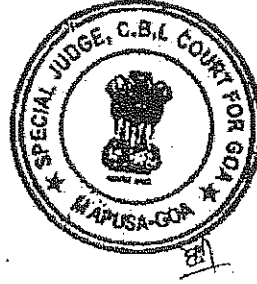


RC 07/2009/NIA/DLI
(338/09 Margo Town P.S.)

&

RC08/2009/NIA/DLI
(114/09 Verna Goa P.S.)

SPL Case (NIA) 01/2013



Presented on : 17.05.2010
Registered on : 17.05.2010
Re-registered on : 26.08.2011
Re-registered on: 13.06.2013
Decided on : 31.12.2013
Duration : Years Months Days
3 7 14

**IN THE COURT OF NATIONAL INVESTIGATING AGENCY
FOR GOA AT MAPUSA,**

(Before Shri P. V. Sawalker, Special Judge, NIA Court for Goa
at Mapusa).

Special Case No.1/NIA/2013
Special Case No.1/NIA/2011(old)
Special Case No.1/NIA/10 (old)

STATE
Through NIA

... Complainant

V/s.

1. Malgonda Patil,
s/o. Siddgonda Patil,
Full time Sadhak (Seeker),
Room No.104,
Sanatan Sanstha Ashram
at Ramnathi, Ponda, Goa.
(Expired).

2. Yogesh Naik,
s/o. Babal @ Puttu Naik,

Teacher cum Sadhak (Seeker),
H.No.147, Waddem,
Telaulim, Ponda, Goa.
(Expired).

3. Vinay Talekar,
s/o. Dayanand Talekar,
Medical representative cum Sadhak (Seeker),
Flat No.2, MRF Housing Colony,
Prabhunagar, Ponda Goa.

4. Vinayak Patil,
s/o. Pundalika Patil,
Driver cum Sadhak (Seeker),
C/o. Sumitra Naik,
H.No.154/11, Durgabhat,
Ponda, Goa.

5. Dhananjay Asthekar,
s/o. Keshav Asthekar,
Student cum Sadhak (Seeker),

Temporary address:
C/o. G.S. Ingle, 3/443,
Samarth Bungalow,
Samarthnagar, Ichalkaranji,
Sangli, Maharashtra..

Permanent address:
Flat No.D-2/207,
Gharda Housing Colony,
at Post Peerlote, Taluka-Khed,
Dist. Ratnagiri, Maharashtra.

6. Dilip Mangaonkar,
s/o. Gurudas Mangaonkar,
Salesman cumk Sadhak (Seeker),
H.No.B/21, Bholwada,
Karapur, Sanquelim Goa.

7. Jay Prakash @ anna,
H.No.2-116, Balhila House,
Nooji Balhila,
Post-Puttur
Dakshin Kannada,
Puttur 574221 Mangalore and
C/o. Mangala M.D. School,
Putur, Mangalore.
(Absconding accused)

8. Rudra Patil.





Soham Mobile Shoppe,
Panchmukhi, Maruti Road,
Gaonbhag, Sangli, Maharashtra
and Flat No.8,
Dattakrupa Appartment,
Joshi Gali, Gaonbhag,
Sangli, Maharashtra.
(Absconding accused)

9. Sarang Akolkar,
s/o. Dilip Akolkar,
D-50, DSK, Chintamani, 519,
Shanivarpur, Pune.
(Absconding accused)

10. Prashant Ashtekar,
s/o. Keshav Ashtekar,
Building No.D-2/207,
Gharda Housing Colony,
at Post Peerlote, Taluka Khed,
District Ratnagiri.

11. Prashant Juvekar,
s/o. Hemant Juvekar, aged 25 years,
r/o. Rajashram, Lower Lane at Post Devrukh,
Ratnagiri, Maharashtra.

.. Accused.

Complainant represented by Ld. Special P.P. Shri S.B. Faria.

Accused no.1 and 2 expired.

Accused nos 3 to 6 and 10 represented by Learned Advocate Shri S. Pulanekar.

Accused nos. 7, 8 and 9 absconding.

Accused No. 11 represented by Learned Advocate Shri A. Prabhudessai.

J U D G M E N T

(Delivered on this the 31st day of the month of December of the year 2013).

Accused nos.3, 4, 5, 6, 10 and 11 have been charged for offences punishable under sections 120B and 121(A) of IPC; sections 16, 18 and 23 of the Unlawful Activities (Prevention) Act

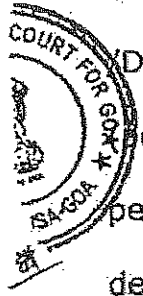
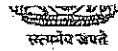
1967, sections 3, 4 and 5 of the Explosive Substances Act, 1908; accused no.4 has been charged for offences punishable under sections 420, 468 and 471 of IPC and accused nos.10 and 11 have been charged for the offence punishable under section 201 of IPC.



2. Briefly, case of the prosecution is as under:-

The deceased accused no.1/Malgonda Patil and the deceased accused no.2/Yogesh Naik along with accused nos. 3 to 6, 10 and 11 and absconding accused nos. 7, 8 and 9 hatched a criminal conspiracy during the period from June, 2009 to October 2009, with the common object or with intention to strike terror in the minds of the people i.e. viewers, organizers and participants of Narakasur vadh competition held on 16.10.2009.

3. In pursuance of said conspiracy, the accused persons brought explosive materials like gelatine sticks, detonators and other accessories like printed circuit boards, transistors, batteries, wires, etc. and made Improvised Explosive Devices (IEDs). They assembled these accessories at the residence of Laximikant Naik, brother of accused no.2/Yogesh at Talaulim, Ponda-Goa. It was their perception that the Narakasur vadh effigy competition was against the Hindu religion and practice. The accused, in pursuance of their conspiracy had prepared the IEDs. They conducted test blast on the hillock behind the residence of Laximikant on 26th, 27th and 28th August, 2009. The accused also conducted a test blasts at Jath Sanoli Maharashtra during the last week of September. This was



conducted by late accused no.1/Malgonda, accused no.5 Dhananjay and the absconding accused Jai Prakash @ Anna (accused no.7), Rudra Patil (accused no.8), and four other unknown persons. Thereafter, in order to accomplish their object, they decided to blast IEDs at five places in Goa on the day of Narakasur vadh effigy competition on 16.10.2009. The accused no.5 had downloaded circuit diagrams using internet. He got the PCBs prepared from Sai shop at Kolhapur. He had purchased the other materials like electronic items, alarm clocks and transistors from different shops. Accused nos. 3 and 4 had purchased SIM cards on 15.10.2009 on fake and forged documents. They had purchased second hand mobiles with intention to use these material to hide their identity during police investigation.

4. They had formed two groups on 16.10.2009, one group comprising of deceased Malgonda and Yogesh for planting IEDs at Narakasur vadh effigy competition at Margao, the other group consisting of Vinay/accused no.3 and Vinayak/accused no.4 for planting IEDs at Sancoale.

5. Accused 3 and 4 succeeded in planting IEDs in a Lorry bearing no. GA-08-U-0029 at Shantadurga Temple, Sancoale on the evening of 16.10.2009. Shri Malgonda and Shri Yogesh died in an explosion that occurred near Reliance Trade Centre, Margao on 16.10.2009 at about 9.30 hours when they were proceeding to the function place of Narakasur vadh effigy competition in Margao. They were

carrying the IEDs under the dickey of Eterno Scooter bearing No. GA-05-A-7800.

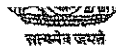
6. It is the case of the prosecution that Vinay/accused no.3, Vinayak/accused no.4 and Dhananjay/accused no.5 were identified by the persons who had sold electronic items to them. Certain recoveries were also made based on the disclosures made by accused nos.3 to 6. According to the prosecution, the accused persons had, thus, indulged in terrorist activities using IEDs which are made in violation of the provisions governing the purchase and possession of explosive material. The accused had thereby attempted to wage war against the Government of India. The accused also have committed offences punishable under sections 120(B), 121(A) of IPC, sections 16, 18 and 23 of the Unlawful Activities (Prevention) Act and sections 3, 4 and 5 of the Explosives Substances Act.

7. The accused were, accordingly, charged.

8. In the course of investigations, accused nos.3 to 6, 10 and 11 were arrested. They were produced before the Court from judicial custody. Copies of the chargesheets were furnished to them. Accused nos.7, 8 and 9 have been shown as absconding. Accused nos.1 and 2 expired in the bomb blast. Prosecution is granted liberty to file separate chargesheet against ^{accused nos.7, 8 and 9} them as and when arrested.



Sanjay Kumar



Arguments before charge were heard. Satisfied that prima facie there is material against the accused, charges were framed for offences punishable under sections 120(B) and 121(A) of IPC, sections 16, 18 and 23 of the Unlawful Activities (Prevention) Act, 1967 and sections 3, 4 and 5 of the Explosive Substances Act, 1908, against the accused nos. 3 to 6, 10 and 11; charges were framed for offences punishable under sections 420, 468 and 471 of IPC against accused no.4 and charge was framed for the offence punishable under section 201 of IPC against accused nos. 10 and 11.

10. All the accused pleaded not guilty and claimed to be tried.

11. The prosecution has examined in all 122 witnesses in support of their case. During the trial, some of the witnesses have produced documents in support of the case of the prosecution.

12. Dr. Mandar Kantak/Pw1 has produced request letter for Postmortem, Police Report at Exh. 31 colly; Memorandum of Autopsy of accused no.1 at Exh. 32; Letters dated 19.10.2009 with Blood Report of deceased accused no.1 at Exh. 33 colly; Correspondence with respect to viscera material of deceased accused no.1 along with forwarding notes at Exh. 34 colly; Letter of request for postmortem of accused no.2 dated 20.10.2009 along with police report at Exh. 35; Memorandum of Autopsy of accused no.2 at Exh.

36; Letter dated 20.10.2009 with Blood Grouping Report of accused no.2 at Exh. 37 colly; Correspondence with respect to vicera material of accused no.2 along with Annexures at Exh. 38 colly.



13. Dr. Sanjay Dalvi/Pw6 has produced hurt certificates of deceased accused no.2/Yogesh at Exh. 49 and that of the deceased accused no.1/Malgonda at Exh. 50.

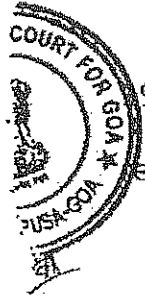
14. Shri Tukaram Chawan/Pw28 has produced panchanama of attachment of mobiles allegedly belonging to accused no.3 Vinay and accused no.4/Vinayak Patil at Exh. 123 and a receipt with respect to said mobiles at Exh. 124.

15. Shri Bharat Kumar/Pw29 has produced an application form for prepaid connection along with Election Identity Card of one Sonia Gaonkar at Exh. 133 colly.

16. PSI Mohan Gaude/Pw32 has produced panchanama of attachment of clothes of the deceased at Exh. 142 and Exh. 143.

17. Shri Sevaram/Pw34 has produced panchanama of attachment of batteries and insulation tape at Exh. 146.

18. Ms. Amrin Sauji/Pw35 has produced application forms for prepaid mobile connections along with Election Identity Card at Exh. 154 colly and another Election Identity Card at Exh. 155.



19. Shri Mohammad Lalmiya/Pw37 has produced extract of a register at Exh. 158.

20. Shri Mahesh Velip/Pw40 has produced panchanama of attachment of letter, prepaid application forms (three in number) at Exh. 165 and letter dated 1.12.2009 at Exh. 166.

21. Shri Mohan Shiroadkar/Pw43 has produced a panchanama of attachment of CDs at Exh. 174.

22. Shri Ravindra Parab/Pw45 has produced an application for prepaid connection along with Election Identity Card at Exh. 180 colly.

23. Shri Gurudas Fondekar/Pw46 produced panchanama of attachment of mobile and SIM Card at Exh. 183 and a receipt dated 1.12.2009 at Exh. 183.

24. Shri Sagar Chowgule/Pw47 has produced panchanama of recovery at the instance of accused no.5 Dhananjay at Exh. 186.

25. Reshma Jadhav/Pw52 has produced a receipt at Exh. 193.

26. Shri Rajesh Sonar/Pw54 has produced panchanama of attachment of PCBs and circuits at Exh. 197 colly along with a receipt.

Santakar

27. Shri Daniel Rodrigues/Pw56 has produced an agreement executed on 28.9.2005 between Dicholi Sanatan Sanstha and Dharma Prachar Sabha at Exh. 202.



28. Sonia Volvoikar/Pw57 has produced an Election Identity Card at Exh. 204.

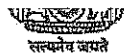
29. Shri Amario D'Souza/Pw61 has produced scene of offence panchanama at Exh. 214 and sketch of scene of offence at Exh. 215 and the photographs of the scene of offence at Exh. 216 colly.

30. Shri Laximikant Naik/Pw65 has produced panchanama of attachment of mobiles at Exh. 222.

31. Shri Suresh Naik/Pw66 has produced inquest panchanama of deceased Malgonda/accused no.1 at Exh. 225 and that of deceased Yogesh/accused no.2 at Exh. 226; search warrant at Exh. 227; panchanamas of house search at Exhibits 228, 229, 230, 231, 232, 233, 234, 235, 236 and 237; attachment panchanama of vehicle No.MH-13-F-9901 at Exh. 238 and the receipts at Exhibits 239 and 240.

32. Shri Premanand Naik/Pw68 has produced attachment panchanama of IEDs found at Sancoale on 16.10.2009 at Exh. 245.

33. Shri Anay Rane/Pw69 has produced house search panchanama dated 5.9.2009 of the house of accused no.4/Vinayak



at Exh. 248 and photographs taken during the search at Exh. 249



34. Shri Brutano Paxito/Pw70 has produced station diary extract of Verna Police Station of 16.10.2009 at Exh. 251; report dated 31.10.2009 at Exh. 252; station diary extract of 17.10.2009 at Exh. 253 and the sketch of the explosive material at Exh. 254.

35. Shri Deepak Lotlikar/Pw71 has produced panchanama of recovery at the instance of accused no.3 Vinay at Exh. 257; receipt at Exh. 258 and the photographs taken during the recovery at Exh. 259 colly.

36. Shri Abdul Latif/Pw72 has produced panchanama of attachment of mobiles from the possession of accused no.6 at Exh. 261 and receipt at Exh. 262.

37. Shri Prabhakar Parwar/Pw73 has produced a letter at Exh. 264 and circuit diagram at Exh. 265.

38. Shri Gistain Pereira/Pw74 has produced panchanama of recovery at the instance of accused no.3/Vinay at Exh. 269 and the photographs taken during the panchanama at Exh. 270 colly.

39. Shri Jerry Fernandes Pw/76 has produced panchanamas of attachment carried out during house search at Exhibits 275 and

276.

40. Shri Gaurav Dhangui/Pw77 has produced panchanama of recovery done at the instance of accused no.3/Vinay at Exh. 278 and the photographs taken during the said recovery at Exh. 279 colly.

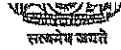


41. Sagar Salgaonkar/Pw79 has produced house search panchanama at Exh. 282 and the photographs taken during the said panchanama at Exh. 283 colly. He has also similarly produced another house search panchanama at Exh. 284 and the photographs at Exh. 285 colly.

42. Shri Anwar Sayed/Pw80 has produced phanchanama of attachment of mobile phones of accused no.5 Dhananjay at Exh. 287.

43. Shri Jitendra Kamat/Pw81 has produced a panchanama of search carried out at the instance of accused no.4/Vinayak at Exh. 290 and the photographs taken during the said search at Exh. 291 colly.

44. Shri Dilip Kanapurkar/Pw82 has produced a panchanama drawn whilst locating and taking prints of circuits from internet at the instance of accused no.5/Dhananjay at Exh. 293; and print-outs taken from the internet of various pages visited during the search



Exh. 294 colly.

Shri Vijay Prabhu/Pw84 has produced panchanama of attachment of the handwriting of accused no.5/Dhananjay at Exh. 298; handwriting of accused no.5/Dhananjay at Exh. 299 colly and the photographs taken during the said panchanama at Exh. 300 colly.

46. Shri Haji Ali B Mulla/Pw85 has produced a panchanama drawn at the instance of accused no.6 Dillip at Exh. 302; sketch of scene of trial blast at Exh. 303 and the photographs taken during the said panchanama at Exh. 304 colly.

47. Shri Ayres D'Souza/Pw86 has produced a panchanama of attachment of the handwriting of accused no.4/Patil at Exh. 306.

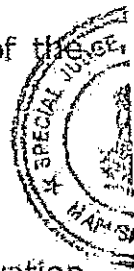
48. Shri Eddie Tavares/Pw87 has produced a receipt along with print outs taken from internet at Exh. 311 colly; ferrite rods at Exh. 312 colly and the photographs at Exh. 313 colly.

49. Shri Kishor Lotlikar/Pw88 has produced a letter dated 20.4.2010 along with a report at Exh. 315 colly.

50. Shri Mahesh Ambekar/Pw89 has produced a letter dated 2.1.2010 along with a statement under section 164 Cr.P.C. at Exh. 317 colly.

Dik

51. Shri Mahendra Bhandari/Pw90 has produced the CDs of the photographs taken on digital camera at Exh. 318 colly.

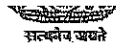


52. Shri Pritesh Naik/Pw92 has produced an observation panchanama dated 2.8.2010 at Exh. 325.

53. Shri Dinesh Naik/Pw93 has produced a letter dated 19.10.2009 at Exh. 328; sketch of scene of offence at Exh. 329; another sketch of the site where the function was held at Exh. 330; letter dated 27.11.2009 at Exh. 331 and blue prints of the sketches drawn at Exh. 332.

54. Shri Mohinder Singh/Pw94 has produced handwriting of accused no.5/Dhananjay at Exh. 337 colly; admitted handwriting of accused no.5 at Exh. 338 colly; a report at Exh. 339; reasons for the opinion at Exh. 340; photographs of the prints of the handwriting at Exh. 341; another handwriting of accused no.4 at Exh. 342 colly; and report at Exh. 343 colly.

55. Dr. Sukhminder Kaur/Pw98 has produced forensic report with respect to the explosive materials sent to her at Exh. 351 colly; examination report at Exh. 352; letter dated 31.3.2010 with Annexures at Exh. 373 colly; report dated 9.7.2010 at Exh. 374; letter dated 27.11.2009 with Annexures at Exh. 375 colly; examination report at Exh. 376; letter dated 13.11.2009 for the



expert opinion with Annexures at Exh. 377; examination report dated 31.5.2010 at Exh. 378; and letter dated 2.7.2010 at Exh.

379.

371

56. Dr. Wasif Akil Ahmad/Pw99 has produced a letter dated 15.1.2010 at Exh. 354 dated 15.1.2010 at Exh. 355 and an application for admission by accused no.5/Dhananjay with Annexures at Exh. 356.

57. Shri Meran Shaikh/Pw100 has produced an observation cum printing out memo at Exh. 358; examination report at Exh. 359, 360; an observation cum printing out memo at Exh. 361; production cum receipt memos at Exh.s 362, 363 and 364 colly; a letter with certificate and Annexures at Exh. 365 colly; and panchanama dated 6.7.2010 at Exh. 366 colly.

58. Shri Ismail Jabiulla/Pw101 has produced an observation cum print out/certificate dated 23.8.2010 at Exh. 371.

59. Shri Levinson J. Martins/Pw102 has produced Memos of Identification Parades at Exh. 384 colly.

60. Shri Arjun Kumar/Pw103 has produced panchanama drawn at the instance of accused no.3 at Exh. 389.

61. PI Shri Jiyba Dalvi/Pw104 has produced complaint at Exh.

393.

62. PI Shri Santosh Dessai/Pw105 has produced a complaint Exh. 400 and FIR at Exh. 401.



63. Shri P. N. Ramakrishnan/Pw107 has produced examination report at Exh. 406.

64. Shri Anil Kumar Yadav Kumar/Pw112 has produced a letter dated 30.11.2009 with annexures at Exh. 419 colly; letter dated 30.11.2009 with Annexures at Exh. 420 colly; letter dated 14.12.2009 with report at Exh. 421 colly, letter dated 14.12.2009 with examination report at Exh. 422 colly; and letter dated 12.12.2009 at Exh. 423.

65. DySP Shri S.S. Bakshi/Pw113 has produced a receipt memo at Exh. 427 and three sketches at Exh. 428 colly.

66. Shri Neh Srivastava/Pw114 has produced letters dated 14.5.2010 at Exh. 434 and dated 1.12.2010 at Exh. 435.

67. DySP Shri Bossuet Silva/Pw115 has produced an order dated 19.10.2009 at Exh. 442; attachment panchanama at Exh. 443; panchanama of specimen handwriting of accused no.5 Dhananjay at Exh. 444; panchanamas of attachment of application form for prepaid connection at Exh. 445; letter dated 15.12.2009 at Exh.



446; letter dated 20.9.2008 at Exh. 447; letter dated 15.12.2009 at Exh. 448; dated 25.12.2009 at Exh. 449; and attachment panchanama dated 18.11.2009 at Exh. 449-A.

68. SDPO Shri Mohan Naik/Pw116 has produced a letters dated 27.11.2009 at Exh. 461, dated 5.12.2009 at Exh. 462 and dated 7.12.2009 with CDRs and SDRs; letters dated 5.12.2009 at Exh. 464 and dated 23.11.2009 at Exh. 465; receipts dated 11.12.2009 at Exh. 466 and dated 12.12.2009 at Exh. 467.

69. Shri S. Vijayan/Pw117 has produced panchanama dated 28.2.2010 at Exh. 456 and dated 10.4.2010 at Exh. 457.

70. Shri S. Madhusudhan Gupta/Pw120 has produced a letter dated 14.8.2013 at Exh. 472; certificate with Annexures at Exh. 473 colly; letter dated 4.6.2012 at Exh. 474 and an e-mail at Exh. 475.

71. Shri Kandula Suresh/Pw121 has produced a certificate at Exh. 477 and an analysis report at Exh. 478.

72. Statements of the accused under section 313 Cr.P.c. were recorded.

73. The defence of the accused is that they have been falsely

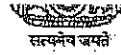
implicated in the case; that their signatures were obtained at different places by the investigating officers on blank papers; that they were taken at various places and photographs were taken; and that they do not know why they were taken to these places. Accused nos. 3 and 4 have also stated that they have a garden close to their house and that police had attached various items from the garden for no reason.



74. The accused have also examined Shri Naguesh Gaude as Dw1 in support of their defence. He has produced the photographs at Exh. 491.

75. Arguments have been heard. Learned Special P.P. Shri Faria argued on behalf of the complainant/State, learned Advocate Shri Punalekar argued on behalf of accused nos. 3 to 6 and 10 and learned Advocate Shri A. Prabhu Dessai argued on behalf of accused no.11. Shri Faria, learned Special P.P. submitted that the prosecution case is based on twelve circumstances namely:-

1. Motive of the accused.
2. The involvement of accused in the activities of Sanathan Sanstha.
3. The members of the Sanathan Sanstha had been objecting the narkasur effigy competition till 2008 and they did not object it in the year 2009.
4. That there was a conspiracy amongst the accused who are the members of the Sanathan Sanstha to create



terror and communal harmony at the places during the Narakasur competition at Madgaon and Vasco.

5. That in pursuance of the said conspiracy accused purchased various items/articles from different places to prepare bombs to be used during the celebration of Narakasur competition.
6. That the accused along with other absconding accused prepared the bombs and held test blasts on a hillock at Ponda, behind the house of Laxmikanth Naik (Pw65) who is the brother of deceased accused Yogesh Naik.
7. That on the day of Narakasur competition i.e. 16.10.2009 an explosion took place at Madgaon behind Grace Church in which two Sanathan members i.e. accused 1 and 2 expired, when they came to Madgaon to plant them near the place of competition where a big gathering of the people including C.M. of Goa, MLA and other VIPs were participating.
8. Unexploded live IED was planted in a truck at Sancoale by the accused which came with a Narakasur effigy and the same was recovered and defused.
9. That the unexploded explosive articles attached/recovered were sufficient to cause explosion and to cause damage.
10. That the articles recovered/attached u/s 27 of the IE Act were purchased by A-3 and A-5 from different places.
11. That the accused no. 3 and 4 purchased SIM

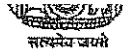
cards from different dealers of Vodafone and Reliance by committing impersonation and forgery.

12. That the presumption u/s 43E of the UA(P) Act applicable in this case.



76. He has submitted that by examining the witnesses prosecution has succeeded in proving all the circumstances; that chain pointing out to the guilt of the accused is proved beyond reasonable doubts and therefore, accused should be convicted. In support of his contention he has relied on the decisions in the cases of :-

1. Krishna Mochi V/s. State of Bihar (AIR 2002 SC 1965)
2. Navjot Sandhu @ Afsan Guru V/s. State (N.C.T. of Delhi) (AIR 2005 SC 3820);
3. A.N. Venkatesh and Anr. V/s. State of Karnataka (AIR 2005 SC 3809);
4. Yoonus, S/o. Ali, Vellilavunkal V/s. Deputy Superintendent of Police (Criminal Appeal 2228 of 2010);
5. State of Maharashtra V/s. Damu S/o. Gopinath Shinde and others (AIR 2000 SC 1691);
6. State V/s. Mohd. Afzal and Ors. (2003 VIIAD (Delhi));
7. Mohammed Ajmal Mohammad Amir Kasab V/s. State of Maharashtra (AIR 2012 SC 3565);
8. State of Himachal Pradesh V/s. Jeet Singh (AIR 1999 SC 1293);
9. Narayan Chetanram Chaudhary & Anr. V/s. State of Maharashtra. (AIR 2000 SC 3352);



10. Girishbhai Natvarbhai Patel V/s. State of Gujarat (2006 Cr.L.J. 3378);

11. Updesh @ Chintu V/s. State (2012 (2) JCC 935).

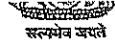
77. On the other hand, learned advocate Shri Punalekar after going through the testimonies of all the witnesses submitted that the testimonies of these witnesses are not reliable; that FIR discloses that the entire investigation was made for a premeditated result; that investigation was misdirected; that the chain required to be completed pointing out the guilt of the accused is not complete; that the alleged recovery made is insignificant and irrelevant; that prosecution has failed to establish any conspiracy between the accused; that sanction required to be obtained under the Explosive Substances Act has not been granted by the concerned authority and, therefore, invalid; that the sanction granted under the Unlawful Activities (Prevention) Act is void and vitiated; that the decisions relied upon by the prosecution are not applicable to the facts of the case and therefore, the accused should be acquitted. In support of his contentions he has relied on the decisions in the cases of :-

- 1. Deepak V/s. State of Rajasthan (2003 Cr.L.J. 4736);**
- 2. Khashaba Maruti Shelke V/s. State of Maharashtra (AIR 1973 SC 2474);**
- 3. Vijay Singh V/s. State & anr. (Criminal Appeal 819 of 2012);**
- 4. Mousam Singha Roy and Ors. V/s. State of West Bengal (2003) 12 SCC 377;**
- 5. Murlidhar s/o. Ishwar Suryawanshi (Criminal**

Appeal 158/98;

6. **Sau Geeta w/o. Ashok Kharkate and ors. V/s. The State of Maharashtra (Criminal Appeal 99/2003);**
7. **Baburam V/s. State of Madhya Pradesh (Appeal (Crl.) 1913 of 1996;**
8. **Sunil Kundu and anr V/s. State of Jharkhand (2013 STPL (Web) 283 (SC));**
9. **Salim Akhtar @ Mota V/s. State of Uttar Pradesh (AIR 2003 SC 4076);**
10. **Noor Mohammad Mohd. Yusuf Momin V/s. The State of Maharashtra (1970) (1) SCC 696;**
11. **Arun Gulab Gawli V/s. State of Maharashtra (2007 Cr.L.J. 3622;**
12. **Sharad Yadav and Ors. V/s. Union of India (UOI) and Anr. (1999 (VI) A.D. (Delhi) 821);**
13. **Jasbir Singh V/s. State of Punjab (AIR 1998 SC 1660);**
14. **Rajaram s/o. Tulshiram Mane V/s. State of Maharashtra (2010 ALL MR (Cri)1492);**
15. **Kartar Singh V/s. State of Punjab (AIR 1995 SC 1930);**
16. **Kartar Singh V/s. State of Punjab (AIR 1993 SC 341);**
17. **Lachman Singh and Ors. V/s. The State (AIR 1952 SC 167);**
18. **Pohalya Motya Valvi V/s. State of Maharashtra (AIR 1979 SC 1949);**
19. **Emperor V/s. Shivputraya Baslingaya (126 IND CAS 876);**
20. **Govind Krishna Jadhav V/s. State of Maharashtra (1980 MHLJ 72);**
21. **Moti Lal V/s. The State (AIR 1959 Patna 54);**
22. **Aloke Nath Dutta and ors. V/s. State of West**





Bengal (2006 (13) Scale 467);

23. Bishan Singh and ors. V/s. State of Punjab (AIR 1983 SC 748);

24. Hitendra Vishnu Thakur and others. V/s. State of Maharashtra and others. (AIR 1994 SC 2623);

25. Javed @ Java Ahmed Mohammed Akbar Bhatt and ors. V/s. The State of Maharashtra 2007 (CrLJ 1386); and

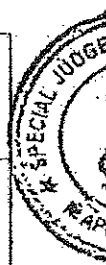
26. Vilas Vasantrao Patil V/s. The State of Maharashtra, Through-Bhandup Police Station. (1996 Cr.L.J. 854).

78. Shri Prabhudessai, learned advocate for the accused no.11 submitted that complicity of accused no.11 in the alleged offences is not at all established; he has been falsely implicated in the case; there is no iota of legal evidence against accused no.11 and therefore, he is entitled for an acquittal.

79. From the arguments advanced, the following points arise for my determination and my findings on them are as under:-

Points	Findings
1. Whether the accused had committed a terrorist act?	Negative
2. Whether accused had hatched a conspiracy to commit a terrorist act?	Negative
3. Whether the accused in furtherance of conspiracy had caused/attempted to cause explosions likely to/with intent to endanger life and property?	Negative
4. Whether the accused in furtherance of conspiracy made or possessed explosives under suspicious circumstances?	Negative

5. Whether the accused no.10 had caused disappearance of evidence of offence?	Negative
6. Whether the accused had waged war against the Government of the State of Goa?	Negative
7. Whether accused no.4 had dishonestly induced Shri Mohamad Jaffar to deliver to him SIM cards with evidence to use the same for the purpose of cheating?	Negative
8. Whether the accused the no.4 had forged two application forms of prepaid Vodafone SIM cards and had used the same as genuine?	Negative
9. Whether the accused nos 3 and 4 had purchased SIM cards and mobile handset on fake and forged documents from Gonsalves Tours and Travels, Vasco.?	Negative



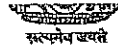
REASONS

80. **Point Nos. 1, 3, and 4:-** The points at serial nos. 1, 3 and 4 are taken together for discussion for the sake of convenience.

81. It is the contention of learned Special PP. Shri Faria that the accused are members/Sadhaks of Sanatan Sanstha, an organization which stands for betterment of Hindu religious rites; that they have been objecting for holding of competitions of Narakasur effigy vadh and had asked the organizers to stop the competition; that it was their belief that as the ^{effigy} ~~idol~~ of Krishna is made of smaller size than that of Narakasur, the demon Narakasur was glorified and that with the motive of protesting and stopping the competition, Sanatan Sanstha wanted to cause an explosion at different places in Goa.

said competition or may be six to seven years prior to that, Sanatan people were coming near their stage with placards stating not to organize Narakasur competition; that such competitions should be organized; that they had even complained to the Collector and every year this was happening; that there was a meeting organized by the Collector between them and the Sanatan people in respect of the subject of not holding the competition; that during this meeting the Sanatan people were requesting them to make Narakasur effigy of a smaller size and that of Krishna of bigger size; that they had explained that competition was of Narakasur vadh i.e. destruction of Narakasur; and that he had heard that the injured persons in the bomb blast were connected to Sanatan and that they had come to create chaos in their competition. He has then stated that may be the incident which had occurred behind Grace Church was to happen at their competition place.

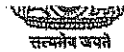
85. In his cross examination, he has stated that the other active members of the said Solid Party Trust are Raju Shirodkar, Vinay Sambari and Mr. Rupesh Mhatme. He has admitted that in the meeting which was held by the Collector, members of Solid Party Trust as well as members of Sanatan Sanstha were present; that none of the accused persons were present in the said meeting; and that the deceased Malgonda Patil was not present for the said meeting. He has further stated that he did not know said accused no.1 Malgonda Patil; that he cannot say whether abusive words were used by the said people of Sanatan Sanstha; that during last



In support of this, the prosecution has examined various witnesses.

83. Shri Nitin/Pw12 is founder member of Solid Party Trust, Margao. He has testified that initially they were engaged in playing cricket; that thereafter they started an organizing other things like Narakasur competition, rangoli competition, etc.; that they started Narakasur effigy competition since last fifteen years; that people all around Goa used to take part in the competition in groups by forming Narakasur effigies; that initially the competition was held in front of Margao Post Office; that thereafter it was shifted in front of the building of Collectorate and thereafter it was held near Municipality in front of Caro Centre; that this competition is normally held on the night prior to Diwali day; that in the year 2009 it was held on the night of 16.10.2009; that two stages were erected one for the Chief Guest and other guests to sit and watch the competition and the other for the children to sit; that the procession of the groups who participate in the competition starts from opposite the Comunidade building from where they have to take a turn towards Municipality; that groups kept on coming from Collectorate side; that on that night competition started at around 8 pm; that around 50,000 people had gathered including the Chief Guest, Chief Minister, MLA Damu Naik and other guests sitting on the stage.

84. He has further testified that since four to five years prior to



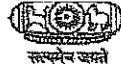
to seven years when the Sanatan Sanstha people were demonstrating against their competition, they were screaming; that they did not lodge any complaint against Sanatan people with the police; that the Narakasur competition includes dancing, lot of music and some words being uttered loudly; that no letters were written to their Solid Party Trust by Sanatan Sanstha in respect of this competition; and that the place where the said blast had occurred does not fall in the way by which the processions of the groups for the competition had to move. He has then admitted that even after the blast they organised same competition at the same place; that no authority like the police or otherwise had told them that there is a threatening and they should not hold such competition; that personally he is not sure that anybody is going to create any problem in holding Narakasur effigy competition; he has feigned ignorance on whether the objection from the members of Sanatan Sanstha were regarding late night functions, people coming with consumption of liquor and eve teasing during the said function. He has stated that there was no such allegation during the meeting held before the Collector and the objection was only to the size of Narakasur effigy compared to the smaller ^{one} that of Krishna; that the Collector had told them that meeting was kept on account of complaint received from Sanatan Sanstha; and that no members of Solid Party Trust or functionaries of the said Trust have ever filed any complaint against Sanatan Sanstha or any of their members.

