta who was with army was killed in the firing, that I, Bilal, Janatgul and Kasim (all operating from Bandipura, but Pakistani nationals) met Lolabdardpura and with them I, Dilawar, Shafique Sherali, Motsin Billa, Mazhar Vehashi (from Kandi-Hindwada) went to Bandipura, that on 14/08/00 when we were at village Mulke-e-Hama, the Indian Army attacked us, that I survived that attack and ran towards Poru village, that none of us suffered any casualty.

(Adjourned as court time is over).

Date : 29/04/11

**Y.D. SHINDE
SPECIAL JUDGE**

Date : 02/05/11
Resumed on SA

1. I am called to this court as a witness in connection with I being brought to Mumbai for inquiry about the statements that I made on television. My statement before the court at Mazgaon was recorded in connection with the statements that I made on television. Witness volunteers- I was instructed to make the statements on the television. It is true that I had not stated in the court at Mazgaon that the army people had instructed me to make the statements on the television. It is true that any statement that is made in court is to be given by taking oath in the name of Allah. I knew this when I gave my statement in the court at Mazgaon. Witness volunteers- I was under pressure. I knew the consequences of giving false statement before the court. It is true that in the court at Mazgaon my statement was recorded in open court.
2. It is true that in retaliation of the said attack, we launched an attack on the BSF camp at Madar Camp at Bandipura Town, that with me Shahin Waqar Shah, Kasam, Saifulla, Janat Gul, Bilal, Shafique,

Hamza Arkali, Tauseef (all Pakistanis), Mohamadeen, Jahangir (both Kashmiris) were there in said attack in which 9 mortar-shells were fired, that I was on observation post & hence I could make out that none of the 9 mortars fired hit the target, that after attack we all stayed in the nearby Poru village and had decided to move out early morning but the army surrounded village Poru and started taking house-to-house search (crackdown), that at about 05.00 hours when we started moving out from the said village, the army opened fire on us in which 2 of my colleagues, viz., Tawseef and Mohmadeen were killed, that I survived the attack and went to Mawa Khuda jungle at the backside of Bandipura town, that at that time, I had fallen in which my back was slightly damaged, that hence, I went to Sopore with a civil (local militant), viz., Rashid from Al-Badar, that at that time army caught one militant from Al-Badar and he had probably disclosed my name, that hence, without taking my treatment I went to Kupwara with the militant of HM, viz., Khalil, Fayas, Kandru, Faisal and Parwas, that while going to Sopore from Bandipura, one Abdul-Ala, a dist. Commander of Al-Badar (Pak) prepared an I/card with my photo in which my identity was given as Ejaz Darr, resident of Bandipura and

that with this I/card I traveled by bus from Bandipura to Sopore. (Ld Adv Wahab Khan objects to taking theses answers of the witness on record on the ground that they amount to self incrimination and therefore not admissible under Article 20 (C) of the Constitution. Ld SPP submits that under Section 132 of the Indian Evidence Act the witness cannot be excused to give such answers on this ground. In my humble opinion, provisions of section 132 of the Indian Evidence Act are squarely applicable, hence, the objection is not tenable).

3. It is true that at Kupwara we stayed in village Sogam for about 15 days, that there was a raid by army in which one Al-Badar member, viz., Vilijan was injured as a bullet hit his foot, that then we came to Tikipura below Shetan Ki Topi, that army again attacked this place which is basically hide out of HM, that then we went to Dardpura where we stayed till winter season, that at the end of winter season this hideout was also attacked by army in which one Zubeir from HM sustained injury on his hand, that I then sent message through VF Set of Sangar post at POK that I have terrible pain in the back, that they asked me to come back, that hence, I along with the militants of HM, via Gureil sector, Chor Gulli went to POK in

July/August 2001. It is not true that when I went back to POK from Kashmir through Chor Galli route, I reported to the office of ISI. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'E'). I cannot assign any reason why this is written in my statement, but there may have been some confusion. I say that I had stated that I had reported to the office of Al-Badar, but it is wrongly written that I had reported to ISI. It is true that at that time along with me my men, Dilbazir, Sajid, Salim Pathan (all Pakis from Al-Badar) and one Ansari militant from HM were there along with 17 porters and one guide by name Choudhari, that for each trip porter used to get Rs.10, 000/- and guide used to get Rs, 17,000/-, that for fetching a group of militants, each guide used to get Rs. 4,000/- per militant, that nowadays the guide gets Rs.6 to 8 lakhs to launch a group of militants into Indian territory, that the ISI officers then made inquiries with us about work done in Jammu & Kashmir, that next day they took us to the office of Al-Badar at Taraq Shaheed Markaz, near Nisar Shaheen camp, (Pakistani military camp) Ath Mukkam Road, Muzaffarabad, that same day I was again sent to ISI office at Muzaffarabad, opposite