86. Shri Vinay Sambhari/Pw14 is President of Solid Party Trust.

He has testified that this was the third year that he continued to be the President; that they had been holding said Narakasur effigy competition for last sixteen years; that presently the venue of the competition is in front of Caro Centre near Margao Municipality; that he knows Sanatan Sanstha with office at Ponda; that members of Sanatan Sanstha had not directly approached them objecting to the Narakasur effigy competition but they used to complain to the collector to stop the said competition; that the Collector used to take meeting between them and members of Sanatan Sanstha; that before the start of the competition the members of Sanatan Sanstha used to come to their place with placards put around their necks, shout slogans and go away; that slogans were to stop Narakasur competition; that before the Collector members of Sanatan Sanstha used to say that they were giving more importance to Narakasur than to Lord Krishna; that Narakasur was a demon and he should not be given more value; that that was the contention of members of Sanatan Sanstha; and that they used to tell the members of Sanatan Sanstha that theirs is only a Narakasur vadh competition which has now become a tradition.



87. In his cross examination, he has stated that he has been member of a club which subsequently was converted into a trust; that there were about two or three yearly meetings taken by the Collector before the competition; that none of the accused persons were present in those meetings; that deceased accused no.1/



Malgonda Patil and accused no.2/Yogesh Naik were also not present for said meetings; that members of Sanatan Sanstha used to come with placards only prior to the competition; that they never created any problems for the competition. .

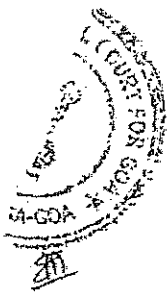
88. Shri Rupesh/Pw15 is the General Secretary of the Solid Party Trust. He has testified that Solid Party Trust organizes Narakasur effigy competition on the eve of Diwali festival at Margao; that the venue is near Margao Municipality in front of Caro centre; that since last six to seven years the members of Sanatan Sanstha used to object to their holding of Narakasur effigy competition; that they used to complain to the Collector, South Goa; that the Collector used to hold meeting of members of Solid Party Trust, Sanatan Sanstha, police personnel, Mamlatdar, etc; that in these meetings there used to take place discussions; that in the meetings too, members of Sanatan Sanstha used to object to holding Narakasur effigy competition and threaten them to stop the same.

89. In his cross examination, he has stated that every year there is heavy bandobast for this competition; that they secure bandobast by addressing a letter to the police; that this security is asked for in order to control the traffic and to control the public; that such security is also asked to prevent thefts, pick pocketing and quarrels amongst the public; that he did not read anywhere that even this year the Sanatan Sanstha had lodged its objection for holding Narakasur effigy competition; that this year also the Collector had

called for meeting in respect of the Narakasur effigy competition; that for this meeting no member of Sanatan Sanstha was present; that this meeting was between him, President Vinayak, police personnel and Government officers; that in the said meeting the discussion was on the point as to how to maintain peace and public order during the said competition; that though in the meeting there was discussion on law and order problem, there was no discussion at all on Sanatan Sanstha; that even during the previous meetings, the main thrust was on the peace and public order during the competition although there was also the subject of the objection by members of Sanatan Sanstha discussed; that he has been active in social and political activities; that except for the bomb blast that had occurred in that year there was no serious incident of harm to public peace or anything creating social tension in Margao for last ten years; that he does not know whether the Collector had taken any meetings for law and order problem or any other issues than Narakasur effigy competition; that he does not know the two persons accused no.1 and accused no.2 injured in the bomb blast; that this year the Trust had not written any special letter to the police or Collector or any other authority to take any special security measures in connection with Sanatan Sanstha; and that he does not know any of the accused persons.

90. A perusal of the above testimonies will show that the organizers of the competition i.e. Solid Party Trust did not have any grievance against Sanatan Sanstha. All the witnesses have also





admitted that the alleged members of Sanatan Sanstha always used to come with placards in their neck objecting to the holding of such competitions, give slogans and go away. The evidence reveals that these objections were being raised by the members of Sanatan Sanstha for a period of about six to seven years. The witnesses have also admitted that at no point of time these objectors had created any act of violation.

91. The witnesses have also admitted that the Sanatan Sanstha also used to write to the Collector raising objections about holding of such competition. The above witnesses have admitted that the objections of the Sanatan Sanstha was not for not holding such competitions, but only to the projection of Narakasur who even these witnesses admit was a demon. All the above witnesses have admitted that Sanatan Sanstha wanted the organizers to see that effigy of Narakasur was made of a smaller size and that of Krishna of a bigger size so that no value is given to Narakasur who according to them did not deserve such projection.

92. The witnesses have also stated that there were meetings held before the Collector in connection with the objections raised by Sanatan Sanstha as well as for the purpose of preventing thefts, pick pocketing, quarrels amongst the public but to control the traffic and the public. The witnesses have admitted that the members of Sanatan Sanstha had never created any problem for the competition. From their testimonies it is clear that they never apprehended any violence from the members of Sanatan Sanstha.

It is pertinent to note that even after the blast in the meeting held between the Collector, police officers and the organizers, the subject of the members of Sanatan Sanstha creating any problem in the competition was not discussed. Shri Rupesh/Pw15 who is General Secretary of the Trust, has also admitted that the main thrust of the meetings was always peace and public order although objections by members of Sanatan Sanstha were taken up for discussion. He has also admitted that except for the bomb blast that had taken place in that year, there was no such incidence of harm to public peace or anything creating social tension in Margao for the last ten years or more.

93. A suspicion is sought to be raised on Sanatan Sanstha on the ground that in 2009 the Sanstha had not raised any objection. However, although it is alleged that every year Sanstha used to write letters to the Collector, except one letter, no such letters are produced. It is also contended that members of Sanstha did not attend the meeting before Collector in that year. There is, however, no evidence to show that Collector had invited the Sanstha members for the meeting. In case they were not invited they could not be expected to attend the meeting. The suspicion raised is, therefore, without valid evidence.

94. Shri Swapnil Naik/Pw62 is associated with Sanatan Sanstha, Raminathi since about ten years. He has testified that he was driving the vehicle of the Sanatan Sanstha Ashram; that he was

doing the work of picking up and dropping the guests of the Ashram.

95. In his cross examination, he has admitted that Sanatan Sanstha was opposed to the concept of Narkasur competitions; that opposition was, mainly, on account of children drinking alcohol, extracting money from people and eve teasing. He has also admitted that there is a lot of opposition to Narakasur competitions by the people of Goa for the same reasons; that Sanatan Sanstha was also opposed to the concept of Old man, Shigmo and carnival competitions for the same reasons. He has also admitted that there is political rivalry between Ravi Naik and Sudhin Dhavalikar over Madkal constituency over a period of time till today.

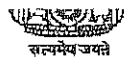
96. The prosecution has not declared this witness hostile. This witness has admitted that the main opposition of Sanatan Sanstha for holding of Narakasur effigy was on account of children drinking alcohol, extracting money from people and eve-teasing. He has also admitted that there is opposition for this competition from the people of Goa on account of same reasons. Prosecution has neither declared this witness hostile nor has disputed his said testimony. His testimony, therefore, does not support the case of prosecution.

97. It is the case of the prosecution that the accused as members of Sanatan Sanstha wanted to terrorize people by bomb blast so that the aim of Sanatan Sanstha to stop these competitions could be achieved. The prosecution has examined Shri Phillip

Mascarenhas/Pw31 who has testified that he was Sarpanch of Village Panchayat of Guleli; that he resides at Dhamshem; that Dr. Pandurang R. Marathe stays at a distance of 500 metres from his house; that he had seen hoardings, pamphlets, of said Sanstha in and around the house of said Dr. Pandurang; that said Marathe along with his wife had joined the Sanstha; that members of the Sanstha used to stay and hold camps in his house property; that they used to wear a type of military uniform, undertake strenuous physical exercises, ride horses and take firing practice; that these types of activities took for about two years even in his absence and that he had heard that Sanstha had ashram at Ramnathi, Ponda Taluka.



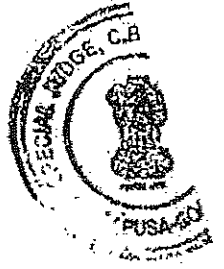
98. Shri Hanumant Naik/Pw106 is resident of Durbhat, Ponda. He has testified that he is convener of Bandora Young Zagrutu Manch; that this society is formed in the month of November, 2009 after the bomb blast at Margao; that Sanatan Ashram has its own building at Ramnathi; that it is situated at a distance of 100 metres from the temple of Ramnath Devasthan; that bomb blast was the first of its kind in the State of Goa; that after the bomb explosion people of the village learnt that the Sadhaks of Sanatan Sanstha were involved in causing the bomb explosion during Narakasur procession held during the eve of Diwali; that village held meeting at night and decided to oppose Sanatan Sanstha as it was spoiling the name of their village by causing explosions and involving in such activities; that villagers held a morcha which culminated in a



public meeting in which the acts of Sanatan were condemned; that the ashram was set up at Ramnathi four to five years prior to the incident of explosion; that Sanatan always opposed the traditional activities held in the village including making of Narakasur effigies, taking processions and holding competitions; that Sanatan used to give news reports against such activities in its paper; that some of the Sadhaks used to personally convince the villagers not to make Narakasur effigy, take processions and hold competitions; that they used to tell the villagers to make big effigy of Shri Krishna and also propagate the ideology concerning religious beliefs and practice amongst the villagers; that the villagers decided not to allow Sanatan to conduct such activities in their village; that Sanatan Sanstha has its own newspaper; that this paper publishes articles criticizing other religious practices; that they also advocate stopping of practice of taking Narakasur processions and holding competitions; and that he does not know any of the accused present in the court.

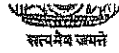
99. Shri Vasant Bhat/Pw110 is President of Bandora Jan Jagruti Manch. He has testified that the Manch was formed with object to create social awareness amongst the local residents; that they used to create awareness about other organizations which would disturb peace of the locality; that they used to organise patriotic programmes, singing competition of patriotic songs, medical camps, poojas, etc.; that sometime in the year 2005, Ashram of Sanatan Sanstha was set up at Ramnathi; that the locals opposed the

setting up the Ashram of Sanatan Sanstha at Ramnath because the Ideology of Sanatan Sanstha was not acceptable to the local residents; that the members of the Sanatan Sanstha used to walk on the roads in romantic mood, holding hands and this was not acceptable to the village elders and other residents; that the Manch had more than 200 members; that they have been holding Narakasur competitions since several years; that Sanatan was objecting to said competitions; that Sanatan propagated that Narakasur was a demon and should not be glorified; that in fact they were not glorifying Narakasur but effigies of Narakasur were made and burnt and that the daily published by Sanatan contain news items and articles with communal disharmony amongst Hindus, Muslim and Catholics.



100. In his cross examination, he has stated that his brother has a shop at Ramnathi; that there is a hotel next to his shop; and that he had heard that in the year 2012, Sanatan Sanstha and Hindu Jan Jagruti held a conference in the hall of Ramnathi Devasthan. He has admitted that Sanatan Sanstha had lodged a complaint against him and two others alleging that they had pelted stones on the ashram and that said case is pending before the J.M.F.C., Ponda. He has also admitted that a contempt notice was issued by Margao District Court against him and Raju Naik, Editor of Lokmat for publishing an article in the Daily Lokmat. He has then stated that said contempt petition has been dismissed.

Santakar



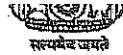
101. The testimony of Shri Vasant/Pw110 reveals that there is some dispute between him and the Sanatan Sanstha. There is also a criminal litigation pending against him on account of a complaint made by the Ashram members. At the instance of Sanatan Sanstha, District Court Margao, admittedly, had also issued a contempt notice against him. The relations between this witness and the Sanstha are, therefore, obviously inimical. The witness also appears to have grievance against Sanatan Sanstha since they were propagating that narkasur was a demon and that Narakasur competition should not be held. This witness as well as Hanumant Naik Pw106 are members of Bandora Jan Jagruti Manch. This society was specifically formed in the month of November, 2009 after the bomb blast at Margao. The aim of this society was to create social awareness amongst the local residents and about other organizations which would disturb peace of the locality. Pw110 has testified that they used to organize patriotic programmes, singing competition, medical camps, poojas, etc. and had also been holding Narakasur competitions since several years. Holding of such competitions was admittedly opposed by Sanatan Sanstha. These witnesses, therefore, had reasons to make a grievance against Sanatan Sanstha. The testimonies of these witnesses, in the background, will not help the prosecution to support its case that Sanatan Sanstha was against holding of competitions. The only grievance of Sanatan Sanstha as admitted by the witnesses of the prosecution, was against glorifying of Narakasur. They did not have any objection for holding these

competitions by making effigies of Narakasur. It was only their contention that by making bigger effigy of Narakasur, the organizers were trying to glorify the demon. The objection of Sanatan Sanstha was also on account of harassment caused by public through such competitions. These objection are also confirmed by the testimony of DySP Umesh Gaonkar/Pw108.



102. DySP Shri Umesh Gaonkar/Pw108 has testified that narkasur effigy competition is held every year; that they used to receive letters from Sanatan Sanstha stating that they should not permit such competition and encourage glorifying of Narakasur being a demon; that the letters used to contain threats; that such letters were also addressed to the Collector of South Goa District; that in view of the said threats and to avoid any untoward incident they used to deploy police force at the time and place of the competition; that around 30 to 40 groups used to participate in the said competition; that no such threatening letters were received from anybody else other than Sanatan Sanstha.

103. In his cross examination, he has stated that though letters received from Sanatan did not contain direct threats to life, it could be interpreted to mean that they were opposing Narakasur competition and that they would create public to disturb the said competition; that he had not heard about any such incident committed by the Sanatan in Goa, although he had heard that Sanatan was involved in SIMilar incident in the State of Maharashtra; that he had not issued any prohibitory orders to



Sanatan but had taken precautionary measures; that he had deployed 30 to 40 police men at the place of competition because of threats received from Sanatan Sanstha and also to ensure safety because of other factors; and that Sanatan was opposing the competition as they considered narkasur as demon.

104. DySP Bossuet D'Silva/Pw115 is also one of the investigating officers. He has testified that on 15.12.2009 he had received a letter from Ponda Police station; that this letter was furnished to him by P.I. C.L. Patil; that said P.I. had produced the letter dated 20.12.2008 received at Ponda Police station from Sanatan Sanstha to the Ponda Police station under signature of a person having cell phone no.9420978480 regarding the custom of burning of Narakasur effigies which was addressed to P.I. Ponda police station condemning the custom. He has produced said letter at Exh. 447.

105. SDPO Shri Mohan Naik/Pw116 is another Investigating Officer. He has testified that during his tenure in the police Department for 33 years, he has worked in different capacities as SHO and SDPO., In his cross examination he has stated that Sanatan Sanatha had handed over to him a letter opposing Narakasur effigy competition when he was working as Police Inspector at Ponda and also as DySP at Ponda; that he was attached to Ponda police station as P.I. from 1997 to 2000 and SDPO from 2005 to 2007; that he does not have any knowledge about such letter being submitted by Sanathan Sanstha to P.I. or DySP at Ponda; that he did not call for any records from Ponda police station with respect to the letter



addressed to him as DySP Ponda by Sanatan Sanstha between 2005 to 2007. He has then stated that part of the investigation was done by DySP D'Silva.



106. It is thus seen that allegation is sought to be made against Sanatan Sanstha that they have been writing letters to the police station protesting against the holding of Narkasur effigy competition. Shri Bossuet D'Silva, who according to SDPO Mohan Naik/Pw116 had carried out the investigation with that respect and has produced only one letter at Exhibit 447. It reads as under:-

Dated:- 20/09/2008.

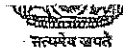
To,
Police Inspector,
Ponda Police Station.

**THINK FACTUALLY ABOUT THE CUSTOM OF
BURNING 'NARKASUR' EFFIGIES.**

Lord Krishna slayed the invincible demon Narkasur on Ashwin Vadya Chaturdashi and at that time granted a boon that 'one who takes a holy bath (abhyangsnan) at dawn on this auspicious day will never suffer in hell'. In Goa and nearby areas, a custom of burning effigies of the demon Narkasur to symbolize Lord Krishna's victory over the demon is prevalent for the past few decades. The Deepawali celebrations follow thereafter.

In the present times, this custom has assumed a distorted form. Huge Narkasur effigies are made and competitions are organized. This is a wrong practice from the spiritual point of view. Besides, this activity keeps the participating people awake whole night; thus they are unable to wake up early for a holy bath, which is an important spiritual aspect of this festival. The point is that while following this custom, instead of performing acts which glory Lord Krishna, one forgets Him.

The time is ripe for us to take right steps to curb the extravagance and wastage of manpower and time associated with this distorted custom; especially when the country is passing through a critical phase.



YOU CAN UNDERTAKE THE FOLLOWING
ACTIVITIES TO CHANGE THE PRESENT SCENARIO.

You can refuse to sponsor prizes for Narkasur Competitions. Instead you can sponsor competitions to promote activities highlighting importance of 'Lord Krishna'. You can educate your colleagues and friends about the significance of glorifying Lord Krishna and not the Demon Narkasur. You can lodge a complaint at the nearest police station against incidents of eve-teasing, traffic obstruction, noise pollution etc.

Since last 10 years, concerned citizens and institutions have extended their co-operation to Sanatan Sanstha in initiating campaigns against malpractices during public celebration of religious festivals. This year too, let us unite to awaken the people against the malpractices occurring during the Deepawali festival and encourage them to assist in eradicating the same in the interest of the society, Nation and Righteousness.

Yours faithfully,

For Sanatan Sanstha

Sd/-

Phone No.: 9420978480

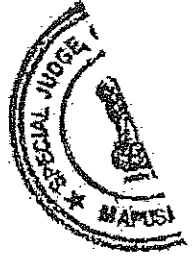
107. Vide said letter the Sanatan Sanstha had deprecated the practice to make huge effigies of Narakasur and in the process glorify him and has requested that instead people should glorify Lord Krishna. The P.I. Ponda is also requested to undertake certain activities to change the scenario. There is absolutely no threat of any nature in the said letter. DySP Umesh/Pw108, however, has alleged a threat to life in said letter for reasons best known to him.

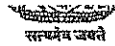
108. A careful assessment of the above evidence leads to a conclusion that Sanatan Sanstha was never opposed to the competition but was only opposed to glorifying Narakasur who, admittedly, was a demon. The witnesses have also admitted that



the members of the Sanatan Sanstha had never threatened to take extreme steps to achieve their object. The evidence confirms that the members of the Sanatan Sanstha had always agitated peacefully by giving some slogans, holding placards in their hands and showing their protest against glorifying of Narakasur. The prosecution witnesses though have admitted that Sanatan Sanstha was propagating glorifying of Lord Shri Krishna and not demon Narakasur. The prosecution witnesses have also stated that Sanatan Sanstha was opposed to functions since certain mal-practices were being followed for extracting money from the public and eve teasing; the opposition was on moral grounds and therefore, it is difficult to believe that the persons who are opposing in a peaceful manner and on moral grounds holding of competitions in a particular manner will take such extreme steps as is sought to be made out by the prosecution. According to the prosecution it was motive of Sanatan Sanstha to put an end to such competitions towards which end a conspiracy was hatched by the accused as Sadhaks of the Sanstha and had caused bomb blast. The evidence on record does not project such a motive.

109. Shri Punalekar, learned Advocate has relied on the decision of Hon'ble High Court of Judicature, Nagpur branch at Nagpur in the case of *Sau Gita w/o. Ashok Kharkate (Criminal Appeal no.99 of 2003) (supra)* and has submitted that in this case since prosecution has failed to prove motive an important fact in the case based on circumstantial evidence accused should be given benefit of





doubt and should be acquitted.

110. The Hon'ble High Court of Bombay at para 14 in the said Judgment observed as under:-

"14. Absence of proof of motive may not be vital in every case even when it is based on circumstantial evidence but when the case is based on circumstantial evidence, the motive becomes one of the strongest link to connect the chain unless the other circumstance on record would complete the chain and connect the accused with the commission of the offence.."

111. In this case, too, since the case is admittedly based on circumstantial evidence the prosecution ought to have proved the motive behind the explosion. For the reasons discussed herein above, prosecution has failed to prove the motive. The prosecution for the reasons discussed herein above has ^{only} proved that in the year 2009 and thereafter Sanatan Sanstha did not object to the Narakasur effigy competition.

112. It is the contention of Shri Punalekar, learned Advocate for the accused that the investigation was aimed at a particular result on account of which a complaint was lodged to achieve said end and, therefore, the FIR which is basis of the investigation is not reliable. He submitted that consequently the case of the prosecution based on said false FIR should not be believed.

113. The complaint has been filed by PI Shri Santosh

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Dessai/Pw105. He has testified that in the month of October, 2009 he was attached to Margao Town police station as officer in-charge of that station; that he has filed complaint in this case on behalf of the State; that on 16.10.2009 at about 20.15 hrs he had proceeded for law and order bandobast duty at Municipal Building, Margao, for Narakasur effigy competition; that ASI Mohan Gaude, HC Arun Talekar, PC Chandrakant Velip and other staff were accompanying him; that he was performing bandobast duty near Margao Municipal Building about 21.30 hours; that he received phone call from PSI Nilesh Dhaigodkar informing him that he had received unknown call from unknown person at the police station to the fact that two persons came with Eterno scooter grey colour bearing registration No.GA 05 A 7800 and following Narakasur effigy competition near Reliance Trade Centre at Varde Valaulikar Road; that when they went to park the said Eterno vehicle, bomb blast occurred; that both said persons were lying on the ground near Eterno scooter.

114. He has further testified that he immediately proceeded to the spot along with PSI Mohan Gaude, HC Arun Talekar and PC Chandrakant Velip; that they reached the spot within five minutes; that they had seen two damaged two-wheelers and a Maruti Zen car at the spot; that two persons one between Eterno scooter and Maruti Omni and the other lying in front of Eterno scooter. At the spot there was a bag containing explosives lying on the ground; that he immediately informed DySP Umesh Gaonkar and summoned more police force to cordone the area; that he also summoned the



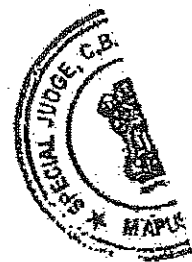


Bomb Disposal Squad, Fingerprint expert and Scientific Assistant at the spot to defuse the explosives; that he put both the injured persons and shifted them to Hospicio Hospital; that he instructed PSI Mohan Gaude to accompany them to the hospital for medical treatment; that bomb disposal squad defused explosives and separated the detonators from the gelatin sticks and thereafter he proceeded to Hospicio Hospital, Margao to inquire about the injured persons.

115. He has further testified that when he reached Hospicio Hospital, Margao, PSI Mohan Gaude informed him that the names of the injured persons are Malgonda Patil resident of Jet Taluka, Sangli, District of Maharashtra State; that he is member of Sanatan Sanstha, Sangli but presently residing at Sanatan Sanstha Ashram, Ramnathi; that name of the second person was Yogesh Babal Naik resident of Talaulim, that injured person Malgonda Patil informed him (PSI Mohan Gaude) that they belong to Sanatan Ashram Sangli and presently residing at Sanatan Ashram, Ramnathi Ponda since last more than two years; that he (Malgonda Patil) along with Yogesh Babal Naik had come to Margao from Ramnathi Ponda on his Eterno Scooter No.GA 05 7800 and that said Eterno Scooter belongs to brother of Yogesh Naik.

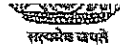
116. He has further testified that PSI Mohan Gaude informed him that hospital PC on duty informed him that hospital staff had removed a clothes of both the injured persons and while checking them found two plastic black colour bags smelling of explosives

and two bottles ofitre/scent bottles, one cutter, some jute threads, one GEL receipt issued by RTO Ponda; and that both the persons have sustained injuries on their private parts very badly.



117. He has then testified that he returned back at the scene of offence; that on minute observation of the scene of offence it was revealed that the damage was caused by the blast to the Eterno scooter; the explosive material found at the spot; the material found in possession of the two persons made it clear that both the accused had criminally conspired, that they were carrying explosives for subversive activities to sabotage narkasur effigy competition near Municipal Building, Margao on the eve off Diwali festival so as to strike terror in the minds of the general public and to cause loss of human lives and property resulting in communal disharmony. He has further stated that they were possessing explosives for waging war against Union of India and caused explosion with intention to endanger human life and property. According to him, thereafter he returned to the police station and lodged a complaint against both the injured persons under sections 121(A), 122 and 123 of IPC r/w sections 16, 17, 18 of the Unlawful Activities (Prevention) Act, 2000 and sections 3, 4, and 5 of the Explosive Substances Act, 1908.

118. He has further testified that he reached the police station at 22.50 hours and registered the crime at 23.05 hours; that on the basis of his complaint crime no.338/2009 under the aforesaid



sections was registered. At Exh. 400 he has produced a complaint which was registered under the sections mentioned by him at 23.05 hours.

119. His above testimony reveals that the witness had received a message of the explosion at around 9.30 pm; that he reached the incident within five minutes thereafter; that he dispatched both the injured to the hospital, visited the hospital after informing his superiors and calling for additional police force to cordon the area; that he had conversation with PSI Mohan Gaude and thereafter came to the police station at 22.50 hrs and registered the crime at 23.05 hours. His above testimony also reveals that before he proceeded to the hospital, Shri Bossuet D'Silva had reached the spot, had conducted inspection of scene of offence, had found materials like gelatine sticks, detonators, timers, battery devices and the remote which were separated; that thereafter in the hospital PSI Mohan Gaude had also taken custody of the clothes of the injured and had also checked their clothes in which he had found two plastic bags, two bottles ofitre/scent, a cutter, some jute threads and a receipt issued by the RTO Ponda. After performing all these activities he had reached the police station at 22.50 hours and had lodged the complaint which was registered at 23.05 hours.

120. In his cross examination, he has stated that bomb squad had defused explosives by 10.30 p.m. He has also stated that typing of the complaint took about 15 minutes and that prior to that he had

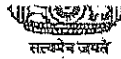
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not registered the FIR in the crime.



121. DySP Shri Umesh/PW108 has testified that PI Santosh Dessai received the information about the blast at around 21.30 hours; that 10 to 15 minutes thereafter he (PI Santosh) informed him that he was at the spot; that on receipt of the said information he too rushed to the spot at Varde Valaulikar road; that when he reached the spot he noticed Eterno scooter with top portion blown off; that as the crowd was rushing towards the said spot, he cordoned off the area and took position towards Bank of Baroda with available staff; that PI Santosh moved towards Gaylin Hotel and they cordoned off the area to prevent the public from rushing to the spot; that while at the scene he came to know that two injured were shifted to the hospital by police; that later on he came to know their names as Malgonda Patil and Yogesh Naik and they were members of Sanatan Sanstha having office at Ramnathi; that later on bomb disposal squad, finger print expert and senior police officers arrived at the scene; that PI Santosh Dessai had dispatched the police staff to guard the same from a distance of 20 to 25 metres; that bomb disposal squad defused two live bombs; that at around 22.30 hours he sent PI Santosh Desai to Hospicio hospital and that PI Santosh returned to the spot again at around 22.30 hours and informed him that he has already registered the offence.

122. He has then testified that PI Santosh Dessai handed over to him the case file as he had no powers to investigate into the



offence under Unlawful Activities (Prevention) Amendment Act, 2004. He has then testified that upon taking investigation of said case, he procured the sealing, packing material, torches, emergency lights, etc and secured presence of panch witnesses; that he also consulted his superiors and upon getting green signal from his superiors commenced the scene of offence panchanama in the presence of PI Santosh Dessai, his staff, PSI Brutano Pexpito, finger print expert with his assistant, photographs and two panch witnesses Amario D'Silva and Raju Maddekar.

123. It is pertinent to note that till this time except for the bomb disposal squad no one had interfered with the scene of incident. The scene of incident panchanama commenced at 0.30 hours of 17.10.2009. At this time first defused bomb was attached. In the course of the panchanama one blue and white colour paper packing with printing "GEL" and Goa Electronics Ltd. was attached. The panchanama discloses that this packet contained a driving licence of Yogesh B. Naik, son of Babal Naik, Talualim Ponda Goa. This was marked as Exh. 31.

124. The driving booklet of Motor driving licence from Maharashtra was also attached during the said panchanama. DySP Shri Umesh/Pw108 has testified that minute details of the booklet were written in the panchanama. In the panchanama this has been shown as item no.6 driving licence of Malgonda Patil son of Siggonda with permanent address Kara jangi Taluk-Jath, Dist

Sangli. As observed herein above, it is pertinent to note that the drawing of panchanama of scene of offence had commenced at 0.30 hrs of 17.3.09.



125. Shri Amario D'Souza/Pw61 is the panch witness of scene of accident panchanama. He has testified that he was called at 0.30 hrs at which time the drawing of the panchanama commenced and it continued till 6.30 hrs. He has testified that Dysp Gaonkar during the drawing of panchanama had showed them an Eterno scooter bearing registration no. 7800, that police found a blue coloured packet lying in the vicinity containing a Goa driving licence and Maharashtra driving licence, that one licence was issued by the licencing authority in Goa in the name of Yogesh Naik and the other of Maharashtra in the name of Patil and that both these licences were separately packed and sealed and signed by them.

126. The above evidence establishes that the DySP Umesh had learnt the details of the two injured with the names of their fathers and full addresses only from the driving licences which were found in the course of drawing of panchanama of scene of offence. There is no evidence, however, to show that these injured were identified to the police by any other person at the scene of offence.

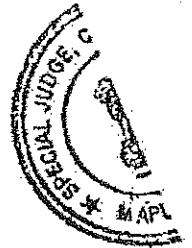
127. It is already on record that PI Shri Santosh Dessai immediately upon reaching at the scene of blast had summoned the bomb disposal squad to defuse the explosives as the bombs would endanger persons and had shifted the injured in the police Gipsy



vehicle to Hospicio hospital. He had reached the spot of blast between 9.35 to 9.40 pm. He was accompanied by ASI Mohan Gaude, HC Arun Talekar and PC Chandrakant Velip. PC Dmello was the driver in which PSI Dessai had proceeded to the spot of blast.

128. Shri G.B.T. D'Mello/Pw8 has testified that as per the instructions of the duty master Chandrakant Velip, he was supposed to drive the Maruti Gipsy bearing no.GA 07 G 0132; that at 20.30 hrs. PI Santosh told him to take out the gipsy to proceed to bandobast duty; that PI Santosh and duty master Chandrakant had boarded the jeep; that the function was to start at 9 pm; that 25 to 30 minutes after 8.50 pm PI Santosh came to the gipsy with some staff and told him that two persons were lying behind the Grace Church and they should proceed to the spot; that there was a blockage of traffic on account of Narkasur competition near Marliz; that PI along with other staff got down and started walking towards the spot; that after the traffic was cleared he proceeded with his gipsy to the spot; that he saw two persons lying by the side of the road where motorcycles were parked; that he lifted back seat of gipsy vehicle so that the two injured could be accommodated there; that the police staff put the two injured in the gipsy vehicle and took them to Hospicio hospital; that when he had reached near the spot PI Santosh and other staff had also reached there; that he and PC Mohan Raikar had taken the injured to the Hospicio hospital; that both the injured were taken to casualty section; that the injured were kept on two sides; that he waited near one of the

injured and Mohan Raiker waited near the other injured; that the doctors treated both of them; that doctor had inquired with one of the injured person but he did not follow their conversation; that one PSI was also present making inquiries with one of the injured person, that after about 10 to 15 minutes he left the spot and that while he was going out he saw PI Santosh Dessai arriving along with others at the spot.



129. HC Shri Ramakant Nagu Velip/Pw3 was at the police station at around 9.30 pm on the night of the incident. He had received a message from PSI Mohan Gaude to proceed to the spot of blast upon which he proceeded to the spot on the motorcycle. He had met PI Santosh and PC Chandrakant at the spot. When he reached the spot PI Santosh had directed him to go to Hospicio hospital. He has testified that he proceeded to the hospital along with PC Paresh Dessai; that in the hospital he met Manohar Raiker and the driver D'mello in the casualty ward; that the two patients were lying on the stretcher; that one of the injured was crying of pains demanding water to drink; that he had given some water to said injured; that PC Raiker and driver D'mello left the hospital upon his arrival, then duty officer Mohan Gaude had come to the hospital; that SP Allen De Sa had inquired with the injured what was his name upon which he disclosed that his name is Malgonda Patil and name of his partner i.e. other injured was Yogesh. In his cross examination, he has stated that Paresh Dessai and he had reached Hospicio hospital first and thereafter duty officer Mohan Gaude



came there.

130. PC Shri Manohar Raikar/Pw4 was instructed by PI Santosh to proceed to the spot after receipt of the information of bomb blast. He had accompanied PSI Mohan Gaude, HC Talekar and PC Chandrakant Velip to the spot. He has testified that at the spot he saw two persons lying near an Eterno scooter with injuries on them; that with the help of other policemen they put injured persons in the police jeep, that he had accompanied the injured to Hospicio hospital; that both the injured were taken inside the hospital on stretchers.

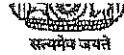
131. PC Shri Nandesh Gaonkar/Pw5 was on duty in casualty section on the night of the blast. He has testified that at about 9.20 pm two injured persons were brought at the casualty ward of Hospicio hospital; that both of them were carried on stretchers to the casualty ward; that they had suffered severe injuries to the lower part of their body; one of them was conscious and the other unconscious; that he had inquired with the person who was conscious in Konkani about his name to which he did not respond; that when he made inquiries in Hindi with said person, said person disclosed his name as Malgonda Patil from Pune and also gave him mobile number for contact being 9422437125; that he also disclosed the name of the other injured as Yogesh but did not disclose further details of him. That since injuries were serious Dr. Borkar was called by Dr. Dalvi; that doctors treated both of them

for about 20 minutes but since they were serious they were shifted to GMC for further medical treatment. He has then testified that the doctors had handed over clothes of the injured to him in a plastic bags which he handed over to PSI Mohan Gaude.



132. In his cross examination, he has stated that PSI Gaude had arrived at the casualty after he made inquiries with Malgonda Patil and that there was no conversation between A-1/Malgonda and PSI Gaude in his presence. He has also stated that about half an hour thereafter the patients were shifted to GMC. Then he left the casualty section. The testimony of this witness confirms that he had been with the injured from the time they were brought to the casualty ward till the time they were shifted to GMC hospital at Bambolim. He has also categorically stated that in his presence PSI Mohan Gaude did not have any conversation with injured A-1 Malgonda. According to this witness, doctor Sanjay Dalvi was in the casualty at the time injured were brought to the casualty ward.

133. Dr. Sanjay Dalvi/Pw6 was in casualty working as medical officer on 16.10.2009. He has testified that at about 9.40 pm he had examined one Yogesh Naik brought by police with history of sustaining injury due to bomb blast and at around 9.45 pm he had examined Malgonda brought by police again with history of injury sustained due to bomb blast. He has testified that he had immediately called for Dr. Rahul Borkar a senior surgeon and that Dr. Rahul was present during the time of examination of the



patients till they were transferred to Goa Medical College Hospital at Bambolim.

134. In his cross examination, he has stated that he had asked Shri Malgonda Patil about his name and as to how he sustained injuries and that A-1/Malgonda had replied saying that the injuries were on account of a bomb blast. He has also stated that the conversation between him and A-1/Malgonda was not recorded by police; that they had tried to talk with Yogesh but he did not respond; that the patients were straight brought to casualty ward; that he was present there; that in his presence no policemen had talked with Malgonda and that he does not know any person by name Mohan Gaude. He has also stated that he does not remember who had given him the address of Malgonda Patil at Ramnathi whether it was Malgonda himself or any police officer.

135. From his testimony it is clear that no person by name Mohan Gaude had met him on that night in the casualty ward and that in his presence there was no conversation between the injured and any of the policemen.

136. Dr. Rahul Borkar/Pw7 was the senior surgeon whom Dr. Sanjay had called since the injuries sustained by both the injured were of serious nature. He has testified that when he reached casualty by 9.45 he saw both the patients on stretchers in casualty section; that one of the patients was semi conscious; and not responding and other patient was conscious that the injuries were



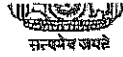
of serious nature and after they were stabilized, both the patients were transferred to Goa Medical College hospital at Bambolim.

137. In his cross examination, he has stated that he did not have any conversation with two patients but he was in casualty section till both the patients were taken out; that both the patients were straight away taken out of the hospital without being taken anywhere else; that only these two patients were on bed in casualty section; and that he did not hear any conversation between any of the patients and any policemen as there was a lot of commotion.

138. A careful perusal of the above testimonies show that PSI Mohan/Pw32 did not have any conversation with the injured; that PSI Mohan Gaude had come to the hospital only after PC Raikar /Pw4 and driver D'Mello left the hospital; that in the casualty ward only the two persons injured in the blast were on the stretchers; that Dr. Dalvi and Dr. Borkar were with them throughout the time they were being treated for about 20 minutes to stabilize them; that only Dr. Sanjay Dalvi and PC Nandesh who was on duty in casualty section had made inquiries about their details. The testimonies also reveal that A-1 had disclosed that his name is Malgonda Patil, that the name of the other injured was Yogesh Naik, that he is from Pune, and that he had given contact number as 9422437125 and nothing else.

139. PSI Mohan Gaude/Pw32 has testified that at about 9.30 pm





PI Dessai informed him that a blast had occurred near Reliance Trade Centre, behind Grace Church, Margao and directed him to accompany him to the spot; that immediately they went to the blast site with HC Talekar and PC Chandrakant; that they saw two persons lying there on the ground; that both the persons had bleeding injuries on their person below waist; and that both of them were shifted to Hospicio hospital in police jeep. He has then testified that he had accompanied both the injured when they were shifted in police jeep to Hospicio hospital; that PC Nandesh on casualty duty at Hospicio hospital rendered assistance in shifting the injured to casualty on stretchers, that Dr. Dalvi and Dr. Borkar who were on duty attended these two patients; that on inquiries one of the injured disclosed his name as Malgonda Patil resident of Jath, Sangli, Maharashtra and other as Yogesh Naik from Talaulim Goa and that said Mangolda has disclosed to him that he is member of Sanatan Sanstha residing in their ashram at Ramnathi since about two years, that both of them had come on an Eterno scooter from Ponda to Margao, that the scooter belonged to the brother of other injured Yogesh and the the disclosures were made to him in Marathi.

140. He has then testified that in the meantime PI Dessai came to hospital and he conveyed all these disclosures made by Malgonda to him and also handed over the letter which PC Gaonkar had handed over to him received from casualty doctor. He then secured presence of two panch witnesses and attached the clothes of the

injured along with the items found in said clothes. One of the items was a receipt of GEL bearing no.052995 in the name of Yogesh Naik. He has testified that panchanama had commenced at 23.10 hours and concluded at 1.30 hours on 17.10.2009.

141. In his cross examination he has stated that he had removed the articles in front of panchas at Hospicio hospital at Margao and only then attached them under the panchanama. In view of this statement of the witness, it is obvious that he would know about the name of Yogesh/A-2 from the receipt only after he started writing the panchanama at 23.10 hours. The witness has also stated that Dr. Dalvi was present when he spoke to Malgonda Patil. As discussed earlier Dr. Dalvi/Pw6 has categorically stated that in his presence no policeman had talked to A-1/Malgonda and that he does not know any person by name Mohan. The witness has then stated in his cross examination that Dr. Dalvi was attending on other patients when Malgonda Patil was talking with him. Dr. Borkar on the other hand has stated that only these two patients were in the bed in the casualty section at the relevant time and that they were being attended to stabilize them and thereafter were immediately shifted to G.M.C. The witness has also stated that he spoke to Malgonda Patil again in the presence of panchas while he was in casualty. According to him, the panchas had arrived in the hospital at around 23.00 hours. Later on, in the cross examination he has stated that even Malgonda made first disclosure to him at 22.30 hours and the second disclosure after 23.10 hours, and that





on both occasions he made same disclosures.



142. The witness has thus stated that even Malgonda had talked to him in the presence of panch witnesses which panchanama admittedly started at 23.00 hours. Said panchanama that commenced at 23.10 hours of 16.10.09 was concluded at 1.30 hours on 17.10.09.

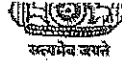
143. Prosecution has relied on the testimony of Dr. Mandar Kantak/Pw1. Dr. Mandar has conducted postmortem examination on A-1/Malgonda. Exh. 32 is the postmortem report. This postmortem report is not disputed. It is recorded in said post mortem report that A-1 Malgonda was admitted in GMC casualty surgery unit on 16.10.2009 at 11.00 pm and that he died in the hospital on 17.10.09 at 12.30 am. It is further recorded that the patient was admitted in the hospital on 16.10.2009 at 23.14 hours. Similar endorsements is made in the memorandum of autopsy of A2 Yogesh Exh.36. It is recorded that he was produced in GMC casualty surgery-2 at 11 pm and was admitted in the hospital on 17.10.2009 at 00.43 hours.

144. As pointed out by learned Advocate Shri Punalekar, if both the injured were produced in GMC hospital at 11.00 pm on 16.10.2009 it was impossible for PSI Mohan/Pw32 to make any inquiries with the injured at 11 pm or thereafter during the panchanama which was drawn by him between 11.10 pm of 16.10.09 till 1.30 am of 17.10.2009. Considering the above discrepancies in the testimony

of PSI Mohan and contradictory statements made by the other witnesses about he having any conversation with A1 Malgonda in Hospicio hospital, it is difficult to believe that accused no.1 had at any time disclosed to him his name with other details that he was resident of Jath, Sangli or that he was residing at Ramnathi for two years. PSI Shri Mohan has also admitted that he has not stated in his statement recorded by the police that Malgonda Patil had made any disclosure to him and in the presence of panchas. A-1 Malgonda had suffered severe injuries. He was on death bed. According to PSI Mohan, when he made disclosure, panch witnesses were present. Dr. treating the injured were also present. In the circumstances, one fails to understand why PSI Mohan did not record the statement made by the injured.

145. Shri Seby Pereira/Pw83 is the panch witness to the panchamama of attachment of clothes of the injured. He has testified that PSI Gaude had requested him to act as panch witness to the attachment of clothes of the injured; that panchanama commenced at 23.00 hours, that he was shown some injured on stretcher who were crying in pain; that PSI Gaude asked them their names; that one of the injured disclosed his name as Malgonda Patil and the other as Yogesh Naik, that doctor on duty had handed over their clothes to the casualty police who in turn handed over the same to PSI Gaude in their presence and that PSI Gaude attached said clothes under the panchanama. It is suggested to this witness that he had never gone to Hospital nor had acted as panch witness





to the recovery of the articles and that he has signed the panchanama Exh. 142 at the police station.

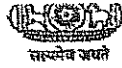
146. This witness, therefore, also does not support the case of PSI Mohan Gaude that accused no.1 Malgonda had disclosed to him that he is resident of Jath, Sangli, Maharashtra or that name of father of Yogesh is Babal. As discussed herein above, it is also difficult to believe that both the injured were still in Hospicio Hospital when the panchanama of attachment of the clothes commenced at 11 pm of 16.10.2009. This is so because the admitted post mortem report shows that both the injured were admitted in GMC hospital at Bambolim at 11 pm. As submitted by Shri Punalekar the injured could not have been present at two different places at the same time.

147. From the above evidence only inference that can be drawn is that A-2 had disclosed in the hospital either to the doctor or to the police that his name is Malgonda Patil and that the name of the other injured was Yogesh Naik. As rightly posed by learned advocate Shri Punalekar question then is from where did PI Santosh got the details of A-1 Malgonda as resident of Jath Taluka, Sangli District, Maharashtra state and that he is member of Sanantan Sansta presently residing at Sanathan ashram, Ramnathi, Ponda and the name of A02 is Yogesh Babal Naik when the evidence reveals that A-1 Malgonda had disclosed name of other injured only as Yogesh Naik?

Santosh

148. The panch witness has also not corroborated the testimony of PSI Shri Mohan Pw32 that A-1 Malgonda had disclosed to him that both of them had come on an Eterno scooter from to Margao from Ponda and that the scooter belonged to the brother of Yogesh. As submitted by Shri Punalekar, only possibility of gathering the details of the injured was on recovery of the licenses of the two persons which also bore their photographs. In these licences names of both the injured with the names of their fathers and residential addresses are clearly given. These licences were attached under panchanama Exh.214 which was drawn between 0.30 hours to 6.00 hours of 17.10.2009. PSI Santosh however, has lodged the complaint at Exh. 400 and the same was registered at 23.05 hours. He has also testified that he had returned to the police station at around 22.50 hours and then typed the complaint which took about 15 minutes and had registered the complaint. In the complaint, he has sated that PSI Mohan Gaude informed that that the name of the injured persons are Malgonda Patil resident of Jath Taluka, Sangli presently residing at Sanathan Sanstha ashram Ramnathi Ponda and Yogesh Babal Naik, Talaulim, Ponda Goa; that PSI Mohan Gaude further informed that injured Malgonda Patil informed him that he belongs to Sanatan Sanstha Sangli and for last two years he is residing at Sanatan Sanstha ashram, Ramnathi, Ponda Goa; that he along with Yogesh had come on the Eterno scooter bearing no.GA 05 A 7800 from Ponda that the scooter belongs to brother of Yogesh Naik and that the hospital duty police had removed the





clothes of both the injured and while checking the clothes found two black colour plastic bags smelling of explosives, two scent bottles, one cutter, some jute threads and one receipt of GEL issued by RTO, Ponda.

149. The statement made by the witness that PSI Mohan Gaude informed him that hospital duty police had removed the clothes of both the injured is also not correct. PSI Mohan himself has stated that doctor had handed over the clothes of the two injured to the hospital duty police who in turn had handed over the same to PSI Mohan. PSI Mohan/Pw32 has also testified that he had found the articles in the clothes only during the panchanama which commenced at 23.10 pm of 16.10.2009. He, therefore, could have communicated the above information to PSI Santosh Pw105 only after conclusion of the panchanama at 1.30 am of 17.10.2009 and in any case, not before 23.10. pm of 16.10.2009 at which time the panchanama had commenced.

150. Another statement found in the complaint Exh.400 reads as under:-

"I received phone call from the duty officer, Shri Nilesh Dhigodkar of Margao Town police station at about 21.30 hours informing that he received phone call from unknown person informing that two persons came on a Eterno scooter following a Narakasur effigy near reliance Trade Centre on Varde Valaulikar road and when they went to park the scooter there was a blast in the scooter and both the persons were thrown off the scooter."

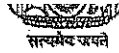
A. K.

151. The prosecution has not examined said PSI Dhigodkar who according to prosecution had received said information on a phone call.

152. Shri Sayyed Hussain/Pw2 is the resident of Kalika Chambers behind Grace Church at Margao Goa. He has testified that Kalika Chamber is situated on Varde Valaulikar road, that he parks his Maruti Zen car bearing no. GA 08 A 5662 exactly opposite his building that is towards the church side, that on 16.10.2009, he closed his shop little early on account of the function going on in front of his shop; that when he had gone to his Maruti Zen car there was no movement of traffic on said road; that it was cool as nobody was present; that when he went to the bedroom to get the key of car he heard a sound of big blast; that when he came to the verandah of his flat on hearing the sound, he saw dust and smoke coming out from the road where he had parked the car, that the area was completely dusty and smoky; that he came in the hall and told his daughter to dial number 100 which is emergency number for calling police; that when she dialed said number she got a number from Panaji who gave her some number to contact; that he told his daughter to call on that number; that he understood said number was of Margao town police station; that he spoke to some person on the other side, informed him that a blast had taken place and gave him the address of Kalika chambers asking to send for immediate help and that within five to ten minutes police came at the spot.



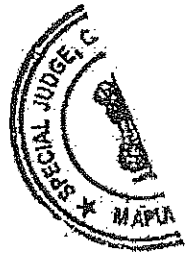
Sanjay



153. Shri Shridhar Pai/Pw9 owns a shop below Grace nursing home on VV road Margao. He has testified that on 16.10.2009 he closed the shop at around 8.30 pm; that traffic was closed to move on said VV road because of Narakasur vadh competition; that he had some passengers whom he had sold tickets to proceed to Mangalore; that he dropped said passengers at Fatorda and returned to his shop between 9.15 to 9.30 pm; that he parked his vehicle Scorpio in front of reliance trade centre in the parking place; that he went inside the shop of sweet mart when he heard a sound of a blast at around 9.30 pm; that he handed over the key to the owner of the sweet mart; that he tried to find out from the place where sound had come; that he saw dust and smoke in the air opposite to his shop; that he immediately telephoned help line number 100 of the police; and that in the meantime he saw two policemen arriving at the spot.

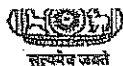
154. Pw10/Shri Vivek Naik runs a restaurant on the ground floor of Kalika chambers at V.V. road Margao. He has testified that on 16.10.09 he had gone to the restaurant at around 8.45 pm by his accent car; that he parked his car in the passage at the entrance of Kalika chamber building and went to the restaurant; that there were no customers for them and, therefore, he closed the restaurant; and that at about 9.20 pm he came near his accent car at which time he heard a big sound of blast. He has further testified that he was frightened and, therefore, returned to his restaurant

and brought down the shutter; that thereafter he locked the shutter and came near the car at which time he saw two policemen on the road trying to close said road. He requested the policemen to allow him to remove his car from the entrance and went home.



155. In his cross examination, he has admitted that since people go for the competition there was less crowd on VV road.

156. PC Shri Suresh Kushali Velip/Pw11 was performing his duties as motorcycle rider controlling the traffic on 16.10.09. He was on traffic duty at Kandil hotel for traffic diversion on account of the competition. He has testified that at about 9.30 to 9.45 pm he heard a big sound from the side of Syndicate bank near Grace Nursing Home by the side of the road that leads from Bank of Baroda to hotel Gaylin; that one boy came running and told him that blast had taken place and two persons were lying on the road and also there is one scooter lying there; that he along with other two police constables went to the spot and then informed police control room, Margao about the blast; that before calling the PCR he saw two persons, Eterno scooter fallen on the road; that both the persons were injured and shouting with pain; that front portion of the dickey of the scooter was fully damaged; that he informed PCR to send policemen for help; and that after 5 to 7 minutes PI Santosh Dessai of Margao Town Police Station came running there along with other staff. In his cross examination he has stated that the area was cordoned, no one was allowed to go away with any



vehicle and that he was present at the spot till 1.30 am.

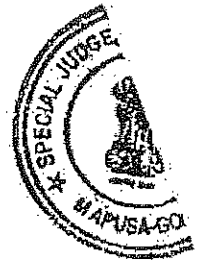
157. A careful assessment of the evidence shows that these were the only witnesses who could have communicated the police station about the incident. None of these witnesses have made any statement to the effect that two persons had come on an Eterno scooter following a Narakasur effigy near Reliance Trade Centre on Varde Valaulikar road and when they went to park the scooter there was a blast in the scooter. On the contrary, the witnesses have stated that there was no traffic movement on said road, that it was totally silent; and that two persons who had come on Eterno scooter were parking the scooter when there was a blast. A material information about blast was given according to the complainant PI Shri Dessai by PSI Daigodkar. His testimony was relevant. He has however, not been examined. Only information that has gone to the police was through Sayed Hussein/Pw2 who had informed the police that a blast had taken place near Kalika chambers and had requested for immediate help. The other person who had contacted the PCR is PC Suresh/Pw11 who too has not confirmed said statement made in the complaint. On the contrary the witnesses have confirmed that there was no traffic movement at all on the road.

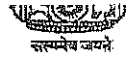
158. PSI Mohan Gaude/Pw32 has testified that the route of Narakasur was in front of Collectorate building, then near Margao municipality after taking a turn near Comunidade building and

come in front of the Municipality; and that the various groups preparing the Narkasurs had to perform in front of the municipality and thereafter proceed again towards SBI building and onwards.

159. The above route is also confirmed by SDPO Shri Umesh /Pw108. The evidence of the witnesses including that of Shri Vinod/Pw13 discussed herein above also confirms that there was no traffic on VV road where the blast had occurred. None of the witnesses who reached the spot immediately after the blast have also stated that there was any vehicle carrying effigy of Narakasur plying on said road at the relevant time. In case any such vehicle did pass that side, it would have immediately stopped to see what had happened. It is, therefore, unbelievable that the injured were following any effigy at the relevant time. A statement to that effect, however is made by PI Shri Santosh in his complaint.

160. From the above discussion it emerges that PI Shri Santosh could not have made any statement with respect to details of the injured by 23.00 hours when he prepared the complaint or of the alleged fact that the scooter of the injured was following an effigy of Narakasur. Shri Punalekar, learned Advocate for the accused pointing out to these serious infirmities in the FIR submitted that two possibilities emerge from the testimony of PI Shri Santosh namely (i) the complaint has been drafted only after writing of the panchanama which concluded at 4 pm or (ii) that the complaint Exh. 442 is not the original FIR lodged by PI Santosh. From the





discussion herein above, there appears great merits in his submission. Further, PSI Santosh also could not have known the alleged fact that A-1/Malgonda had been residing at Ramnathi and was attached to Sanatan Sanstha or that the scooter belonged to brother of A-2 Yogesh.

161. The scene of accident panchanama Exh. 214 was drawn between 00.30 hours and 6.00 hours of 17.10.2009. The first paragraph of said panchanama gives the crime no.338/2009 under sections 121(a), 122 and 123 of IPC and sections 16, 17 and 18 of Unlawful Activities (Prevention) Amendment Act, 2004 and 2008 and sections 3, 4, and 5 of the Explosive Substances Act, 1908. PSI Mohan/Pw32 has testified that during the panchanama he conducted in the hospital between 23.10 hours to 1.30 hours he had attached a receipt of GEL in the name of A-2 Yogesh, cash of ₹200/- in the right side pant pocket, two black colour plastic bags with openings on one side and smelling of explosive substances and piece of jute thread in the left side pant pocket white colour paper cutter, and two small glass bottles in the pant pocket. He has come to the conclusion that both the accused had criminally conspired carried explosive material to the spot in view of observations made by him at the scene of offence, information received by him from PSI Gaude about the details of the accused and the material found in possession of the injured accused. This information he could have gathered only after drawing of the panchanama in the hospital.

Satish

There is, therefore, every possibility that the complaint Exh. 400 has been prepared only after drawing of the panchanama at 1.30 am of 17.10.2009 and in any case after 23.10 hours of 16.10.2009. Secondly, one also fails to understand how PI Santosh could know at that stage when he did not have statement of any witness before him, that the injured were carrying explosives in the scooter.



162. From the testimonies of the witnesses discussed herein above one thing is clear that at the time of explosion only the vehicle of the injured was at the spot besides other parked vehicles. Major damage in the explosion was caused to their scooter. They also suffered injuries only to the lower part of their bodies. These facts point out only to one fact that the explosion had taken place on their two wheeler Eterno scooter. In that background it is not understood why PI Santosh in the complaint had to make statements which are not corroborated by any evidence. Shri Punalekar submits that the accused have brought on record that the then Home Minister and his rival in Madkai constituency were not in good terms and therefore, the Home Minister has interfered in the investigation to put the blame on Sanatan Sanstha. Although these suggestions are made, there is no evidence to that effect. Looking into the allegations made in the complaint, the possibility of a doctored complaint, however, cannot be ruled out.

163. To prove the circumstance, namely, that accused were involved in activities of Sanatan Sanstha, learned Special PP Shri

Santosh



Faria has relied on the testimonies of Shri Nitin Naik/Pw12, Shri Vinay Sambhari/Pw14, Shri Rupesh Mahatme/Pw15, Shri Mohan Gaude/Pw32, Shri Daniel Rodrigues/Pw56, Varsha Damle/Pw60, Shri Swapnil Naik/Pw62, Shri Dinesh Naik/Pw63, Shri Laximikant Naik/Pw65, Shri Santosh Dessai/Pw105, Shri Hanumant Naik/Pw106, Shri Umesh Gaonkar/Pw108, Shri Vassant Bhat/Pw110 and Shri Bossuet Silva/Pw115.

164. Shri Nitin/Pw12 has categorically stated that he knows only Dr. Solanki as one of the members of the Sanatan Sanstha who was present for the meeting and that he does not know any other member of said Sanstha. He has also admitted that he did not know A-1 Malgonda. He has also not identified any of the accused either during investigation or during the trial.

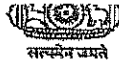
165. Shri Vinay Sambhari/Pw14 has also stated that none of the accused persons were present in any of the meetings which he had attended; that even A-1 Malgonda or A-2/Yogesh were not present; He too has not identified any of the accused as being involved in the activities of Sanatan Sanstha. Shri Rupesh/Pw15 has also stated that he does not know any of the accused. PSI Mohan Gaude/Pw32 has also not testified about any activity of Sanatan Sanstha or involvement of the accused in the activities of said Sanstha.

166. Pw56/Shri Daniel is a notary public with office near Ponda municipality. An agreement Exh 202 between Dircholi Sanatan

Sanstha and Dharma Prachar Sabha was executed before him. He has testified that for executing said agreement both the parties had appeared before him and the agreement was signed by them in his presence with Shri Bhushan Kulkarni and Pravin Kudalkar as witnesses. He has stated that the Dicholi Sanatan Sanstha was represented by Shri Prithviraj Hazare its Managing Trustee and Dharma Prachar Sabha was represented by its managing trustee Shri Malgonda Patil the deceased accused no.1. Under said agreement Dicholi Sanatan Sanstha as owner of periodical monthly Sanatan Prabhat had transferred its printing and publishing rights to the publisher Dharma Prachar Sabha of which deceased A-1 Malgonda was the managing trustee. This agreement only shows that under the agreement, rights were conferred on Dharma Prachar Sabha by Dicholim Sanatan Sanstha of printing and publishing. It is only in that right that A-1 could be said to have been involved in the activities of Sanatan Sanstha.



167. Ms. Varsha Damle/Pw60 is a teacher in L.D. Samant Memorial High School. She has testified that she was associated with Sanatan Sanstha since 1999; that she has been attending their Satsang; that she gave up her association in the year 2009; that during her association with the Sanstha she came to know Vivek Pendse, Mangala Marathe, Bahusaheb Desai, Jyoti Dawlekar and others as sadhaks of the Sanstha. She has then testified that she knows accused no.3/Vinay as he was her college mate and A-4. Vinayak being a sadhak. She has also stated that A-3 Talekar used



to contact her over the mobile, she too used to contact him over the mobile. She has also stated that the deceased A-1 /Malgonda and A-2/Yogesh were two sadhaks of the Sanstha.

168. Shri Swapnil Naik/Pw62 has also confirmed that A-3/Talekar and A-4/Patil were sadhaks in the Sanstha. He has also stated that he knows Yogesh deceased A-2 since he was supplying milk in the ashram. He has also stated that deceased A-1/Malgonda and A-2/Yogesh were sadhaks of the Sanstha and were residing in the ashram at Ramnathi. He had also heard that A-3 Talekar and A-4 Patil having a casual talk about an item in the newspaper about desecration of Hindu Idols. He has also identified A-6 Dilip as Sadhak and has stated that A-5/Dhananjay sometimes used to visit the ashram.

169. Shri Dinesh Naik/Pw63 is an employee of River Navigation department. He has testified that he had only read in the newspaper that two sadhaks Yogesh Naik and Malgonda Patil had expired in the bomb blast at Margao. He had been attending the training camp at Dhamshem. He has, however, categorically stated that he had never seen A-1/Malgonda and A-2/Yogesh in such camps. He has also stated that these training camps had no connection even remotely with the use of fire arms and explosives.

170. Shri Laximikant Naik/Pw65 is the brother of deceased A-2 Yogesh. He has testified that his brother Yogesh used to supply milk to Sanatan Sanstha was attending programmes at Sanatan

Sanstha ashram and visiting their branch at Damsheem. In his cross examination, he has made a categorical statement that he does not know A-5/Dhananjay or A-11/Prashant. He has also not identified the other accused. PI Santosh/Pw105 is an investigation officer. He has admitted that he was never in contact with Sanatan Sanstha except for the investigation in this case. He personally, therefore, would not know the nature of involvement of the accused in Sanatan Sanstha.



171. Shri Vasant Bhat/Pw110 has testified that he knew that A-1/Malgonda used to visit the ashram of Sanatan Sanstha; that he knew deceased A-2/Yogesh and that most probably both of them members of Sanatan Sanstha. He however, does not know whether really they were sadhaks of said Sanstha.

172. Shri Bossuet Silva/Pw115 is also one of the investigation officers. He had carried out house search of deceased Yogesh Naik during which he attached a Samsung hard disc and cash memo containing notings made by deceased Yogesh. During investigation he has also recorded disclosure statement made by A-5/Dhananjay and had recovered certain items at his instance, details of the same will be discussed hereinafter. He had also attached a CC TV footage from the shop of Mohammad Rafiq in which according to him he has identified A-3/Vinay and A-4/Vinayak purchasing a SIM card in the shop of said Mohammad. He, therefore, also does not know the precise involvement of the accused in the activities of Sanatan

Signature

Sanstha.



173. Out of fourteen witnesses on which prosecution seeks to rely to prove involvement of the accused in the activities of Sanatan Sanstha only two witnesses have confirmed that deceased A-1/Malgonda, A-2/Yogesh, A-3/Vinay and A-4/Vinayak were Sadhaks of the Sanstha. Only one witness has stated that she had seen A-5/Dhananjay visiting the Sanstha. One of the witnesses has only stated that A-2/Yogesh was also supplying milk to the Sanstha and distributing newspapers of the Sanstha to the customers. The agreement Exh. 202 also establishes that A-1/Malgonda was associated with the Sanstha under said agreement for publishing the newspaper of the Sanstha. Shri Dinesh/Pw63 does have made a statement that A-2/Yogesh, A-4/Vinayak and A-6/Dilip were the trainers at Damshem camps, he has however, in his cross examination, admitted that he had never seen A-1/Malgonda and A-2/Yogesh in these camps. In any case, in view of his categorical statement that these camps were not even remotely connected to imparting training in uses of fire arms or explosives, it does not help prosecution in any way.

174. Beyond this there is no evidence to show that the accused were actively involved in any of the activities of Sanatan Sanstha. None of the witnesses have also stated that the accused had even participated in any protest held by the Sanatan Sanstha against the Narakasur competitions or that they had attended any of the

[Signature]

meetings in which the objections raised by the Sanstha were discussed with the Collector. There is absolutely no evidence to establish any specific role played by any of the accused except A-1/Malgonda and A-2/Yogesh in the activities of the Sanstha.

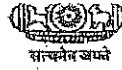
175. To establish conspiracy between the accused, prosecution has mainly relied on the three circumstances namely, (i) recovery of similar live explosives at Sancoale, (ii) presence of the accused nos. 3 and 4 at Sancoale and (iii) recovery of the components of the bomb at the instance of accused nos. 3, 4 and 5,

176. To establish that the explosives were recovered at Sancoale the prosecution has relied on the testimonies of the witnesses who have witnessed the recovery of the explosives at Sancoale on the same night and the report of the expert.

177. It is case of the prosecution that similar to the competition of Narakasur effigy vadh at Margao, competitions were also held at Sancoale and at Vasco. An explosive was found in the vehicle of Shri Ratnakar Pujari/Pw16 at Sancoale. He has testified that he owns ten vehicles; that Ramesh Alur is one of his drivers; that on 17.10.2009 at around 10.30 am said Ramesh telephoned him informing that his vehicle GA 08 U 0029 is at Verna police station along with the driver of said vehicle Rajasab.

178. He has further testified that one Shri Subhash Sirsat, his friend, had requested him to lend his vehicle to him for one day to





carry Narakasur effigy from Ponda to Sancoale and Vasco where there was competition to be held; that he had agreed to his request that he had instructed driver Rajasab to go with the vehicle. That, accordingly, Rajasab had taken the vehicle; that on 17.10.09 after receipt of the message he had gone to the police station; and that on making inquiries he learnt that Rajasab had told police that somebody had kept a bomb in said vehicle in the cabin below the seat on cleaner's side.

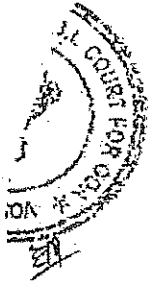
179. He has further testified that Rajasab told him that he had kept the vehicle at Shantadurga temple at Sancoale after unloading the Narakasur effigy; that he too had got down from the vehicle; that there was no one in the vehicle at that time; that after some time he came back near the vehicle and sat on driver's seat when he heard some tick tick sound of a clock; that initially he thought that it was sound of mobile, then when he looked down he found a bag in which there was something like bomb; and that he immediately got down from the vehicle and threw away the bag along with said bomb like substances.

180. Shri Ritesh Malwankar/Pw18 is a member of Kamakshi Bal Mandal Club, Durgabhat. He has testified that said club organizes football tournaments, cricket tournaments, etc. and also participate in Narakasur vadh competitions; that in the year 2009 they had prepared a Narakasur effigy to participate in such competition, that on 16.10.2009 they started with said Narakasur effigy loaded in the

pickup to proceed to Sancoale; that they had taken altogether three vehicles; that they waited at petrol pump at Borim to fill diesel; that when they reached at Sancoale near Shantadurga temple they found that the competition had not started, that Sachin and Suyash from their group went to Vasco on their two wheeler to see whether the competition at Vasco had started; that they all informed the group telephonically that even in Vasco competition had not started, therefore, their group waited at Sancoale, that when the competition started they unloaded the Narakasur effigy; that the driver went away with the pickup for parking; that after the competition Sainath and Vijendra went to call the driver of the tempo for loading the effigy; that Sainath came back and told them about the bag in their tempo with sound emanating from it; that someone telephoned the police; that police and bomb disposal squad came at the spot; and that they engaged some other tempo and left the place with the Narakasur effigy.



181. Shri Vishwamber Naik/PW20 was the President of Shankwal Nagrik Sangatna which had organised the competition at Sancoale. He has confirmed about the competition. He has testified that after the assessment the group from Durgabhat moved out of the premises where they were supposed to bring the effigy; that at that time one person from said group of Durgabhat informed that there is some bag in the vehicle by which they had brought the Narakasur effigy; that some sound was coming from said bag; and that they fear that there is a bomb in it. He has also testified that said



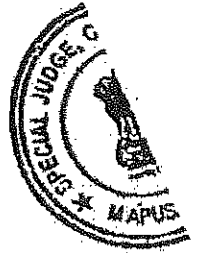
person informed him that the driver of said pickup had thrown the bag in the field, that he immediately proceeded to the spot and telephoned the police; that some police were already present at the spot; and that thereafter police came to the spot after which the members of their organization left the place.

182. Shri Girish Nalk/Pw21 is the Vice President of said Shankwal Nagrik Sangatna. He has confirmed about the organization of the competition at Sancoale by their organization. He has testified that the group from Durgabhat was requested to bring the effigy near the stage; that since the effigy was too huge the Judges went to the place where the effigy was brought; that thereafter they told the group to take away of effigy; that one of the members from said group informed them that there was one bag in the cabin of the truck by which they had brought said effigy; that some sound was coming out from said bag, that driver of said truck had thrown out the said bag in the field that their President Vishwamber telephoned the police that they proceeded to the spot; that police came at the site; and that they stopped the competition thereafter.

183. Shri Vishwas/Pw22 was the Secretary of Shankwal Nagrik Sangatna. He too has confirmed about their organization organising competition of Narakasur effigy. He has testified that on 16.10.2009 the competition started at 9 pm; that Narakasur effigy from Durgabhat was huge and could not be taken near the stage in the vehicle; that the group was asked to unload the Narakasur effigy

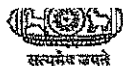
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and take away the truck; that since it was not still possible to push the effigy near the stage, they requested the judges to go there and make their assessment; that after the assessment the group was asked to take away the effigy; that while the effigy was being taken away, one person came and told them that in the cabin of the truck by which Durgabhat effigy was brought there was a bag from which sound was emanating; and that the driver of the truck had thrown away said bag in the field.



184. He has further testified that someone stated that there was a bomb in said bag; that their President dialed number of the police that he and other committee members went to the spot but they were not allowed to go near the spot; that said bag was thrown about 100 to 150 metres away from the stage; that bomb detection squad defused the bomb and took away the articles; and that in the meantime they discontinued the effigy competition.

185. Shri Sandesh Amonkar/Pw23 is a member of Kamakshi Bal Mandal, Shantinagar, Ponda Goa. He has testified that they had participated in the Narakasur competition at Sancoale and Vasco; that the Narakasur was loaded in a truck at 6.30 pm; that on their way they had stopped at Borim petrol pump to fill diesel; that some of their members were sitting in the cabin along with driver; that there was a plastic bag with jewellery to be put on Narakasur effigy in the cabin that after filling the diesel they proceeded towards Sancoale that after reaching Sancoale they inquired with the



organizing committee whether the competition will start immediately; that thereafter they proceeded towards Vasco to take part in the competition there; that from Chicalim junction some members went to the place of competition at Vasco and came back; that they were told that there is some time to start competition at Vasco; that therefore they came back to Sancoale at around 10.30 pm where competition had already started; that they brought the Narakasur effigy in reverse in order to come near the temple; that since the vehicle could not be taken near the stage they unloaded the Narakasur effigy at some distance from the stage; that the driver went away to park the vehicle; that since the effigy could not be taken near the stage, the judges came up to the effigy and assessed their performance; that whilst unloading the effigy they had also taken out the plastic bag of jewellery of Narakasur from the truck that nobody remained behind except the driver; that after performance was over one of the members went to call the driver with the truck; that since the driver did not come back some more members went to bring the vehicle; that said members came back and informed that there was white colour bag found in the cabin of the truck; that a sound was emanating from said bag; and that the driver of the truck had thrown said bag into the field.