Nilam restaurant in lower plate area, that I was there for four days and during this period, they inquired about actions carried by me in J & K, that I gave them the total account of my stay from October 1999 to July/August 2001 and the operations carried out during that period but I had not discussed about my I/Card issued by Sarpanch Iranpura, Bandipura, J &K in the name of Ejaj Darr, that while leaving the office of ISI, they stopped me and asked me to hand over the I/Card of Ejaj Darr, that I was shocked about the thorough knowledge of ISI information network, that I was then sent as a launching Dett Commander at Chhamb border, where I was there for one month, that my father had a heart attack, hence, I requested Al-Badar, Dett in-charge to send me home, that accordingly, they allowed me to go to home and they paid Rs. 4,000/- in Pakistani currency, that I was at home for a month when my father was admitted to Aziz Bhatti Shaheed hospital from where my father was discharged after 4/5 days, that my parents were insisting me to rejoin the army again, but I told them that I did not want to rejoin army since I was given punishment for no fault of mine in the Pak army, that I then went to Al-Badar camp to Mansera where I stayed for 2/3 days, that there was

litemah of militants (congregation) in which about 2000 to 3000 militants of all the organizations from Karachi, Lahore, Peshawar, Faislabad, Quetta, etc., had gathered there. It is not true that there were demonstrations of firing by various weapons, mine blasting, bomb blasting were carried up to for 3 days at Mansera. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'F'). I cannot assign any reason why this is written in my statement.

4. It is true that I then came back home and was there for one year and during this period I was doing agriculture work and was also running grocery shop, that I then again went to Mansera camp of Al-Badar somewhere in 2002 and I worked there as a P.T. Instructor and used to sing Teranas (songs) which has anti-Indian sentiments, that I was there for about six months, that I then again came back home, since my mother sustained fracture to her hand in a fall in the bathroom, that I then opened an electrician shop by name Iqbal Hashmi Electric Store at Barnala POK which is about 10-12 kms from my native Peroshah, that I had taken the said shop on rental basis of Rs. 500/- per month, that I ran the said shop for $\frac{3}{4}$ months and

handed it back to the landlord since he was doing cheating in running the said shop, that I sustained loss of about Rs, 8,000/-, that my father was of Barelavi sect, hence I used to have fight with him on religious issues, that somewhere in May 2004, I then went to Taraque Shaheed Markaj Al-Badar's main launching camp situated at Muzzaffarabad, POK, at Chelabhandi-pool, near Nisar Shaheed camp, Lakkad point, in order to get launched into India for carrying subversive activities, that the militant camp of L-e-T was also situated on a near by hill, that there I reported to Balalbhai launching commander from Nilam valley, that I was there for about 3 months frantically trying to get launched into Indian territory but I could not get a chance since the Indian Army was founded very vigilant and alert, that I was serving the people in the said camp by cooking and singing Taranas which has Anti-India sentiments, that since I did not get launched into India, I went back to my native place at Peroshah where I stayed for three to four weeks and then I went to Karachi looking for a job which was promised to me by my neighbour, viz., Anwar Bajad/Guljar who was a steel fitter by profession, that I worked with him for three-four days at Suzuki plant but gave up this job since

my back started paining again, that I then joined Bonds Security run by one ex-major at Akhtar market, Karachi, that I worked there for 2-3 months at Ganni Glass Factory near Dawood Cotton Mills, at Quidabad, Karachi, that I left this job since I was getting around Rs. 2,500/- only and there was no further scope. It is not true that somewhere in Aug/Sept. 2004 from Karachi, I phoned Umar Jadoon, General Secretary of Al-Badar and told him to start some monthly payment for me since I wanted to keep my family member happy and I had also told him not to launch me in India as I was getting severe back pain on and off, that he agreed to give me Rs. 3000/- per month. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'G'). I cannot assign any reason why this is written in my statement. It is true that accordingly from Karachi I went to the office of Al-Badar at Masjid-e-Al Shahada, Swan camp, Rawalpindi, Islamabad and reported to Umar Jadoon. It is not true that I requested him to put me on communication job. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'H'). I cannot assign any reason why this is written in my

statement.