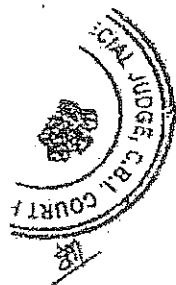
186. He has further testified that in the meantime police came at the spot, fire brigade as well as bomb disposal squad also arrived, and that the bomb was defused.

Satnaik

187. Shri Dayanand Sawant/Pw24 is also a member of Kamakshi Bal Mandal Club. He has confirmed of their participation in the competition at Sancoale. He has also testified that he was occupying the rear portion of the pick-up, that some of their members were sitting in the cabin along with driver; that they reached at Sancoale before 21.00 hours that they had parked their vehicle at short distance away from Shantadurga temple; that after their performance they recalled the vehicle to reload the Narakasur effigy; that one of the boys from the group informed them that there was bag found in the pickup from which some sound was coming; that they were suspicions about the bag; that they informed the organizers of the competition who in turn informed the police; that police arrived and cordoned the area; and that the driver of the pick-up had thrown away the bag in the bushes before the arrival of the police.

188. Shri Videsh Naik/Pw25 is a resident of Ponda. He is not member of Kamakshi Bal Mandal Club. He has testified that they had started preparation of this competition about a fortnight prior to Diwali; that their effigy was ready on a day prior to the competition in the year 2009; that the dressing of the Narakasur and decorating it with ornaments was done on 16.10.09; that on 16.10.09 they loaded the ready Narakasur effigy in a pick up and a chariot in the other vehicle; that they proceeded to Cortalim to participate in the competition; that when they reached the spot competition had not yet started the effigy was unloaded from the





pickup, they gave their performance accompanied by music and thereafter wanted to reload the effigy to go to Vasco to participate in another competition.

189. He has then testified that some of the boys from the group went to to bring the vehicle to reload Narakasur and chariot; that one of the boys from the group rushed back to them and informed them that there was a bomb in the pickup and the driver had thrown away the bag with its contents in the bushes. After the police were informed, police arrived, cordoned the area and the bomb disposal squad defused the bomb. The pickup was detained at the police station for two days.

190. Shri Vasant Shirsat/Pw27 is also a member of Kamakshi Bai Mandal Club. He has testified that they started for the competition about a fortnight prior to Diwali; that Narakasur effigy was ready a day prior to the competition in the year 2009 that dressing of the Narakasur effigy and decorating it with ornaments was done on 16.10.09; that after the effigy was ready they loaded it in the pickup arranged by the members; that they started for the competition at 18.30 hours in three vehicles; that he was seated in the pickup in which Narakasur effigy was loaded; that he is not aware of the name of the driver; that he was occupying the rear portion of the pickup; that some of them were sitting in the cabin with the driver; that they reached at Sancoale at 21.30 hours that since competition had not yet started two of their members left for

Vasco on motorcycle to check up whether the competition had started there; that the competition started at around 21.30 hours that the effigy was unloaded and driver parked the vehicle towards Borim side as no parking was available; that after their performance one Vijendra from their group went to bring the vehicle; that since he did not return Sainath went to find out what had happened; that said Sainath came running back and informed that driver had found a bag in the pickup from which sound of a clock was coming; that Sainath also told them that the driver had thrown the bag with its contents in the bushes; and that upon information police came there with a bomb squad and defused the bomb.



191. Shri Rajasab/Pw58 was the driver of the pickup in which the Kamakshi Bai Mandal group had brought their effigy for the competition. He has testified that he was working for Ratnakar Pujari for last seven years as a driver; that on 15.10.09 Pujari asked him to drive the vehicle for carrying the Narakasur effigy; that on 16.10.09 he took the vehicle bearing no. GA 08 U 0029 and went to Durgabhat at about 10.30 hours; that he parked the vehicle and came back to Ponda; that the boys from Durgabhat came to collect him at about 19.45 hours; that on reaching he saw that the Narakasur effigy was ready already loaded in the pickup; that he took over the wheels of the pickup with two boys sitting in the cabin with him and remaining sitting behind with Narakasur; that originally he was told to go to Vasco; that he was told that they were to go to Vasco and other places along with Narakasur; that



when they reached at Cortalim junction two boys from Durgabhat told them that Vasco programme will be delayed and to proceed to Sancoale; that as such they came to Sancoale; that he noticed that competition was already in progress; that he took the pickup in reverse as he could not proceed close to the stage; that Narakasur effigy was unloaded after which he went to park the pickup; and that pickup was parked along Sancoale-Vasco main road facing Ponda.

192. He has then testified that he too got down from the pickup rolled the glass locked the driver's side door and went to watch Narakasur competition; that left side cabin door could not be locked as the lock was not functioning; that he had parked the pick at a distance of 150 to 200 metres from the place where the Narakasur competition was held; that the competition continued for an hour and a half; that when he came back to Tata pick-up two boys from Durgabhat asked him to bring the pick-up for loading the Narakasur effigy; that two of the boys had accompanied him to Tata pick-up; that when he had partially inserted the ignition key, he heard sound of ticking of a clock inside the cabin; that he asked the two boys whether their mobile had fallen inside the cabin; that both of them denied; that both of them asked him not to enter the cabin of Tata pick-up; that he too discouraged them from entering the Tata pick-up; that he made the two boys wait outside, switched on the lights inside the cabin; that on checking he found one nylon bag wheatish in colour, beneath the cleaner's seat in the cabin; that when he

lifted the bag he found it quite heavy; that he asked the two boys whether it belongs to them which they denied; and that thereupon he opened it and heard the distinct ticking sound coming from inside.



193. He has then testified that he got down from the pickup cabin and he suspected that the bag contained a bomb; that he told the two boys to move aside; that he went to nearby field after crossing the road and threw away the bag with its contents far away in the field in the bushes; that he told the two boys about his suspicion and asked one of the persons present in the crowd to contact the police; that police arrived at the spot in the next half an hour or so; that he showed the place where he had thrown the bag; that he also disclosed to the police about the ticking sound coming from the bag; that police examined said bag with its contents and told them that it was a bomb. He has identified the nylon bag Exh.1 which was shown to him in the court as the one which was seen beneath the cleaner's seat.

194. Shri Apali Kalangutkar/Pw59 was involved in the Kamakshi Bai Mandal Club of Durgabhat. He has testified that he participates in preparing the effigy of Narakasur every year; that on 16.10.09 they loaded the effigy of Narakasur in Tata pick-up and left to go to Vasco in three different vehicles at about 6.30 hours; that they had first gone to Borim petrol pump and then proceeded to Sancoale; that they proceeded towards Vasco from Sancoale; that on the way



they received information that Narakasur competition in Vasco will be delayed; that therefore, they returned to Sancoale to participate in the competition; that they unloaded the effigy of Narakasur from pickup and asked the driver to park the vehicle at some distance; that driver went away with the pickup; that they reached Sancoale in about 45 minutes; that the competition at Sancoale ended after about 4 to 5 hours; that one of the boys went to the driver to bring back the vehicle to reload the Narakasur effigy; that Rajasab driver of the pickup informed one of the boys that there was an unidentified bag in the Tata pick up cabin from which a ticking sound was coming; that Rajasab threw out the bag by the side of the road; that in the meantime time one of the boys informed the police; that Rajasab showed the spot to the police where he had thrown bag; and that bomb found in the bag was defused.

195. The above testimonies of the witnesses confirm that there was a bag found in the cabin of the vehicle driven by Rajasab/Pw58 and that Rajasab had thrown that bag in the field by the side of the road near the bushes.

196. Shri Rajendra Gaonkar/Pw19 is a police constable attached to Verna police station posted at Zuarinangr Birla Out Post. On 16.10.09 he was performing duty on Robin-31, a patrolling motorcycle, along with HC B.No.3259 Shri Shripad Naik. He has testified that at about 3 pm he received a call from duty master Verna police station that he should go to the place near

Shantadurga temple; that at around 8 pm about 500 to 600 people had gathered with Narakasur effigies; that Narakasur effigies were brought in the vehicles to the place of competition after the performance at the stage they were going away; that in the meanwhile four to five boys came near him and informed him that one bag was found in the cabin of a tempo by which Narakasur effigy was brought and some sound was coming out of that bag. He has then testified that said boys also informed him, that the driver of said pick had thrown the said bag out in the bushes. He has stated that he immediately went to the spot where the bag was thrown and that he heard the sound of a clock alarm; that said spot was in the bushes about three metres away from the road side; that the bag was of white colour having red stripes with a writing "Karma tea"; that he immediately informed PSI Dalvi in-charge of Verna Police Station; that he was instructed to keep the people away from the bag and also to divert traffic; that after 10 minutes PSI Dalvi reached the spot; that he saw the bag and called bomb disposal squad; that after their arrival the bomb disposal squad opened the bag; and that people were kept at a distance of 100 metres from that place.



197. Shri Premanand Naik/Pw68 was one of the spectators at the site who had come to watch the competition. He has testified that PSI Dalvi requested him to act as panch witness with another person Girish Naik, that panchanama was conducted on the main Cortalim-Vasco road at a distance of 100 to 150 metres away from



the scene of competition on the left side of the road; that PSI Dalvi showed him a rexin bag found in the field amongst the bushes at a distance of four metres from the spot; that the bag was brought to the main road; that articles inside were shown to them one by one in the street light, torch light and jeep lights; that the time was around 22.30 hours that photographer and bomb disposal squad were present at the site; that first the bomb from the rexin bag was defused and shown to them; that there were gelatine sticks, electric wires, a remote, a clock and some other articles inside the rexin bag; that these articles were separately packed and sealed in their presence; that details of these articles are written in the panchanama; that he will not be able to identify them if shown to him; that PSI Dalvi had drawn panchanama which concluded at 2.00 hrs.; that PSI Dalvi had told them that bag was initially found in pickup that it was then thrown away by its driver in the bushes; and that pickup driver was present at the time of panchanama. He has then identified the nylon bag at Exh.1, the newspapers at Exh.2, piece of tape at Exh.3, white granules in an autopress polythene bag at Exh.4, twine at Exh.5, Four gelatine sticks at Exh.7, plastic box containing batteries at Exh.8, a watch in an autopress bag at Exh.9, pen cells Nippo make at Exh.10 and he has also identified the photographs in which said articles were seen.

198. PSI Shri Jivba Dalvi/Pw104 had conducted the scene of incident panchanama. He has testified that on 16.10.09 at around 22.30 hrs. PC Raian Gaonkar informed him that he has noticed a

bag on the roadside in the bushes from which ticking sound was emanating; that he immediately rushed to the spot and summoned bomb disposal squad; that he secured presence of two panch witnesses and drew a panchanama; that the bag was lying the bushes; that while the panchanama was in progress the team of bomb disposal squad arrived with trained dog and equipments required to defuse the bomb; that a BDS team cut open the bag and defused the explosive device; that material inside the bag was removed and separated; that the bag had letters Karma Tea Assam 250 grams and other details on it; that piece of bag on one side was seen cut; that in the bag there was a parcel cylindrical in shape wrapped in brown colour packing tape; that he removed the tape; that it contained a parcel wrapped in newspapers which was Marathi daily Lokmat; that some numbers were written on the newspaper; that pieces of packing tape which were cut and removed from the parcel were checked while removing the newspaper covering of the parcel they could see white colour granules of chemical substance Exh.4, dropping; that there was jute thread tied over four gelatine sticks; that said gelatine sticks were separated; that the thread Exh.5 tying the gelatine sticks was removed; that four gelatine sticks Exh.6 were in polythene tube one end was closed with metallic wire and from the other end there were two wires coming out from each gelatine stick; that after pulling these wires from each gelatine stick they found that it was connected to the electronic detonator silver in colour; that all four detonators along with wires were put in polythene bag, sealed in an envelope and





marked Exh.4; that gelatine wires Exh.7 contained a writing "90 Super Power, Safety Quality Reliability Explosive 9 Class -2, 25mm x 125g. and ANISO 9001 company" made in India, Solar Explosive Limited Factory Village Chakdoh, Bazar Gaon Nagpur (MS) India.

199. These Exhibits were later sent for expert opinion.

200. Dr. Sukminder Kaur/Pw98 Deputy Director and Scientist, CFSL Hyderabad has examined said Exhibits. In her report at Exh. 378 she has confirmed that Exh.4 contains ammonium and nitrate ions; that Exh.1, 2, 3 and 6 which were attached from said bag also contain ammonium and nitrate ions and then has opined that the ions detected in these Exhibits would be the ingredients of ammonium nitrate based explosive composition. Her said testimony has gone unchallenged. The testimonies of the panch witness Shri Premanand/Pw68 and IO Shri J.Dalvi/Pw104 that the bag found near the venue of competition contained bomb is thus supported by an expert. The finding of the bomb at Sancoale site is, thus, proved. The fact that there was an explosion at Margao near the venue of competition has also been proved. The property attached at site of the explosion has also been proved.

201. Dr. Sukminder/Pw98 had also examined the property attached at the site of explosion at Margao. Exh.352 is the report of Dr. Sukminder on the examination of said components seized at Margao site. Exhibit 1 were 4 cylindrical shape paper rolls with solid pinkish coloured material labelled as super power 19, Exh.3

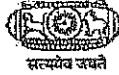
were four white colour wind wires, Exh.4 was partially broken plastic bottles, Exh.5 was 4 cylindrical paper rolls having pink coloured semi sold material labelled as super power 19 stated to be four gelatine sticks. Exh.7 was four white colour wind wires, Exh.8 was partially broken plastic bottles soaked in mud. Dr. Sukminder has opined that ions detected in Exhibits 1, 4, 5, and 8 could be ingredients of ammonium nitrate based explosive composition.



202. After examination of the Exhibits from both the sites, Dr. Sukminder has opined that ions detected in Exhibits 4 and 8 of FIR no.338/2009/Margao Town Police station and Exh.4 in FIR 114/2009/Verna PS indicate that Exhibits 4 and 8 of Margao Town police case and Exh.4 of Verna police station case are chemically similar. She has further opined that ions detected in Exhibits 1 and 5 in FIR 338/2009/Margao Town Police case and Exh.7 in FIR 114/2009/Verna Police station case indicate that Exh. 1 and 5 of Margao Town Police Station and Exh.7 of Verna PS case are chemically similar. This proves beyond doubt that the ions of components of the explosives found at the Margao explosion site and the ions of the components of explosives found at Sancoale site are chemically similar.

203. The circuit diagrams Exh. 35 were copied from the computer of Sai PCB at the instance of A-5/Dhananjay. Shri Rajesh Sonar/Pw54 was requested by the Investigating Officer to prepare PCBs of said diagrams. These were attached later under

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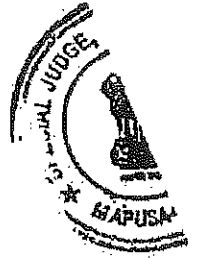


panchanama Exh. 197 colly and receipt of the same was given to said Shri Rajesh. Five PCBs bearing nos. K798, one PCB bearing No.K792, one PCB bearing no.K793 and one PCB bearing No.K793 Exh. 47 were recovered at the instance of A-5/Dhananjay at the rented room at Samarth Nagar, Kolhapur. It is not disputed that this room was occupied by his other three colleagues along with him, all of whom were engineering students. Similarly, a black PCB layout having no.K798 and sealed envelope containing PCB layout for alarm circuit, one PCB layout for mobile remote control, one letter head of Sai Electro Arts having circuit diagrams K798 and circuit diagram for alarm timer circuit Exh. 55 were recovered from the room of A-5/Dhananjay occupied by him with his colleagues. At Exh.56 the Investigating Officer, Pw116/Mohan Naik has also attached PCB, PCB films and circuit diagrams in respect of PCB No.K791, K793 and K798 which were produced by Shri Rajesh/Pw54. An opinion was sought whether these circuit diagrams and PCBs are similar. Shri P.N. Ramkrishna/Pw107 an expert has opined that these circuits are similar.

204. Exh.8 which was a plastic box containing in it along with others an electronic circuit fixed to the box which is white in colour. This Exhibit was attached in the explosive which was found at Sancoale site. Exh.18 was another plastic box having electronic circuit inside which was attached in Magao Town PS crime 338/09.

205. An opinion was sought from the expert whether the circuits

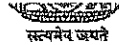
recovered at the instance of A-5 from the room occupied by him, the samples that were produced by Shri Rajesh/Pw54 and the circuits recovered at the two sites of the crime are similar. The expert Shri P.N. Ramakrishnan in his testimony and report has given following opinion:-



- The circuit diagrams in the PCBs marked Exh. 47-A (1)-1 to Exh-47A(5) (Cr.No.114/09) matched with schematic circuit diagram marked as "K798" in the DVD marked as Ex-35 (Cr.No.114/09).
- The circuit diagram in PCBs marked as Ex-47B (1) & Ex-47B(2) (Cr.No.:114/09) matched with schematic circuit diagram marked as "K793" in the DVD marked as Ex-35(Cr.No.:114/09).
- The circuit diagram in the PCB marked as Ex-47C (Cr.No.:114/09) matched with the schematic circuit diagram marked as "K792" in the DVD marked as Ex-35 (Cr.No.:114/09).
- The circuit diagram in the PCB marked as Ex-54 (Cr.No.:114/09) matched with the schematic circuit diagram marked as "K798" in the DVD marked as Ex-35(Cr.No.:114/09).
- The circuit diagram in the letter heads of "SAI ELECTRO ARTS", HAVING DIAGRAM WITH "K798", marked as Ex-55 (Cr.No.: 114/09) matched with the schematic diagram marked as "K798" in the DVD marked as Ex-35 (Cr.No.:114/09).
- The schematic component/s diagram in the envelopes in the Exh. marked as Ex-55(Cr.No.:114/09) matched with the components in the Exh. marked as Ex-8 (Cr.no.: 114/09) & Exh-17 (Cr.No.338/09) respectively.

206. A careful perusal of the above opinion reveals that the expert

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does have opined that the circuit diagrams which were copied from the computer of Rajesh/Pw54 and the PCBs prepared by him from said circuit diagrams were similar to the PCBs found in the room occupied by A-5/Dhananjay. It is pertinent to note that the expert has not opined that the PCBs Exh. 8 which formed component of the explosive in Crime no. 114/09 of Verna Police station and that in Exh.17 which formed component of explosive in crime no.338/09 in Margao town police station are similar to the PCBs that were found in the room occupied by A-5/Dhananjay or with the samples produced by Rajesh/Pw54.

207. Shri Ramakrishnan/Pw107 has also opined that the green insulation tapes Exh. 16, Exh. 3 and Exh. 64 of Cr.no.114/09 and Exh. 17 and Exh. 25 of Cr.no.338/09; Exh. 33 and Exh. 24 of Cr.No.114/09, the locks/clips removed from gelatine sticks Exh.1A, 5A of Cr. no.338/09 and Exh. 7A and exh, 27 of Cr.no.114/09, batteries Exh. 8A, Exh.8B in Cr. no.114/09 and Exh.17 and Exh.18 of Cr. no.338/09; and the batteries marked Exh. 64A-1 64 A-2 Exh. 63 B1, Exh. 63 B2 and Exh. 42 of cr. no.114/09 and Exh. 64 A1, 64 A-2 in Cr no.114/09 are similar. Similarity opined about the components of the explosives in the two crimes relate to insulation tapes, gelatine sticks and batteries. There is, however, no evidence to show that all the components which were recovered at the two sites are Similar to these items of which samples were attached from different shops at the instance of A-5/Dhananjay.

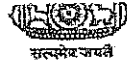
Santosh

208. Shri Ramkrishnan/Pw107 has also opined that the visiting card boxes Exh.16 and Exh.48 attached in Cr.no.114/09 and that Exh.18 attached in Cr. no.338/09 are similar in respect of sizes but no opinion could be given whether they are from the same origin of the manufacturer. Similarly, the expert also could not give any opinion of Similarity with respect to the soldering material which was used in manufacturing the explosives at two sites or the one that was attached under panchanama at the instance of A-5 Dhananjay.



209. It is thus seen that the prosecution could not point out similarity with respect to the PCBs that A-5/Dhanajay had got prepared from Shri Rajesh/Pw54 and the PCBs used in manufacture of the explosives at the two sites. The prosecution also could not prove that the boxes which were found at the site or recovered from the Sanatan Ashram during investigation were manufactured by the same manufacturer. These facts were material to establish that A-5 was responsible for manufacture of explosives.

210. PSI Shri Prabhakar/Pw73 was incharge of Bomb Detection and Disposal Unit (BDDU) at the relevant time. He has submitted the report to the I.O. DySP Mohan Naik/Pw116 on 26.10.09 with respect to the IEDs, four gelatine sticks, individual detonators, circuit box with two 9 volt batteries and alarm clock. He has also prepared a diagram at the request of the IO DySP Mohan Naik. He has produced said diagram at Exh. 65. Shri P.N. Ramkrishna/Pw107



had also prepared along with his report the diagrams of the PCBs K791, K792, K793 and K798. The prosecution has not taken any pains to compare these two diagrams and obtain an opinion whether these two diagrams are SIMilar. This would have proved that the circuit that was used for preparation of the explosives was a circuit that was furnished by A-5 Dhananjay to Pw54/Rajesh. The evidence to that effect, however, is missing.

211. An important link to point out to the guilt of A-5/Dhananjay in the manufacture of the explosives that were recovered at the site is, therefore, missing.

212. It is the contention of Learned Special P.P. Shri Faria that deceased A-1/Malgonda and deceased A-2 Yogesh had gone at the site of competition at Margao to cause an explosion and A-3 Vinay and A-4/Vinayak had gone with SIMilar intention to Sancoale to plant an explosive there and then proceed to Vasco for the same reason. It is his contention that after they planted the explosive at Sancoale and had proceeded to Vasco they received a message of the explosion caused at Margao injuring the deceased accused and therefore, they returned without planting any explosive at Vasco. It is his contention that on the way back to Ponda they had disposed off the explosives which they had. For the purpose of proving these facts, the prosecution has relied on the admissions by accused no.3 Vinay and accused no.4 Vinayak and the testimonies of Shri Nandadeep/Pw26, Shri Mohammad/Pw37 and Shri Sanjog

Borkar/Pw39 and the location given by the mobile tower of the movements of both the accused.

213. Shri Mohan Naik/Pw116 has testified that A-3/Vinay had used mobile no.9823974202; that it was supposed to be attached with a IED in an enhanced mode; that in case this mobile number was dialed from any other mobile the bomb would explode; that once such number with enhanced mode is dialed the circuit gets complete, the bomb explodes; that in this case A-1 was supposed to give ring to this mobile for explosion; that, however, there was no response from A-1 due to bomb blast at Margao in which he had sustained serious injuries; that IED placed in this mobile was supposed to be placed at Vasco during Narakasur competition in 2009; that however, there was no response from A-1, therefore, A-3/Vinay dismantled the IED and threw it at Cortalim on the way to Ponda and that this was done after A-1 sustained injuries in the blast.

214. He has further testified that the mobile nos. 9823771301 and no.9158066548 were with A-1 and A-2 that he had obtained CDRs of those mobiles that it as found that on the day of bomb blast all the four accused were in touch with one another through their mobiles.

215. Shri Nandadeep/Pw26 is a mobile shop owner at Vasco. He has testified that he sells new mobile handsets of all brands; that





he opens the shop at 9 hrs and closes it at 21.00 hours with a lunch break between 14 hours and 15.30 hours and he deals with sale of SIM card and recharge vouchers; that on 16.10.2009 eve of Diwali day he closed his shop late to clean the shop; that two persons came on motorcycle one wearing helmet was riding the motorcycle; that motorcycle was parked in front of his shop; that they had come at about 22.30 hours; that the pillion rider came to his shop and asked for a Nokia 5020 model; that he had told him (accused) that it was not readily available for sale as the documents were not in the shop; that said pillion rider made inquiries about its price; that he (accused) bargained for the price; and that he had offered to the said customer to contact him in the next morning. He has, thereafter, testified that he had seen the pillion rider whom he can identify; that A-3 is said pillion rider; and that he had even identified A-3 in the test identification parade. In his cross examination, he has stated that he does not recall who had called him at the police station; that he does not remember the mode by which he was called and he does not recall name of the police officer who recorded his statement.

216. It is surprising that this witness although does not remember who had later called him at the PS, what was the mode by which he was called or the name of police officer, which normally a person remembers since he does not often go to the police station but remembers one of the many customers who had come to him only once for inquiries of a mobile.

217. In his further cross examination he explains that he remembered the date of arrival of said customer as 16th October since his birthday was on 22nd; that he had learnt about the bomb blast at Margao and moreover that he had noticed that the customer was appearing nervous and frightened. It cannot be believed that only because birthday of a person is on a particular day he would remember of an incident five to six days prior to that. He further has stated that he was told by police that A-3 Vinay was involved in the blast and on that basis he gathered that mobile would be required and as he appeared nervous. The witness has further stated that he had sold about 7 to 8 mobile handsets on 16.10.2009; that police had examined bill books for preceding four to five days but did not attach the bill books; and that he would not be in a position to state exactly how many handsets were sold by him between 12 to 16th. He has added to say that sometimes only one handset is sold in a day or sometimes fifteen or more.

218. He has then stated that he did not know A-3/Vinay prior to 16.10.2009. He has also admitted that he had no suspicion of A-3/Vinay when he approached the shop on the night but he became suspicious about him only after the police did the investigation and his suspicion was further strengthened on his learning about his involvement in the blast at Margao.

219. As discussed herein above, it is difficult to believe this witness would recollect a person whom he has seen only once on the night



of 16.10.09. He had admitted that the policemen who had approached him for investigation had told him that A-3/Vinay was involved in bomb blast. It is pertinent to note that only thereafter he realized that on the night of 16.10 when A-3/Vinay came to his shop he looked nervous and then he got suspicious about A-3/Vinay. From this testimony it appears that the witness has testified against A-3/Vinay only because police had informed him that he is involved in bomb blast.

220. Shri Sanjog/Pw39 is an employee of PWD. He has testified that he knows A-3/Vinay since he (accused) was residing in his locality for about 10 to 12 years; that they were also studying in the same school; that on the eve of Diwali in 2009 he released water into the main tank, checked the water pipes and returned home at about 7.30 to 8 hours; that he cleaned the house for Diwali, did some house work and then left the house at around 22.30 hours with the children of his brother to see Narakasur competition near Mandovi Pallets; that while he was watching the competition he received a phone call from his brother Sandeep about a bomb blast requesting him to return home, that he kept the children home and left the house on a motorcycle to visit his sister; that when he reached near culvert at Borim he met A-4/Vinayak Patil who was proceeding on his motorcycle at a slow speed along with another; that A-4/Vinayak greeted him; that on inquiries A-4 informed him that he had gone to see the Narakasur competition; that he told A-4 and the other person with him that there was a


bomb blast in Margao; that he did not know where A-4 was residing at that time; that he delivered an Akash kandil to his sister and returned home by around 23.45 hours.

221. He has further testified that on 3.11.09 police had called him at the police station; that police questioned him whether he knew Vinayak Patil, that he answered in the negative; that police asked him whether he can identify the person if shown; that a person with mask was produced before him; that when the mask was removed he identified said person as the one who had crossed him on the culvert on Diwali eve at Borim.

222. In his cross examination he has stated that he does not know where A-4 resides for last 8 to 10 years that he had stated to the police. that he had asked A-4 where he had gone he could not explain why such a statement was not recorded in his statement to the police where he had only stated that A-4 was riding motorcycle at a slow speed. This has been marked as an omission. He has also admitted that A-4/Vinayak had not told him that he has gone to see Narakasur competition. He has then stated that he was all confused because police had abused him at the police station.

223. A careful perusal of his testimony shows that he was confused even in the court where in fact he did not testify under any influence or under any coercion. Initially, he has testified that he knows A-3/Vinay since they were from the same locality. Later on, he has proceeded to say that he had seen A-4 who was riding the

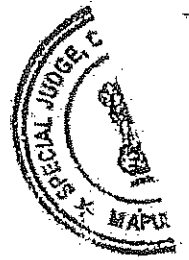




motorcycle He was also asked by police whether he knows Vinayak Patil to which he had answered in the negative. The witness knew A-3/Vinay and did not know A-4/Vinayak. He, however, identified A-4/Vinayak at the police station. He has admitted that at the police station he was abused by police. His identification of A-4 was, therefore, obviously on account of the coercion exercised by police. He did not know A-4/Vinayak. One then fails to understand why he should inquire with A-4/Vinayak where he had gone. The witness has also stated to the police that he had asked A-4/Vinayak why he was going at a slow speed. This was a material omission in view of the statement made by him in his chief that he had asked A-4/Vinayak where he had gone. There is also no evidence on which side both of them were proceeding and how he could identify either A-3 or A-4 at night.

224. From his testimony it can be culled out that he had seen A-3/Vinay or A-4/Vinayak in between 10.30 to 11.45 pm. He has not stated precisely at what time he had seen them. It could be little around 10.30 pm or little around 11.45 pm. It appears to be the case of prosecution that both A-3/Vinay and A-4/Vinayak had gone to Sancoale then to Vasco and on their way back had met Shri Sanjog/Pw39. To establish this, the prosecution has examined Shri Nandadeep/Pw26 who had seen the accused no.3 in his shop at 10.30 pm and thereafter Shri Sanjog/Pw39 had seen A-3/Vinay or A-4 Vinayak between 10.30 to 11.45 pm. The prosecution has not brought on record what is the distance between Vasco and Borim

and whether this distance can be covered by motorcycle within short time of five minutes or it takes about one hour fifteen minutes. It was necessary for prosecution to prove what is this distance and the time required by a two wheeler to cover this distance. It is possible that Pw39/Sanjog had seen A-4/Vinayak at around 10.45 pm and if the distance between Vasco and Borim is around 22 to 30 kilometres; it is impossible to cover this distance within 10 to 15 minutes. Further, Shri Sandesh/Pw23 has testified that their group reached Sancoale at 10.30 pm. Thereafter the Narakasur effigy was unloaded, pick-up was driven away and parked. A note can be taken of the fact that this must have taken another 10 to 15 minutes. The pick up was parked at around 10.45 pm. It is case of prosecution that only thereafter A-3/Vinay and A-4 Vinayak had planted the bomb in the vehicle and proceeded to Vasco. In that case both the accused could not have been present either at the shop of Nandadeep or at Borim bridge at around 10.30 p.m. Nandadeep/Pw26 has testified that A-3 had come on motorcycle and the rider was wearing a helmet. If one goes by prosecution story A-4 at the relevant time was wearing the helmet. Later Shri Sanjog/Pw39 had seen A-4 riding the motorcycle. Prosecution has not explained how he could identify A-4/Vinayak with helmet on.



225. There are also certain infirmities in the testimonies of the members of group of Kamakshi Bal Mandal Club, Durgabhat. Shri Ratnakar Pujari/Pw16 has testified that Shri Subhash came and



approached him to lend his vehicle to carry Narakasur effigys from Ponda to Sancoale and Vasco. Shri Rupesh/Pw18 has testified that after uploading the effigy they proceeded to Sancoale. Pw20 has made similar statement. Shri Sandesh/Pw23 however, has stated that after reaching Sancoale since the competition had not commenced, they proceeded towards Vasco to take part in the competition and that they had reached Chicalim junction. He has further stated since competition had not started at Vasco they came back to Sancoale at about 10.30 pm. Shri Videsh/Pw25 has on the other hand testified that after uploading the Narakasur effigy they proceeded to Cortalim, that when they reached there the competition had not commenced and after their performance at Sancoale they wanted to go to Vasco. Shri Vasant/Pw27 however, has testified that when they reached at Sancoale at about 9.30 pm since competition had not yet started two of their members left for Vasco on motorcycle to check whether competition had started. Shri Rajasab the driver of the pickup in which effigy was being carried has testified that when they reached at Cortalim junction two boys from the group told them that Vasco programme will be delayed and, therefore, they proceeded to Sancoale where competition was already in progress.

226. The above testimonies show that there are inherent inconsistencies in the testimonies of the witnesses in so far as some witnesses say that they had gone to Chicalim junction while others say that they were at Cortalim junction; some say that since



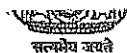
competition at Saoncale had not started they proceeded to Vasco, that on their way they were informed that competition at Vasco will also be delayed and, therefore, they came back to Sancoale; and according to some the competition at Sancoale had not commenced and according to others it had already commenced when they reached the venue. There are also discrepancies in the time given by these witnesses of reaching the venue at Sancoale.



227. Shri Punalekar, learned Advocate for the accused, submitted that normally ^{these} ~~this~~ could be considered as minor discrepancies but according to him since accused will be liable to stringent punishment stricter proof is required and, therefore, even these minor discrepancies should be considered.

228. Considering the inconsistent statements made by the witnesses with regard to the facts stated above, a doubt is definitely raised on whether these witnesses were members of the group. In case they were not members of the group their testimonies cannot be relied upon.

229. The testimony of Shri Rajasab/Pw58 and the other witnesses also reveal that Rajasab the driver of the pick up had found a bag from which a tick tick sound was emanating. According to him, he became suspicious, removed said bag found that it was heavy with some articles inside and having raised suspicion he threw it in the field by the road side. Shri Rupesh/Pw88 has testified that Sainath and Vijendra had called for the driver to reload the Narakasur effigy



and that Sainath came and told them about the bag in the tempo. Shri Dayanand/Pw24 has testified that one of the boys from the group informed them that there was a bag in the pickup from which sound was coming and they were suspicious about said bag. Shri Videsh/Pw25 has testified that one of the boys from the group rushed to them and informed them that there was a bomb in the pickup and that their driver had thrown it away in the bushes. Shri Vasant/Pw27 has testified that after their performance, one Vijay from the group went to bring the vehicle; that since he did not return Sainath went to find him and that Sainath came back and informed that driver had found a bag in the pick-up from which sound of a clock was coming and that driver had thrown the bag with its contents in the bushes. Shri Apali/Pw59 has testified that one of the boys went to the driver to bring the vehicle to reload the Narakasur effigy; that Rajasab driver of the pickup informed one of the boys that there was an unidentified bag in Tata pick-up cabin from which ticking sound was coming and that Rajasab threw out the bag by the side of the road.