5. It is true that he sent me to Kotti office, POK, where I reported to Lukman bhai who is a chief of launching of militants in Jammu sector, that Lukman bhai sent me to village Jhamdi Choulsa, Tehsil-Samani, Dist-Bhindaber, POK from where I used to communicate on VHF set with the militants of Al-Badar operating in Rajoury, Bakonry and Udhampur, that sometimes militants of the other organizations also used to contact me on VHF set (Canwood made in Japan), that I was there for about six months, that on 10/3/05, Bakht Zamin, Chief of Al-Badar and Lukman Bhai requested me to get launched with Jammu Sector since some of the senior militants were killed. It is not true that I reluctantly opted for the same since my back pain persisted and they had agreed to my request to call me back within 4-5 months of my launching into J & K.
6. It is true that in a week's time I along with Ejaz Farooqui, Samandar Khan, Ansarullah, Mohd Abbas, Asif, Abdullah, Pehlwan were launched into J & K from Nowshera sector. It is not true that I was launched as district commander Udhampur. I had not stated so to the police. (Witness is confronted with the relevant portion from his

statement. Hence, it is marked as 'I'). I cannot assign any reason why this is written in my statement. It is true that somewhere at the end of March 2005 at about 6.00 p.m. or so when I, Ejaz Farooque (Al-Badar), Hamza, Abu Tariq and Shoeb (L-e-I and not L-e-T) were in the jungle at Kala Bund, Toda Gutti, Tehsil Mohor, Udhampur, the jawans of RR started firing with LMG, Morkar and AK 47 in which Hamza was badly injured on the foot, that I & Abu Sharique also fired with our AK 47 rifles, that I came to know from the civilian that one army jawan was also injured in our firing, that Abu Sharique and Farooqui picked up the injured Hamza and ran down, I ran upward and Shoeb also ran in some other direction, that we all got separated, that I met Abu Sharique, Hamza and Farooqui next day after contacting him on VHF set, that from there we all went to Gulabgadh and got Hamza treated at village Miram, Tehsil Mohor with one Nazeer Kashmiri, that Nazeer Kashmiri is aged 50 years and was driver by profession. I had not stated to the police that Nazeer Kashmiri was very close to L-e-T, but I had stated that he was close to Lashkar-e-Islam (L-e-I). (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'J'). I cannot

assign any reason why this is written in my statement. It is true that somewhere in July/August myself and Adil were in a house of one Saifdin at village Thafaka a Tehsil Gul, Dist-Udhampur, that there was a BSF camp about 10 minutes walking distance, that somebody informed BSF about us, that Adil ran down with his AK47 rifle, that I also started running when BSF fired on me, that I also fired twice on them but neither me nor Adil nor any BSF jawans got hurt, that after about 8/10 days of the above incident at Thatarka, I was told by one Muslim (L-e-I) & one Shams-din, brother of Inayat Gujar (L-e-I militant killed in army operation and first militant who was released from POTA) that one Fakir Mohammad s/o Jami from village Gamiri, Tehsil Gul, Dist-Udhampur had informed BSF when we were at Thatarka. It is not true that I then shot Jami with a burst fire from my AK 47. It is true that his son Fakir Mohammad and his daughter Billi and Jamir were shot dead by Muslim with AK 47, that then I went back to Gulabgadh, that somewhere in December I, Waqas, Samama and Muzaffar left for the jungles of Bhasamsal Gulabgadh and stayed there in the winter hideouts till March to safeguard our selves from winter and snowing, that at the end of March 2006, I and Muzaffar got

down from the jungles as the winter was almost over, that at the beginning of April 2006 I, Badshah Khan, Talib (HM), Abu Hurreira and Abdulla (L-e-I and not L-e-T) were in a house at Gulabgadh village when army jawans started firing on us, that we all ran into the jungle and while running in the jungle I lost my balance and fell down from the height. It is not true that due to the fall I sustained fracture to my left hand, my right leg got twisted and my back was badly bruised. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'K'). I cannot assign any reason why this is written in my statement.

7. It is true that one Qasam of village Kaendora, Gulabgadh arranged for medicines. It is not true that the medicines were for fracture to my left hand and I had not stated to the police that no proper medication was done for fracture to my left hand. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'L'). I cannot assign any reason why this is written in my statement.

(Adjourned for recess).