230. According to these witnesses, Vijendra and Sainath had gone to bring back the vehicle after their performance. All these witnesses have stated that Sainath or one of the members from their group had returned and told them that driver had found a bag in the cabin and that he had thrown it in the field. It is pertinent to note that said Sainath or the boy who had approached the driver has not been examined.

Sainath

231. The testimonies of all the above witnesses is, therefore, hearsay.

232. Shri Rajasab/Pw58 has testified that after the performance two boys had approached him to take the vehicle near the venue for reloading the effigy; that said two boys had come with him to the Tata pick-up; that they were present when the bag was found in the cabin. He however did not identify or name these two boys. He has also testified that he had asked these two boys whether their mobile had fallen inside. Since he had discussion with these two boys he could at least have identified these boys. He has also stated that since he became suspicious, he had thrown said bag in the field across the road and he had also asked the two boys to move aside. In his cross examination, he was asked whether he had thrown said bag from the cabin at the instance of said two boys. He denied the same. When his attention was drawn to such a statement he could not explain how such statement was recorded by police. Said statement is marked as contradiction.

233. Further, in his cross examination Shri Rajasab/Pw58 has stated that on their way to Sancoale only two boys were sitting with him in the cabin. His attention was drawn to the statement made by him that three boys were sitting in the cabin. He could not explain how such a statement was recorded. This statement was also marked as contradiction. He then explained that one of the boys



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was hefty and the other thin and, therefore, there was no place for third person to sit. He also denied the statement that three boys were sitting in the cabin. It was also suggested to him that he has made the statement that only two boys were sitting in the cabin under the instructions of the police.

234. Shri Apali/Pw59 was one of the members of Kamakshi Bal Mandal Club who according to him was sitting in the cabin on their way to Sancoale. He has however, admitted that he did not tell the police that he was sitting in the cabin. He too has stated that there were two persons sitting in the cabin besides the driver. He has further stated that the second boy sitting in the cabin besides him was Tanu alias Siddharth and he has same built as the witness himself. This is in direct conflict with the statement by Shri Rajasab that one of the boys sitting in the cabin was hefty and other one thin. According to Rajasab, only because of said statures of the two persons, third person could not be accommodated in the cabin. According to Shri Apali/Pw59 however, the two persons sitting in the cabin were he, and the other boy with same stature as his. From the testimonies of these witnesses, therefore, it appears that there was a third person sitting in the cabin when they had come to Sancoale. It is not known why the witnesses have been avoiding to name said third person. It raises a suspicion on their testimonies.

235. Shri Sandesh/Pw23 was one of the members of Kamakshi Bal Mandal Club who was in the pickup in which Narakasur effigy was

loaded. He has testified that there was a plastic bag with jewellery to be put on Narakasur effigy in the cabin, and at the time of unloading the effigy they had taken out said plastic bag of jewellery of Narakasur from the truck.

236. The other witnesses who were members of Kamakshi Bai Mandal Club have admitted that the effigy was ready on the date prior to competition i.e. on 15.10.2009. Shri Videsh/Pw25 has testified that the dressing of the Narakasur and decorating it with ornaments was done on 16.10.09; and that thereafter, they loaded the ready Narakasur effigy in the pickup. Shri Vasant/Pw27 has also testified that dressing of the Narakasur and decorating it with ornaments was done on 16.10.09 and that after the effigy was ready they loaded it in the pickup. The other member witnesses have not stated anything about decorating the effigy with ornaments. It is, thus, pertinent to note that only according to one witness Shri Sandesh/Pw23 they had kept a plastic bag in the cabin of ornaments of the Narakasur effigy. The other two witnesses Shri Videsh/Pw25 and Shri Vasant/Pw27 has contrary to that testified that the effigy was even decorated with ornaments prior to loading it in the pick-up.

237. If that is the case a suspicion arises about the contents of the bag that was kept in the cabin. The suspicion is further enhanced by the fact that none of the witnesses who were members of said group have stated that after unloading the effigy, ornaments were





put on the effigy. As submitted by learned Advocate Punalekar, there is evidence on record which shows that at the time the group started from Ponda there was a bag kept in the pickup which fact was not known to any person except Shri Sandesh/Pw23. He has further submitted that in view of the statements by Videsh/Pw25 and Vasant/Pw27, said bag cannot contain any ornaments. He urged that the investigation agency did not conduct any investigation in that direction, that this was a serious lapse on the part of investigation agency and it is possible that the bag to which Shri Sandesh/Pw23 refers to was the bag that was in the cabin of the pick-up and thrown by the driver in the bushes.

238. The circumstances, namely, hiding the identity of third boy who was in the cabin and proved existence of a bag in the cabin which could not have been of ornaments raises a serious suspicion on the case of the prosecution. There is great merits in the submission of learned Advocate Shri Punalekar. This added with the doubt raised on the presence of A-3 and A-4 at Vasco at 10.30 pm raise a serious doubt on the case of the prosecution that A-3 and A-4 had planted the explosives in the cabin of the pickup.

239. The next circumstance on which the prosecution seeks to rely is that in pursuance of a conspiracy accused had purchased various items/articles from different places to prepare bombs to be used during celebration of Narakasur competition; prosecution has relied on the testimonies of Shri Sevaram Choudhary/Pw34, Shri Ravindra


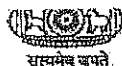
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Parab/Pw44, Shri Ravindra Jadhav/Pw53, Shri Eddie Tavares/Pw87, Shri Ambalal Dewashi/Pw95, Shri Kumar Talreja/Pw96, Shri Sham Takalkar/Pw97, Shri Arjun Kumar/Pw103, Shri Bossuet Silva/Pw115 and Shri Mohan Naik/Pw116 to prove this circumstance.



240. According to the prosecution accused no.3 had purchased 9 volt batteries and cellophone tapes from the shop of Pw/34 Shri Sevaram; accused no.5 had purchased PCBs from the shop of Shri Rajesh Pw/54, wire connections capacitors, 9 volt batteries, transistors, gelatines, soldering machines, multi meters from the shop of Shri Mahesh Velip/Pw53, blue tooth from Shri Ambalal/Pw95, six transistors from Shri Kumar/Pw96 and rods from the shop of Shri Sham/Pw97. It is contention of Learned Special PP Shri Faria that there is evidence on record to show that these items can be used for preparation of bombs. According to him, in view of said unchallenged statements, the defence of the accused that these items are required for domestic purposes cannot be looked into and, therefore, this circumstance stands proved.

241. Shri Sevaram/Pw34 is owner of a business Choudhary Electrical company. He has testified that he was assisted in his shop by his brother Bharaj and nephew Bhanwarlal who are no longer working in his establishment. He has then testified that after Diwali in the year 2009 police had come to his shop along with a person whose face was covered with a mask; that in his presence and in the presence of Bhanwarlal said person stated that he had



purchased the insulation tape and two 9 volt batteries in his shop; that he does not remember number of insulation tape or batteries purchased by said persons; that said person had given money to Bhanwarlal; that Bhanwarlal who was present there identified said person who had come with police as the person who had purchased the insulation tapes and batteries from him; that he has seen said person for the first time on that day; that Bhanwarlal had told him that said person used to frequently visit the shop; that he had asked name of said person who disclosed it to be Vinay and he identified A-3 in the court. He has then testified that at the request of police he had handed over an insulation tape and 9 volt battery similar to what Mr. Bhanwarlal sold to A-3/Vinay to the police which were attached under panchanama. He has identified said insulation and two 9 volt batteries in the court.

242. In his cross examination, he has stated that Hira Electricals, Vijay Electricals, etc, in his neighbourhood sell such batteries.

243. Prosecution has not examined Bhanwarlal. According to the witness, Bhanwarlal knew A-3/Vinay as a regular visitor of the shop. The witness has also stated that he had never seen A-3 earlier. He has also testified that he looks after cash, taking orders etc. Since the witness looks after the cash, it could be presumed that he also will be present in the shop. In case A-3 was regular visitor of the shop, he should have identified the accused. According to the witness, Bhanwarlal had identified the accused of having purchased

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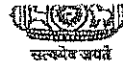
the insulation tape and two 9 volt batteries. The testimony of this witness is hearsay and not admissible.

244. The witness has also not stated what was the colour of the insulation tape or the 9 volt batteries sold to A-3/Vinay. The witness had handed over the insulation tape and 9 volt battery to the police which according to him were similar to what was sold by Bhanwarlal to A-3/Vinay. The witness has not stated what type of insulation tape or what make of batteries Bhanwarlal had sold to the accused no.3. A-3 had also not stated in front of the witness the make or the colour of the insulation tape or the batteries which prosecution alleges he had purchased from Bhanwarlal.



245. From the shop of Shri Sevaram/Pw34, certain items were attached under panchanama. Shri Ravindra/Pw44 was the panch witness to said panchanama. He has testified that he and Subhash Gaonkar were present at the police station on 19.11.2009 at about 2 hours, that DySP Shri M. Naik informed them about an offence in respect of bomb blast in Margao, that A-3 Vinay has been arrested in that connection, that said Talekar wanted to make a disclosure and that panchanama had to be drawn.

246. He has further testified that A-3 disclosed to him in Konkani that he was in the house of one Laxmikant, brother of Yogesh at Ponda; that Laxmikant had given him Rs.1,000/- and told him to purchase 5 batteries of 9 volt each apart from an insulation tape

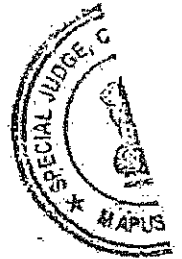


which was purchased from a shop in Ponda; and that A-3 disclosed that he would show the shop where he had made these purchases. According to him A-3 then led them to shop Choudhary Electricals where one Bhanwarlal was present; that A-3 disclosed that he had purchased 5 batteries of 9 volt each and two insulation tapes from said shop. He has then testified that Bhanwarlal identified A-3/Vinay, that DySP Naik told Sevaram owner of the shop to give sample of batteries sold to A-3/Vinay and also of the insulation tape which were attached, packed and sealed. His testimony is not challenged.

247. The panchanama was drawn by DySP Mohan/Pw116. He has testified that on 19.11.09 he had interrogated A-3; that A-3 Vinay had shown willingness to make a disclosure; that he secured Ravindra Parab and Subhash Gaonkar as panch witnesses; that A-3 disclosed before the panchas that on 16.10.09 Yogesh had handed over to him Rs.2000/- and had asked him to bring 9 volt five batteries and two insulation tapes; that he had purchased said batteries and insulation tapes from electronic shop near Margao bank at Ponda; that he had shown willingness to take them to said shop; that the accused took them to a shop named Choudhary Electrical Company, shop no.5, Bandekar building, near Canara Bank, Ponda Goa; that accused pointed out a person and informed that he had purchased five 9 volt batteries and two green colour insulation tapes from said person; that said person gave his name as Bhanwarlal; that accused pointed out 9 volt batteries and green

insulation tapes from the shop; that he requested Sevaram to give sample of 9 volt battery and green insulation tape for investigation; and that accordingly he attached, packed and sealed two items under the panchanama.

248. It can be noted from the perusal of above testimonies that there are some discrepancies in the statements made by the panch witness, namely, Ravindra and the IO DySP Mohan. According to Ravindra accused had disclosed that Laxmikant had handed over an amount of Rs.1,000/- to A-3 Vinay as per the disclosure made. DySP Shri Mohan/Pw116, however, has stated that accused had disclosed that Yogesh handed over to him Rs.2,000/-. Ravindra/Pw44 has not stated that accused has made any disclosure about the location of the shop except that it is situated in Ponda. DySP Shri Mohan, however, has stated that accused had disclosed that the shop is located near Margao bank and then had stated that accused had taken them to the shop no.5 Bandekar building, near Canara Bank, Ponda Goa. Location in the disclosure is, therefore, different from the shop allegedly identified by A-3/ Vinay. Both Ravindra/Pw44 and DySP Shri Mohan/Pw116 had stated that accused had disclosed that he had purchased five batteries and two insulation tapes. Shri Sevaram/Pw34 on the contrary has stated that the person who had come to his shop and had disclosed his name as Vinay had pointed to Bhanwarlal as the one from whom he had purchased the insulation tape and two 9 volt batteries. Thereafter, he has stated that he does not recall





number of insulation tapes and batteries purchased by said person who gave money to Bhanwarlal.



249. As discussed herein, Shri Bhanwarlal has not been examined. There are discrepancies in the statements made by the panch witness Shri Ravindra/Pw44 and DySP Shri Mohan/Pw116 about the disclosure made. There are also improvements made by DySP Shri Mohan in the alleged disclosure made. The disclosure made is also not consistent with the testimony of Shri Sevaram/Pw34. In these circumstances, the alleged disclosure is unreliable.

250. Shri Sagar Salgaonkar/Pw79 had acted as panch witness on 4.11.2009 along with Shri R. Dhuri. The panchanama was of house search of the house of Laximikant Naik. He has testified that he was shown one suspect A-3/Vinay and that said A-3/Vinay had given the disclosure of his involvement in the crime. He has also stated that he had disclosed that he was involved in bomb blast and that assembly of bombs were done in the house said Laximikant. This statement is already marked as inadmissible in evidence being inculpatory. He has then testified that the accused had taken them to the house of said Laximikant but nothing incriminating was found in the house.

251. He has further testified that they then proceeded to the flat of A-3/Vinay Talekar at MRF housing colony, Prabhu Nagar, Ponda; that his mother Vanita Talekar was present in the house; that

Amilur

search warrant was shown to her; that A-3 Talekar led them inside the flat comprising of two rooms; that he handed over twelve leaflets used by medical practitioners which were packed and sealed and the panchanama was concluded. His testimony, therefore, does not help the prosecution in any way.

252. Another panchanama was drawn on 31.10.09 at the instance of A-3 Vinay. Shri Deepak Lotlikar/Pw71 and Rafique Shaikh were the panch witnesses to said panchanama. Shri Deepak/Pw71 has testified that in the conference hall of Margao town police station at Margao a person with face covered with mask was produced before him that said person disclosed his name as Vinay Talekar from Ponda; said A-3 disclosed that he had kept two mobiles near petroleum godown in the vicinity of Menezes factory at Bethora; that he had thrown a yellow colour shoulder bag in the bushes; and that he would show to him said mobiles and the bag. A-3 Talekar further disclosed that he would show them the clothes worn by him at that time and an additional mobile kept by him at his residence.

253. He has also testified that A-3/Talekar had also disclosed that he had kept a bomb in a truck carrying Narakasur while proceeding from Sancoale to Vasco and would also show the motorcycle used by him on that day in that connection. The last two statements have already been marked as inadmissible in evidence being inculpatory by my Predecessor.



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254. He has then testified that the disclosure was recorded in Devnagiri script in the body of the panchanama; that they proceeded in their jeep with A-3/Talekar sitting by the side of the driver, PI Bhanudas sitting by his side and DySP Naik, other panch witness and other police sitting on the rear side; that A-3 led them to Borim asked the jeep driver to stop the jeep near the factory; that he led them towards petroleum godown where there was a wall and a big jungle; that he removed a polythene bag from the space between said wall and a tree; that said bag contained two mobile handsets; that said polythene bag with mobiles was not visible to any passers- by; that said mobiles were packed and sealed; that he then led them to his flat at MRF colony at Bethora; that one elderly lady and a young lady were available which A-3/Talekar identified as his mother and sister; that A-3 went inside his bedroom, followed by all of them, opened his steel cupboard, removed a pant and shirt from the cupboard as those worn by him on that day and one mobile, Nokia make; that he disclosed that he constantly used this mobile; that pant and shirt were put in an envelope duly packed and sealed and signed and SIMilarly mobile handset with battery inside was duly packed, sealed and signed.

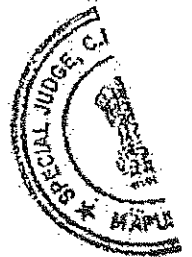
255. He has further testified that A-3/Talekar disclosed that A-4 Vinayak resides on rent to Durgabhat; that he found the motorcycle of A-4 Vinayak bearing registration no.GA 05 A 1232 outside his residence; and that the same was attached under panchanama.

He has then identified the mobiles shown to him as the ones recovered at the instance of the accused and the clothes shown to him.

256. In his cross examination, he has stated that he was not in a position to state whether the shirt or pant was put in the envelope first; that at the police station the search of the police was not taken; that he does not remember whether police had told A-3 Talekar to take the search; that there was no lady staff available with the police at that time; that they did not enter the bedroom of the accused since the flat was very small but two of them had entered the bedroom; and that he cannot say if there is a record in the panchanama that they had entered the flat. He has further stated in his statement that he cannot say whether it is recorded in the panchanama that the accused was produced before them with face covered with a mask and he had admitted that the place where two mobiles were found between the tree and the wall is open to the public.

257. There is a note made at the time of recording his testimony that ESD shielding bag stated to contain three mobiles did not contain the envelope in which the three mobiles were initially packed.

257. DySP Shri Mohan/Pw116 has testified that at the time of said panchanama A-3/Vinay had disclosed that he was willing to show his motorcycle, his mobile phone, his clothes and one bag belonging





to him and thereafter had led them near Bharat Petroluem Godown on foot towards a Satwan tree; that he had removed a dirty polythene bag from under asbestos sheet, had recorded the details of two mobile phones i.e. their model and IMEI number; and that said mobile phones were without SIM card and battery which were attached, packed and sealed.



258. Neither the witness nor the IO has given details of these mobiles. In any case, there is absolutely no evidence to show that these mobile phones were at any time used by A-3/Vinay in connection with the crime. Recovery of said mobiles, therefore, is irrelevant. The attachment of said mobiles is also not reliable since the envelope in which they were allegedly packed and sealed were not produced during the evidence before the court. Shri Punalekar, learned advocate has relied on the decisions in the cases of **Jasbir Singh V/s. State of Punjab (AIR 1998 SC 1660)** and **Rajaram s/o. Tulshiram Mane V/s. State of Maharashtra (2010 ALL MR(Cri) 1492)** and has submitted that if the property is not sealed properly and its details are not recorded, such recovery should be held to be not proved.

259. In the case of **Jasbir Singh V/s. State of Punjab (supra)**, the pistol and cartridges which were recovered did not have any number or distinctive mark on them and they were also not sealed after seizure. Hon'ble Supreme Court held that contention raised by the appellant that identity of the weapon and cartridges seized

and cartridges produced before the court were not established by the prosecution. On that ground the Hon'ble Supreme court had set aside the conviction of the appellant under section 5 of TADA Act and 25 of Arms act and had acquitted them.

260. In the case of **Rajaram s/o. Tulshiram Mane** (supra), certain drugs were allegedly seized from the possession of the appellant. The Hon'ble High Court of Bombay held that prosecution has to prove beyond doubt that the sealed article is the same which was analyzed and found to be narcotic drug on analysis. In the case at hand, the envelope in which the mobiles were seized and sealed itself is missing, the seizure therefore loses its significance.

261. During said panchanama according to the prosecution accused had handed over to the investigation officer a pant and shirt from the cupboard worn by him on that day. These shirt and pant were also packed and sealed. Shri Deepak/Pw71 has stated that they all had followed A-3/Talekar to his bedroom. In his cross examination, he has stated that all of them could not enter the bedroom since the flat was very small. DySP Shri Mohan/Pw116 on the other hand, has submitted that the accused then led them to his residence, that he entered the house and came out with a pant, shirt and a mobile and that at that time Vanita mother of accused and Babita his sister were present. In his cross examination, he has categorically stated that no member of police party had entered





the house of A-3/Vinay during the house search panchanama. He has also stated that he is not aware of the exact place from where A-3 had brought the articles seized during the said panchanama and that he had asked family members of A-3 to check him before he entered the house. He has, however, also stated that said fact is also not mentioned in the panchanama. A suggestion was made to him that he never asked the family members of A-3 to check his person before he entered the house.



262. The said shirt and pant have been marked as Exh.12. The examination report of said clothes Exh. 378 reveals that sodium, calcium, magnesium, chloride and sulphate ions were detected in pant and sodium, potassium, calcium, magnesium, chloride, sulphate and nitrate ions were detected in the shirt Exh. 12. Dr. Sukminder/Pw98 has stated that the ions detected in the explosives indicate presence of ammonium nitrate base explosive composition. In both the clothes Exh. 12, no ammonium nitrate ions are detected. Only nitrate ions are detected in the shirt Exh. 12 of A-3. This, therefore, in no way can lead to the conclusion that there were any ions relating to explosive substance in said clothes.

263. It is next case of prosecution that certain incriminating material was recovered at the instance of A-3. To prove this fact the prosecution has examined Shri Gisten Pereira/Pw74. He has testified that on 3.11.2009 he along with Shri Benjamin had gone to the Margao town police station; that DySP Naik told them that one

person has been arrested in connection with bomb blast case; that said person wants to make a disclosure; that said person was produced before them with his face covered with mask; and that he disclosed his name to be Vinay Talekar. He has then testified that A-3 Talekar disclosed that he along with Yogesh had prepared five gelatine bombs in the house of elder brother of Yogesh and that the remnants were thrown in the nullah at Borim. This part of the disclosure is noted to be inadmissible in evidence by my Predecessor.



264. He has further testified that A-3/Talekar then stated that he would show the place to them; that they had proceeded in a vehicle as per the direction given by the accused towards Borim; that on reaching Borim A-3 Talekar asked the jeep to be taken to a road on the left where there was a nullah; that there was no visibility of any incriminating material at that place; that they walked towards the lower portion of the nullah as led by the accused; that accused showed them a gunny bag; that it was opened by the police; that it was found containing a multi meter with operative box, toilet tissue roll, a T-shirt; a brown colour tape yellow plastic bag, pieces of electric wire, aluminium pieces, pieces of gelatine, newspaper carrying advertisement of Narakasur competition, photo copy of ID card, each of which were noted down by the police packed in separate envelopes, sealed and signed.

265. In his cross examination, he has stated that accused had not



disclosed that he would show sixteen items nor had given the size or dimension of any of these articles; that lot of garbage was seen lying in said nullah; that some of the articles were spread in that area, while some continued in the bag; that he has no personal knowledge of the articles shown to him in the court are aluminium lock, gelatine sticks etc. He has then denied the suggestion that he has signed the panchanama at the instance of police.

266. The property seized at that spot includes a booklet instruction manual of Mini Digital Multimeter Exh.17; used brown colour adhesive tape Exh.18; yellow stitched cloth bag Exh.19; half sleeve T-shirt, Exh.20; tissue roll paper Exh. 21; paper packing of alarm clock Exh.22; nylon rope pieces Exh. 23, leaflets exh 24, insulation tape two pieces, Exh. 25, a yellow colour tube of feviquick, five aluminium locks, clips of gelatine/sluggish tips/ insulation pieces of wire of electronic detonator Exh. 28, four pieces of insulator rubber of circuit wire Exh.29 and a gunny bag Exh. 30. Dr. Sukminder Pw/98, after examination of these Exhibits has opined that ammonium in traces and nitrate in traces along with other elements were detected in Exh. 24, Exh.25, Exh.27, and Exh. 28. It, however, does not state anywhere that traces of ammonium nitrate which is active constituent of explosive composition was detected in these Exhibits. She has further opined that the ions detected in Exhibits 21, 24, 25 and 27 could be ingredients of improvised explosive composition. It is pertinent to note that she has only opined a possibility and is not firm that it

shall be active a constituent of explosive composition. Assuming for the sake of arguments that these Exhibits were recovered at the instance of accused no.3/Vinay unless there is some other ocular or documentary evidence to prove that accused had purchased these items and had manufactured a bomb, this opinion will not help the prosecution.

267. It is also pertinent to note that these items were recovered from an open place. There was garbage thrown all around. The items recovered were not hidden. The place was also accessible to all.

268. Shri Gaurav Dangl/Pw77 had acted as a panch witness in connection with the disclosure made by A-4 Vinayak. He has testified that he along with Prabhakar Naik had acted as panch witness on 2.11.2009; that both of them had gone to the office of Dysp Mohan at Margao town police station; that a person with mask was produced before them; that said person disclosed his name to be Vinayak Patil and that he has identified A-4 before the court as the said person.

269. He has testified that A-4 Vinayak disclosed along with Vinay Talekar went to Vasco on motorcycle carrying two bombs; that they kept one at Sancoale in a truck and carried second towards Vasco; that on reaching Vasco A-1 was to give necessary instructions but they could not contact him; that they were returning towards



D. 11



Ponda when they saw police checking the area; that they hid the bag containing the bomb by the side of the road in the bushes; that on the next day they removed the bag from the bushes containing the bomb, defused, disbanded the bomb and threw the parts at different places. All the above statements have been noted to be inadmissible in evidence as inculpatory.



270. He has then testified that accused showed willingness to show the places where he had initially hidden the bomb and where he defused and dispensed the bomb and threw away its pieces.

271. He has then testified that they then proceeded in a jeep as per direction of A-4/Vinayak; that on their way accused no.4 showed them the place where they had kept bomb initially near the culvert; that nothing was found at that place; that they then proceeded in the jeep as per directions given by accused; that accused pointed out to them the area by the side of the road where he had thrown away the pieces of defused bomb in the bushes; that A-4 found a yellow colour multi meter in the nullah; that said multi meter contained 9 volt battery and a circuit and that nothing else was found at the spot.

272. He has further stated that A-4 then led them on foot little ahead and on searching he found a plastic box containing visiting cards with holes on both sides with words 'ON and OFF' written on it, two batteries with some writings; that accused then took them

to Borim bridge and pointed out a place in the river where he had thrown the gelatine sticks; and that all said articles were attached under panchanama.

273. Testimony of this witness is not challenged.

274. Prosecution has then examined Shri Jitendra Kamat/Pw81 and another panch witness. The panchanama was drawn on 10.11.2009. He has testified that he was called at the police station along with Sadguru as panch witness; that A-4 Vinayak was produced before them with his face covered with mask; that they were explained purpose of panchanama; that A-4 disclosed to them that he will show the place where gelatine sticks were thrown; that he led them to Borim bridge; that divers were engaged to search that area in the river water; that they made search in an area of 40 to 45 metres in the vicinity of Borim bridge, however no gelatine sticks were found.

275. It is thus seen that at the instance of A-4 what was attached were a multimeter with 9 volt batteries with circuit, a plastic box containing visiting cards, with words 'ON and OFF' written on it, and two batteries. It is not disputed that multimeter is used for the purpose of measuring current. It cannot also be the case that a multimeter is used for manufacture of bomb or is a component of a bomb. The visiting card box used contained visiting cards. Although, it is case of the prosecution that accused has shown the place where gelatine sticks were thrown, no such sticks were found.

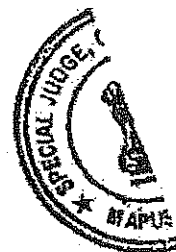


Shri Punalekar, learned advocate for the accused, submitted that it appears illogical that an accused who could throw gelatine sticks in a river to conceal the evidence would leave any other evidence on the land only to point out to the police in case he is arrested. The submission has merits. Although it is alleged that accused had defused bomb and thrown its parts at different places except for two batteries nothing was recovered at his instance.

276. It is also pertinent to note that Jitendra/Pw81 has, in his cross examination, stated that the disclosure as stated in his examination in chief was recorded in the panchanama. It was brought to his attention that no such disclosure is recorded in the panchamana. It is marked as a contradiction. He was given opportunity to explain the same. He could not give any explanation. His testimony, therefore, will have no evidentiary value.

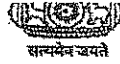
277. As discussed herein above, A-4/Vinayak had disclosed that they had carried two bombs to Vasco; that since there were no instructions from deceased A-1/Malgonda and they could not contact him, they returned with said bombs to Ponda. It is case of the prosecution that in Vasco both A-3/Vinay and A-4/Vinayak had visited the shop of Shri Nandadeep/Pw26. Shri Nandadeep has also identified A-3/Vinay as the person who had approached him and had even later identified him in the Identification Parade. He also remembered that A-3/Vinay was nervous at the time he saw the accused. According to the prosecution, the accused were carrying

two bombs in a bag out of which one they had placed in the truck at Sancoale and the other one for the reasons disclosed by the accused they had to carry back. This means that at the time A-3/Vinay approached Shri Nandadeep/Pw26 the accused were carrying with them the bag containing the bomb. If Nandadeep was so much inquisitive that he could even note the nervousness on the face of A-3/Vinay he ought to have seen the bag with them. He, however, does not make any mention of any bag being carried by the accused. This lends support to the conclusion that Shri Nandadeep has identified A-3/Vinay only on the instructions of the police. This also negatives the case of the prosecution that A-3/Vinay and A-4/Vinayak had gone to Vasco carrying a bomb in a bag on a motorcycle:



278. It is next case of the prosecution that at the instance of accused no.5 various components which are essential for manufacture of an explosive were recovered. To establish this fact the prosecution has examined Shri Ravindra Yadav/Pw53, Shri Rajesh Sonar/Pw54, Shri Eddie Tavares/Pw87, Shri Ambalal Dewashi/Pw95, Shri Kumar Talreja/Pw96, Shri Sham Takalkar/Pw97, Shri Arjun Kumar/Pw103, Shri Bossuet Silva/Pw115 and Shri Mohan Naik/Pw116.

279. Shri Ravindra/Pw53 has business is electronic spares. He has testified that he maintains a sales register, that A-5/Dhananjay was his frequent visitor as he was a student; that he used to purchase



various electronic items; that he had purchased 9 volt batteries, PCBs, resistors, transistors, LED, soldering machine, multimeter, etc.; that these articles could be used for preparing bombs; that many students purchase such articles; that he cannot precisely say when accused purchased what; and that these articles can be used to make toys, electronic items, etc.

280. Shri Rajesh/Pw54 prepares PCBs as discussed herein above. He has testified that his customers are, mainly, engineering students; that he maintains record of PCBs prepared; that he gets order from the students; that the accused had come to his shop for the first time in 2008 and thereafter five to six times; that accused had given two circuit diagrams for preparing PCBs; that accused had approached him then sometime in July to September 2009 and had collected different PCBs for ₹2,000/-; that accused had later come to his shop and had placed circuits K791, K792, K793 and K798 on his computer; and that PCBs are useful for college students.

281. In his cross examination, he has stated that he has saved circuit diagrams given by the accused as he saves those given by his customers; that he cannot give the date on which accused gave him the diagram; that he cannot state the number of circuit diagrams A-5 had given to him; that he has about 2000 diagrams in his computer; that police did not attach his computer; and that the data was copied on blank CD and it was handed over to the police.

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282. Shri Manoj/Pw55 runs a gift shop at Ichalkaranji. He has testified that the accused had come to his shop with police and had disclosed to them that he had purchased a clock in his shop; that he confirmed said fact; that cost of said clock was '35/- to '40/-; that he could not give sample of said clock to the police, and in his cross examination he has stated that these clocks are sold in thousands in the market.



283. Pw87/Eddie Tavares was a panch witness to the panchanama drawn on the disclosure made by accused no.5. He has testified that accused had disclosed the name of Sai PCB and further that he had taken eighteen PCBs from Sai PCB shop in Kolhapur, had come down to Goa in August, 2009 and showed these PCBs to Malgonda Patil, Yogesh Naik, Vinay Talekar, Juvekar, Jaiprakash and Sawan Kulkarni. My learned Predecessor has recorded that that part of his statement is inadmissible in evidence being incuplatory. He has then testified that accused agreed to show all the places as per his disclosure statement; that accused led them to the shop of Rajesh Sonar, opened the computer, located the circuit diagrams of which prints were taken and the same were copied on a CD which were attached and sealed; that they proceeded to a distance of about 30 kms. from Kolhapur to J.B. Electronics in Mahalaxmi Arcade where Ravindra Jadav/Pw53 was present; that said Shri Ravindra identified the accused and confirmed that accused had purchased batteries, diodes, capacitors of ON and OFF switches, soldering ions, etc.; and



that DySP Naik purchased sample of said articles and the same were packed and sealed.



284. He has then testified that accused then led them to a clock shop where he said that he had purchased four alarm clocks; that sample of said clock was not available; that accused then took them to his residence at a distance of 15 minutes; that two boys Sagar/Pw47 and Vivek/Pw51 were present in the room; that they showed remnants of electronic items in the room; and that eighteen items were attached.

285. In his cross examination, he has stated that he does not know what is hash value; that he does not know what is drive G; that he is not familiar in computer operations; that he does not recall about any dialogue box showing bytes; that the computer in the room of A-5 was not attached; and that during the panchanama an inquiry was made about the hard disc of the computer in the room of A-5.

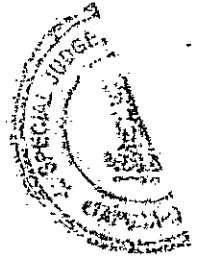
286. Shri Ambala/Pw95 runs a business shop of computers in Mumbai. He has testified that in the year 2009 police from Goa had come to his shop with one person; that he was present in the shop; that said person disclosed to the police in his presence that he had purchased a blue tooth device made in Taiwan from his shop

in July of the same year for ₹125/-; that he does not recall if he had issued any bill to said person but normally he issues bills to his

customers; that police had asked him for sample of same type of blue tooth device but he could not give it to the police on account of short supply.

287. In his cross examination, he has admitted that there are several such computer and electronic sale shops all along Lamington road; that he does not recall if he had sold any such device to the accused; that he had personally not heard the person accompanying the police telling them that he had purchased said device from said shop; and he has admitted that such devices are sold in that area.

288. Shri Kumar Talreja/Pw96 runs a business in computers and electronic parts at Lamington road in Mumbai. He has testified that police from Goa had come with one person in his shop along with Mumbai police on 9.12.2009 around 18.00 hours; that he was present in the shop; that A-5 had shown his shop to the police; that accused disclosed to the police in his presence that he had purchased six transistors of make BC 558 and 548 in July of that year for '20/- each; that accused had paid him '120/-; that he did not issued any bill to the accused; that no bills are issued in respect of very small items; that police had taken sample of these items from his shop and he had identified said sample taken by the police. He has also stated that these transistors are mainly used for preparing circuits.



Sanjay



289. In his cross examination, he has admitted that there are several such shops in computer and electronic all along Lamington road; that electronic students mainly purchase these transistors for their studies; that he does not specifically recollect of accused having purchased such transistors from him; and that he has stated to the police that accused had purchased the same only because accused had stated so.

290. Shri Sham/Pw97 also runs a business under name and style Bhagvati Enterprises at Gandhi Bavan, Lamington road, Mumbai. He has testified that police from Goa had come with one person to his shop along with Mumbai police on 19.10.09; that he was present in the shop; that A-5 Ashtekar had disclosed to the police that he had purchased 4mm and 5 mm ferrite rods from his shop in July

each costing ₹5/-; that he had given two samples of each of these rods to the police that accused had paid him ₹100/- but he did not issue any bill and that said samples taken by police were sealed in an envelope.