Date : 02/05/11

SPECIAL JUDGE

Resumed on SA after recess

8. It is true that I then along with Waqas (L-e-I and not L-e-T) climbed up Wasnad jungles via Bharmsal jungles and stayed in the winter hideout of HM for a month, that one Munib, district commander of Udhampur, Saddam, Dy. Dist. Commander, Zulfiquar, Sajjad, Saifullah, Janbaz, Ishfaq, Muddassar, Sr. Arif, Bilal, Manshoor-e-Ilahi, Shahin, Musa Khan, Arshad, Ashique, Jr. Arif, Javed, Quari Zuber from HM were present in the said hideout, that at that time I had contacted one Umar, communication in-charge of Al-Badar of POK Samani Dett through my VHF set. It is not true that I requested him to allow me to come back to Pakistan since I had lost my father in the end of February 2006. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as **'M'**). I cannot assign any reason why it is so written in my statement. It is true that I had not disclosed them about injury to my left hand, that Waqas and I were wandering around forests of Khore and Shaddul for about a month since both we were getting supplies of arms and neither ammunition nor we were getting reinforcement, that at Khore forest Samiullah from Shaddul forest had accompanied

me. It is not true that during that period I happened to meet Abu Tarique and his two men, viz., Abu Abdul Rehman and Unais from, L-e-T. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'N'). I cannot assign any reason why it is so written in my statement. It is true that I had met Abu Abdul Rehman and Unais in a stable (dhok) at village Takkadpatri, Tehsil Mohor, Dist-Udhampur. It is not true that after couple of days Abu Tarique and Unais left for Abu Tarique's native place at Angrala Bhal, Tehsil Mohor, Dist. Udhampur. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'O'). I cannot assign any reason why it is so written in my statement. It is true Abu Abdul Rehman and Unais had left for Abdul Rehman's native place at at Angrala Bhal Tehsil Mohor, Dist. Udhampur.

9. I do not remember whether I had stated to the police that I was staying there with Abu Abdul Rehman, that after about 10 days Abu Tarique along with Unais met me at a stable (dhok) at Saeedpathri Tehsil Mohor, Dist-Udhampur, that then Unais and Abu Abdul Rehman went to Khore. It is true that then I, Samihulla and Abu

Tarique left for Mangnad to meet Abu Saeed (HM). It is not true that we both wanted to go to Poonch Kashmir to go back to Pakistan with the help of a guide. It is true that on the way of Mangnad one Saifullah from village Khore came to me at Nadi, that in the first week of July 2006, I, Saifullah and Samiulla came to Mangnad Tehsil Mohor, Dist-Udhampur. I had not stated that Abu Tarique was also with us. I do not know Abu Tarique. I know Abu Sharique of L-e-I. It is true that Abu Sharique's name is Mohd Ishaque and he is not Abu Tarique. It is true that he is from Bakkarwal community from Dist. Udhampur. It is true that he was District commander of L-e-I. I do not know whether he was the Dy. District commander of Rajori from April 2005. I do not know whether one Hamja the then Dy. Dist. Commander of Rajori, who was carrying reward of Rs. 5 lakhs on his head was killed by the Indian Army and thereafter, Abu Sharique became the Dy. Dist. Commander of Rajori. It is true that the said Abu Sharique may be 21-22 years of age at that time, that he was about 5'8" tall, was having thin built, oval face, mustaches, light curly beard and thin nose. I do not know whether he was a staunch Muslim. It is true that Abu Saeed was from Lahore, Pakistan. I do not know

whether he was instructor from Muridke training camp, Pakistan. He may be about 40 years, thin built, light mustaches, long beard, long thin nose. It is not true that he was having fair complexion, square face and brown eyes. It is true that police were preparing sketch as per the description of these two persons.

10. It is true that the camp of L-e-T is at some distance and at some height and Al-Badar camp is below. It is not true that I used to be on guard duty in the Al-Badar camp. It is not true that one fine day in the afternoon during the said period, I noticed about 4-5 militants walking down from hill where the militant camp of L-e-T is situated, that they were on the normal route to go to Chelabhandi pool from their camp and camp of Al-Badar is on the way, that as usual they halted for a while in my camp to drink water, that I was performing guard duty in my camp when one of them approached me and asked for a glass of water by saying "bhai pani pilao", that I found his accent to be of a non-Pakistani, hence, I asked him as to where he belongs to, that he told me that he is a Mujahid (militant) from India and is undergoing militant training in the said camp of L-e-T and he would go back to India soon to carry out subversive activities in

India and would play the true role of Mujahid, that as a courtesy I prepared Sharbat- Roohe Afza and offered all of them the same and they all went towards Chelabhandi pool, that I identified the said person in the lockup of ATS Bhoiwada, Mumbai where I came to know his name as Faisal Shaikh, who was in police custody in the bomb blasts case occurred in the local train in Mumbai on 11/07/06, that I reminded him about the above incident in the lockup and he also identified me but warned me not to tell the police about the above incident. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'P'). I cannot assign any reason why these things are written in my statement.

11. It is not true that about four days prior to my arrest by 3 Para Army personnel on 27/07/06, I was attending a wedding function of one Mohammad Ismail Bakkarwal (Shepherd) aged 19-20 years at village Mangnad Kund, Tehsil Mohor, Dist-Udhampur who was marrying the daughter of one Farid aged 50 years from the same village. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'Q'). I

cannot assign any reason why this is written in my statement. It is true that I knew most of the Bakkarwalas from that region since I was staying with them for 2-3 days due to injury to my back and left hand, that I used to take food, milk and male goat on payment from them. It is not true that one day before the said wedding, there was some function in the evening, I along with my men Saifullah, Samihulla, Abu Sharique and Rafiq (ex L-e-T) were there on invitation, that so also about 25 militants from HM were also there for the said function. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'R'). I cannot assign any reason why this is written in my statement. It is not true that at about 08.00 p.m. or so when we all were enjoying the feast, one Bilal, battalion commander of Banihal of HM was talking with the local when he told that some 100-150 people were killed in a bomb blast in India. I now again say that I had stated so to the ATS police on their instructions.

12. It is true that the army officers from Para-III made inquiries with me about the terrorist activities carried out by me and my colleagues from Al-Badar and also about the activities of

insurgency of other militant organizations from Pakistan and Kashmir, that I gave them all the details known to me about the insurgency in Jammu and Kashmir. It is not true that I also gave them the above details told to me by the above mentioned Abu Tarique from L-e-T. It is true that I had given my statement before the television.

13. It is true that the ATS, Mumbai brought me to Mumbai, but I do not remember whether it was on 31/08/06. It is true that I was arrested in the Mumbai bomb blasts case and later on discharged. I do not remember whether I was taken to the hospital for medical checkup on 03, 05, 10, 12, 13 & 15/09/06, but the ATS police had taken me to the hospital for medical checkups when I was in Bhoiwada lockup. It is not true that when I was in the lockup of Bhoiwada there were other accused by name Faisal, Zamir, Muzzammil, Shakil Warsi and Dr Tanveer lodged in other cells.(Ld SPP requests that the accused nos. 2, 3 ,9 and 11 be made to stand up). It is not true that the accused no.2,3 and 11 were also in the other cells, that on seeing the accused no. 3 Faisal I recollected having met him at Muzaffarabad in June/ July 2006 while I was in Al-Badar camp at Cherabandi pool and I had served him with a drink

called Rooh Afza, that he also identified me and told me not to tell the police about the above meeting in Pakistani Jihadi camp, that Zameer, Muzzammil, Shakil Warsi and Dr. Tanveer also told me that they also had undergone Jihadi training in the camps of L-e-T in Pakistan, that they also told me that in India they are affiliated to SIMI organization. I had not stated so to the police. (Witness is confronted with the relevant portion from his statement. Hence, it is marked as 'S'). I cannot assign any reason why these things are written in my statement.

14. I was taken to Arthur Road Prison from Bhoiwada lockup. It is not true that at that time I had given an application to the jailor that I wanted to give a statement in the court. It is true that I was produced before the court where I was told by the magistrate that I am discharged from the case in which I was brought, but I do not remember whether it was on 13/10/06. It is true that the magistrate recorded my statement on oath. Witness volunteers- I was pressurized by the ATS. I had signed on the statement typed by the magistrate. I do not know whether the magistrate signed the same. (Witness is shown the statement u/s 164 of the Cr. P.C produced

along with the application Ext. 953). The signature at the end of the statement was made by me, but it is not my true signature. It is true that I have signed after the magistrate typed the statement and then read it over to me. I did not tell the magistrate that whatever I had stated to him was not correct and my signature was also not my true signature. It is true that from that date till the day on which I was produced in this court on 29/04/11, I have not complained anywhere that my statement to the magistrate was not correct and my signature thereon was also not my true signature. It is true that I had given the statement that is shown to me. (It is marked as **Ext. 954**).

(Adjourned as court time is over).