291. In his cross examination, he has admitted that such ferrite rods are sold in large number in his shop; that there is no other shop dealing in such ferrite rods; that they are utilised by students for their projects and also in the industries; and that he is the only person at Lamington road dealing in sale of ferrite rods; and that he did not personally know the accused even as on that day.

292. It is not disputed that A-5 is an engineering student in electronics. All the witnesses whom he had identified and from whom some samples of the electronic parts were seized, attached and sealed, deal in electronic items. All of them have admitted that these items are required by engineering students in their projects they also admitted that many students purchased such articles from them.



293. Shri Sagar/Pw47 was a student of D.K.T.E. College in which A-5/Dhananjay was studying. He has testified that Vivek Jadav, Mandar Pandit and A-5/Dhananjay Ashtekar were his room mates; that they had taken a room in Samarth Bungalow in Ichalkaranji; that A-5/ Dhananjay was student of electronic engineering; that he had a computer, many other electronic gadgets, books etc.; that A-5/ Dhananjay used to work till late hours and even in early morning hours; that the room was partitioned into two portions one occupied by him with A-5/Dhananjay and other used by Jadav and Mandar; that A-5/Dhananjay had several electrical circuit programmes on his computer; that initially he had told them it was concerning his degree course and later that he was doing some invention; that he was downloading and uploading these electrical circuits on his computer in PDF format and also from the internet; that on 12.11.09 a police party from Goa came in his room, took a search and took away some electrical equipments, wires, diodes, PCB etc. in his presence; that A-5/Dhananjay was personally preparing the

Satish



electrical boards besides downloading from the internet and he has identified the items attached from his room by the police.



294. In his cross examination, he has admitted that A-10/Prashant is elder brother of A-5/Dhananjay and that stated that he had seen A-5/ Dhananjay preparing electronic items since July 2009; that he would not share the details of his project with any one; that one Vivek but not Vivek Jadhav used to come to their room in connection with his project; that he is familiar with an electronic circuit at the primary level but he does not have any full fledged knowledge about it; that the articles identified by him in the court and particularly the circuits were all shown by A-5/Dhananjay to the police; that he is not in a position to describe the circuits shown to him or the diagrams; that he is not in a position to say whether these circuits and drawings Exh.52 are the same that were attached by the police in his presence at the instance of A-5; that study of circuits is integral part of electronic engineering; and that electronic circuits, components and parts which he has identified in the court are easily available with any final year electronic student.

295. Shri Gundopant Ingle/Pw48 is the owner of Samarth bungalow in which A-5/Dhanayay with his colleagues was staying on rental basis. He has only confirmed their occupation in his premises.

296. Shri Sunit Dm/50 is also a student of DKTE College of

Engineering. He knows A-5/Dhananjay and A-10/Prashant. He was occupying a room in the building adjoining to the one occupied by A-5/Dhananjay. He has testified that Dhajanjay was an electronic engineering student and his classmate in the second year. In his cross examination, he has stated that they are required to prepare circuits and submit to the professors as a part of their practical experience; that circuits can be utilised in operating computers, TVs, AC etc; that these circuits are available in the text books, in reference books available in the College; that there is no need to download them from the internet; that material for preparing circuits is purchased from the electrical shops; that stock of these items is always available in the college; that the circuits are not available in the market; that they have to be prepared in the college itself; that there are competitions held in the college of preparation of such circuits; that A-5 Dhananjay had participated in these competitions annually with lot of participation by several students; that some students of 12th Std. residing on the ground floor of Himanshu house were in constant contact with A-5/Dhananjay but he does not know whether said students used to seek guidance from A-5/Dhananjay on such circuits.



297. Vivek/Pw51 was also a student of DKTE College of Engineering and he was room-mate of A-5. He has testified that on 12.11.09 police had taken search of his room and had attached articles of A-5/Dhananjay; that these articles comprised of diodes, resistors, relays etc, and he has identified said items in the court.



298. In his cross examination, he has stated that he does not recollect if the articles were individually packed or all-together and that he does not recollect the packing procedure followed.



299. Reshma/Pw52 was also a student of DKTE College of Engineering in Electronic Engineering. She has testified that she knows A-5 Dhananjay as a student of the college; that she was having cordial relations in college with him; and that he would help her whenever request was made. In her cross examination, she has admitted that there was national level competition called IMPULSE in 2009; that A-5/Dhananjay was its main co-ordinator; that he used to give guidance and coaching to first and second year students in electronics; and that he used to participate in several competitions where he was required to make circuits.

300. An assessment of the testimonies of the above witnesses establish that accused was participating in various competitions; that in the year 2009 he was the main co-ordinator for competition; that in such competitions students were required to prepare different types of circuits; and that A-5/Dhananjay was also giving guidance to his junior colleagues as well as students of 11th and 12th Std. The above evidence shows that A-5/Dhananjay was an active student of electronics and was required to prepare various types of circuits not only for the purpose of his studies but also on account of his participation in various competitions. This is further

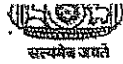
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confirmed by Dr. Wasif. It cannot be disputed that for preparing these circuits he would have to buy components from different shops. His knowledge of the shops where these components are available, therefore, cannot be only because he wanted to prepare the circuits, which according to prosecution, were utilized for manufacture of explosives. Only a remote doubt can be raised about his intentions in view of statement made by his room mate Shri Sagar/Pw47 to whom he stated that he was doing some invention. Only because he knew different shops dealing in electrical or electronic items, it cannot be inferred that he got said knowledge at the time he purchase components to prepare a bomb.



301. Preparing of such PCBs is part of curriculum of A-5 Dhananjay. For preparing these PCBs and for purpose of his studies, he has to purchase these items. He is, therefore, bound to know the shops in which these items are sold. Unless, therefore, there are other circumstances pointing to the guilt of accused, it cannot be held that he had purchased these items in furtherance of a criminal conspiracy.

302. Further, Shri Ravindra/Pw53, Shri Manoj/Pw55, Shri Ambalal/Pw95, Shri Kumar/Pw96 and Shri Shyam/Pw97 have admitted that they cannot say when the accused had purchased the articles from them. These witnesses also could not produce any bills of the sale made to the accused to establish the date of purchases made by the accused. The purchases made, therefore, cannot be



related to the time of alleged preparation of the explosives.

303. Only Shri Rajesh/Pw54 had the circuit diagrams given to him by accused for preparation of PCB. He had also saved said circuit on his computer. Normally police could have had the date of downloading said circuit in his computer from his hard disc unless the date was altered. It is submitted by Shri Punalekar, learned advocate for the accused, that to prove the date on which the accused had down loaded said circuit on the computer of Rajesh, police ought to have attached the hard disc. As pointed out by him, the I.O. could have easily retrieved the data of downloading said circuit diagram on the computer.

304. It is contention of learned Special PP Shri Faria that said circuit was copied on a CD and its hash value was prepared. According to him, therefore, it was not possible to alter the date of downloading the circuit. Shri Mohan Naik/Pw116 has admitted that hash value was prepared of the CD and not on the hard disc. Once there is a hash value on the CD any alteration made in the copied material can be determined from said hash value. This was not possible with respect to hard disc since, admittedly, there was no hash value prepared for said hard disc. It is possible that whilst copying the data on CD, the date of downloading the circuit was altered and any such benefit of doubt should go in favour of the accused.

Sanjay

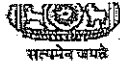
305. The prosecution has, therefore, failed to relate the date of purchase made by the accused to the date of manufacture of explosives.

306. Shri Sagar Pw/47 has also testified that he knew A-1 Malgonda who has expired in the bomb blast; that said Malgonda belonged to Sanatan Sanstha; that he had stayed in their room for about 20 minutes and had then left for the place of Mahesh Ambekar; that A-5/Dhananjay had introduced said Malgonda to him initially as his uncle and then as member of Sanatan Sanstha.



307. In his cross examination, he has stated that said Malgonda had come after some riots in Meeraj; that he did not see Malgonda any time thereafter; that A-5/Dhananjay had told him after Diwali that Malgonda had died in a bomb blast at Margao; and that some Muslims had planted a bomb in the vehicle of Malgonda to damage the reputation of Sanatan Sanstha. Without cogent evidence otherwise such a possibility cannot be ruled out.

308. Deceased A-1 Malgonda, therefore, had visited A-5/Dhananjay in his room at Ichalkaranji. From the testimony of the witness Shri Sagar it is clear that the A-5/Dhananjay knew deceased A-1 Malgonda as he was member of Sanatan Sanstha. He has only testified that Malgonda was in their room for about 20 minutes. He has not stated anything about the discussion which they had in said 20 minutes. He also could not say if there was anything exchanged



between both of them. He has also stated that A-5/Dhananjay used to address A-1 Malgonda as Kaka and further admitted that A-5/Dhananjay used to address elderly persons as Kaka. It is therefore, obvious that only because the deceased A-1 Malgonda was an elderly person he had addressed him as Kaka. This evidence does not in any way disclose that there was any conversation between deceased A-1 Malgonda and A-5/Dhananjay on preparation of any circuits or manufacture of explosives or they visiting Goa in furtherance of any conspiracy allegedly hatched by Sanatan Sanstha.



309. Shri Sagar/Pw47 has also testified that accused Dhananjay had been to Goa after the explosion in Margao for claiming his body; and that accused had told him that he was detained for a long time at the police station. He has also stated that upon his return from Margao accused had told him that there was some Muslim hand in the bomb blast only to damage the name of Sanatan Sanstha. As submitted by learned Advocate Shri Punalekar, can such a statement made by A-5 Dhajnanjay be taken adverse against him? Making of such statement can give two possibilities (i) to hide the involvement of Sanatan Sanstha in the bomb blast and (ii) he sincerely believing in the facts stated by him. It will, however, be pertinent to note that the statement was made to a third person who was also room-mate of A-5/Dhananjay. He would never suspect that the police will reach his room-mate to make an inquiry about the bomb blast. It is illogical to hold that at

that stage he would make such a statement to his room-mate with the sole intention that Shri Sagar should later disclose such a fact either to the police or to the court. It is more probable that he believed in what he said.

310. Shri Faria, learned Special PP has relied on section 43E of the Unlawful Activities Prevention Act and has contended that since the items which are used for manufacture of IED were recovered at the instance of Accused nos. 3, 4, and 5, a presumption is raised under said section that accused has committed such acts. Section 43E of the Unlawful Activities (Prevention) Act (for short UAP Act) reads as under:

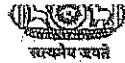
43E. Presumption as to offences under section 15.— In a prosecution for an offence under section 15, if it is proved—

(a) that the arms or explosives or any other substances specified in the said section were recovered from the possession of the accused and there is reason to believe that such arms or explosives or other substances of a similar nature were used in the commission of such offence; or

(b) that by the evidence of the expert the fingerprints of the accused or any other definitive evidence suggesting the involvement of the accused in the offence were found at the site of the offence or on anything including arms and vehicles used in connection with the commission of such offence;



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the Court shall presume, unless the contrary is shown, that the accused has committed such offence.

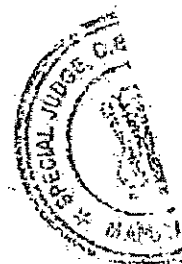


311. Shri Faria, referring to the term 'possession' used in clause (a) of section 15 submitted that the word 'possession' used therein is constructive possession and, therefore, the recovery of components of explosives made should be taken as possession of the accused over them. For the reasons discussed herein above, except for Exhibits 21, 24, 25 and 27 ingredients of which have been opined to be of improvised explosive composition, no other item/Exhibits recovered relates to any explosive.

312. Further section 43E refers to recovery of arms, explosives or any other substances specified in section 15. Undisputedly no explosive was recovered from possession of the accused. Shri Faria however, relied on the decision in the case of **Updesh @ Chintu V/s. State (2012 (2) JCC 935)** and contended that the recovery of the explosive at the venue was also deemed to be from constructive possession of the accused. In said decision, the Hon'ble high Court of Delhi has observed that the possession of a fire arm under the Arms Act must have, firstly the element of conscious or knowledge of that possession in the person charged with such offence and secondly when he has not the actual physical possession he has nonetheless a power or control over that weapon so that his possession thereon continues despite physical

possession being in someone else.

313. In the case at hand, the explosives were recovered from public open places. At Margao site, it is case of prosecution that they were in possession of deceased A-1 and A-2. Accused nos. 3 to 6, 10 and 11, therefore, did not have any control over the same. The explosive recovered at Sancoale site was lying in a public place. None of the above accused, therefore, had any control over it.



314. Said clause further refers to possession of bombs, dynamites or other explosive substances or inflammable substances or fire arms other vital weapons or poisonous or noxious gases or other chemicals or any other substances whether biologically radioactive, nuclear or otherwise of hazardous nature which are likely to cause death or injuries to any person or loss of or damage to or destruction of property or destruction of any supplies or services essential to the life or can cause damage or destruction of any property. It is case of the prosecution that from the possession of accused nos.3, 4, and 5 various components which allegedly could be used for manufacture of bombs were recovered. These components by themselves cannot form any bomb, dynamite, explosive substance, inflammable substance, fire arm, vital weapon, poisonous or noxious gas or chemical or any substance of hazardous nature. The alleged components which are electronic material, therefore, by themselves will not be covered by clause (a) of section 43E.

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315. In the background, clause (a) of section 43E will not be attracted.

316. Clause (b) of said section then refers to fingerprints of the accused or any other definitive evidence suggesting the involvement of the accused in the offence found at the site or on anything including arms, vehicles used in connection with commission of the offence. To attract this provision, prosecution has to prove that they had found something like fingerprints at the site of the offence or arms or vehicles used in connection with the commission of offence. The material recovered at the instance of the accused no.5 cannot be said to be definitive evidence of such facts as contemplated by clause (b) of section 43E. This for the ^{simple} ~~simple~~ reason that accused was an engineering student in electronics and there is sufficient material on record to show that the material found in his possession was essential for the purpose of his studies. Further, the testimonies of the witnesses examined by the prosecution to implicate accused nos.3 and 4 in recovery of the substances are not reliable and convincing. The presumption contemplated by section 43E of the Unlawful Activities (Prevention) Act, 1967, therefore, cannot be applied to the facts of this case.

317. Another circumstance on which prosecution relies to implicate A-5 in the offence is the handwriting which was found on the ON-OFF switch that was used in the explosive substances recovered. The specimen handwriting of the accused was taken under

panchanama Exh. 298. Shri Vijay/Pw84 was one of the panch witnesses to the said taking of specimen writing. He has confirmed that A-5 Dhananjay had made writing in his hand on five paper sheets, the words "ON" "OFF". His testimony is not disputed. The fact that specimen handwriting Exh.s 298 or 337 colly is in the handwriting of A-5 Dhananjay is, therefore, proved. Shri Mohan Naik/Pw116 has testified that he had taken handwriting of A-5 in the presence of two panch witness K.R. Prashant and Vijay Prabhu. This fact is also not disputed. The said handwriting was taken on 26.11.2009. The questioned handwriting on a plastic box, said specimen handwriting and the admitted handwriting at Exh. 338 colly were sent to Shri Mohinder/Pw94. After examining the questioned writing on the plastic box the specimen handwriting at Exh. 337 colly and the admitted handwriting at Exh. 338 colly, Shri Mohinder has opined that it is highly probable that the writings marked Q-1 i.e. questioned handwriting, S1 to S5 which are specimen handwriting and N1 to N4 admitted handwriting are written by one and the same person.

318. In his testimony he has testified that he has opined that it is highly probable since the line quality of some of the written strokes could not be completely studied.

319. Shri Punalekar, learned Advocate, has disputed the admitted writing on the ground that the roll number on said admitted hand writing is scribbled and he also pointed out that there is a vast





difference in the hand writings N1, N3 and N4. I need not go into said aspect of the matter since an expert in the field has opined that it is highly probable that these hand writings are of one and the same person. A fact, however, has to be noted that the expert could not examine thoroughly the writing on the plastic box since written strokes could not be studied and he has only expressed a probability of high standard that writings are of the same person.

320. The admitted hand writings N1 to N4 are being produced by Dr. Wasif/Pw99 who is Principal of DKTE Society Textile and Engineering College. He has testified that students in the college answer exams on periodical basis; that he had received a letter from DySP Devendra Singh, NIA, requesting to provide the admitted handwriting of A-5/Dhananjay; that accordingly he has submitted the answered sheets of A-5/Dhananjay which were in the college, admission form and other certificates. In his cross examination, he has stated that the answered sheets Exh. 338 colly are of A-5 since it not only bears the roll number which is unique to a student but also on the basis of his admitted writing in the application form confirmed by the teacher attached to his class. There is no reason to disbelieve his testimony.

321. Shri Punalekar, learned advocate for the accused, has then submitted that it was necessary for the prosecution to prove that the box allegedly found at a particular place was sent to the expert for examination along with the specimen and admitted hand

writings; and that there was no interference with the same in transit. As submitted by Shri Punalekar, there is no evidence to the effect that a particular Exh. seized during the investigation was duly sealed in the presence of panch witnesses; and that a carrier had carried this sealed envelope to the expert under a particular letter.



322. What was sent to the expert is Exh. 16 in Cr. No. 114/09 of Verna Police Station. Its description is as under:

Exh. 16: One rectangular plastic box with hole and green coloured adhesive tape attached at one corner. There is a marking of ON & OFF in handwritten with black colour, stated as case of visiting card of plastic having hole in the upper side and lower side edge with green colour adhesive tape.

323. Exh.16 recovered under panchanama Exh.278 has description as under:-

- 1) One case of visiting card of plastic having hole on the upper side and one hole on the lower side edge. A green colour small piece of adhesive tape pasted on it having letters "ON" and "OFF".

324. Dr. Mohinder/Pw94 has testified that he has given opinion on "Questioned writing marked Q1 on half portion of one plastic box". He has also identified the plastic box containing questioned writings marked Q1 and bearing no.CH-63/10 which is packed in a bigger transparent plastic box with the adhesive tape with writing GEQD

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Hyderabad on it. This bigger box contains as described by the witness only the half portion of one plastic box. The prosecution has not explained how only half portion of a box was sent for expert examination. Said portion also does not bear any signature of the panch witnesses or the accused or the IO. This infirmity does exist in the evidence of the prosecution which entitles the accused to a benefit of doubt.



325. The next circumstance on which the prosecution has relied is conducting of test blast on a hillock at Ponda behind the house of Laxmikant Naik/Pw65. The discovery of this spot was done on the disclosure made by A-6 Dillip and A-11 Prashant Juvekar. Shri Haji Ali/Pw85 has testified that Dysp Mohan Naik had called him at the police station on 17.11.09 to act as a panch witness in the investigation of bomb blast case; that a suspect who disclosed his name to be Dillip Mangaonkar/A-6 was produced before them; that said Mangaonkar disclosed that he is from Sanquelim; that his friend Yogesh had called him on 24.9.2009 and told him to come to his house at Talaulim; that there were four other persons whose names he did not recall but are reproduced in the panchanama; that he further disclosed that there were some explosive materials in the house of Yogesh; that he was called by Yogesh to his house on the next day; that on the next day four bomb test blasts were conducted on the hillock behind his house as an experiment. The last portion of the disclosure is marked as inadmissible in evidence being inculpatory.

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326. He has then testified that said Mangaonkar showed willingness to show the house of Yogesh and the place where test blasts were done; that this fact was recorded in the panchanama; that the panchanama started at about 11.30 hours then they proceeded in three jeeps along with A-6/Mangaonkar to show the direction to go to the house of Yogesh; that they went to the house of Yogesh; that thereafter Mangaonkar showed them the way behind his house to go to the hillock; that they walked a distance of about 500 metres behind the house of Yogesh and his brother Laxmikant; that A-6/Mangaonkar showed them the place where first test was carried out where they noticed small piece of plastic bottles, some pieces of laterite stones and a depression in the land surface; that thereafter A-6/Mangaonkar led them to another spot at a distance of about 40 metres and showed the place where second blast was carried out where pieces of detonators were seen and there was a depression at this point too; that A-6/Mangaonkar led them further to a distance of about 20 metres where they noticed a depression on the ground, pieces of plastic with mud spread around, then he took them to another spot of about 10 mts away where there was SIMilar depression on the ground pieces of bottles, stones were attached and then he took them to the fifth spot at a distance of about 50 metres away from the fourth where there was damage to the surface and pieces of metal stones with mud. He has then testified that the remnants of the items found and samples of mud were collected, packed and sealed individually





from each of the five spots under a panchanama. He has then identified M.Os Exhibits 57, 58, 59, 60, 61, 62 and 63 which were seized at the five spots.

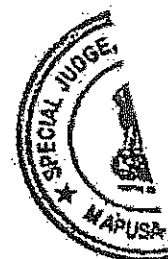


327. In his cross examination, he has admitted that the spots of the test blast showed to them were open places accessible to the public. It was also suggested to him that A-6/Mangaonkar did not show any spots to him but police had taken him to the spot.

328. DySP Shri Mohan in his testimony has testified that accused had disclosed that trial blasts were performed on a hillock in the presence of Yogesh Naik, Malgonda Patil, Vinay Talekar and four others; that A-6 led them to the house of Laximikant Naik brother of deceased Yogesh/A-2; that accused took them behind the house of Laximikant on a hillock at a distance of 500 to 600 metres from the house; that they had gone on foot; that there were bushes and trees on the hillock with a plain area with rocks and boulders; that there were no structures of residential houses in the area; that at the blast area one bottle neck of plastic bottles, two pieces of transparent plastic, three pieces of yellow colour insulation tapes, laterite stone with laterite powder were attached; that the plastic bottles and insulation tapes were separately sealed and laterite stone and laterite powder were separately sealed. He has further testified that accused then led them to the second spot of blast then to the third spot at a distance of about 20 metres from the second spot then to the west at a distance of 10 metres from the

previous spot and then to a distance of about 50 metres from the previous spot.

329. He has testified that from the second spot white metal piece, chips of khadapa and mud were collected, from the third spot pieces of broken boulder stones and mud were collected, from the fourth spot small pieces of boulders and mud were collected and from the fifth spot some metal stones, khadapa and mud were collected. He has testified that all these were separately packed and sealed under panchanama.



330. It is pertinent to note that the distances between the second and third spot, third and fourth spot and fourth and fifth spot given by this witness and panch witness Shri Haji Ali/Pw85 are identical. All these Exhibits were also sent for expert examination as Exhibits 57, 58, 59, 60, 61, 62 and 63. The report of said Exhibits is produced at Exh. 376 by Dr. Sukminder/Pw98. She has opined that the ions detected in Exh. 57 alone could not constitute the ingredients of improvised explosive composition but the ions detected in Exhibits 58, 59, 60, 61 and 62 could be the ingredients of ammonium nitrate based improvised explosive composition. The fact that these Exhibits which are allegedly recovered from behind the house of Laxmikant or A-2 Yogesh contains ions which were of improvised explosive composition is thus proved.

331. The prosecution has examined Laxmikant Naik to support its



case as Pw/65. In his cross examination he has stated that he does not know any person by name Dhananjay Ashtekar or Prashant Juvekar; that he has never seen anyone of them; that there is a hillock behind his house; that an area of a length of about 200 metres behind the house belongs to his father and beyond that belongs to Comunidade; that there is a cashew plantation behind their house; that vegetables like cucumbers, horned gourd are grown during monsoon on the top of hillock by villagers; that villagers have to pass by their house carrying these vegetables through their plot; that there is no enclosure for the hillock; and that people grow vegetables and take care of the hilly area. His said testimony has neither been challenged nor rebutted by the prosecution.

332. As submitted by Shri Punalekar, learned advocate for the accused, this witness has established that the hillock is an open area where people pass at least during the monsoon for growing vegetables. The witness has also testified that said area does not have any enclosure. Said area is therefore, accessible to all. The panchanama was drawn on 17.11.09. The alleged test blasts were conducted in the month of August i.e. in monsoon season. During that period, therefore, people growing vegetables were using said land either as an access or to grow vegetables. The spots of test blasts were not hidden. They appear to be visible to all. Showing of said spots by A-6/Dilip Mangaonkar is, therefore, not of much importance. It only shows at the most his knowledge of said spots.

333. According to the prosecution accused no.11 Prashant had also later pointed out these spots for test blasts. Prosecution has examined Shri Ismail/ Pw101 in support of said case. He has testified that DySP Bakshi called him on 23.8.2010 at Talaulim, Ponda; that one Devraj was also present there; that A-11/Prashant informed that between 26.8.09 to 28.8.09 he along with Malgonda Patil, Yogesh Naik, Dhananjay Ashtekar and three others had gone to the house of Laximikant Naik; that accused Prashant had taken them to the house of Laximikant; that he pointed out a place in the hall where they had prepared material for test blast; that thereafter he opened the rear door of the house and took them at a hilly area at a distance of 25 metres from the house; that he further stated that he and others had visited said place on three occasions and conducted five test blasts; that Prashant had shown them the place where such test blasts were conducted; that on observing they found some pits in the five places pointed out by A-11 Prashant. He has also confirmed the panchanama of said disclosure marked as Exh. 371.



334. In his cross examination, he has stated that after visiting the hilly area and seeing five pits they returned to the house of Laximikant; that panchanama was written in the house of Laximikant; that they did not see DySP writing panchanama at the places pointed out by the accused Prashant; that part of the panchanama was written in the house before they proceeded and



remaining after their return from the hilly area; and that there were no fields or houses in said area.



335. It was brought to the notice of the witness that in the panchanama no mention is made about existence of any pits. Witness could not explain its non existence in the panchanama. It was then suggested to him that he had not gone with Shri Bakshi to the hilly area.

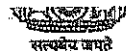
336. DySP Shri Bakshi/Pw113 has only stated that A-11/Prashant had met them at Talaulim in the house of Laximikant; that at that time one Kashinath opened the door of the house; that A-11 pointed out the place where they had stayed, between 26.8.09 to 28.8.09 along with Malgonda Patil, Yogesh Naik, Dhananjay Ashtekar, Sarang Akolkar, Jaiprakash, Dilip Mangaonkar, Vinay Talekar and had prepared IEDs for conducting test blasts on the hill situated behind house of Laximikant. He has not confirmed the accused^{of} pointing out to any spots where alleged test blasts were conducted. According to both the above witnesses even A-5 stayed in the house of Laximikant from 26.8.09 to 28.8.09. Undisputedly A-5 was a student of DKTE Engineering College. 26.8.09 to 28.8.09 were week days. Being so, it would not be possible for A-5/Dhananjay to be present in the house of Laximikant in Goa without bunking his college. Prosecution could have, therefore, produced some evidence on record to show that either during those days college had holidays or A-5/Dhananjay did not attend the

college. No efforts in that direction had been made by prosecution.

337. It is also pertinent to note that according to the panch witness Shri Haji Ali/Pw85, A-6 had taken them to the hilly area at a distance of 200 metres behind the house of Laximikant. On the other hand, according to Shri Ismail/Pw101, A-11/Prashant had taken them to the hill 25 metres behind the house and had pointed out the five pits. There is, therefore, total inconsistency in the testimonies of the two panch witnesses. It is possible that such pits exists in hilly areas at many places. Only because pits exists therefore, in that area it cannot be said that test blasts were conducted. Prosecution has also not explained why such a serious discrepancy exists in the testimonies of the two witnesses. Shri Faria, learned Special PP did make an attempt by saying that there is some typing error in recording the testimony of the panch witness Shri Ismail. However, no efforts were made at any time to correct said alleged discrepancy.

338. Another aspect of the case is that according to the prosecution the accused had stayed in the house of Shri Laximikant Pw/65. It is difficult to believe that he would not know the accused or would not have seen the accused who according to the prosecution, had stayed in his house for a period of four days. His statement that he does not know either A-5/Dhananjay or A-11/Prashant has gone unchallenged. He too has admitted that the hillock is beyond the area of 200 metres from his house. In that





case the statement made by Shri Ismail Pw/101 that A-11 Prashant had taken them 25 metres behind the house of Laxmikant and had shown them the pits is unbelievable. In view of these inconsistent statements made by the prosecution witnesses, the veracity of the testimonies of these witnesses become doubtful. Consequently, the discovery of the five pits also becomes vulnerable.



339. Shri Faria, learned Special PP does not dispute that the above disclosures made by the accused do not lead to any discovery under section 27 of the Evidence Act, but according to him it is relevant since it shows the conduct of the accused. In support of his contention he has relied on the decisions in the cases of **State (N.C.T. of Delhi V/s. Navjot Sandhu @ Afsan Guru (AIR 2005 SC 3820)** and **A.N. Venkatesh and Anr. V/s. State of Karnataka (AIR 2005 SC 3809)**. In the case of **Navjot Sandhu (supra)** the accused had led police officer and had pointed out the place where stolen articles or weapons which might have been used in the commission of offence had been hidden. Hon'ble Supreme Court held that this evidence is admissible under section 8 of the Evidence Act as conduct.

340. In the case of **A.N. Venkatesh and Anr. (supra)**, the accused had pointed out to the police officers the place where the dead body of the kidnapped boy was found and on their pointing out, the body was exhumed. The Hon'ble Supreme Court held that it is admissible under section 8 of Evidence Act although it does not

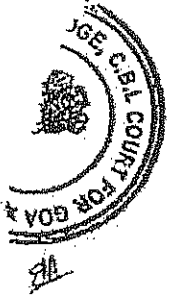
fall within purview of section 27. On the other hand, Shri Punalekar, learned advocate for the accused, has contended that section 8 of the Evidence Act refers to the conduct of the accused prior to the commission of the act of offence and not thereafter. In view of the decisions herein above, the contention of learned advocate cannot be sustained.



341. Shri Punalekar, learned advocate then relied on the decisions in the cases of **Lachman Singh and Ors. V/s. The State (AIR 1952 SC 167)**; **Pohalya Motya Valvi V/s. State of Maharashtra (AIR 1979 SC 1949)**; **Emperor V/s. Shivputraya Baslingaya (126 Ind. Cas. 876)**; **Govind Krishna Jadhav V/s. State of Maharashtra (1980 Mh.L.J. 72)**; and **Moti Lal V/s. The State (AIR 1959 Patna 54)**. In all the above cases, question was what is the evidentiary value of statements made by two accused leading to discovery under section 27 of the Evidence Act.

342. In the case of **Govind Krishna Jadhav (supra)** the Honble High Court of Bombay has held that a joint statement by two or more accused persons under section 27 of the Evidence Act is not admissible and that both are entitled for acquittal.

343. In the case of **Moti Lal (supra)**, the Hon'ble Patna High Court has held that only that statement which leads distinctly to discovery of the fact is admissible under section 27 and if it is made after discovery of the fact is not relevant.



344. In the case of **Emperor V/s. Shivputraya Baslingaya** (supra), the Hon'ble High Court of Bombay has held that it is the duty of the prosecution to prove the exact statement made by the accused that leads to discovery.

345. In the case of **Lachman Singh and Ors.** (supra) the Hon'ble Supreme Court has held that when statements are made by several accused leading to discovery, it is necessary to prove on which statements the discovery was first made. The Hon'ble Supreme Court further observed that if evidence adduced by the prosecution is found to be open to suspicion and it appears that the police have deliberately attributed SIMilar confessional statements leading to facts discovered to different accused persons in order to create evidence against all of them, the case undoubtedly demands a most cautious approach.

346. If one goes by said observations made by the Hon'ble Supreme Court they are biding on this Court. It would mean that by attributing certain statements of A-11/Prashant the prosecution sought to bring on record that he knew where the test blasts were conducted. There is otherwise no evidence against A-11. In view of observations made by the Hon'ble Supreme Court, the alleged disclosure made by A-11/Prashant and his pointing out the pits should not be given any significance.

347. In the case of **Pohalya Motya Valvi** (supra), it was

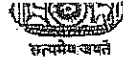
prosecution evidence that the accused had knowledge where the weapon of assault was hidden. The Hon'ble Supreme Court held that to make such a circumstance incriminating it must be shown that he himself had concealed the blood stained weapon.

348. In the case at hand, from the evidence discussed herein above, one can at the most say that A-6 had shown the spots where the test blasts were conducted. The expert evidence of Dr. Sukminder and the report prepared by her does show that there were ingredients of ammonium nitrate based improvised explosives compositions in Exhibits 58, 59, 60, 61 and 62 which were recovered from the spot of test blast. However, there is no proof of

~~Similarity~~ ^{similarity} between the Exhibits collected in the blasts in CR.No.338/09 of Margao town police station and CR. No.114/09 of Verna police station and the Exhibits recovered at the site of test blasts. The prosecution has, thus, failed to prove the circumstance, ~~namely~~ ^{namely}, that there is ~~similarity~~ ^{similarity} in the explosives used at Margao, Sancoale and the test blasts and that accused had prepared the bombs and had conducted the test blasts behind the house of Laximikant/Pw65.

349. The next circumstance on which prosecution relies is the causing of explosion at Margao behind Grace Church and death of two members of Sanatan in said blast. The death of A-1/Malgonda and A-2/Yogesh are proved. Shri Punalekar, learned Advocate, also does not dispute their death. Dr. Mandar/Pw1 has conducted the





post mortem examination on both the deceased. He has opined that both of them have died due to injuries consequent upon bomb explosion. His testimony has gone unassailed. The death of the two accused in bomb explosion thus stands proved.

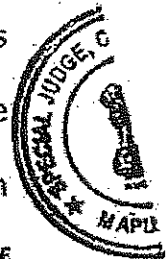


350. For the reasons discussed herein above, the fact that A-1/Malgonda and A-2/Yogesh were Sadhaks of Sanatan Sanstha is also proved. This circumstance, therefore, stand proved.

351. The testimonies of the witnesses discussed herein above also prove beyond doubt that on the day of the blast there was Narakasur competition; that many groups were to perform at the venue of the competition; and that about 15000 people had gathered at that spot; that there were VIPS like the Hon'ble Chief Minister of Goa, local MLA, members of Municipal Council, children and other public gathered. The evidence on record also prove s that blast had taken place at a distance of about 300 metres from the venue of the competition. It was however, on an isolated road where there was no movement of the traffic. The evidence discussed herein above also shows that the organizers and the public had heard the sound of the blast after which the Hon'ble Chief Minister had received a telephone call upon which he left the place. The evidence also proves that inspite of hearing the sound of blast, the competition continued. The causing of explosion at that place however, remains unexplained. The contention of the prosecution that the reason behind causing of the explosion was to

create trauma in the minds of the people and also create terror in the people, is however, only an inference to be reached at. There is no evidence to that effect.

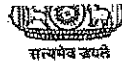
352. The next circumstance on which the prosecution relies is recovery of live IED planted in the truck at Sancoale by the accused. For the reasons discussed herein above, the prosecution has failed to prove this circumstance beyond doubt. Contention of learned Special PP Shri Faria that this circumstance also stands established, in the background, cannot be sustained.