Date:-02/05/2011

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

Date : 03/05/11
Resumed on SA

15. It is true that this court is taking down whatever I am stating. In the same manner court at Mazgaon had also taken down my statement as stated by me. It is true that I had stated before it that I had met Abu Tarique, Dy. District Lashkar-e-Toiba, Magnad, Dist- Udhampur, Tehsil Mohor in the marriage ceremony about 6-7 days prior to the date I was apprehended by 3 Para on 27/07/06. that he told me then that the blast in Bombay was the activity of Lashkar-e-Toiba, that I said to him that they generally take on responsibility of such activities without actually doing it and told him not to lie, that but he still confirmed that it was done by them, i.e., Lashkar-e-Toiba, that he also informed me that there were 15-16 persons involved in it from Pakistan and India, that he told me the name of one of them as Abu Muslim Jarrar, that he also told that two of them were killed and the rest returned alive, that I asked for the names of the persons, but he said that Abu Jarrar had only told him that much. Witness volunteers- I had stated so under the pressure of the ATS as the army had forced

me to give such a statement before the television.

16. It is true that I had stated to the magistrate that when I was in police custody in Bombay I was kept in lockup, that there were other persons kept in separate lockups, that they were Faisal, Zameer, Muzzammil, Shakil Warsi, Dr. Tanveer, that I have met Faisal during my training in Muzaffarabad, Eth Mukam, Chela Bandi Pool, near Nisar Shahid Camp, that he was taking training in Lashkar-e-Toiba, that the training camp was on a hill and we were on the plane where there was launching, that I had served him with a drink Roohuphaja, that it was some time in June or July 2004, that Zameer while in custody told me that he had been to Pakistan for training with Lashkar-e-Toiba and that he had taken the training for 10 days. Witness volunteers- I had stated so under the pressure of the ATS as the army had forced me to give such a statement before the television.

17. I am a Mujaheeddin and I was in the Pakistan army. After my arrest I am afraid of the Indian army as I was beaten. I am afraid of the ATS because of fear of being beaten again. I did not tell the magistrate that I am afraid of the army and the ATS, as the police

were standing behind me. Even now I am afraid as I am going to be taken back by the police. It is true that I have not complained about it before this court. I am not afraid of Lashkar-e-Toiba as I have no connection with it. I do not know whether the objectives of Lashkar-e-Toiba and Al-Badar are the same. Al-Badar is not against India. Its objective is to give freedom to Kashmir. I do not know any other organizations having the same objective. The reason for the anti-India sentiments in the entire Pakistan may be because of border dispute and the wars.

18. (Witness is shown Ext.947). It is true that the signature below Ext.947 was made by me, but it is not my true signature. The handwriting of Ext.947 is also mine. It was taken at Bhoiwada before going to the prison after I was brought here from Srinagar. (Witness is shown Ext.948). It is true that the signature below Ext.948 was made by me, but it is not my true signature. The handwriting of Ext.948 is also mine. I was taken to Bhoiwada before going to the prison after I was brought here from Srinagar. It is not true that I am falsely avoiding to name the Lashkar-e-Toiba and I am falsely stating that it is Lashkar-e-Islam. It is not true that wherever I have stated

about Lashkar-e-Islam in fact it is concerning Lashkar-e-Toiba. It is not true that the entire funding and control of all the Mujaheeddin is by the ISI Pakistan. It is not true that wherever the reference of the ISI comes, I deliberately avoid to state about it and mentioned the name of Al-Badar. It is not true that I stated falsely that after my arrest the Indian army pressurized me to give a false statement before the television. It is not true that I deposed falsely that when I was in the Bhoiwada lockup, the accused whom I pointed out (accused no.9 Muzzammil) was there and the ATS police beating him on his hands by hunter, that one Shakil from Nagpur was also there and was being beaten by the ATS, that it was Abu Tarique who had told me in a wedding a few days before my arrest that the bomb blast at Mumbai were carried out by Lashkar-e-Toiba, that wherever his name has come in my statement, I have falsely stated that he was Abu Sharique and not Abu Tarique, that he also informed me that there were 15-16 persons involved in it from Pakistan and India, that he told me the name of one of them as Abu Muslim Jarrar, that he also told that two of them were killed and the rest returned alive, that when I was in police custody in Bombay I was kept in lockup, that there were other

persons kept in separate lockups, that they were Faisal, Zameer, Muzzammiil, Shakil Warsi, Dr. Tanveer, that I have met Faisal during my training in Muzaffarabad, Eth Mukam, Chela Bandi Pool, near Nisar Shahid Camp, that he was taking training in Lashkar-e-Toiba, that the training camp was on a hill and we were on the plane where there was launching, that I had served him with a drink Roohuphajha, that it was some time in June or July 2004, that Zameer while in custody told me that he had been to Pakistan for training with Lashkar-e-Toiba and that he had taken the training for 10 days and not to tell this to the police. It is not true that I know that all the accused sitting in the dock are terrorists and therefore I deposed falsely to save them.