353. Another circumstance on which prosecution relies is the fact that the explosives recovered at the venues of both the sites of competition were sufficient to cause an explosion and to cause damages. Dr. Sukminder Pw/98 has opined that the explosives recovered at these sites contained ions of ammonium nitrate which could explode when detonated. To the same effect is the testimony of Shri P.M. Ramkrishnan Pw/107.

354. The prosecution has relied mainly on the disclosures made by accused nos. 3, 4, 5 and 6 and the recovery of the different items at their instance. The prosecution has also brought on record the places from where the accused had purchased the components of the explosives. In all the explosives which were recovered at Margao site as well Sancoale site detonators were used. An

essential ^{component} ingredient of the explosives is, therefore, detonator. There



is, however, absolutely no evidence brought on record to show from where the accused had procured these detonators.



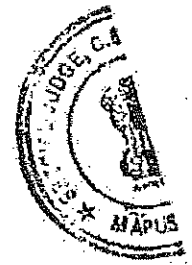
355. In the result, the prosecution has succeeded in proving that there was an explosion at Margao of the explosives carried by deceased A-1 and A-2; that accused no.5 had made purchases of certain components which are required to prepare PCB and other items which were necessary for the purpose of his studies; and that A-6/Dilip Mangaonkar had pointed out certain places wherein they had found ions of explosive substances. This proof, however, is not sufficient to prove the complicity of all the accused in the crime. Hence, Point nos. 1, 3 and 4 are answered in the negative.

356. **Point no.2:-** For the reasons discussed herein above, the prosecution has failed to prove the complicity of the accused in the crime. The prosecution has relied on the call details of the accused to prove that they had hatched a conspiracy. To prove this fact the prosecution has examined Shri S. Madhusudhan Gupta/Pw120, Shri Kandula Suresh/Pw121 and Shri Chandru Mukesh Rao/Pw122.

357. Shri S. Madhusudhan/Pw120 is the Nodal Officer for Reliance Communication Ltd. At the request of the investigating agency he has produced the call details of mobile nos. 9325232100 and 957963074. He has stated that the mobile bearing no. 9325232100 is registered in the name of Ganashyam Gawade of Sanatan Ashram, Ramnathi and mobile no.957963074d1 stands in

the name of Laxman Kakde Vagholi, Usmanabad.

358. In his cross examination, he has admitted that the address of the consumer of mobile no.9325232100 is different in the application form than the address mentioned in the call details. He has also stated that this address can be different since at a later stage the customer can change his address. He has admitted that there is no record to show that these copies were downloaded from a computer.



359. Shri Kandula Suresh Pw/121 is a CD analyst. He has carried out analysis of the call details produced to him of different mobiles bearing no.9325232100 of Ganashyam and 9579630741. He has analyzed the data given to him and has testified as under:-

1. The user i.e., A-1 (9325232100) received a call from one mobile number 9403818658 (used by Vinay Talekar - A-3, Vodafone, Maharashtra) on **14th October 2009 at 22:48:45 hours**, duration of the call was 64 second by using IMEI 17316302968, the location of A-1 was Sy.No.61/1, bear BPL tower, Curti, Ponda, Goa.

A-1 Maigonda Patil (919325232100) contacts with A-3 Vinay Talekar (919637423695/Vodafone, Maharashtra).

1) **On 15th October 2009 at 10:19:36** the A-1 (9325232100) received a call from Vinay Talekar (A-3) mobile number 9637423695, and the duration



of the call was 12 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Plot No.272, A Kundaim IDC GOA.



2) **On 15th October 2009 at 11:24:19** the A-1 (9325232100) received a call from Vinay Talekar (A-3) mobile number 9637423695, and the duration of the call was 08 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Menino Trade Centre, Opp. Urban Co-operative Bank, KaziWadda, Upper Bazar, PONDA, GOA.

3) **On 15th October 2009 at 19:33:28** the A-1 (9325232100) received a call from Vinay Talekar (A-3) mobile number 9637423695, and the duration of the call was 56 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy.No.61/1, near BPL tower, Curti, Ponda, Goa.

4) **On 16th October 2009 at 07:54:46** the A-1 (9325232100) received a call from Vinay Talekar (A-3) mobile number 9637423695, and the duration of the call was 38 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy.No.61/1, near BPL tower, Curti, Ponda, Goa.

5) **On 16th October 2009 at 15:05:35** the A-1 (9325232100) received a call from Vinay Talekar (A-3) mobile number 9637423695, and the duration of the call was 30 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy.No.61/1, near BPL tower, Curti, Ponda, Goa.

6) **On 16th October 2009 at 15:33:41** the A-1

(9325232100) received a call from Vinay Talekar (A-3) mobile number 9637423695, and the duration of the call was 19 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy.No.61/1, near BPL tower, Curti, Ponda, Goa.

7) **On 16th October 2009 at 15:34:18** the A-1 (9325232100) received a call from Vinay Talekar (A-3) mobile number 9637423695, and the duration of the call was 30 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy.No.61/1, near BPL tower, Curti, Ponda, Goa.

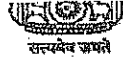
8) **On 16th October 2009 at 15:39:44** the A-1 (9325232100) received a call from Vinay Talekar (A-3) mobile number 9637423695, and the duration of the call was 17 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy.No.61/1, near BPL tower, Curti, Ponda, Goa.

9) **On 16th October 2009 at 15:44:04** the A-1 (9325232100) received a call from Vinay Talekar (A-3) mobile number 9637423695, and the duration of the call was 33 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy.No.61/1, near BPL tower, Curti, Ponda, Goa.

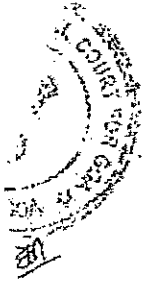
A-1 Malgonda Patil (919325232100) contacts with A-3 Vinay Talekar (919970034906 -Airtel, Maharashtra).

1) **On 14th October 2009 at 8:59:13** the A-1 (9325232100) received a call from Vinay Talekar (A-3) mobile number 9970034906, and the duration





of the call was 59 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy.No.61/1, near BPL tower, Curti, Ponda, Goa.



2) On 14th October 2009 at 18:15:36 the A-1 (9325232100) received a call from Vinay Talekar (A-3) mobile number 9970034906, and the duration of the call was 65 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy.No.61/1, near BPL tower, Curti, Ponda, Goa.

3) On 14th October 2009 at 18:37:33 the A-1 (9325232100) received a call from Vinay Talekar (A-3) mobile number 9970034906, and the duration of the call was 64 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy.No.61/1, near BPL tower, Curti, Ponda, Goa.

4) On 15th October 2009 at 17:15:02 the A-1 (9325232100) received a call from Vinay Talekar (A-3) mobile number 9970034906, and the duration of the call was 11 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy.No.190/2, Dharbandora, Sanguem, Goa.

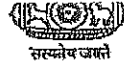
5) On 15th October 2009 at 17:17:15 the A-1 (9325232100) received a call from Vinay Talekar (A-3) mobile number 9970034906, and the duration of the call was 28 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy.No.190/2, Dharbandora, Sanguem, Goa.

A-1 Malgonda Patil (9325232100) contacts with A-5 Dhananiav Ashtekar (9665573097,

Airtel, Maharashtra).

- 1) **On 16th October 2009 at 9:38:39** the A-1 (9325232100) received a call from Dhananjay Ashtekar (A-5) mobile number 9665573097 and the duration of the call was 138 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy.No.61/1, near BPL tower, Curti, Ponda, Goa.
- 2) **On 16th October 2009 at 13:11:03** the A-1 (9325232100) received a call from Dhananjay Ashtekar (A-5) mobile number 9665573097 and the duration of the call was 75 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy.No.61/1, near BPL tower, Curti, Ponda, Goa.
- 3) **On 16th October 2009 at 13:12:42** the A-1 (9325232100) received a call from Dhananjay Ashtekar (A-5) mobile number 9665573097 and the duration of the call was 171 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy.No.61/1, near BPL tower, Curti, Ponda, Goa.
- 4) **On 16th October 2009 at 16:46:49** the A-1 (9325232100) made a call to Dhananjay Ashtekar (A-5) mobile number 9665573097 and the duration of the call was 80 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy.No.61/1, near BPL tower, Curti, Ponda, Goa.
- 5) **On 16th October 2009 at 17:59:09** the A-1 (9325232100) made a call to Dhananjay Ashtekar (A-5) mobile number 9665573097 and the duration of the call was 165 seconds, A-1 used IMEI





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17316302968, at that time the A-1 mobile location was Sy.No.61/1, near BPL tower, Curti, Ponda, Goa.



6) On 16th October 2009 at 18:10:05 the A-1 (9325232100) made a call to Dhananjay Ashtekar (A-5) mobile number 9665573097 and the duration of the call was 166 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy.No.61/1, near BPL tower, Curti, Ponda, Goa.

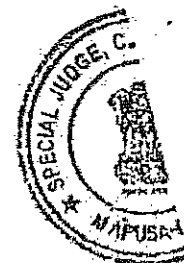
7) On 16th October 2009 at 18:14:46 the A-1 (9325232100) received a call from Dhananjay Ashtekar (A-5) mobile number 9665573097 and the duration of the call was 92 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy.No.61/1, near BPL tower, Curti, Ponda, Goa.

8) On 16th October 2009 at 18:27:34 the A-1 (9325232100) received a call from Dhananjay Ashtekar (A-5) mobile number 9665573097 and the duration of the call was 71 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy.No.61/1, near BPL tower, Curti, Ponda, Goa.

A-1 Malgonda Patil (9325232100) contacts with A-7 Jay Prakash @ Anna (9731806391, Airtel, Karnataka).

1) On 16th October 2009 at 10:27:40 the A-1 (9325232100) received a call from Jay Prakash @ Anna (A-7) mobile number 9731806391 and the duration of the call was 13 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy. No.61/1, near BPL tower, Curti, Ponda, Goa.

2) On 16th October 2009 at 16:55:41 the A-1 (9325232100) received a call from Jay Prakash @ Anna (A-7) mobile number 9731806391 and the duration of the call was 30 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy. No.61/1, near BPL tower, Curti, Ponda, Goa.



A-1 Malgonda Patil (9325232100) contacts with A-8 Rudra Patil (9028469010, Tata Maharashtra).

1) On 15th October 2009 at 13:23:04 the A-1 (9325232100) received a call from Rudra Patil (A-8) mobile number 9028469010 and the duration of the call was 359 seconds, A-1 used IMEI 17316302968, at that time the A-1 mobile location was Sy. No.61/1, near BPL tower, Curti, Ponda, Goa.

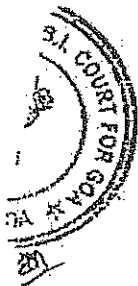
A-9 Sarang Kulkarni (9579630741) contacts with A-5 Dhananjay Ashtekar (9665573097 - Airtel, Maharashtra).

1) On 14th October 2009 at 21:52:01 the A-9 (9579630741) received a call from Dhananjay Ashtekar (A-5) mobile number 9665573097, and the duration of the call was 126 seconds, A-9 used IMEI 354634030103200, at that time the A-9 mobile location was Shankar Tara Apt. CTS No.325/2, Shaniwar Peth, Pune-30.

2) On 16th October 2009 at 01:01:42 the A-9 (9579630741) sent a SMS to Dhananjay Asshtekar (A-5) mobile number 9665573097, and the duration



of the SMS was 01 second, A-9 used IMEI 354634030103200, at that time the A-9 mobile location was Sharada Arcade, Pune Satara Road, Dhankawadi.



3) **On 16th October 2009 at 01:01:58** the A-9 (9579630741) made a call to Dhananjay Ashtekar (A-5) mobile number 9665573097, and the duration of the call was 18 seconds, A-9 used IMEI 354634030103200, at that time the A-9 mobile location was Sharada Arcade, Pune Satara Road, Dhankawadi.

4) **On 16th October 2009 at 01:32:46** the A-9 (9579630741) made a call to Dhananjay Ashtekar (A-5) mobile number 9665573097, and the duration of the call was 38 seconds, A-9 used IMEI 354634030103200, at that time the A-9 mobile location was Maratha Chambers of Commerce, Tilak Road, Swergate, Pune.

5) **On 16th October 2009 at 10:37:53** the A-9 (9579630741) made a call to Dhananjay Ashtekar (A-5) mobile number 9665573097, and the duration of the call was 20 seconds, A-9 used IMEI 354634030103200, at that time the A-9 mobile location was Maratha Chambers of Commerce, Tilak Road, Swergate, Pune.

6) **On 16th October 2009 at 10:44:43** the A-9 (9579630741) made a call to Dhananjay Ashtekar (A-5) mobile number 9665573097, and the duration of the call was 04 seconds, A-9 used IMEI 354634030103200, at that time the A-9 mobile

location was Maratha Chambers of Commerce, Tilak Road, Swergate, Pune.

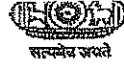
7) On 16th October 2009 at 21:08:56 the A-9 (9579630741) received a call from Dhananjay Ashtekar (A-5) mobile number 9665573097, and the duration of the call was 44 seconds, A-9 used IMEI 354634030103200, at that time the a-9 mobile location was Survey No.1206, Harlo Om Complex, Kasbapeth, Pune.

8) On 17th October 2009 at 07:00:46 the A-9 (9579630741) received a call from Dhananjay Ashtekar (A-5) mobile number 9665573097, and the duration of the call was 62 seconds, A-9 used IMEI 354634030103200, at that time the A-9 mobile location was Devika Heights, Shivaji Nagar, Near Bhaukar Garage, Pune.



360. According to the prosecution, these analysis show that the accused and absconding accused were in constant touch with each other from 14.10.2009 to 16.10.2009. In his cross examination, however, he has stated that the names to which he has referred to in his report are based on the information supplied to him by NIA; that he had not personally verified whether mobile handsets and SIM cards were actually used by the persons whose names were given to him by NIA. He has further stated that he cannot say whether there were any calls exchanged between these accused from 6th April, to 13th October, 2009 since he was not requested to make these analysis. The analysis has been made based on

Dr. B. V. Patil



following information given by the NIA to Shri Kandula:

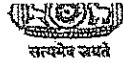
Sr.No.	Mobile No.	Owner	User
1	9325232100	Ganasham Gaude	A-1 Malgonda
2	9403818658		A-3 Vinay
3	9637423695		A-3 Vinay
4	9970034906		A-3 Vinay
5	9665573097		A-5 Dhananjay
6	9731806391		A-7 Jaiprakash
7	9028469010		A-8 Rudra Patil
8	9579630741		A-9 Sarang Kulkarni
9	9665573097		A-5 Dhananjay



361. Shri Chandu/Pw/122 is Chief Nodal Officer and Head Regulatory Compliances of Vodafone. At Exh.481 he has produced SDR and CDR details of number 9637423695 which is registered in the name of Vinay D. Talekar A-3. Neither at the site of blast at Margao nor on the person of A-1/Malgonda any mobile with no. 9325232100 was found. As per Exh. 481 the accused no.3 Vinay was using mobile nos. 9637423695, 9923893380 and 9923207064 which were given to him by his employer M/s. Park Hyatt, Goa. There was some communication on mobile between nos. 9325232100 and 9637423695. This conversation was between A-3 and Ganasham Gaude. There is absolutely no evidence to show that the mobile number of said Ganasham Gawade was used by deceased A-1/Malgonda. As per the analysis done, there were calls from said no.9325232100 and the no.9637423695. Other mobile numbers have not been proved to be used by the other accused. According to DySP Shri Mohan Pw/116, A-5/Dhananjay had

informed him that his mobile no. is 9763798512. He has, however, not tried to find out from the concerned company details of said mobile number. Said number also does not find place in the analysis prepared by the CDR analyst Shri Kandula. All other analysis made by him are based on the information given by the investigation agency about the users of said number by the accused. This is not based on any evidence and cannot prove the case of the prosecution. The prosecution has, therefore, miserably failed to prove that on the day of blast the accused were in constant touch with one another. In the result, the prosecution has failed to prove that accused had hatched a conspiracy to commit a terrorist act.

362. Shri Punalekar, learned advocate for the accused after reading section 15 of the UAP Act has submitted that an act committed by person will fall within the definition of 'terrorist act' only if it satisfies that the act has been committed with intent to threaten or likely to threaten the unity, integrity, security or sovereignty of India or with intent to strike terror or likely to strike terror in the people or any section of the people in India or foreign country. He submits that the phrase 'in the people in India' and 'section of people in India' are important to attract said provision. According to him, the phrase 'in the people in India' should mean an act which will strike terror or likely to strike terror in the people of entire country or it should be intended to strike terror in a sect of people in India. In this case he submitted that the evidence does not show that the act allegedly committed by the accused had struck terror



or was intended to strike terror in the people of entire country or a section of people in India. Section according to him should be people of particular community. He submitted that in this case the alleged bomb blast was caused by Hindus, the people who had gathered for the competition were also Hindus i.e. of the same section and, therefore, the provisions of UAP Act will not be attracted.

363. I am afraid such an interpretation cannot be given to the provision. The Act has been enacted for prevention of certain unlawful activities. If these activities are committed by use of any of the substances described in clause (a) of section 15, with intention to strike terror in the people or any section of the people in India, it would fall within the definition of 'terrorist act'. According to prosecution, the accused are members of a Sanstha that was opposed to organizing of competitions of Narakasur effigy vadh and there was another group may be of the same religion that believed in organizing such competitions for entertainment. In case the Sanstha wants to stop these competitions, it cannot use such methods. The question is whether the words 'section of people' can be restricted to particular sect or religion only or it can mean section of people having different beliefs although they are of the same religion? Since the Act does not restrict its meaning to any section of a religion, the Court cannot restrict the meaning of the same. 'Section of people in India' could mean two sections one having one belief and another, other belief although they are of the

same religion. If the Sanstha wants to strike terror by use of substances which are described in clause (a) knowing that their act is likely to cause death or injuries to any person or persons or loss or damage or destruction of property, such an act would fall within the definition of terrorist act.

364. It is next contention of learned Advocate Shri Punalekar that the prosecution is bound to fail for want of proper sanction under UAP Act. He pointed out that when the material was placed before Central Government for necessary sanction, the opinion of an expert was not placed before the authority. He pointed out that Shri Neh Srivastava/Pw114 has testified that the sanction was granted vide orders dated 14.5.2010 and dated 1.12.2010. He then pointed out that the report of the expert on the explosives was prepared by Dr. Sukwinder/Pw98 on 9.7.2010. i.e. after the sanction. He urged that in view of the same, the sanctioning authority did not have entire records placed before it to come to any conclusion for granting sanction. He also urged that said witness has admitted that the review committee did not see that particular section of community was targeted by the accused.

365. In support of his contention that all the relevant records should be placed before the authority he has relied on the decision in the case of **Ashok Kumar Aggarwal V/s. Central Bureau of Investigation through its Director (Crl. R.P. No.589 of 2007)**. In the said case, the Hon'ble High Court of Delhi has held





that unless sanction results in failure of justice, the findings, sentence or order passed by Special Judge shall not be reversed or altered by court of appeal on the ground of the absence of or any error or omission or irregularity in the sanction. In the case at hand, it is case of prosecution that there was sufficient material for the prosecution to file a chargesheet and also to grant sanction. The report of the expert was only an additional piece of evidence. It is also contention of learned Special PP Shri Faria that no prejudice has been caused to the accused on account of not placing said report before the sanctioning authority. Accused have not shown what prejudice is caused to them on account of not placing said report of the expert before the sanctioning authority. In the background the contention of learned Advocate Shri Punalekar that prosecution is bound to fail for want of proper sanction under section 45 of the Unlawful Activities Prevention Act and section 196 of Criminal Procedure Code 1978, thus, cannot be sustained.

366. Next contention of learned Advocate Shri Punalekar is that under section 7 of the Explosive Substances Act, 1908, sanction had to be granted by the 'District Magistrate'. He pointed out that no such consent of the District Magistrate was obtained in this case and, therefore, the prosecution against the accused under the Explosive Substances Act is bound to fail. Section 7 of the Explosive Substances Act, 1908 reads as under:-

7. Restriction on trial of offences.- No

Court shall proceed to the trial of any person for an offence against this Act except with the consent of the District Magistrate.

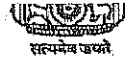
367. It clearly creates a bar on trial of any person for an offence under this Act except with the consent of the District Magistrate.

368. Learned Special P.P. Shri Faria submitted that in this case consent has been given by the Central Government, an authority which is superior to the District Magistrate. In that view of the matter it is his contention that only because no consent is obtained from the District Magistrate prosecution cannot fail.

369. It is not disputed that no such consent has been obtained from the District Magistrate. The law is specific and clear. Unless consent is obtained as required by section 7 from the District Magistrate, the trial cannot proceed. When law requires a thing to be done in a particular manner it should be done only in that manner. Obtaining of sanction goes to the root of trial. Failure to obtain consent is fatal to the prosecution. On this ground alone, prosecution against the accused for offences punishable under sections 3, 4 and 5 of Explosive Substances Act is bound to fail. Hence, Point no.2 is answered in the negative.

370. Point no.5:- It is case of the prosecution that A-5/Dhananjay had downloaded the circuits on his computer in the room occupied by him; that after the arrest of A-5/Dhananjay,





accused no.10 caused disappearance of said hard disc which would have been an evidence in the matter and thereby he has committed an offence under section 201 of IPC. Prosecution has examined Shri Eddy Tavares/Pw87 Shri Pritesh Naik Pw/92 Shri Sagar Chowgule/Pw47, Shri Mandar Powar/Pw49, Shri Sujit Kodare/Pw50 and Shri Vivek Jadhav /Pw51 to support said case.

371. Shri Sagar Pw47 has testified that on 11.11.09 Sujit had removed the hard disc of the computer of A-10/Prashant used by A-5; that A-10 Prashant had asked him to permit Sujit to remove the hard disc and hand over to Mahesh Ambekar; that said accused was contacted on mobile of Vivek; and that A-10/Prashant had also asked him to delete his number from the mobile of Vivek.

372. Shri Mandar/Pw49 has testified that on 11.11.09 he met Mahesh Ambekar at around 19.15 hours; that said Ambekar told him that A-10 Prashant had asked him to collect the hard disc from the computer of A-5/Dhananjay; that Sujit contacted A-10/Prashant over mobile and asked him whether he had conveyed so to Ambekar; that after sometime when they returned Sujit went upstairs, collected the hard disc and handed it over to Ambekar who left the spot.

373. In his cross examination, he has stated that he had never stated to the police that Ambekar had told Sujit that A-10/Prashant had asked him to collect the hard disc which was removed by Sagar

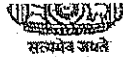
Pw/47. This contradiction was noted and opportunity was given to the witness to explain the same but he could not explain the same. This would be a material contradiction.

374. The witness has then stated that he cannot say whether Sujit had removed only the hard disc or other part of the computer but he had seen Sujit handing over only the hard disc to Ambekar. He has then stated that he knows that it was a hard disk since he had seen hard disc earlier. He has then stated that he does not recall if it was wrapped or open when given by Sujit to Ambekar.

375. Shri Sujit/Pw50 has stated that on 11.11.09 he met Mahesh Ambekar at around 19.15 hours; that Ambekar had told him that A-10 Prashant has asked him to collect the hard disc from the computer of A-5/Dhananjay which was removed by Sagar/Pw47 from the computer used by A-5/ Dhananjay and give it to him; that thereafter he contacted A-10/Prashant from his mobile no.9689013545 on his land line and inquired with him whether he had conveyed so to Ambekar; that after some time A-10/Prashant spoke to Ambekar; and that after some time he went upstairs collected the hard disc, came down and handed over to Ambekar. He has also stated that when he went to the room of A-5/Dhananjay, Sagar/Pw47 and Vivek contacted A-10/Prashant and Sagar confirmed to him that he, Sujit, had to give hard disc to Ambekar.



Sanjay



376. In his cross examination, this witness has stated that the hard disc was wrapped in paper and only then handed over to Ambekar.



377. Shri Vivek/Pw51 has testified that on 11.11.09 he was in the room along with Sagar/Pw47; that Sujit/Pw50 came to his room and asked for the hard disc from the computer used by A-5/ Dhananjay; that initially they declined but then Sujit told him that A-10/Prashant had asked him to collect the hard disc from the computer of A-5/ Dhananjay which was removed by Sagar/Pw47 from the computer and gave it to him; that he contacted Prashant on his land line number confirmed said fact; that Sujit then went upstairs, collected the hard disc and gave it to Ambekar.

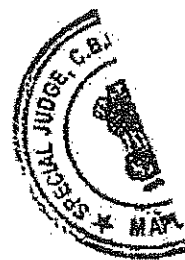
378. In his cross examination, he has stated that except Sagar, Sujit and he, no one knew about the removal of hard disc. He has also feigned ignorance about Mandar Powar/Pw49 having any knowledge of said hard disc.

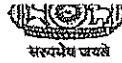
379. Shri Eddie Tavares/Pw87 was the panch witness to the panchanama conducted in the room of A-5/Dhananjay with respect to the computer. He has testified that police had made inquiry about the hard disc; and that one of the members checked the computer but the hard disc was not available. He has admitted in his cross examination that there is no record in the panchanama Exh. 186 that DySP Naik had asked A-5/Dhananjay about the disc of the computer in his room. He has also stated that Sagar/Pw47

has stated that Sujit had removed the hard disc from the computer at the instance of Prashant on 10.11.09.

380. Shri Pritesh/Pw92 was called along with Sagar by Shri Vijayan, SP of NIA to act as panch witness. He has testified that he was informed that one CPU of a computer of A-5/Dhananjay was attached and it has to be verified whether there is a hard disc in it. The parcel was opened and it was found that there was no hard disc in the CPU. His testimony has gone unassailed. The fact that there was no hard disc in the CPU of A-5 is thus proved. The question is who had made said hard disc to disappear. The witnesses examined by the prosecution to prove disappearance of said hard disc at the instance of A-10 are all college mates of A-5/Dhananjay. The panch witness Shri Eddie Tavares/Pw87 and the IO DySP Shri Mohan have stated that Sagar had told them that Sujit had removed the hard disc from the computer at the instance of A-10. Sagar/Pw47 has reiterated this statement in his testimony. Shri Sujit/Pw50 however, has stated that Sagar/Pw47 had removed the hard disc from the computer. He has, however, also stated that he had handed over the hard disc to Ambekar. There is consistency in the testimonies of these witnesses on removal of hard disc from the computer used by A-5 and handing it over to Shri Ambekar.

381. Shri Ambekar/Pw89 has also testified that at the instance of A-10 on 11.11.09 Sumeet or Sujeet friends of A-10 had handed over the hard disc to him after consulting Prashant. He has also





testified that police had called him with said hard disc; that he had handed over said hard disc to one Pravin at the instance of one Swati; that upon summons from the police he had requested said Pravin to hand over said hard disc to him but Pravin did not hand over the same to him. He has, however, stated that he cannot say with certainty that the person who spoke to him about the hard disc was A-10 Prashant but the caller had identified himself as Prashant. The other witnesses, however, have confirmed that they had spoken to A-10/Prashant; that they had telephone number of said A-10 and, therefore, there is sufficient evidence to hold that the hard disc was removed from the computer at the instance of the accused no.10/Prashant.

382. The only evidence that has come on record is that A-5 was down loading certain circuits from the internet. There is no evidence to show that accused had saved any material in the said hard disc that would have implicated him in the offence. In the absence of evidence to that effect and in view of the fact that this court has come to conclusion that accused was not involved in the offences alleged against him, it cannot be held that the hard disc was removed from the computer to destroy any evidence. Point is, accordingly, decided in the negative.

383. **Point no.6:-** It is case of prosecution that the accused in furtherance of their conspiracy and with intention to strike terror in the minds of people that viewers, organizers and participants and



Narakasur vadh effigy competition brought materials for making improvised explosives devices from different sources, assembled said IEDs, discussed about the action to be taken against the Government of State of Goa by mean of criminal force and thereby have waged a war against the Government of State of Goa. For the reasons discussed herein above on the points 1 to 5, the prosecution has failed to prove that accused in furtherance of the conspiracy had made explosives.

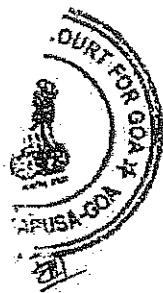


384. Assuming for the sake arguments that accused had made these explosives, the question will be whether making of such explosives and causing its explosion, for the alleged conspiracy would amount to waging war against the Government of the State of Goa, PI Shri Santosh Dessai is the complainant. He has lodged the complaint at Exh.400. In the complaint he has made following statement:

Further from the visit to the crime scene, the damage caused by the blast to the Eterno Scooter and the explosive material found at the spot and the materials found in the possession of the two injured persons it is clear that both the accused criminally conspired and they were carrying explosives for subversive activities to sabotage the Narkasur effigy competition near Municipal Building, Margao on the eve of Diwali Festival so as to strike terror in the minds of general public and to cause loss of human life and property, resulting in communal disharmony. They were possessing explosives for waging war against



Indian Union and caused explosion with intent to endanger human life and property.



385. He has further testified that from his observations he had concluded that the two accused had criminally conspired to sabotage the Narakasur effigy competition near Municipal Building Margao on the even of Diwali festival so as to strike terror in the minds of general public and to cause loss of human life and property resulting in communal disharmony and that they were possessing explosives for waging war against the Indian Union and cause explosion with intent to endanger human life and property.

386. The entire evidence discussed herein above discloses that according to the prosecution the entire endeavour of the alleged conspiracy between the accused was to stop the Narakasur effigy vadh competition. It is also on record that according to the members of Sanatan Sanstha such competition was giving unnecessary importance to Narakasur who according to their belief was a demon and that in the competition importance should be given to Lord Krishna instead of the demon Narakasur. The evidence is also to the effect that the members of Sanatan Sanstha were protesting during these competitions holding of Narakasur effigy vadh competition.

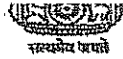
387. There is absolutely no evidence to even prima facie suggest that the intention of the Sanstha or its members was to overcome the armed or other personnel deployed by the Government and to

attain a commanding position by which, terms could be dictated to the Government. Only if there was evidence to that effect, section 121-A of IPC for the offence of waging war would have been attracted.

388. Shri Faria, learned Special PP has relied on the decision in the cases of **State (N.C.T. of Delhi) V/s. Navjot Sandhu @ Afsan Guru (AIR 2005 SC 3820)** and **Mohammed Ajmal Mohammad Amir Kasab @ Abu Mujahid V/s. State of Maharashtra (AIR 2012 SC 3565)** to contend that the act of the accused amounts to waging war against India. In the case of **Navjot Sandhu @ Afsan Guru (supra)**, the Hon'ble Supreme Court has discussed the term 'waging war against the Government of India or State'. The Hon'ble Supreme Court has after discussing various decisions held that the most important factor that decides whether the act amounts to waging war is the intention or purpose behind the defiance or rising against the Government. The Hon'ble Supreme Court has observed as under:-

"The moment it is found that the object sought to be attained is of general public nature or has a political hue, the offensive violent acts targeted against armed forces and public officials should not be branded as acts of waging war. The expression 'waging war' should not be stretched too far to hold that all the acts of disrupting public order and peace irrespective of their magnitude and repercussions could be reckoned as acts of waging war against the Government. A balanced and realistic approach is

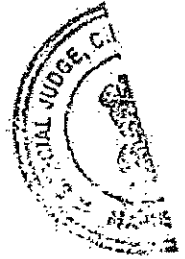




called for in construing the expression 'waging war' irrespective of how it was viewed in the long past. As organized movement attended with violence and attacks against the public officials and armed forces while agitating for the repeal of an unpopular law or for preventing burdensome taxes were viewed as acts of treason in the form of levying war. We doubt whether such construction is in tune with the modern day perspectives and standards. Another aspect on which a clarification is called for is in regard to the observation made in the old decisions that "neither the number engaged nor the force employed, nor the species of weapons with which they may be armed" is really material to prove the offence of levying/waging war. This was said by Lord President Hope in *R. v. Hardie* in 1820 and the same statement finds its echo in many other English cases and in the case of *Managlal Radha Krishan v. Emperor* (AIR 1946 Nag 173). But, in our view, these are not irrelevant facts. They will certainly help the Court in forming an idea whether the intention and design to wage war against the established Government exists or the offence falls short of it. For instance, the fire power of the devastating potential of the arms and explosives that may be called by a group of persons-may be large or small, as in the present case, and the scale of violence that follows may at times become useful indicators of the nature and dimension of the action resorted to. These, coupled with the other facts, may give rise to an inference of waging war.

389. This was a case in which the accused had attacked the Parliament House complex. The Hon'ble Supreme Court held that

the target chosen was the Parliament, a symbol of sovereignty of the Indian Republic, comprised of people's representatives, supreme law making body, steering the destinies of vast multitude of Indian people. Considering the facts of that case the Hon'ble Supreme Court held that the acts amounted to waging war against the Government of India.



390. In the case of **Mohammed Ajmal Mohammad Amir Kasab @ Abu Mujahid** (supra) the accused was a Pakistani National. He along with others had killed large number of people and the attack was aimed at India and Indians. The Hon'ble Supreme Court found that the conspiracy in furtherance of which the attack was made was, inter alia, to hit at India; to hit at its financial centre; to try to give rise to communal tensions and create internal strife and insurgency; to demand that Indian should withdraw from Kashmir and to dictate its relations with other countries. Considering the above factors, the Hon'ble Supreme Court held that this was nothing but in the like manner and by like means as the foreign enemy would do. In the facts of that case the Hon'ble Supreme Court held that the accused had waged war against India.

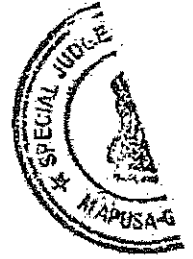
391. On the other hand, Ld. Advocate Shri Punalekar replied on the decision in the case of **Javed @ Java Ahmed Mohammed Abbar Bhatt and Ors. V/s. The State of Maharashtra (2007 Cri.L.J. 1386)** and submitted that the alleged acts of the accused does not amount to waging war. In the said case, it was alleged



that the accused had collected men, arms and ammunition without licence with intention of indulging in or being prepared to wage war against Government of India. The Hon'ble high Court of Bombay after considering the decisions in the case of **Navjot Sandhu (supra)** held that to establish an offence under section 122 of IPC, it was incumbent on the prosecution to prove that the collection of men, arms and ammunition was for no other purpose but to prepare to wage war against the Government of India. The Hon'ble High Court also held that the term 'waging war' must be understood in a different context in the present day scenario and not interpreted as done earlier in the general sense.

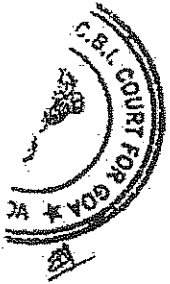
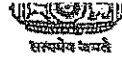
392. For the reasons discussed herein above, according to the prosecution the intention of the accused was only to stop the competition of Narakasur vadh effigy by use of force and violence. The intention did not go beyond that. Neither the allegations made nor the evidence on record even suggest that there was any intention in the minds of the accused or that they have conspired to challenge the authority of the government or to overawe the Government of the State by use of force or violence. An important ingredient of waging war against the State Government is therefore missing. It, therefore, cannot be held that accused had waged a war or had attempted to wage a war or had prepared to wage war against the Government of the State of Goa or Government of India. Point is, accordingly, decided in the negative.

393. **Point nos.7 and 8 :-** It is the case of the prosecution that on 15.9.2009 accused no.4 Vinayak had forged two application forms of Prepaid Vodafone SIM Cards, had used the said forged forms as genuine and had made Shri Mohammad Jaffar/PW37 to deliver to him the SIM cards of Vodafone.



394. Shri Mohammad PW37 has testified that he runs a gift items shop in Ponda market; that he also sells mobiles with vouchers, recharge vouchers etc; that on 15.10.09, eve of Diwali, at around 20.30 hours when there were many customers in his shop one person earlier known to him approached him; that said person asked for a life time SIM card of vodafone company; that he produced a voter's identity card and a coloured photograph; that they were of a lady; that he informed said person that he could not issue SIM card to the accused on the basis of said ID proof of another person; that accused insisted that said ID card and photograph were of his cousin; and that he wanted to SIM card for his said cousin; and that since he knew the accused he issued the SIM card to the accused.

395. He has further testified that he is aware of Moreshwar Kamat Medical Stores situated at Ponda; that he had visited said medical store on some occasions; that he had occasions to see said person with Moreshwar Kamat and so he had accepted the application form along with ID proof; that he then handed over the same to Reshma Borkar to complete the formalities and thereafter the distributor



Parodkar marketing collected said form. During the investigation police had also attached copy of the register in which the sale of SIM card bearing no.9823771301 has been recorded. He has identified Exh. 154 colly as said application form. He has also stated that police had told him that name of said person is Yogesh Nalk.

396. In support of said case prosecution has then examined Amrin /Pw35. She has testified that she had done her voting card in the year 2008, that it always remains in her custody or custody of her mother. She was shown the photographs affixed on the application form Exh. 154 colly and also on the election ID card. She has also denied the photographs and signatures on the said application forms Exh. 154 colly as hers. She has also denied that the identity card produced along with said applications forms belongs to her. Then at Exh. 155 she has produced her election ID card.

397. Ms. Prashanti Naik/Pw36 works for Parodkar Marketing. She has testified that her work involves taking the prepaid applications forms of Vodafone company filed by retailers, check the forms and submit it to Soft Age Company authorised to collect these application forms on behalf of Vodafone; that the application forms are directly submitted to her and money is given to the owner; that she is required to check all the forms, find out whether there is proper identity proof, photograph, and then sign the forms;_that

sometime in December 2009 some police had called her to Margao police station and had shown her a prepaid application form in original of Vodafone for number 9823974202; that she had verified said application form; that it was processed by her by affixing the stamp; that she has found the photograph on the prepaid application form and election ID card were of the same persons and she had identified Exh. 154 colly as said form.



398. There are two application forms produced at Exh. 154 colly. One is dated 20.10.2009 and the other one dated 15.10.09. The second form dated 15.10.09 was submitted to Classic Enterprises and bears signature of Reshma Borkar. Shri Mohammad Pw37 has identified signature of said Reshma at point X. The application form is required to be signed by customer giving a declaration. Similarly, the retailer as well as the distributors are required to sign certain declarations. The declaration required to be signed by the retailer reads as under:-

"I confirm that the applicant has signed the form and documents attached in my presence and the photo affixed in this form is of the applicant. I have verified the documents with their respective originals and certify the same to be true."

399. The application is also required to contain a photograph and proofs of identity. In this case proof of identity produced is the voting card.

400. The distributor is required to give the following declaration:-



"I confirm that all necessary documents are in order including the signatures on the self attested photo match with the signature on the application form and photo on the form matches with the one on the photo ID document. Subsequent to the above, the same has been processed for activation."

401. On behalf of Classic Enterprises, Reshma Borkar has given a declaration that the applicant has signed the form and the documents attached in her presence. She has further declared that the photo affixed in the application is of the applicant. Shri Mohammad Pw37 has testified that said Reshma was his employee. The prosecution has not examined said Reshma. She was a material witness since she has declared that the applicant had signed the application form in front of her and that photograph affixed to the application is of the applicant. In view of said declaration it is clear that the person whose photographs appears in application form had appeared before said Reshma, had signed the application form before her and only thereafter she had processed the same. Shri Chandru/Pw122 has confirmed that following of the procedure above is mandatory as per the policy of the company. The prosecution, however, ^{has} examined only Mohammad who is the owner of the business.

402. Shri Rudresh Parodkar/Pw38 is the dealer for Vodafone. He has testified that a customer seeking a Vodafone connection has to submit his photographs and identity proof of residence along with

details to be filled in the form, the retailer has to verify these records with the originals and submit the application forms along with proof of ID to ^{the} ~~be~~ persons employed by him for collection of the forms along with the cost of the vouchers. He has identified the two application forms at Exh. 154 colly as those received by him from Abbas cellular and Classic Enterprises. He has also identified the signatures of the employee of Abbas Cellular below the stamp on the first form and that of employee of Classic enterprise below its stamp in the second column.



403. In his cross examination he has stated that he had found variance in the photographs appearing in the forms and those in proof of identity.

404. Against his said statement there is a declaration given by the retailer that the photographs are of the applicant and the photographs on the proof of identity is also of said applicant. In his testimony he has stated that he was informed by police that the accused had used the SIM card purchased in the bomb blast by giving the name and identity proof of a different person.

405. The witness has admitted that after the forms are submitted he has to verify the application and identity proof. He, however, had never raised any objection with respect to these application and the proof of identity. It is obvious that only after he was informed that these forms were used by one of the accused, he found that there



was some difference in the photographs on the application and that in the identity cards. His testimony is, therefore, not reliable.



406. Lalita Kuttikar/Pw33 has also identified her signature on the form submitted to Parodkar marketing by Classic Enterprises. She has also testified that under said application SIM card bearing no.9823771301 was sold by Classic enterprises. She has also stated that she found that the photographs on application form and voter's identify card are different although the name was the same. It is surprising that neither she nor Rudresh had raised any objection to said discrepancy.

407. In any case the person who had accepted the application forms had given a declaration that the applications bear signatures of the applicant signed before her/him and that the photographs are of the person who had approached the retailer. Ms. Reshma Borkar who had accepted the form after verification has not been examined. It is also pertinent to note that according to Shri Mohammad/Pw37 the SIM card bearing no.9823771301 was sold on 15.10.09. He has however, produced a register Exh.158 that shows that the SIM card was sold on 16.10.09. The discrepancy has not been explained. As submitted by Shri Punalekar, should this be a manipulation, then, benefit should go to the accused.

408. It is also not case of the prosecution that the application forms were brought duly signed by the person who had approached

Mohammad/Pw37. The signatures were made in his presence. The handwriting of either A-3/Vinay or A-4/Vinayak was not compared with said signatures. No expert has been examined to prove that these are signatures in the handwriting of one of these accused.

409. An identification parade was then conducted by Shri Levinson/Pw102. He has testified that in the identification parade Shri Mohammad Rafique identified A-3/Vinay as the person who had approached him for the purchase of the card.

410. Shri Mohammad/Pw37 had identified A-3 Vinay as the person who had approached him for purchase of the SIM card. He in his cross examination, however, has stated that police had approached him for investigation had told him that the person who had approached him was Yogesh Naik. Yogesh Naik is the deceased accused no.2. Charge has been framed against accused Vinayak Patil i.e. A-4 for making him to deliver the SIM card forging the two application forms and using them as genuine. The evidence led however is against accused no.3. Charge, therefore, has not been proved against A-4 Vinayak and no charge was framed against A-3/Vinay of forging said documents or cheating Mohammad or using the forged documents as genuine. The prosecution has therefore failed to prove the charges against either of the accused with respect to the form submitted to Mohammad/Pw37.



411. The second form at Exh. 154 colly was submitted to Abbas

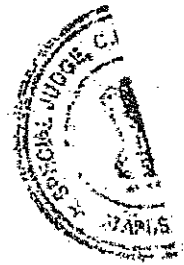


Cellular. Both these forms were produced by one Shri Bhuvanesh Pratap Singh, Chief executive Officer of S.R. Vodafone Company. The forms were attached in the presence of Shri Mahesh/Pw40. He has testified that the three application forms produced by him were attached under panchanama Exh.165; that these application forms were marked Exh. 133 colly two of which were later marked as Exh. 154 colly. His testimony is not disputed. The prosecution, however, has not examined any person who had accepted said form nor has identified any of the accused as the person who had approached said Abbas Cellular to purchase the SIM card. The prosecution has, therefore, failed to connect any of the accused to said form. The prosecution has not made any attempt to find out whether the Election Commission had really issued the identity cards to the person in whose favour they were issued or in case they are fake from where they have come. Further, although Amrin/Pw35 has denied the photographs on said ID card as hers no efforts have been made to confirm that the said photograph is hers nor any efforts are made to find out the person whose photo the ID card bears. There are thus many loop holes in the evidence of the prosecution. Point nos. 7 and 8 are, accordingly, decided in the negative.



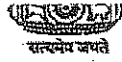
412. **Point no.9:-** Charges have been framed against accused nos. 1 and 2 for purchasing SIM cards on fake and forged documents in the name of Amrin Sauji and Ms. Sonia Gaonkar from M.S. Abbas Cellular and from Gonsalves Tours and Travels, Vasco,

respectively. And thereafter additional charges have been framed against A-4 Vinayak for having forged the two applications forms of prepaid Vodafone SIM cards. To prove this point prosecution has examined Shri Bharat Kumar/Pw29, Shri Kantilal/Pw30, Shri Aspak/Pw42, Ms. Winnie Pw45, Ms. Sonia/Pw57, Shri Mohindra Singh/ Pw94 and Shri Levinson/Pw102.



413. Shri Bharat Kumar/Pw29 has testified that he was working for Shri Kantilal from Margao; that on 15.10.09 he was in the shop of Kantilal during lunch break; that one person came to his shop and asked for SIM card of Vodafone; that he gave Vodafone Sim card for ₹49/- to said person; that he had checked the documents such as ration card/licence of said person and voters ID card, that said ID card was of a girl; that said person told him that it was of his sister that he (the witness) filled up the application form, obtained the signatures of said person at four places i.e on the photograph, two on the form and one on the photocopy of voter's ID card; that he kept the application form and the photocopy of voter's ID card in his custody and later handed over the application form with proof of ID card to the service provider. He has then identified A-4/ Vinayak as said person who had come to the shop on 15.10.09 and had asked for second hand mobile handset of Nokia and SIM card of Vodafone and had purchased the handset from him for ₹900/- and SIM card for ₹49/-. He has also identified signatures of A-4/Vinayak on the

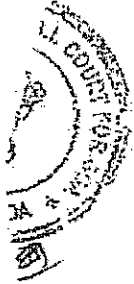
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application form at Q1, Q2, Q3 and on the voter's ID card at Q4.

414. In his cross examination, he has stated that one police officer had met him in connection with sale of second hand mobile handsets; that Kantilal had contacted him at his native place in connection with the same; that thereafter he was taken to Margao town police station; that he identified said second hand mobile handset shown to him as that sold by him to A-4/Vinayak; that there is no record available in the shop of the application form; that he had signed on the rubber stamp of the shop at point B; that he had sold SIM cards on the basis of ID proof and photo to other persons claiming to be close relations of the persons in the photograph.

415. He has admitted in his cross examination that the person submitting the identify proof has to sign the same and the application form; and that police had asked him how he had taken signature of another person on the application form and voter's card. He has then denied the suggestion that he was intimidated by police; that he was dealing with sale of mobile handsets and selling to third parties without identity proof and that on account of said intimidation he had identified A-4 Patil in the IT parade. It was also suggested to him that he was called to Ponda PS with several blank application forms and got them filled up and signed under intimidation. He has denied that suggestion. In his further cross examination he has stated that he can remember customers who

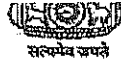


make purchases from him; that he can remember the features of the person who visits his shop once and makes purchases; that on an average 20 to 30 persons visit his shop for purchases; that he will be in a position to identify those persons as those 20 to 30 who have made purchases; that he would be in a position to identify police officer who recorded his statement; and that he identified A-4 Patil from amongst the six persons in the parade.



416. As submitted by Shri Punalekar this witness has exhibited extraordinary memory. Witness claims that he can identify all his customers who make purchases from him. He also has categorically stated that on 15.10.2009 during the lunch break A-4 had approached him and had purchased the handsets and SIM card after signing the application form before him.

417. The witness has stated that during the identification parade in all there were six persons in the parade. The parade was conducted by Shri Levinson/Pw102. He has testified that as per the request he had conducted the parade in which said witness Bharat Kumar had identified A-4. He has categorically testified that during the identification parade he had arranged six dummies; that A-4/Vinayak was placed between dummies 1 and 2. Thus, in all, there were seven persons standing in the parade and not six as stated by the witness. The witness who exhibits a sharp memory of remembering a person once seen cannot be expected to make the mistake of number of dummies that were standing in the parade.



The witness appears to be artificial. The Hon'ble Supreme Court in the case of **Kishen Singh and ors. V/s. State of Punjab (AIR 1983 SC 748)** has observed that when the evidence given by the witness is too good to be true and contains an element of artificiality, it is not reliable.



418. Shri Kantilal/Pw30 has testified that he deals in business of sale of old and new mobile handsets; that normally a person requiring a SIM card has to fill an application form and submit proof of identity and a photograph; that identity proof could be a ration card or voter's identity card or a driving licence; that on 15.10.2009 that Dungur Singh had opened his shop; that Pw29 Bharat Kumar and Dungur reported to him that they had sold one SIM card of Vodafone, one second hand mobile and a new mobile; that on 26.10.09 he informed the police upon inquiries that Bharat Kumar Pw29 had sold a SIM card; that by that time Bharat Kumar had gone to Rajasthan; that he brought back Bharat Kumar and produced him before the Margao police; and that they always put a rubber stamp of the shop on the application forms for SIM cards.

419. In his cross examination he has admitted that police had disclosed to him that they are investigating Margao bomb blast case; that he had stated to the police in his statement that on verifying his SIM card book he had informed police that one SIM of Vodafone was sold on 15.10.09 bearing no.9158466548; that he had produced the SIM card book before the police; that police had

taken custody of said book; that he does not know what police did with said book; that he has a book documenting number of SIM cards sold in the last 10 and 15 days and he can produce the same. It as then suggested to him that since police had threatened him to implicate in this case and therefore he had deposed falsely. He has admitted that he was going regularly to Margao town police station from 26.10.09.



420. A careful perusal of the testimony of this witness shows that police had seized a register maintained by the witness with respect to the sale of SIM cards. Witness has also categorically stated that police had taken custody of the same. Police, however, did not produce the said register which was an important piece of evidence. This witness otherwise had not personally sold the handsets or SIM cards to accused no.4. The application form which allegedly was signed by A-4 is at Exh. 133 colly. It shows that it is dated 15.10.09 and is with respect to number 9158066548. as discussed herein above said form also contains declarations given by the customer, retailer and distributor. These declarations are as reproduced earlier. The declaration by the retailer in this form is signed by one Jagdish Mahavir who has declared that he has confirmed that applicant had signed the form and the documents attached in his presence and that photo affixed in this form is of the applicant and that he has verified the documents with their respective originals and certify the same to be true. Prosecution has not examined this person Jagdish Mahavir who has signed as

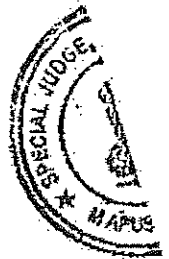


the retailer. Prosecution has also not explained how said Jagdish Mahavir had signed said declaration as retailer when according to prosecution the SIM card was sold by Bharat Kumar/Pw29 and owner of the business is Shri Kantilal/Pw30. It is also pertinent to note that prosecution has suppressed from the court an important piece of evidence, namely, the register in which the details of the sale of the SIM card were recorded. Shri Kantilal/Pw30 was directed to produce register in which such records are maintained. In spite of direction from the court, the witness did not produce said register. This raises a serious doubt on the testimony of Shri Bharat Kumar/Pw29, Shri Kantilal/Pw30 as well as the case of the prosecution.

421. Shri Ashraf/Pw42 is dealer in Idea Cellular prepaid SIM cards running his business from Vasco. He has testified that on 15.10.09 at around 10.30 hours one person came to his shop and asked for prepaid SIM card of Idea Cellular; that he purchased SIM card worth ₹ 50/- that before issuing the card to said person he had asked for photo identity proof that he gave photograph of a female and copy of voter's identity card disclosing that it was of his wife, namely, Sonia; that said person filled up the details in the application form, signed it himself, across the photograph and also on the voter's identity card; that thereafter he got the said SIM card activated. He has further testified that earlier till 2009 they used to issue prepaid vouchers to the customers on behalf of

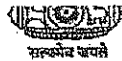


another closely related to them on proof of identity; that since bomb blast they have discontinued the system and that in the identification parade on 26.11.09 he had identified the person A-4/ Vinayak as the one who had purchased the prepaid SIM card in the name purportedly of his wife, Sonia.



422. In his cross examination he has stated that he did not make any entry in the register recording the sale of prepaid SIM card; that there were other persons coming to his shop during that time; that he does not know if any person had come along with A-4 on that day; that he does not recall if accused had come alone or accompanied by anyone or had walked to his shop or had come on a 2-wheeler or 4-wheeler; that he had not seen the original voter's ID card since it was not produced before him; that he had signed some records at Margao Town police station but he does not recall the details; that police had told him that issuing prepaid SIM card without the actual person coming for purchase and without proof of identity was not proper; that he had signed the application form by putting the rubber stamp of his shop that he had signed it in English but he does not remember whether it was a full signature or his initials.

423. He has admitted in his cross examination that he does not know the details of the customers who had purchased SIM cards between 15.10.09 and 5.11.09, the type of prepaid vouchers purchased by them or their numbers; that he had given the

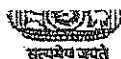


number of prepaid SIM card voucher purchased by A-4/Vinayak to the police while recording his statement on 5.11.09 since it was saved in his handset while sending a message to the distributor to activate the number. He has admitted that said SMS was not available in his handset. He was also put a specific question how he fixed the number given in his statement to the police as that of accused no4, when he had sold 2 or 3 prepaid SIM cards on that day. In answer He has stated that he had contacted distributor Isani from the police station, had inquired with him the number purchased in the name of a female by a male and then gave the number to the police. He has then stated that he does not remember if he had given a clue to Isani that police were looking out for a number sold in the name of a female Sonia. He has also stated that he does not recall if he had disclosed the names or numbers of other purchases on 15.10.09 to the police or if police had asked him all these details. In his further cross examination he has sated that he had not seen A-4 any day after he saw him on 15.10.09 and then on 26.11.09. He has also stated that no person was taken inside with his face covered with a mask when he first came to the office of Deputy collector for ID Parade.

424. This witness although has sated that the accused had given him application form with voter's identity card, the same is neither produced nor he has identified his signature on any such form. The witness has categorically stated that he purchases prepaid SIM cards of Ideal Cellular from one Sameer Isani. In his cross

examination he has stated that on that day he had sold 2 to 3 prepaid SIM cards. When he was asked how he could send a message for activation of the SIM cards sold allegedly to A-4 in the name of Sonia without giving her name and how he could fix the number of the SIM card. In reply he has stated that from the police station he had contacted Isani and had inquired with him the number purchased in the name of female by a male. It is nowhere on record that this witness had at any time communicated to Isani that a particular SIM card was sold by him to a male in the name of a female. In that case it is surprising that Isani could tell him the number of the SIM card when inquiry was made of a number of that SIM card which was sold to a male in the name of a female. The witness has admitted that he is required to obtain signature of the applicant and get identity proof of the applicant and the signature should be made in front of him. The witness has also admitted that police had made him aware of the above facts. Although the witness has stated that it was their practice to sell such SIM cards to any person in the name of their relative, no such practice is proved. The witness has also stated that only on proof of identity he was selling the SIM cards to the close relatives. If that be the case the witness must have obtained some proof of identity from the person to whom he had sold the SIM card in the name of Sonia. In that case his testimony that he had sold the SIM card to A-4/Vinayak in the name of Sonia cannot be believed. It should be remembered that this is a criminal trial in which strict proof of a fact is required since the act of the accused is



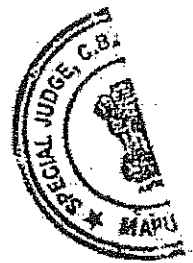


punishable with imprisonment. As ^{submitted} suggested by Shri. Punalekar, learned Advocate for the accused, it is possible that having committed an illegality, out of the fear the witness has succumbed to the pressure of the investigating agency. The cross examination of the witness reveals that he does not recall if accused had come alone to his shop, or he had walked to his shop or came in a 2-wheeler or 4-wheeler, or details of other customers that were present in the shop or the purchases made by other customers. It is rather surprising that he remembers details of only the accused with date. The veracity of the testimony of the witness comes under shadow of doubt. In that case, the testimony of the witness without further proof or corroboration cannot be acted upon.

425. Ms. Winnie/Pw45 is the owner of an establishment Gonsalves Tours and Travels run in Dourado Building, Vasco. She has testified that on 15.10.09 at around 10 am she had come to the shop; that one person in the age group of 25 to 30 years approached her between 11.30 to 12 noon for a prepaid SIM card of Idea; that said person showed her a copy of voter's identity card of a girl, that she pasted photograph on the application form but she does not remember whether she had obtained the signature of the said person on the application form and copy of voter's ID card; that after her husband returned to the shop she handed over the application form to her husband and later it was submitted to Isani enterprises. She has then identified Exh.180colly as said form.

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426. In her cross examination she has stated that she is not in a position to identify who has signed the signature Sonia; that she does not recall if A-4/Vinayak had signed said application form or any accompanying document. She has admitted that police had pulled her up for issuing prepaid voucher to a gent who had produced identity proof of a lady. It was then suggested to her that police had threatened her to implicate her in a criminal case for issuing prepaid voucher to a gent in case she does not identify A-4.



427. It is pertinent to note that this witness does not remember if A-4/Vinayak had signed said application or the proof of identity. It is also not proved that the signature on said application is forged by A-4/Vinayak. The application Exh. 180 is admittedly signed by husband of the witness. The witness has identified his signature. As discussed herein above there is a declaration as required given by him that said form has been filled and signed in his presence by the applicant and matches with the given supporting document. Said husband of the witness has not been examined, thereby depriving the accused of cross examining him. It is also pertinent to note that the prosecution has not made any efforts to identify the lady whose photograph appears in this application Exh. 180 colly as well as the same lady whose photo appears in the application Exh.133 colly. The prosecution has also not satisfactorily explained how these witnesses could identify A-4/Vinayak as the person who had approached them for purchase of SIM cards when the retailer who has signed declaration in said form of having verified the



identity of the applicant and the fact that the signatures were made by the applicant in their presence. In the background the identification made by the witnesses in the identification parade of A-4 as the person who obtained the SIM cards by misrepresentation loses significance.

428. Shri Mohinder Singh/Pw94 had examined the signatures allegedly made by Sonia in the application form Exh.133 colly and specimen handwriting of A-4/Vinayak. After examining the same he has opined that the questioned signatures stamped and marked Q1-Q3 on Vodafone prepaid application form in the name of Sonia Gaonkar Exh.133 as well as questioned signature marked Q4 on voter's identity card and the specimen writings of A-4/Vinayak stamped and marked as S1 and S6 were written by one and the same person. He has also given reasons for his opinion. Normally, there should not be any reason to reject his opinion.

429. The witness in his cross examination however, has admitted that the reasons for the opinion have not been signed by him. He has also stated that it is general practice of the laboratory that both the experts need not sign the reason and that it should be signed by only one of them. He has further admitted that opinion is not written in first person. He has explained that it is implicit in the opinion.

430. Further, in his cross examination the witness has admitted

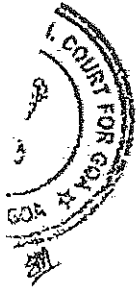
that he does not rule out the possibility that alphabet 'y' in the specimen writing Exh. 342 colly shows an upward incline or a tilt to the right from the 90 signatures. He has admitted that the finish of alphabet 'a' in Q1 to Q3 of Exh.133 colly is downwards whereas in Q4 its finish is curved towards the right and in the 90 specimen writings Exh. 342 colly the finish of alphabet 'a' is upwards and also to the right. He has explained that this is possible due to natural variations.



431. The above cross examination reveals that there are some variations in alphabet 'y' and 'a' in the questioned handwriting and the specimen handwriting. It is also pertinent to note that these variations are clear and consistent in the alphabet 'a'. It is also pertinent to note that there is similarity in these strokes of alphabet 'a' in all the 90 specimen signatures. It appears to be little unrealistic to have these identical variation in all the alphabets 'a' in 90 specimen signatures obtained from the accused. The witness has also admitted that the reasons for opinion are not signed by him. That would mean that he has not compared the handwriting. In addition to this, for the reasons discussed herein above, the testimonies of the witnesses who have obtained the forms at Exh.133 colly are not reliable. Once a doubt is raised on the identity of the handwriting, this doubt should go in favour of the accused. The prosecution has therefore, failed to prove that accused no.4 had purchased the SIM cards and mobile handsets based on fake and forged documents. Point is, accordingly, decided



in the negative.



432. Shri Suresh/Pw64 is a witness to the explosives found at Sancoale site. He had taken the photographs during the conducting of panchanama. He had also handed over two GB cards to the investigating agency. He has identified the property found at Sancoale site. Only attack on his testimony is that his statement was recorded more than two months after the incident. There is no serious dispute to his testimony. Adv. Punalekar also does not dispute the identity of the property recovered at the site of Sancoale.

433. Shri Suresh/Pw66 is the owner of the scooter used by A-2/Yogesh and which was damaged in the blast at Margao. He has stated that he had not seen A-3/Vinay at any time but had met only A-4/Vinayak as he had come to meet deceased A-2/Yogesh. His testimony is also not challenged.

434. Shri Vasudev/Pw67 is the panch witness to the three mobile handsets produced by Laxmikant claiming that they were used by A-2/Yogesh. It is only suggested to him that he has falsely stated that Laxmikant had told them that said handsets belonged to Yogesh. No connection of said mobiles has been shown to the crime allegedly committed by the accused.

435. Shri Abdul/Pw72 is the panch witness to the panchanama

under which Dilip from Sanguem had handed over two mobile handsets make TATA and Vodafone. He has testified that DySP Naik had verified IMEI numbers and disclosed to them about the same and it was recorded in the panchanama. He could not recall the IMEI number and the SIM card numbers. He has identified A-6 Dilip as the person from whom these mobiles were attached. There is, however, no evidence to show that these mobiles were in any way connected to the offence.



436. Shri Naresh/Pw75 is the panch witness on whose presence Rajesh/Pw54 had handed over the printed circuit boards to DySP Naik. They were attached under panchanama. His testimony is not disputed.

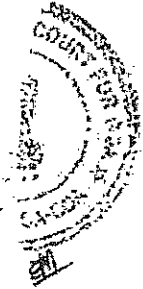
437. Shri Jerry Fernandes/Pw76 is the panch witness to the panchanama under which a vehicle bearing no.MH-13-F-9901 was attached. Statement made by accused at the time of attachment is hit by bar created by section 25 of Indian Evidence Act as has been held by Hon'ble Supreme Court in the case of **Aghnoo Nagesia V/s. State of Bihar (AIR 1966 SC 119)** and is not admissible. During the said panchanama accused had also led them to Sanatan Sansta Press which was found locked. Thirteen books were attached under said panchanama. His testimony is also not challenged.

438. Shri Anwar Sayed/Pw80 was panch witness to the

Signature



panchanama under which a mobile phone handed over by A-5/Dhananjay was attached. He has identified the said handset and confirmed the panchanama. Accused has not cross examined him on said panchanama.



439. Shri Ayres D'Souza/Pw86 is the panch witness to the handwriting sample obtained of A-4 Vinayak. He has confirmed the writings and identified his signatures on the same.

440. A-4 in his statement under section 313 had admitted that police had obtained hand writings from him on various papers.

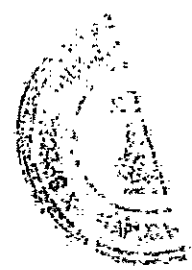
441. Shri Mahendra/Pw90 is the photographer who had taken photographs during inquest panchanama and during the search of Sanatan Sanstha ashram.

442. Shri Rajendra/Pw91 is the panch witness to the attachment of six mobiles which were packed and sealed in his presence. Although it is alleged that four mobiles were of A-3/Vinay and two of Vinayak Patil, these mobile sets were not recovered from them under panchanama. Admittedly, these mobiles were handed over to Shri Naik, the investigation officer by Shri C.L. Patil, PI of Ponda police station although the same were not recovered under panchanama.

443. Shri Meran Shaikh/Pw100 is the panch witness to the observation panchanama.

Singh

shown a cement bench in the Shivaji Park at Farmagudi and told that three persons were sitting on the bench discussing terrorist activities and that these persons were A-2/Yogesh, A-3/Vinay and A-4/Vinayak. His testimony has no evidentiary value.



444. Shri Pravin/Pw111 had taken photographs of the scene of offence at Margao site and he has identified the photographs Exh. 216 colly. There is no serious challenge to his testimony.

445. Shri Anil/Pw112 is an expert who had opined on the explosives found at Margao site and at Sancoale site. He has deposed that these explosives are of Class 6 Division 3 in Schedule 1 to Explosive Rules, 2008 and it is obligatory to have licence for manufacture, possession, sale and use of the same. Shri Punalekar does not dispute the same.

446. Shri S. Vijayan/Pw117 had taken custody of the accused on 25.2.2010 and had carried out certain investigations.

447. Shri Ravi Gambir/Pw118 was DySp NIA in the year 2010. He had conducted part of the investigations in which chargesheet was filed by Shri S. Vinayaj/Pw117. He has also obtained sanction for prosecution from MHA Govt. of India.

448. Shri Devendra/Pw119 was DySP NIA in the year 2009. He had assisted SP Vijayan in conducting the investigations.



449. In view of the discussion herein above, there is no need to go into the evidence of all the above witnesses in detail.

450. In the cases of **Khashaba Maruti Shelke V/s. State of Maharashtra (AIR 1973 SC 2474)**, **Mousam Singha Roy and Ors. V/s. State of West Bengal (2003) 12 SCC 377**, the Hon'ble Supreme Court has held that :-

In order to base the conviction of an accused on circumstantial evidence, the Court must be certain that the circumstantial evidence is of such a character as is consistent only with the guilt of the accused. The circumstances must show that within all reasonable probability, the impugned act must have been done by the accused. If two inferences are possible from the circumstantial evidence – one pointing to the guilt of the accused and the other, also plausible, that the commission of the crime was the act of someone else – the circumstantial evidence would not warrant the conviction of the accused.

451. Relying on the decisions of the Hon'ble Supreme Court, the Hon'ble High Court of Rajasthan has carved out following propositions settled by Hon'ble Supreme Court in cases of circumstantial evidence.

In cases where there is no direct evidence and decision has to rest on circumstantial evidence, such evidence must satisfy following tests:-

1. The circumstances from which an inference of guilt is sought to be drawn must be cogently and

2. Those circumstances should be of a definite tendency unerringly pointing towards the guilt of the accused.

3. The circumstances, taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else; and

4. The circumstantial evidence in order to sustain conviction must be complete and incapable of explanation on any other hypothesis than that of the guilt of the accused and such evidence should not only be consistent with the guilt of the accused but should be inconsistent with his innocence.



452. The prosecution has relied on twelve circumstances to establish the guilt of the accused. For the reasons discussed herein above, following probabilities arise:-

1. the veracity of FIR is seriously in doubt.
2. Facts stated in FIR appear to be manipulated with intention to rope in Sanatan Sanstha in the offence.
3. An important link with respect to manufacture of explosives by A-5/Dhananjay is missing.
4. The evidence raises a serious doubt on the case of prosecution of A-3/Vinay and A-4 /Vinayak planting a bomb in the pick-up at Sancoale.
5. Identity of the plastic boxes recovered at the instance of A-3 and A-4 with alleged handwriting of A-5/Dhananjay is not proved.



6. Identity to the explosives used in test blasts and the explosives used at Margao and Sancoale sites is not proved beyond reasonable doubts; and
7. The fact that the accused were in constant touch with each other on 16.10.2009 is not proved by cogent evidence.

453. In view of the law settled by Hon'ble Supreme Court with respect to cases in which proof is based entirely on circumstantial evidence and in view of the probabilities expressed herein above, the evidence is not sufficient to hold accused guilty of the offences alleged. Non obtaining of sanction from appropriate authority under Explosive Substances Act 1908, is also fatal to the prosecution with respect to offences under that Act.

454. Hence, the following:-

ORDER

Accused nos. 3 to 6, 10 and 11 are acquitted of offence punishable under section 120B and 121 A of IPC, sections 16, 18 and 23 of Unlawful Activities (Prevention) Act, 1967 and sections 3, 4 and 5 of Explosive Substances, Act 1908.

Accused no.4 is acquitted of offences punishable under sections 420, 468 and 471 of IPC and accused nos. 10 and 11 of offence punishable under section 201 of IPC and are hereby set at liberty.

The muddemal property shall be retained in view of pendency of further investigations with respect to accused nos. 7, 8 and 9.

The accused nos. 3 to 6, 10 and 11 shall execute personal bonds for ₹15,000/- each with one surety each in the like amount in terms of section 437-A of Cr.P.C. for appearing before the Appellate/higher Court as and when such Court issues notice in respect of any Appeal or Petition filed against this Judgment which shall remain in force for a period of six months.

Sawalkar
31.12.13
(P. V. Sawalkar)
Special Judge,
NIA Court for Goa,
at Mapusa.

OC*

APPLICATION No. 24 For Appeal

Date on which copy applied for 31/12/2013
Date on which application completed 31/12/2013
Date given for taking delivery 31/1/2014
Date on which copy was ready 31/1/2014
Date on which copy was delivered 31/1/2014
Copying and comparing fees, etc. Rs. Free of Cost
are paid in Nazir Section of this Court -
under Receipt No. - dated -



Sawalkar
31/1/2014
Superintendent
C.B.I. Court for Goa
Mapusa-Goa