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

(Ms. Rasal h/f Rasal submits that he will come after some time as he is busy elsewhere).

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

19. I was brought to Mumbai on 26/04/11. I was produced before this court on 29/04/11. From Jammu to Mumbai I was brought by train. One officer from the ATS and 5-6 guards were with me. They

were from Maharashtra. The ATS officer was by name Vijay. He is the same officer who had taken me in an aeroplane to Srinagar in 2006. We reached Mumbai in between 2.00 to 3.00 p.m. I was taken to the ATS office at Bhoiwada from the railway station. We reached the ATS office within 5-10 minutes after getting down from the train. I was taken to the Byculla prison from there in the evening. I was lodged in the prison at 8.55 p.m. There was one officer by name Agrawal, but I am not sure whether it was his real name, but he had stated so to me and there were three-four more officers at the ATS office, whose names I do not know. I wrote the letters Exts. 947 and 948 at the instance of the ATS officers and I wrote what they instructed. It is not true that I was in the ATS office for about 5-6 hours, but I was there for about more than 3 hours. It is true that during this period I was instructed to give my evidence in the court as per the statement that was taken from me earlier. I was with the ATS officers and the guards from 23 or 24/04/11 in the journey upto Mumbai. It is true that I did not write the letters Exts. 947 and 948 on my own, but I wrote them because of the pressure of the ATS. I wrote the words that were suggested by the ATS officers.

20. I am in custody from 27/07/06 till today. I had no information about the bomb blasts in Mumbai before my arrest. The ATS, Mumbai had come to take me after about 1 month or 1 ¼ month after my arrest. I was first taken to the ATS office at Bhoiwada when I was called to Mumbai. I do not remember the date of my arrest in this case. I was not given any information as to the reason for my arrest and it was not given to my family members also. I do not remember the date when I was taken before the magistrate, but it may be one or two days after I reached Mumbai. I was kept only in the Bhoiwada lockup when I was in the custody of the ATS police. I do not remember for how many days or months I was in the police custody. I cannot tell the date when I was taken to the Arthur Road Jail after the police custody. I do not remember for how many days I was in the prison. I was taken to the court once or twice during the period when I was in the prison. I cannot tell the date on which I was instructed by the army to give the statement before the television and when it was telecast. I do not know whether I was arrested by the ATS at Dist. Kulgam or at Mumbai. When my custody was taken from Kulgam by the ATS, I was told that I was being taken for inquiry in connection

with the statement that I had made on the television.

21. The ATS police started their inquiry with me *en route* to Mumbai itself. It is true that from the first day in the lockup of the ATS office at Bhoiwada, the work of inquiry and taking my statement was going on nearly everyday. I was being inquired for about 9 hours every day on an average from time to time but not at a stretch. Inspector Iqbal Shaikh and ACP Tawde used to inquire with me. One S.P. Bajaj had come to meet me 2-3 times after gaps of four days and had made some inquiries. One more officer had come, but I do not remember his name. (Witness points to PI Mohite of the ATS sitting in the court). He was also there. The officer who inquired with me used to make inquiries about Pakistan, Al-Badar, Lashkar-e-Toiba, Mujaheeddin and the Mumbai Bomb Blasts. It is true that whatever answers I gave were being typed on the computer. They told me that the answers were being typed in Marathi. They did not take my signatures after taking out the printouts. I cannot tell for how many times my statements in Marathi were typed. My statement was typed in English once by officer Iqbal Shaikh. He did not take my signature on the statement. I do not remember the number of pages of that

statement. I do not remember the names of the officers who used to be with him when he recorded my statement and the date of my statement. I do not remember whether it was written after my statement in Marathi. I cannot say the number of pages of the statement in Marathi. (Learned advocate requests that the prosecution be directed to produce the statements in Marathi. Learned SPP submits that the witness was made an accused initially, therefore, there is no question of taking his statements as a witness and producing them). I do not remember the date or month when I was taken back to Kashmir or the period for which I was in Mumbai. I cannot tell for what period I was in the lockup of the police and in the prison in Mumbai. I cannot say for how many times my statements were recorded in English and on what dates. I do not remember the date on which officer Iqbal Shaikh recorded my statement. I cannot tell at what time he started recording the statement and at what time it was over. I do not remember the total number of times that I was taken to the court when I was in Mumbai. I do not remember to which courts I was taken. I was taken to the different courts, but do not remember the dates on which I was taken. I do not remember the

date on which I was taken to the court for giving my statement, but it may be before or after 12.00 hours. I was reached to the prison on that day when night had fallen. It is true that during this period I was in the court premises. From the prison I was taken to the court and back to the prison. Thereafter I took my clothes and I was taken to the ATS. I was taken to the ATS at night. I was taken by flight from the ATS office on the next day morning or the morning of the day after. I was taken before dawn by the ATS to the airport. I was in the ATS office from the time I was brought there from the prison upto the time we left for Kashmir. I was kept there for being sent back to Kashmir. My statement was recorded during this period in connection with Kashmir.

(Adjourned for recess).

Date : 03/05/11

SPECIAL JUDGE

Resumed on SA after recess

22. They inquired with me for about 1 or 1½ hours. I do not remember the dates when I wrote the applications from the Arthur Road Jail. I cannot tell the names of the ATS officers who pressurized me to write the applications. I had once seen the accused whom I

pointed out (accused no.9 Muzzammil) being beaten. I cannot tell the names of the officers, but they were two or three. I had not seen the ATS officers beating the person by name Shakil from Nagpur, but I had seen him lying naked in the lockup having some injuries on his back. When he was with me in the Arthur Road Prison he told me that he was beaten by the ATS. I do not know on what date I was discharged from this case. I cannot tell how many days prior to my statement before the court I was taken to a court. The magistrate did not tell me that I am discharged from this case, but he had told officer Iqbal Shaikh, who told it to me. I do not remember the date when he told me this. This was on the same day after my statement was recorded. No one had told me about it till that time. It is true that I was very much frightened when I was arrested in this case. I felt that I am being falsely involved though I have no concern with the incident. I came to Mumbai for the first time at that time. I was alone during the period of my stay in Mumbai and as there are no relatives here, no one had come to meet me. I was frightened about being involved in this case even when I was taken back to Kashmir. I did not know any person in Mumbai. I did not know any of the accused

that were caught by the ATS in this case. I was thinking that anyhow I should go back to Kashmir. It is true that therefore, I gave the statements and signed on whatever papers that the ATS instructed me to. It is true that because of the fear of the ATS I did not complain to the magistrate. I did not meet any outside person during the period that I was in Mumbai in 2006. I did not get any chance to engage an advocate of my choice. The ATS police did not ask me whether I wanted to engage an advocate. The magistrate also did not ask me at any time whether I wanted the services of an advocate and he did not provide any advocate to me.

23. I know Urdu better than Hindi or English. I do not remember whether the magistrate read over my statement to me and in which language it was written and whether it was explained to me before taking my signature. It is true that in order to see that I go back to Kashmir as soon as possible, I gave statement to the magistrate as per the instructions of the ATS and put my signatures wherever I was asked to. I do not know anything about Al-Queda and I am not concerned with it. It is not true that I did not state the name of Lashkar-e-Toiba when I gave my statements to the police and

magistrate.

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

24. The ATS officers met me once or twice when I was lodged in the Arthur Road Prison in 2006. They had met me in the interview room. They met me for about half an hour. They used to instruct me during this period as to what statement I should give. It is not true that at the time of these interviews the superintendent of that prison Swati Sathe used to remain present. The jail police had taken me to the court for giving my statement. The ATS police had joined us in between. I was taken directly to the court from the prison. The ATS officers were with us during the return journey. The ATS officers had threatened me that I would remain in prison for the rest of my life. They promised that they would send me back to Pakistan. It is true that from the time I was caught by the army, it is my wish that I return back to my country. I have stated this wish to the army and ATS. The ATS used to threaten me as above because of this wish. The ATS had beaten me and tortured me and had threatened that I would be beaten more if I complained to the court. At the same time they used to teach me what to state before the court. The ATS police had shown

me photographs of two dead persons and their statues. It is not true that they told me that those two persons had been killed in encounters. The ATS police had taken me to the hospital other than to the courts and prisons. It is true that at that time also they used to threaten me not to complain to the doctors. The ATS had showed me two persons who were in their custody and had stated that they are Pakistani citizens. Out of them one was from my native place and one was from Bhawalpur. I do not remember whether any Pakistani citizen took seriously ill as he was beaten by the ATS officers and was required to be taken to the hospital.

25. The ATS officer Vijay, who brought me from Kashmir, had threatened me to give evidence as per my statement given earlier and had also promised that I would be sent back to Pakistan. I do not know whether I have killed any civilian in India whenever I crossed the border.

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

26. Declined.

No re-examination
R.O.

(Y.D. SHINDE)

MCOC SPL.21/06

PW 95/51

Ext.952

Special Judge

Date:-03/05/2011

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